

Execution version

Merger Implementation Agreement

Aevum Limited (**Aevum**)
IOR Group Limited (**IOR**)

MinterEllison

L A W Y E E R S

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Merger Implementation Agreement

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Details

Date

Parties

Name **Aevum Limited** ACN 087 648 691
ABN **80 087 648 691**
Short form name **Aevum**
Notice details Address: Level 6, 23-25 O'Connell Street, Sydney, New South Wales 2000
Facsimile: 02 8223 0999
Attention: Steven Mann

Name **IOR Group Limited** ACN 124 030 253
ABN **31 124 030 253**
Short form name **IOR**
Notice details Address: Level 4, 991 Whitehorse Road, Box Hill, Victoria 3128
Facsimile: 03 9286 4150
Attention: Chris Henderson

Background

- A Subject to the approval of the holders of the IOR Shares and the Court, Aevum and IOR have agreed that IOR will merge with Aevum through a members' scheme of arrangement under Part 5.1 of the Corporations Act between IOR and the Scheme Participants whereby Aevum will acquire all of the IOR Shares under the Scheme.
- B At the request of Aevum, IOR intends to propose the Scheme and issue the Scheme Booklet.
- C Aevum and IOR have agreed to do the things required by this agreement in order to enable the Scheme to be proposed, approved and implemented.

Agreed terms

1. Defined terms & interpretation

1.1 Defined terms

In this agreement:

Accounting Standards has the meaning given in section 9 of the Corporations Act.

ASIC means the Australian Securities and Investments Commission.

ASX means ASX Limited ACN 008 624 691.

Aevum Board means the board of directors of Aevum.

Aevum Group means Aevum and its Related Entities.

Aevum Indemnified Parties means Aevum, its Related Entities and each of their respective Representatives.

Aevum Information means the information about Aevum and New Aevum Shares described in, and provided to IOR by Aevum under, clause 5.2(b).

Aevum Material Adverse Event means events or occurrences or matters other than:

- (a) those required or expressly permitted to be done or procured by Aevum pursuant to this agreement or the Scheme;
- (b) those relating to changes in business conditions affecting the Australian retirement business sector generally;
- (c) an event, occurrence or matter that is disclosed, or that is reasonably apparent on the face of the document as reasonably likely to flow from an event, occurrence or matter that is disclosed, in a document provided by Aevum to IOR or its Representatives, or is otherwise known to IOR or its Representatives; or
- (d) an event done with the prior written approval of IOR (acting reasonably),

which individually, or when aggregated with all such events, is, or is reasonably likely to have an adverse effect on the business, assets, liabilities, operations, financial or trading position or performance of Aevum and:

- (a) that adverse effect is material when compared to Aevum's position as at the date of this agreement; or
- (b) that adverse effect is such as would cause a reasonable person in the position of IOR not to proceed with the Scheme on the terms and subject to the conditions of this agreement.

Aevum Prescribed Occurrence means the occurrence of any of the following:

- (a) Aevum converting all or any of its securities into a larger or smaller number of securities;
- (b) Aevum resolving to reduce its capital in any way or reclassifying, combining, splitting or redeeming or repurchasing directly or indirectly any of its securities;
- (c) Aevum declaring, paying or distributing any dividend, bonus or other share of its profits or assets by way of dividend, capital reduction or otherwise other than its final dividend for the 2009 financial year of 2 cents per Aevum Share expected to be paid on or around 21 October 2009 or under Aevum's dividend reinvestment plan;

- (d) Aevum:
 - (i) entering into a buy-back agreement; or
 - (ii) resolving to approve the terms of a buy-back agreement under the Corporations Act;
- (e) a member of the Aevum Group issuing securities, or granting an option (including a performance right) over its securities, or agreeing to make such an issue or grant such an option (including a performance right), other than securities being issued pursuant to the Scheme or pursuant to or consistently with arrangements entered into before the date of this agreement (including, without limitation, the issue of securities of Aevum approved at a general meeting of Aevum or following exercise of existing options under Aevum's incentive plan for employees (or any further grant of options under such plan as disclosed before the date of this agreement and/or consistently with past practice) or pursuant to Aevum's dividend reinvestment plan in place as at the date of this agreement);
- (f) a member of the Aevum Group issuing or agreeing to issue, securities or other instruments convertible into equity or debt securities (including any performance right);
- (g) Aevum making any change or amendment to its constitution;
- (h) Aevum or IOR becoming aware that, as a result of Aevum acquiring the IOR Group under the Scheme, any person exercises its right (whether subject to conditions or not) to terminate or vary any material agreement with a member of Aevum, the variation or termination of which is, or is likely to constitute, an Aevum Material Adverse Event;
- (i) a member of the Aevum Group creating, or agreeing to create, any mortgage, charge, lien or other encumbrance over the whole, or a substantial part, of its business or property other than in the ordinary course of business;
- (j) other than in the ordinary course of business, a member of the Aevum Group providing financial accommodation other than to members of its group irrespective of what form of Financial Indebtedness that accommodation takes;
- (k) an Insolvency Event occurring in relation to a member of the Aevum Group; or
- (l) a member of the Aevum Group making any significant change to its accounting practices or policies applied by it to report its financial position other than as a result of advice received from its auditors or to comply with the Accounting Standards,

provided that an Aevum Prescribed Occurrence will not include a matter:

- (m) which is required to be done or procured by Aevum pursuant to this agreement or the Scheme;
- (n) the undertaking of which has been approved in writing by IOR; or
- (o) that has been fairly disclosed in writing by Aevum to IOR before the date of this agreement.

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

Business Day means:

- (a) for receiving a notice under clause 13, Monday to Friday inclusive except New Year's Day, Good Friday, Easter Monday, Christmas Day, Boxing Day and any other day that ASX declares is not a business day; and
- (b) for all other purposes, a day that is not a Saturday, Sunday, bank holiday or public holiday in New South Wales or Victoria.

Claim means any obligation, debt, cause of action, disability, claim, proceeding, suit or demand of any nature howsoever arising and whether present or future, fixed or unascertained, actual or contingent, whether at law, in equity, under statute or otherwise.

Competing Transaction means any expression of interest, proposal or offer by a third party (other than Aevum or its Related Entities) to evaluate or enter into any transaction that is similar to the Transaction or under which (other than as required or contemplated by the Scheme):

- (a) a person would directly or indirectly acquire a relevant interest or voting power in 10% or more of IOR Shares or 10% or more of the shares in any other member of the IOR Group;
- (b) a person would directly or indirectly acquire or obtain an interest (including an economic interest) in all or a substantial part or material part of the business conducted by, or property of, IOR or member of the IOR Group;
- (c) a person would acquire Control of IOR;
- (d) a person may otherwise acquire, or merge with, IOR or any member of the IOR Group (including by way of takeover bid, scheme of arrangement, capital reduction, sale of assets, sale of securities, strategic alliance, dual listed company structure or joint venture);
or
- (e) IOR will issue, on a fully diluted basis, 10% or more of its capital as consideration for the assets or share capital or another person,

or any proposal by IOR to implement any reorganisation of capital or dissolution. The variation of a proposal or offer constitutes a proposal or offer for the purposes of this definition. For the purposes of paragraph (b) above, the acquisition of an interest in the business or property of a member of the IOR Group will be a material if the value of the relevant business or property is \$5 million or more.

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

Confidentiality Agreement means the confidentiality agreement between Aevum and IOR signed on 19 January 2009 although dated '19 January 2008'.

Control has the meaning given in section 50AA of the Corporations Act.

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

Counterproposal is defined in clause 10.6(c).

Court means the Federal Court of Australia.

Deed Poll means the deed poll to be entered into by Aevum in favour of the Scheme Participants substantially in the form of Annexure 2 (or in such other form as agreed between IOR and Aevum).

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

Effective Date in relation to the Scheme means the date on which the Scheme becomes Effective.

Exclusivity Period means the period commencing on the date of this agreement and ending on the first to occur of:

- (a) termination of this agreement;
- (b) the Effective Date; and

(c) the Sunset Date.

Explanatory Statement means the statement pursuant to section 412 of the Corporations Act, which will be registered by ASIC in relation to the Scheme, copies of which will be included in the Scheme Booklet.

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

- (a) bill, bond, debenture, note or similar instrument;
- (b) acceptance, endorsement or discounting arrangement;
- (c) guarantee;
- (d) finance or capital lease;
- (e) agreement for the deferral of a purchase price or other payment in relation to the acquisition of any asset or service; or
- (f) obligation to deliver goods or provide services paid in advance by any financier, other than in the ordinary course of business.

GST means a goods and services tax or similar value added tax levied or imposed under the GST Law.

GST Law has the meaning given to it in the *A New Tax System (Goods and Services Tax) Act 1999* (Cth).

Implementation Date means the fifth Business Day after the Record Date or such other date as agreed by Aevum and IOR.

Independent Expert means a person to be appointed by IOR pursuant to clause 5.1(c) as independent expert to prepare a report to be provided to the IOR Board and IOR Shareholders to advise as to whether, in the independent expert's opinion, the Scheme is in the best interests of IOR Shareholders.

Independent Expert's Report means the report prepared by the Independent Expert.

Ineligible Foreign Shareholder means:

- (a) a Scheme Participant whose address shown in the Register as at the Record Date is a place outside Australia (including its external territories) or New Zealand; or
- (b) a Scheme Participant who is (or is acting on behalf of) a citizen or resident of a jurisdiction other than the residents of Australia (including its external territories) or New Zealand,

unless Aevum and IOR agree in writing that it is lawful and not unduly onerous or impracticable to issue the Scheme Participant with New Aevum Shares when the Scheme becomes Effective and it is lawful for that Scheme Participant to participate in the Scheme by law of the relevant place outside of Australia (including its external territories) or New Zealand.

Insolvency Event means in relation to a person:

- (a) the person is or becomes unable to pay its debts as and when they fall due within the meaning of the Corporations Act or is otherwise presumed to be insolvent under the Corporations Act, or would be presumed to be insolvent if that Act applied;
- (b) the person suspends or threatens to suspend payment of its debts generally;

- (c) the calling of a meeting to consider a resolution to wind up the person (other than where the resolution is frivolous or cannot reasonably be considered to be likely to lead to the actual winding up of the person) or the making of an application or the making of any order, or the passing of any resolution, for the winding up, liquidation or bankruptcy of the party other than where the application or order (as the case may be) is set aside within 14 days;
- (d) the appointment of a provisional liquidator, liquidator, receiver or a receiver and manager or other insolvency official (whether under Australian law or foreign law) to the person or to the whole or a substantial part of the property or assets of the person;
- (e) the appointment of an administrator to the person;
- (f) the entry by a person into any compromise or arrangement with creditors; or
- (g) the person ceases or threatens to cease to carry on business.

Investigating Accountant means an accounting firm to be appointed by IOR to prepare the Investigating Accountant's Report.

Investigating Accountant's Report means the report addressed to IOR that is prepared by the Investigating Accountant in relation to the historical financial information regarding IOR and Aevum and the pro-forma financial information regarding the Merged Entity that is prepared by IOR from information provided by Aevum and IOR for inclusion in the Scheme Booklet.

IOR AGM means IOR's annual general meeting scheduled to be held on 27 November 2009.

IOR Board means the board of directors of IOR.

IOR Director means a director of IOR.

IOR Group means IOR and its Related Entities.

IOR Indemnified Parties means IOR, its Related Entities and each of their respective Representatives.

IOR Information means all information contained in the Scheme Booklet, excluding the Aevum Information, the Independent Expert's Report and the Investigating Accountant's Report.

IOR Material Adverse Event means events or occurrences or matters other than:

- (a) those required or expressly permitted to be done or procured by IOR pursuant to this agreement;
- (b) those relating to changes in business conditions affecting the Australian retirement business sector generally;
- (c) an event, occurrence or matter that is disclosed, or that is reasonably apparent on the face of the document as reasonably likely to flow from an event, occurrence or matter that is disclosed, in a document provided by IOR to Aevum or its Representatives, or is otherwise known to Aevum or its Representatives; or
- (d) an event done with the prior written approval of Aevum (acting reasonably),

which individually, or when aggregated with all such events, is, or is reasonably likely to have an adverse effect on the business, assets, liabilities, operations, financial or trading position or performance of the IOR Group (taken as a whole) and:

- (a) that adverse effect is material when compared to IOR's position as at the date of this agreement; or

- (b) that adverse effect is such as would cause a reasonable person in the position of Aevum not to proceed with the Scheme on the terms and subject to the conditions of this agreement.

IOR Prescribed Occurrence means the occurrence of any of the following:

- (a) a member of the IOR Group converting all or any of its securities into a larger or smaller number of securities;
- (b) a member of the IOR Group resolving to reduce its capital in any way (other than as proposed at the IOR AGM) or reclassifying, combining, splitting or redeeming or repurchasing directly or indirectly any of its securities;
- (c) a member of the IOR Group declaring, paying or distributing any dividend, bonus or other share of its profits or assets by way of dividend, capital reduction or otherwise other than the cancellation of 754,453 IOR Shares to be approved by IOR Shareholders at the IOR AGM;
- (d) a member of the IOR Group:
 - (i) entering into a buy-back agreement; or
 - (ii) resolving to approve the terms of a buy-back agreement under the Corporations Act;
- (e) a member of the IOR Group issuing securities, or granting an option (including a performance right) over its securities, or agreeing to make such an issue or grant such an option (including a performance right);
- (f) a member of the IOR Group issuing or agreeing to issue, securities or other instruments convertible into securities (including any performance right);
- (g) a member of the IOR Group making any change or amendment to its constitution;
- (h) a member of the IOR Group, without first obtaining Aevum's written consent:
 - (i) acquiring or disposing of;
 - (ii) agreeing to acquire or dispose of; or
 - (iii) offering, proposing, announcing a bid or tendering for the acquisition of, any securities, business, intellectual property, assets (in the nature of a business or part of a business), interests in a joint venture, entity or undertaking the value of which exceeds \$250,000 in aggregate other than the acquisition or disposal of any assets in the course of conducting its existing business, consistent with past practice or as publicly announced to the market prior to the date of this agreement;
- (i) Aevum or IOR becoming aware that, as a result of Aevum acquiring the IOR Group under the Scheme, any person exercises its right (whether subject to conditions or not) to terminate or vary any material agreement with a member of the IOR Group, the variation or termination of which is, or is likely to constitute, an IOR Material Adverse Event;
- (j) a member of the IOR Group creating, or agreeing to create, any mortgage, charge, lien or other encumbrance over the whole, or a substantial part, of its business or property other than in the ordinary course of business;
- (k) other than in the ordinary course of business, a member of the IOR Group providing financial accommodation other than to members of the IOR Group irrespective of what form of Financial Indebtedness that accommodation takes;

- (l) a member of the IOR Group entering into or agreeing to enter into a Material Contract without first obtaining Aevum's prior written consent (which may not be unreasonably withheld or delayed) other than entering into or agreeing to enter into resident loan contracts in the ordinary course of business;
- (m) an Insolvency Event occurring in relation to a member of the IOR Group; or
- (n) a member of the IOR Group making any significant change to its accounting practices or policies applied by it to report its financial position other than as a result of advice received from its auditors or to comply with the Accounting Standards,

provided that an IOR Prescribed Occurrence will not include a matter:

- (o) which is required to be done or procured by IOR pursuant to this agreement or the Scheme;
- (p) the undertaking of which has been approved in writing by Aevum; or
- (q) that has been fairly disclosed in writing by IOR to Aevum before the date of this agreement.

IOR Shareholder means a person who is registered in the Register as the holder of one or more IOR Shares.

IOR Share means one fully paid ordinary share issued in the capital of IOR.

Listing Rules means the official listing rules of ASX.

Material Contract means a contract or commitment:

- (a) requiring total payments in excess of \$250,000; or
- (b) for a term that exceeds 12 months.

Merged Entity means Aevum and its related bodies corporate immediately after the Scheme is implemented.

New Aevum Shares means Aevum Shares to be issued pursuant to the Scheme as Scheme Consideration.

Notice of Meeting means the notice convening the Scheme Meeting together with the proxy forms for that meeting.

Public Announcement means the public announcement to be made by IOR and Aevum in the form of Annexure 1.

Record Date means 5.00pm on the fifth Business Day following the Effective Date or such other date (after the Effective Date) as IOR and Aevum may agree in writing.

Register means the share register of IOR kept pursuant to the Corporations Act.

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 Approvals has the meaning given in clause 3.1(a).

Regulatory Authority includes:

- (a) a government or representative of a government or any governmental, semi-governmental, administrative, fiscal or judicial entity or authority;
- (b) a minister, department, office, commission, delegate, instrumentality, tribunal, agency, board, authority or organisation of any government;

- (c) any regulatory organisation established under statute; and
- (d) in particular, ASX and ASIC.

Regulatory Review Period means the period from the date on which the Regulator's Draft is submitted to ASIC to the date on which ASIC provides a letter indicating whether or not it proposes to appear to make submissions, or will intervene to oppose the Scheme, when the application made to the Court for orders under section 411(1) of the Corporations Act convening the Scheme Meeting to consider the Scheme is heard.

Reimbursement Fee means \$700,000 (exclusive of GST).

RG60 means Regulatory Guide 60 issued by ASIC on 4 August 1999 (as amended).

RG142 means Regulatory Guide 142 issued by ASIC on 4 August 1999 (as amended).

Related Entity means in relation to a party, any entity that is related to that party within the meaning of section 50 of the Corporations Act or which is an economic entity (as defined in any approved Australian accounting standard) that is Controlled by that party.

Representatives means, in relation to an entity:

- (a) each of the entity's Related Entities; and
- (b) each of its directors, officers, employees, contractors, advisers (including legal, financial and other expert advisers) and agents, but excluding the Independent Expert and Investigating Accountant.

Required Consultation Period means the shorter of:

- (a) five Business Days after both parties becoming aware that clause 3.7(a)(i) or 3.7(a)(ii), as the case may be, is triggered; and
- (b) the period commencing at the time both parties become aware that clause 3.7(a)(i) or 3.7(a)(ii), as the case may be, is triggered and ending at 8.00am on the Second Court Date.

Scheme means the scheme of arrangement pursuant to Part 5.1 of the Corporations Act proposed between IOR and the IOR Shareholders, substantially in the form contained in Annexure 3 or as otherwise agreed between IOR and Aevum, subject to any alterations or conditions made or required by the Court under section 411(6) of the Corporations Act.

Scheme Booklet means the information to be despatched to all IOR Shareholders and approved by the Court in connection with the Scheme, including the Scheme, the Explanatory Statement in respect of the Scheme, an independent expert's report prepared by the Independent Expert and the Notice of Meeting.

Scheme Consideration means, in respect of each Scheme Participant:

- (a) subject to paragraph (b), 8 New Aevum Shares for every 9 IOR Shares held by that Scheme Participant at the Record Date (which is expected to comprise a total issue to Scheme Participants of 48,274,995 New Aevum Shares); or
- (b) if one or both of the resolutions proposed for consideration at the IOR AGM relating to the cancellation of forfeited or unverified IOR Shares is not passed or the IOR Shares the subject of such resolutions are not duly cancelled, the ratio of New Aevum Shares to IOR Shares held by that Scheme Participant at the Record Date shall be adjusted on the basis that the maximum number of New Aevum Shares to be issued to Scheme Participants shall not exceed 48,275,000.

Scheme Implementation Committee means a committee made up of:

- (a) the Managing Director of each of Aevum and IOR;
- (b) the Chief Financial Officer of each of Aevum and IOR; and
- (c) such other persons as the parties may agree from time to time.

Scheme Meeting means the meeting of the IOR Shareholders convened by the Court in relation to the Scheme pursuant to section 411(1) of the Corporations Act. It includes any adjournment of that meeting.

Scheme Participant means each person who is an IOR Shareholder (other than Aevum or a Related Entity of Aevum) on the Record Date.

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, if the application is adjourned or subject to appeal for any reason, the day on which the adjourned or appealed application is heard.

Subsidiaries has the meaning given in section 9 of the Corporations Act.

Sunset Date means 31 March 2010, or such later date as the parties may agree in writing.

Superior Offer means any Competing Transaction in respect of which IOR is permitted to enter into an agreement, commitment, arrangement or understanding under clause 10.6(b).

takes effect or taking effect means on and from the first time when an office copy of the Court order approving the Scheme pursuant to section 411(6) of the Corporations Act is lodged with ASIC pursuant to section 411(10) of the Corporations Act.

Timetable means the indicative timetable for the implementation of the Transaction set out in Annexure 4, subject to any amendments as the parties may agree in writing.

Transaction means the acquisition by Aevum of all of the IOR Shares by means of the Scheme in accordance with the terms of this agreement.

Verification Trust means the trust known as the 'Verification Trust' as constituted by the Verification Trust Deed.

Verification Trust Deed means the trust deed between a settlor, the Verification Trustee and IOR.

Verification Trustee means IOR (FTM) Pty Limited ACN 124 340 156.

1.2 Interpretation

In this agreement, except where the context otherwise requires:

- (a) the singular includes the plural and vice versa, and a gender includes other genders;
- (b) another grammatical form of a defined word or expression has a corresponding meaning;
- (c) a reference to a clause, paragraph, schedule or annexure is to a clause or paragraph of, or schedule or annexure to, this agreement, and a reference to this agreement includes any schedule or annexure;
- (d) a reference to a document or instrument includes the document or instrument as novated, altered, supplemented or replaced from time to time;
- (e) a reference to **A\$, \$A, dollar** or **\$** is to Australian currency;
- (f) a reference to time is to Melbourne, Australia time;

- (g) a reference to a party is to a party to this agreement, and a reference to a party to a document includes the party's executors, administrators, successors and permitted assigns and substitutes;
- (h) a reference to a person includes a natural person, partnership, body corporate, association, governmental or local authority or agency or other entity;
- (i) a reference to a statute, ordinance, code or other law includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements of any of them;
- (j) a word or expression defined in the Corporations Act has the meaning given to it in the Corporations Act;
- (k) the meaning of general words is not limited by specific examples introduced by **including, for example** or similar expressions;
- (l) any agreement, representation, warranty or indemnity by two or more parties (including where two or more persons are included in the same defined term) binds them jointly and severally;
- (m) any agreement, representation, warranty or indemnity in favour of two or more parties (including where two or more persons are included in the same defined term) is for the benefit of them jointly and severally;
- (n) a rule of construction does not apply to the disadvantage of a party because the party was responsible for the preparation of this agreement or any part of it; and
- (o) a reference to day, including a Business Day, is to be interpreted as the period of time commencing at 9.00am and ending 5.00pm;
- (p) if a day on or by which an obligation must be performed or an event must occur is not a Business Day, the obligation must be performed or the event must occur on or by the next Business Day.

1.3 Headings

Headings are for ease of reference only and do not affect interpretation.

2. Agreement to propose the Scheme

2.1 Proposal of Scheme

- (a) IOR agrees to propose the Scheme upon and subject to the terms of this agreement.
- (b) Aevum agrees with IOR to assist IOR to propose and give effect to the Scheme on and subject to the terms of this agreement.

2.2 Compliance with obligations

The parties' obligations under this agreement to propose the Scheme are subject to their compliance with their respective obligations, functions, powers and duties under this agreement, IOR's constitution, at law and under the Listing Rules.

3. Conditions

3.1 Conditions Precedent to implementation of the Scheme

The Scheme, the obligations of IOR under clause 5.1(o), and the obligations of Aevum under clause 4.2 are subject to satisfaction of the following Conditions Precedent (unless waived by a

party in accordance with clause 3.2) on or prior to the Second Court Date (or such other date as specified in the relevant Condition Precedent):

(a) **Regulatory Approvals:**

- (i) **ASIC and ASX:** before 8.00am on the Second Court Date, ASIC and ASX have issued or provided (and not withdrawn, revoked or varied) such consents, waivers, modifications and/or approvals or have done such other acts which Aevum and IOR agree are necessary or reasonably desirable to implement the Scheme. If such consents, waivers, modifications and/or approvals are subject to conditions those conditions must be acceptable to IOR and Aevum; and
- (ii) **Regulatory Authorities:** before 8.00am on the Second Court Date, all other approvals of a Regulatory Authority which Aevum and IOR agree, acting reasonably, are necessary or desirable to implement any material aspect of the Transaction are obtained and those approvals are given either unconditionally or on conditions that are acceptable to Aevum,

(together the **Regulatory Approvals**);

- (b) **Shareholder approval:** before 8.00am on the Second Court Date, IOR Shareholders approve the Scheme at the Scheme Meeting by the requisite majorities under the Corporations Act;
- (c) **Restraining orders:** as at 8.00am on the Second Court Date, no temporary restraining order, preliminary or permanent injunction or other order or decision has been issued or made by any court of competent jurisdiction or any Regulatory Authority and there is no other legal restraint or prohibition preventing the consummation of any material aspect of the Transaction on the Implementation Date;
- (d) **IOR Material Adverse Event:** no IOR Material Adverse Event occurs between the date of this agreement and 8.00am on the Second Court Date;
- (e) **IOR Prescribed Occurrence:** no IOR Prescribed Occurrence occurs between the date of this agreement and 8.00am on the Second Court Date;
- (f) **Aevum Material Adverse Event:** no Aevum Material Adverse Event occurs between the date of this agreement and 8.00am on the Second Court Date;
- (g) **Aevum Prescribed Occurrence:** no Aevum Prescribed Occurrence occurs between the date of this agreement and 8.00am on the Second Court Date;
- (h) **Quotation of New Aevum Shares:** before 8.00am on the Second Court Date, the New Aevum Shares are approved for official quotation by ASX, subject only to customary conditions and the Scheme becoming Effective;
- (i) **IOR representations and warranties:** the representations and warranties given by IOR under clause 7.1 are true and correct in all material respects, in each case at the times set out in clause 7.5;
- (j) **Aevum representations and warranties:** the representations and warranties given by Aevum under clause 7.3 are true and correct in all material respects, in each case at the times set out in clause 7.5;
- (k) **Court orders:** the Court approves the Scheme in accordance with section 411(4)(b) of the Corporations Act on the Second Court Date;

- (l) **Independent Expert Report:** the Independent Expert issues a report which concludes that, in its opinion, the scheme is in the best interests of IOR Shareholders before the date on which the Scheme Booklet is registered with ASIC under the Corporations Act; and
- (m) **listing of IOR:** before 8.00am on the Second Court Date, IOR has been admitted to the Official List of ASX and the IOR Shares have been approved for official quotation by ASX.

3.2 Waiver of Conditions Precedent

- (a) The Conditions Precedent in clauses 3.1(b) and 3.1(k) is for the benefit of IOR, and cannot be waived.
- (b) The Conditions Precedent in clauses 3.1(a), 3.1(c), 3.1(h) and 3.1(m) are for the benefit, and any breach or non-fulfilment of those Conditions Precedent may only be waived with the written consent, of IOR and Aevum.
- (c) The Conditions Precedent in clauses 3.1(d), 3.1(e) and 3.1(i) are for the sole benefit of, and any breach or non-fulfilment of those Conditions Precedent may only be waived with the written consent of, Aevum.
- (d) The Conditions Precedent in clauses 3.1(f), 3.1(g), 3.1(j) and 3.1(l) are for the sole benefit of, and any breach or non-fulfilment of those Conditions Precedent may only be waived with the written consent of, IOR.
- (e) A party entitled to waive the breach or non-fulfilment of a Condition Precedent pursuant to this clause 3.2 may do so in its absolute discretion.
- (f) If IOR or Aevum waives the breach or non-fulfilment of any of the Conditions Precedent, that waiver will preclude it from suing the other party for any breach of this agreement that resulted from the breach or non-fulfilment of the Condition Precedent that was waived or arising from the same event which gave rise to the breach or non-fulfilment of the Condition Precedent (provided that if the waiver of the Condition Precedent is itself conditional and the other party:
 - (i) accepts the condition, the terms of the condition apply despite this clause 3.2(f); or
 - (ii) does not accept the condition, the Condition Precedent has not been waived).

3.3 Best endeavours to satisfy Conditions Precedent

Except in the case of the Condition Precedent stated in clause 3.1(m), each of IOR and Aevum will use its best endeavours, and will ensure that each of its Related Entities uses its best endeavours, to procure that:

- (a) each of the Conditions Precedent is satisfied as soon as practicable after the date of this agreement or 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 within the control of IOR or Aevum (as the context requires), or their Related Entities that would prevent the Conditions Precedent being satisfied, except to the extent such action is required by law.

3.4 Pre implementation steps

Without limiting the generality of clause 3.3:

- (a) **Regulatory Approvals:** each party must promptly apply for all relevant Regulatory Approvals and 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;

- (b) **Consultation:** each of IOR and Aevum must consult with the other in advance in relation to all material communications (whether written or oral, and whether direct or via agents or advisers) with any Regulatory Authority relating to any Regulatory Approval (**Communications**) and, without limiting the generality of the foregoing, must:
- (i) provide the other party with drafts of any material written Communications to be sent to a Regulatory Authority and make such amendments thereto as the other party reasonably requires; and
 - (ii) provide copies of any 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
- (c) **Participation:** each party will have the right to be represented and make submissions at any proposed meeting with any Regulatory Authority relating to any Regulatory Approval unless the Regulatory Authority states otherwise.

3.5 Assistance of Representatives

Each party must procure that its Representatives work (including by attending meetings and by providing information where requested by that party) in good faith and in a timely and co-operative fashion with the other parties to assist in satisfying the Conditions Precedent.

3.6 Notification of Condition Precedent

- (a) IOR and Aevum must keep the other promptly and reasonably informed of any material progress of which it becomes aware regarding satisfaction of the Conditions Precedent.
- (b) IOR and Aevum must promptly give the other notice of a breach or non-fulfilment of a Condition Precedent or of any event that will prevent a Condition Precedent being satisfied.
- (c) IOR or Aevum (as the case may be) must give written notice to the other party as soon as reasonably practicable (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.
- (d) Aevum and IOR must each provide the Court on the Second Court Date with a certificate that all the Conditions Precedent are satisfied, or if not satisfied, are waived (other than the Condition Precedent in clause 3.1(k)).
- (e) The giving of a certificate by each of Aevum and IOR under clause 3.6(d) will in the absence of manifest error, be conclusive evidence of the satisfaction or waiver of the Conditions Precedent referred to in the certificate.
- (f) A waiver of such breach or non-fulfilment in respect of one Condition Precedent of this agreement will not constitute:
 - (i) a waiver of breach or non-fulfilment of any other Condition Precedent of this agreement resulting from the same event; or
 - (ii) a waiver of breach or non-fulfilment of that Condition Precedent resulting from any other event.

3.7 Conditions Precedent not met

- (a) If:
- (i) there is a breach or non-fulfilment of a Condition Precedent (other than the Condition Precedent stated in clause 3.1(m)) which is not waived in accordance with this agreement by any time or date specified in the agreement for the satisfaction of the Condition Precedent; or
 - (ii) there is an act, failure to act, event or occurrence which will prevent a Condition Precedent (other than the Condition Precedent stated in clause 3.1(m)) being satisfied by the date specified in clause 3.1 for its satisfaction (and the breach or non-fulfilment of the Condition Precedent which would otherwise occur has not already been waived in accordance with this agreement); or
 - (iii) a party becomes aware that the Scheme is unlikely to become Effective by the Sunset Date,

IOR and Aevum must consult in good faith with a view to:

- (iv) determining whether the Scheme or a transaction that results in Aevum having beneficial ownership of all of the IOR Shares may proceed by way of alternative means or methods;
 - (v) extending the time or date for satisfaction of the relevant Condition Precedent or Sunset Date; or
 - (vi) changing the date of application made to the Court for an order under section 411(4)(b) of the Corporations Act approving the Scheme or adjourning that application (as applicable) to another date agreed to in writing by IOR and Aevum (being a date no later than five Business Days before the Sunset Date).
- (b) If IOR and Aevum are unable to reach agreement under clause 3.7(a) within the Required Consultation Period, either IOR or Aevum may, provided that Condition Precedent is for the benefit of that party and subject to clause 3.7(c) and 3.7(d), terminate this agreement by notice in writing to the other without incurring any liability to the other party because of that termination (other than under clause 11 if applicable), unless the relevant occurrence or the breach or non fulfilment of the Condition Precedent arises out of a breach of clauses 3.3 or 3.6 by the terminating party.
- (c) Termination of this agreement under clause 3.7(b) does not affect any accrued rights of either party arising from any breach of this agreement prior to termination.
- (d) A party will not be entitled to terminate this agreement pursuant to clause 3.7 if the relevant Condition Precedent has not been satisfied or agreement cannot be reached as a result of:
- (i) a breach of this agreement by that party; or
 - (ii) a deliberate act or omission of that party.

4. The transaction steps

4.1 Scheme

- (a) Subject to the terms and conditions of this agreement, IOR must propose the Scheme to IOR Shareholders.
- (b) If the Scheme becomes Effective, then on the Implementation Date:

- (i) all of the IOR Shares held by Scheme Participants on the Record Date will be transferred to Aevum; and
- (ii) each Scheme Participant will be paid the Scheme Consideration for each IOR Share held by them at the Record Date.

4.2 Scheme Consideration

- (a) Aevum covenants in favour of IOR (in its own right and as trustee on behalf of the Scheme Participants) that, if the Scheme becomes Effective, in consideration for the transfer to Aevum of each IOR Share held by a Scheme Participant under the terms of the Scheme, Aevum will on the Implementation Date:
 - (i) accept that transfer; and
 - (ii) subject to clause 4.3 and in accordance with the Deed Poll, issue to each Scheme Participant the Scheme Consideration.
- (b) Any fractional entitlement to a part of a New Aevum Share (being an Aevum Share to be issued pursuant to the Scheme as Scheme Consideration):
 - (i) which is 0.5 or greater will be rounded up to the nearest whole number of Aevum Shares; and
 - (ii) which is less than 0.5 will be rounded down to the nearest whole number of Aevum Shares.
- (c) Aevum undertakes to IOR (in its own right and as trustee on behalf of the Scheme Participants) that, upon issue:
 - (i) the New Aevum Shares will rank equally in all respects with all existing Aevum Shares; and
 - (ii) each New Aevum Share will be fully paid and free from any mortgage, charge, lien, encumbrance or other security interest.

4.3 Ineligible Foreign Shareholders

- (a) The New Aevum Shares to which an Ineligible Foreign Shareholder would otherwise have become entitled will be issued to a nominee appointed by Aevum who will, in accordance with the Scheme, sell those New Aevum Shares at such time or times, in such manner and on such terms and condition as the nominee thinks fit in its absolute discretion (and at the risk of the Ineligible Foreign Shareholder) and pay the proceeds received, after deducting any applicable brokerage, stamp duty and other taxes and charges, to the Ineligible Foreign Shareholder.
- (b) Aevum must appoint the nominee at least two weeks before the Scheme Meeting. The identity of the nominee and the terms and conditions of the appointment of the nominee are subject to IOR's prior approval, such approval not to be unreasonably withheld.

4.4 Timetable

- (a) The parties acknowledge the Timetable is an indicative timetable.
- (b) The parties must use their best endeavours to implement the Transaction and perform their respective obligations substantially in accordance with the Timetable.

5. The Scheme

5.1 IOR's obligations in relation to the Scheme

Subject to the terms of this agreement, IOR must execute all documents and do all acts and things within its power as may be necessary or desirable for the implementation and performance of the Scheme on a basis consistent with this agreement and substantially in accordance with the Timetable, and in particular IOR must:

- (a) **promote merits of Transaction:** participate in, and ensure the IOR Board participates in, efforts reasonably requested by Aevum to promote the merits of the Transaction, including meeting with key members of IOR at the reasonable request of Aevum;
- (b) **Scheme Booklet:**
 - (i) prepare a draft of the Scheme Booklet in respect of the Scheme in accordance with all applicable laws and in particular with the Corporations Act, RG 60 and RG 142;
 - (ii) make available to Aevum advance drafts of the Scheme Booklet as reasonably agreed (so that Aevum has a reasonable opportunity to review and comment on drafts);
 - (iii) consult with Aevum in relation to the content of those drafts and consider in good faith, for the purpose of producing revised drafts of the Scheme Booklet, comments from Aevum and its Representatives on those drafts;
 - (iv) provide Aevum with revised penultimate draft of the Scheme Booklet within a reasonable time before the Regulator's Draft is finalised and to enable Aevum to review the Regulator's Draft at least 2 Business Days before its submission; and
 - (v) implement such changes to those parts of the Scheme Booklet relating to Aevum which are provided to IOR by Aevum in accordance with clause 5.2(b) as reasonably requested by Aevum prior to finalising the Regulator's Draft;
- (c) **commission Independent Expert's Report:** promptly appoint an Independent Expert to provide a report for inclusion in the Scheme Booklet stating whether in its opinion the Scheme is in the best interests of IOR Shareholders and IOR must provide any assistance and information reasonably requested by the Independent Expert to enable it to prepare its report;
- (d) **Investigating Accountant:** appoint the Investigating Accountant, and provide any assistance and information reasonably requested by the Investigating Accountant to enable it to prepare the Investigating Accountant's Report where necessary;
- (e) **liaise with ASIC:** provide copies of the Regulator's Draft to ASIC for its review and approval for the purposes of section 411(2) of the Corporations Act and liaise with ASIC throughout the Regulatory Review Period;
- (f) **keep Aevum informed:** during the Regulatory Review Period:
 - (i) promptly provide to Aevum and include in revised drafts of the Scheme Booklet any new information in relation to the IOR Group not included in the Regulator's Draft which is required by the Corporations Act or RG 60 or RG 142 to be included in the Scheme Booklet; and
 - (ii) promptly inform and consult with Aevum in relation to any matters raised by ASIC in connection with the Scheme Booklet or the Scheme including in relation to any presentation and/or the making of any submission in writing or at any

proposed meeting with ASIC, and co-operate with Aevum to resolve any such matters;

- (g) **approval of Scheme Booklet:** as soon as practicable after the end of the Regulatory Review Period, procure that a meeting of the IOR Board (or a committee of the IOR Board appointed for the purpose) is convened to consider, and if thought fit, approve the Scheme Booklet for dispatch to the IOR Shareholders, subject to approval of the Court;
- (h) **Court direction and advice:** promptly after, and provided that the approvals in clauses 5.1(g) and 5.2(g) have been obtained apply to the Court for orders under section 411(1) of the Corporations Act directing IOR to convene the Scheme Meeting to consider the Scheme and take all reasonable steps necessary to comply with the orders of the Court;
- (i) **registration of Scheme Booklet:** request ASIC to register the Explanatory Statement included in the Scheme Booklet in relation to the Scheme in accordance with section 412(6) of the Corporations Act;
- (j) **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;
- (k) **Scheme Meeting:** convene the holding of the Scheme Meeting in accordance with any orders which are made by the Court pursuant to section 411(1) of the Corporations Act;
- (l) **Court documents:** consult with Aevum in relation to the content of the documents required for the purpose of each Court hearing held, including for the purposes of section 411(1) and 411(4)(b) of the Corporations Act in relation to the Scheme (including originating process, affidavits, submissions and draft minutes of Court orders) and consider in good faith, for the purpose of amending drafts of those documents, comments from Aevum and its Representatives on those documents;
- (m) **Court approval of Scheme:** as soon as practicable after the IOR Shareholders approve the Scheme at the Scheme Meeting, apply (and to the extent necessary, re-apply) to the Court for orders approving the Scheme under section 411(4) of the Corporations Act substantially in accordance with the Timetable;
- (n) **lodge copy of Court orders:** if the Court makes orders under section 411(4) of the Corporations Act approving the Scheme, lodge with ASIC an office copy of the order of the Court approving the Scheme under section 411(10) of the Corporations Act on the day such office copy is received by IOR or such later date as agreed in writing by Aevum;
- (o) **registration:** if the Court makes orders under section 411(4) of the Corporations Act approving the Scheme:
 - (i) register all transfers of IOR Shares to Aevum on, or as soon as practicable after, the Implementation Date;
 - (ii) apply to ASX for suspension of trading in IOR Shares with effect from close of business on the Effective Date;
 - (iii) subject to the terms of the Scheme, close the Register as at the Record Date to determine the identity of the Scheme Participants and their entitlements to the Scheme Consideration;
 - (iv) provide to Aevum all information about the Scheme Participants that Aevum reasonably requires in order for Aevum to provide the Scheme Consideration to the Scheme Participants in accordance with the Scheme;

- (v) execute proper instruments of transfer of and effect and register the transfer of the IOR Shares in accordance with the Scheme; and
 - (vi) do all other things contemplated by or necessary to give effect to the Scheme and the orders of the Court;
- (p) **IOR Prescribed Occurrence:** between the date of this agreement and 8.00am on the Second Court Date, ensure that an IOR Prescribed Occurrence does not occur except that in the case of an IOR Prescribed Occurrence described in items (i) and (m), use its best endeavours to ensure that those IOR Prescribed Occurrences do not occur;
- (q) **Pre-Quotation Nominee:** if the Condition Precedent in clause 3.1(m) is waived, between the date of this agreement and 8.00am on the Second Court Date, procure that Aevum is nominated as a 'Pre-Quotation Nominee' (as that term is defined in clause 25 of IOR's constitution) to enable Aevum to acquire the IOR Shares without the IOR Shareholders breaching the restrictions on the transfer of the IOR Shares under IOR's constitution; and
- (r) **assist with share sale facility:** provide any assistance and information reasonably requested by Aevum, including sending a share sale facility form to IOR Shareholders, to enable Aevum to provide a share sale facility in accordance with clause 5.2(j).

5.2 Aevum's obligations in relation to the Scheme

Subject to the terms of this agreement, Aevum must execute all documents and do all acts and things within its power as may be necessary or desirable for the implementation and performance of the Scheme on a basis consistent with this agreement and substantially in accordance with the Timetable, and in particular Aevum must:

- (a) **Investigating Accountant:** provide any assistance and information reasonably requested by the Investigating Accountant to enable it to prepare the Investigating Accountant's Report;
- (b) **Aevum Information:** prepare and promptly provide to IOR all information in relation to Aevum and the New Aevum Shares that is required to be included in the Scheme Booklet to comply with applicable laws and ASIC regulatory guides relevant to that information (**Aevum Information**), make available to IOR drafts of that information, consult with IOR in relation to the content of those drafts and consider in good faith, for the purpose of amending those drafts, comments from IOR and its Representatives on that information;
- (c) **further Aevum Information:** provide to IOR such further or new Aevum Information as may arise after the Scheme Booklet is sent until the date of the Scheme Meeting as may be necessary to ensure that the Aevum 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 a material omission);
- (d) **assist Independent Expert:** subject to the Independent Expert entering into arrangements with IOR including in relation to confidentiality in a form reasonably acceptable to Aevum, promptly provide any assistance and information reasonably requested by the Independent Expert to enable it to prepare its report to be sent together with the Scheme Booklet;
- (e) **review drafts of Scheme Booklet:** as soon as practicable after delivery, review drafts of the Scheme Booklet prepared by IOR and promptly provide comments on those drafts in good faith;
- (f) **approval of Regulator's Draft:** as soon as practicable after finalisation of an advanced draft of the Regulator's Draft suitable for review by ASIC, procure that a meeting of the Aevum Board is convened to consider approving those sections of the Regulator's Draft

that relate to any Aevum Indemnified Parties and Aevum Information as being in a form appropriate for provision to ASIC for review;

- (g) **approval of Scheme Booklet:** as soon as practicable after the end of the Regulatory Review Period, procure that a meeting of the Aevum Board is convened to consider approving those sections of the Scheme Booklet that relate to any Aevum Indemnified Parties and Aevum Information appropriate for dispatch to the IOR Shareholders, subject to the approval of the Court;
- (h) **Deed Poll:** prior to the despatch of the Scheme Booklet to IOR Shareholders, execute the Deed Poll;
- (i) **representation:** procure that it has separate representation by counsel at the Court hearings convened for the purposes of section 411(1) and 411(4)(b) of the Corporations Act, at which, through its counsel, Aevum will undertake (if requested by the Court) to do all such things and take all such steps within its power as may be necessary in order to ensure the fulfilment of its obligations under this agreement and the Scheme;
- (j) **sale facility:** arrange for a share sale facility to be available for the sale of holdings of New Aevum Shares following the Implementation Date;
- (k) **Aevum Prescribed Occurrence:** between the date of this agreement and 8.00am on the Second Court Date, ensure that an Aevum Prescribed Occurrence does not occur except that in the case of an Aevum Prescribed Occurrence described in items (h) and (k), use its best endeavours to ensure that those Aevum Prescribed Occurrences do not occur; and
- (l) **Appointment of Ms Campbell:** subject to receiving consent to act as a director, appoint Ms Margaret Campbell as a director of Aevum with effect from the Implementation Date.

5.3 Scheme Booklet

- (a) IOR must consult with Aevum as to the content of the Scheme Booklet (other than Aevum Information).
- (b) Aevum must consult with IOR as to the content of Aevum Information.
- (c) The parties agree that:
 - (i) the efficient preparation of the Scheme Booklet is in the interests of the parties and IOR Shareholders; and
 - (ii) they will use all reasonable endeavours and utilise all necessary resources (including management resources and the resources of external advisers) to produce the Scheme Booklet as soon as reasonably practicable and in accordance with the Timetable.
- (d) Aevum's obligations under clauses 5.2(e), 5.2(f) and 5.2(g) relate only to the factual accuracy of Aevum Information and Aevum takes no responsibility for information in the Scheme Booklet other than Aevum Information. To that end, the Scheme Booklet will include a statement:
 - (i) by Aevum that Aevum Indemnified Parties are not responsible for any information contained in the Scheme Booklet other than Aevum Information; and
 - (ii) by IOR that the IOR Indemnified Parties are not responsible for any Aevum Information contained in the Scheme Booklet.
- (e) IOR must undertake appropriate due diligence and verification processes for the purposes of complying with clause 5.1(g) and will make such verification material available to Aevum on request by it.

- (f) Aevum must undertake appropriate due diligence and verification processes for the purposes of complying with clause 5.2(g) and will make such verification material available to IOR on request by it.
- (g) The parties must promptly inform the other if they have any reason to believe that any information in the Scheme Booklet is misleading or deceptive in any material respect (whether by omission or otherwise) whether because of Aevum Information or otherwise.
- (h) If there is a dispute as to the content of any part of the Scheme Booklet (including Aevum Information), the parties must consult in good faith and use their reasonable endeavours to resolve the dispute within 2 Business Days. If the parties fail to agree on the form or content of the Scheme Booklet and:
 - (i) the disagreement relates to the form or content of any Aevum Information contained in the Scheme Booklet, the Aevum Board will, acting in good faith, decide the final form or content of the disputed part of the Aevum Information and IOR must make such amendments as Aevum requires; or
 - (ii) the disagreement relates to the form or content of any other part of the Scheme Booklet, the IOR Board will, acting in good faith, decide the final form or content of the disputed part of the Scheme Booklet.

Even if there is a dispute as to the form or content of the Scheme Booklet and the parties use this procedure, the parties will continue to perform their obligations under this agreement.

5.4 Aevum Information

Without limiting clause 5.2:

- (a) Aevum:
 - (i) (subject to clause 5.4(b) below) consents to the inclusion of the Aevum Information in the Scheme Booklet; and
 - (ii) acknowledges that:
 - (A) it is responsible for ensuring that the Aevum Information is not misleading or deceptive in any material respect (whether by omission or otherwise); and
 - (B) the Scheme Booklet will state that Aevum is responsible for the Aevum Information, in accordance with clause 5.5; and
- (b) IOR must not:
 - (i) finalise the Scheme Booklet until Aevum has confirmed in writing that the existing draft of the Aevum Information is the final draft; and
 - (ii) edit the final form of that information in the Scheme Booklet without Aevum's prior written consent.

5.5 Scheme Booklet responsibility statements

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

- (a) IOR has provided, and is responsible for, the IOR Information in the Scheme Booklet, and that Aevum and its Representatives do not assume responsibility for the accuracy or completeness of the IOR Information;

- (b) Aevum has provided, and is responsible for, the Aevum Information in the Scheme Booklet, and that IOR and its Representatives do not assume responsibility for the accuracy or completeness of the Aevum Information except to the extent that IOR has provided Aevum with information for the purpose of Aevum preparing information on the Merged Entity following implementation of the Transaction;
- (c) the Independent Expert has provided and is responsible for the Independent Expert's Report, and that:
 - (i) IOR and its Representatives do not assume any responsibility for the accuracy or completeness of the Independent Expert's Report; and
 - (ii) Aevum and its Representatives do not assume any responsibility for the accuracy or completeness of the Independent Expert's Report; and
- (d) the accounting firm that has been engaged by IOR to prepare the Investigating Accountant's Report has provided and is responsible for that report, and that:
 - (i) IOR and its Representatives do not assume any responsibility for the accuracy or completeness of the Investigating Accountant's Report; and
 - (ii) Aevum and its Representatives do not assume any responsibility for the accuracy or completeness of the Investigating Accountant's Report.

5.6 Good faith co-operation

Each party must procure that its Representatives work (including by attending meetings and by providing information) in good faith and in a timely and co-operative fashion with the other parties to implement the Scheme and to prepare all documents required relating to the Scheme.

5.7 Recommendation of the IOR Directors

- (a) IOR represents and warrants as at the date of this agreement to Aevum that it has been advised by each IOR Director in office as at the date of this agreement that he or she will, and IOR must procure that the IOR Directors will, in each case subject to clause 5.7(b):
 - (i) unanimously recommend that IOR Shareholders vote in favour of the Scheme in the absence of a Superior Offer and subject to the Independent Expert expressing an opinion that the Scheme is in the best interests of IOR Shareholders, and not subsequently change, withdraw or modify that recommendation before the date the Scheme is approved by IOR Shareholders in the absence of a Superior Offer and subject to the Independent Expert expressing an opinion that the Scheme is in the best interests of IOR Shareholders;
 - (ii) include in the Public Announcement, the Scheme Booklet, IOR's website and any material communications made to the public and the IOR Shareholders about the Transaction, a statement to the effect of clauses 5.7(a)(i); and
 - (iii) not make any public statement or take any other action that contradicts the recommendation of the Scheme by the IOR Directors to the effect of the statement in clause 5.7(a)(i), in the absence of a Superior Offer and subject to the Independent Expert expressing an opinion that the Scheme is in the best interests of IOR Shareholders,

and the Scheme Booklet will state that each IOR Director who holds IOR Shares, or on whose behalf IOR Shares are held, intends to vote in favour of the Scheme in the absence of a Superior Offer and subject to the Independent Expert Report expressing an opinion that the Scheme is in the best interests of the IOR Shareholders.

- (b) IOR represents and warrants to Aevum that as at the date of this agreement it has been advised by each IOR Director that he or she will not, and IOR undertakes that an IOR Director will not, change, withdraw or modify his or her recommendation unless:
 - (i) the Independent Expert opines that the Scheme is not in the best interests of IOR Shareholders; or
 - (ii) the IOR Directors have unanimously:
 - (A) made the determination contemplated by clause 10.7(b) in respect of a Superior Offer after Aevum's rights under clause 10.6(c) have been exhausted and after evaluation of any Counterproposal; and
 - (B) publicly recommended that the Superior Offer is in the interests of the IOR Shareholders.

5.8 Court refuses to make orders

If the Court refuses to make any orders pursuant to section 411(1) of the Corporations Act convening the Scheme Meeting to consider or approve the Scheme, IOR must appeal the Court's decision to the fullest extent possible (with costs to be borne equally by Aevum and IOR) except where:

- (a) the parties agree otherwise; or
- (b) Counsel representing IOR and Aevum in relation to the Scheme indicates that, in his or her opinion, an appeal would have less than 50% prospect of success.

5.9 Conduct at Court proceedings

- (a) Aevum and IOR are entitled to separate representation at all Court proceedings relating to the Scheme.
- (b) Nothing in this agreement shall be taken to give a party any right or power to give undertakings to the Court for or on behalf of the other party without that party's consent.
- (c) Each party must give all undertakings to the Court in all Court proceedings which are reasonably required to obtain Court approval and confirmation of the Scheme.

5.10 Appointment of Aevum directors

IOR represents and warrants to Aevum that it has been advised by each IOR Director that he or she will, and IOR must procure that the IOR Board will:

- (a) on the Effective Date, take all actions necessary to ensure the nominees of Aevum are lawfully appointed as directors of IOR and represent a majority of the IOR Board; and
- (b) as soon as practicable after the Scheme Consideration has been paid, ensure that all directors on the IOR Board other than Aevum's nominees resign (provided that a proper board is constituted at all times).

5.11 Scheme Implementation Committee

- (a) From the date of execution of this agreement until the date the Scheme is Effective or the termination of this agreement in accordance with its terms, the Scheme Implementation Committee will act as a forum for consultation and planning between the parties in relation to the implementation of the Scheme.
- (b) Subject to the terms of this agreement, the functions of the Scheme Implementation Committee shall be as follows:
 - (i) to facilitate communications between the parties in relation to the Scheme from the date of the Public Announcement until the Effective Date;

- (ii) where required, approve matters pursuant to clause 6;
 - (iii) act as the primary forum for the parties to consult and/or agree on the matters requiring consultation in clause 9; and
 - (iv) such other matters as the Scheme Implementation Committee sees fit to carry out its role as a forum for consultation and planning between the parties in relation to the implementation of the Scheme.
- (c) The Scheme Implementation Committee may delegate certain tasks to specific subcommittees to consider particular matters outlined in clause 5.11(b).

6. Conduct of business

6.1 Conduct of business by IOR

- (a) From the date of this agreement until the Implementation Date, the IOR Group must conduct its business in the ordinary course of business consistent with past practice, including making all reasonable efforts to:
- (i) maintain its business and assets;
 - (ii) keep available the services of its officers and employees; and
 - (iii) preserve its relationships with customers, suppliers, licensors, licensees, joint venturers and others with whom it has business dealings,
- except:
- (iv) as may be required or contemplated by this agreement; or
 - (v) as may be undertaken with the prior approval of Aevum, such approval not to be unreasonably withheld or delayed.
- (b) Notwithstanding clause 6.1(a), the IOR Group must not:
- (i) increase the remuneration of or pay any bonus (excluding sales commission under existing sales commission arrangements) or issue any securities or options to, or otherwise vary the employment agreements with, any of its directors or any employees with an existing annual total fixed remuneration greater than \$100,000 (**Senior Executive**);
 - (ii) accelerate the rights of any of its directors or Senior Executives to benefits of any kind;
 - (iii) pay a director or Senior Executive a termination payment, other than those termination payments disclosed to Aevum prior to the date of this agreement or as provided for in an existing employment contract in place as at the date of this agreement and a copy of which has previously been disclosed to Aevum;
 - (iv) give or agree to give a financial benefit to a related party of IOR other than in accordance with the exceptions set out in Chapter 2E of the Corporations Act;
 - (v) amend in any material respect any arrangement with its financial advisers in respect of the transactions contemplated by this agreement;
 - (vi) enter into any new financing arrangements in excess of \$500,000 in aggregate;
 - (vii) pay any fee to any adviser where such fee is contingent on completion of the Transaction, other than a fee payable to Cubis Consulting Pty Limited in respect of the Transaction;

- (viii) take any action which would be reasonably expected to give rise to an IOR Prescribed Occurrence;
- (ix) take any action:
 - (A) in respect of its information technology systems which would have a material adverse impact on those systems; or
 - (B) in respect of its distribution and logistics arrangements which would have a material adverse impact on those arrangements; or
- (x) agree to do any of the matters set out above,

except:

 - (xi) with the prior written consent of Aevum (such consent not to be unreasonably withheld or delayed); or
 - (xii) as required by law or under this agreement.

6.2 Transaction implementation and access to information

- (a) From the date of this agreement until the Implementation Date:
 - (i) IOR will provide Aevum with copies of IOR's monthly management reports (including accounts and monthly MD reports); and
 - (ii) the managing director and chief financial officer of both IOR and Aevum will meet in person or by telephone conference on a fortnightly basis, beginning on the date of this agreement, to discuss the IOR Group's financial position, prospects and affairs.
- (b) The rights and obligations of the parties under this clause 6.2, are subject to the terms of the Confidentiality Agreement.
- (c) Nothing in this clause 6.2 requires IOR or Aevum to act at the direction of the other. The business of each of party and their Subsidiaries will continue to operate independently of the other until the Implementation Date.

7. Representations, warranties and undertakings

7.1 IOR representations and warranties

IOR represents and warrants to Aevum on its own behalf and separately as trustee or nominee for each Aevum Indemnified Party that:

- (a) **incorporation:** it is a body corporate validly existing under the laws of its place of incorporation and each member of the IOR Group is a corporation validly existing under the laws of its place of incorporation;
- (b) **power:** it has the corporate power to enter into and perform or cause to be performed its obligations under this agreement and to carry out the transactions contemplated by this agreement;
- (c) **corporate authorisations:** it has taken all necessary corporate action to authorise the entry into of this agreement and the Scheme and, subject to IOR Shareholders approving the Scheme, has taken all necessary corporate action to authorise the performance of this agreement and the Scheme and to carry out the transactions contemplated by this agreement and the Scheme;

- (d) **binding obligations:** (subject to laws generally affecting creditors' rights and principles of equity) this agreement is valid and binding upon it;
- (e) **solvency:** each member of the IOR Group is solvent and no resolutions have been passed nor has any other step been taken or legal proceedings commenced or threatened against it for its winding up or dissolution or for the appointment of a liquidator, receiver, administrator or similar officer over any or all of its assets;
- (f) **regulatory action:** no regulatory action of any nature has been taken which would prevent, inhibit or otherwise have a material adverse effect on its ability to fulfil its obligations under this agreement;
- (g) **no default:** this agreement does not conflict with or result in the breach of or default under any provision of IOR's constitution, any material term or provision of any material agreement, or any writ, order or injunction, judgement, law, rule, regulation or instrument to which IOR is party or subject or of which it or any member of the IOR Group is bound; and
- (h) **no IOR Prescribed Occurrence:** no IOR Prescribed Occurrence has occurred since 30 June 2009;
- (i) **not misleading:** all information that has been provided to Aevum in writing during the course of negotiations of the parties and the preparation of the Scheme Booklet is, to the best of its knowledge, accurate and not misleading in any material respect and does not omit any material matters required to make the information provided to Aevum not misleading (when read as a whole); and
- (j) **issued securities:** the issued IOR securities as of the date of this agreement are 55,063,823 IOR Shares and the IOR Group has not issued, or agreed to issue, any other securities or instruments which are still in force and may convert into IOR Shares or any other securities in IOR.

7.2 IOR undertakings

IOR undertakes to Aevum that:

- (a) **IOR Information:** as at the date of the Scheme Booklet, the IOR Information will:
 - (i) comply in all material respects with the requirements of the Corporations Act and RG 60 and RG 142; and
 - (ii) not contain any material statement which is misleading or deceptive nor contain any material omission having regard to applicable disclosure requirements;
- (b) **reliance:** information provided by IOR to Aevum under this agreement or in connection with the Transaction (including IOR Information) will be provided in good faith and on the understanding that Aevum will rely on that information for the purposes of considering and approving Aevum Information in the Scheme Booklet before it is despatched and in implementing the Scheme;
- (c) **updating information:** it will as a continuing obligation, provide Aevum all such further or new information which may arise after the date of the Scheme Booklet until the date of the Scheme Meeting which may be necessary to ensure there would be no breach of clause 7.2(a) if it applied as at the date upon which that information arose;
- (d) **provision of information to Independent Expert:** all information provided by or on behalf of IOR to the Independent Expert to enable the Independent Expert's Report to be included in the Scheme Booklet 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; and

- (e) **provision of information to Investigating Accountant:** all information provided by or on behalf of IOR to the Investigating Accountant to enable the Investigating Accountant's Report to be included in the Scheme Booklet will be provided in good faith and on the understanding that the Investigating Accountant will rely upon that information for the purpose of preparing the Investigating Accountant Report.

7.3 Aevum representations and warranties

Aevum represents and warrants to IOR (on its own behalf and separately as trustee or nominee for each IOR Indemnified Party) that:

- (a) **incorporation:** it is a body corporate validly existing under the laws of its place of incorporation and each member of the Aevum Group is a corporation validly existing under the laws of its place of incorporation;
- (b) **corporate power:** it has the corporate power to enter into and perform or cause to be performed its obligations under this agreement and to carry out the transactions contemplated by this agreement;
- (c) **corporate authorisations:** it has taken all necessary corporate action to authorise the entry into of this agreement and the Scheme and has taken all necessary corporate action to authorise the performance of this agreement and the Scheme and to carry out the transactions contemplated by this agreement and the Scheme;
- (d) **binding obligations:** (subject to laws generally affecting creditors' rights and principles or equity) this agreement is valid and binding upon it;
- (e) **solvency:** each member of the Aevum Group is solvent and no resolutions have been passed nor has any other step been taken or legal proceedings commenced or threatened against it for its winding up or dissolution or for the appointment of a liquidator, receiver, administrator or similar officer over any or all of its assets except as otherwise disclosed to IOR;
- (f) **regulatory action:** no regulatory action of any nature has been taken which would prevent, inhibit or otherwise have a material adverse effect on its ability to fulfil its obligations under this agreement;
- (g) **no default:** this agreement does not conflict with or result in the breach of or default under any provision of Aevum's constitution, any material term or provision of any material agreement or any writ, order or injunction, judgement, law, rule, regulation or instrument to which Aevum is party or subject or of which it is bound; and
- (h) **no Aevum Prescribed Occurrence:** no Aevum Prescribed Occurrence has occurred since 30 June 2009.
- (i) **not misleading:** all information that has been provided to IOR in writing during the course of negotiations of the parties and the preparation of the Scheme Booklet is, to the best of its knowledge, accurate and not misleading in any material respect and does not omit any material matters required to make the information provided to IOR not misleading (when read as a whole); and
- (j) **issued securities:** the issued Aevum securities as of the date of this agreement are 128,448,729 Aevum Shares and the Aevum Group has not issued, or agreed to issue, any other securities or instruments which are still in force and may convert into Aevum Shares or any other securities in Aevum except any issue:

- (i) approved at a general meeting of Aevum;
- (ii) following exercise of existing options under Aevum's incentive plan for employees (or any further grant of options under such plan as disclosed before the date of this agreement and/or consistently with past practice);
- (iii) pursuant to Aevum's dividend reinvestment plan in place as at the date of this agreement;
- (iv) which is required to be done or procured by Aevum pursuant to this agreement or the Scheme; or
- (v) as otherwise disclosed to IOR in writing.

7.4 Aevum undertakings

Aevum undertakes to IOR that:

- (a) **Aevum Information:** Aevum Information to be provided in accordance with this agreement and included in the Scheme Booklet, as at the date of the Scheme Booklet, will:
 - (i) comply in all material respects with the requirements of the Corporations Act, the Listing Rules and RG 60 and RG 142; and
 - (ii) not contain any material statement which is misleading or deceptive, nor contain any material omission, having regard to applicable disclosure requirements;
- (b) **reliance:** information provided by Aevum to IOR under this agreement or in connection with the Transaction (including Aevum Information) will be provided in good faith and on the understanding that IOR will rely on that information for the purposes of considering and approving the Scheme Booklet before it is despatched and in implementing the Scheme;
- (c) **updating information:** it will, as a continuing obligation, provide to IOR all such further or new information which may arise after the date of the Scheme Booklet until the date of the Scheme Meeting which may be necessary to ensure there would be no breach of clause 7.4(a) if it applied on the date on which the information arose; and
- (d) **provision of information to the Independent Expert:** all information provided by or on behalf of Aevum to the Independent Expert to enable the Independent Expert's Report to be included in the Scheme Booklet will be provided in good faith and on the understanding that the Independent Expert will rely on the information for the purpose of preparing the Independent Expert's Report; and
- (e) **provision of information to Investigating Accountant:** all information provided by or on behalf of Aevum to the Investigating Accountant to enable the Investigating Accountant's Report to be included in the Scheme Booklet will be provided in good faith and on the understanding that the Investigating Accountant will rely upon that information for the purpose of preparing the Investigating Accountant Report.

7.5 Timing of representations and warranties

Each representation and warranty made or given under clause 7.1 and clause 7.3 is given:

- (a) at the date of the agreement and at 8.00am on the Second Court Date; or
- (b) where expressed, at the time at which the representation or warranty is expressed to be given.

7.6 Survival of representations and warranties

Each representation and warranty in clauses 7.1 and 7.3:

- (a) is severable;
- (b) will survive the termination of this agreement; and
- (c) is given with the intent that liability under them will not be confined to breaches which are discovered prior to the date of termination of this agreement.

8. Termination rights

8.1 Termination events

Without limiting any other provision of this agreement (including clauses 5.8 and 3.7):

- (a) this agreement automatically terminates if the Sunset Date has passed and the Scheme has not become Effective;
- (b) either party (**non-defaulting party**) may terminate this agreement by notice in writing to the other party if:
 - (i) each of the following has occurred:
 - (A) the other party (**defaulting party**) is in material breach of a provision of this agreement (other than for breach of a representation or warranty in clause 7.1 or clause 7.3) at any time prior to 8.00am on the Second Court Date;
 - (B) the non-defaulting party has given notice to the defaulting party setting out the relevant circumstances of the breach and stating an intention to terminate the agreement; and
 - (C) the relevant circumstances have continued to exist 5 Business Days (or any shorter period ending at 8.00am on the Second Court Date) from the time the notice in clause 8.1(b)(i)(B) is given;
 - (ii) the required majorities of IOR Shareholders do not approve the Scheme at the Scheme Meeting;
 - (iii) a Court or other Regulatory Authority has issued an order, decree or ruling or taken other action that permanently restrains or prohibits the Transaction and that order, decree, ruling or other action has become final and cannot be appealed; or
 - (iv) in accordance with clause 3.7(b); or
- (c) Aevum may terminate this agreement by notice in writing to IOR if, at any time:
 - (i) IOR breaches any representation or warranty in clause 7.1 and:
 - (A) the breach is not remedied by subsequent action on the part of IOR before 8.00am on the Second Court Date; and
 - (B) the breach amounts to, results in, or discloses anything, that could reasonably be expected to amount to an IOR Material Adverse Event;
 - (ii) an IOR Director fails to recommend the Scheme or the Transaction or withdraws his or her recommendation that IOR Shareholders vote in favour of the Scheme or any IOR Director of IOR makes a public statement indicating that he or she no longer supports the Scheme;
 - (iii) a Court or other Regulatory Authority has issued an order, decree or ruling or taken other action that restrains or prohibits Aevum exercising or enjoying the benefit of any material rights under this agreement; or

- (iv) Aevum is permitted to do so under clause 8.2;
- (d) IOR may terminate this agreement by notice in writing to Aevum if:
 - (i) Aevum breaches any representation or warranty in clause 7.3 and:
 - (A) the breach is not remedied by subsequent action on the part of Aevum before 8.00am on the Second Court Date; and
 - (B) the breach amounts to, results in, or discloses anything, that could reasonably be expected to amount to an Aevum Material Adverse Event;
 - (ii) at any time prior to the Second Court Date, all of the IOR Directors have changed, withdrawn or modified their recommendation because there is a Superior Offer or the Independent Expert has concluded that, in the Independent Expert's opinion, the Scheme is not in the best interests of the IOR Shareholders;
- (e) IOR and Aevum can terminate this agreement if agreed to in writing by both parties.

8.2 Fiduciary and other carve out for Aevum

- (a) If at any time before the Second Court Date, Aevum receives an expression of interest, proposal or offer by a third party to evaluate or enter into any transaction with the third party and the transaction is conditional on Aevum withdrawing from the Transaction (**Alternative Proposal**), Aevum may terminate this agreement provided that:
 - (i) the Alternative Proposal by the third party is bona fide and is made in writing by or on behalf of a person that each member of the Aevum Board considers is of reputable commercial standing; and
 - (ii) the Aevum Board has determined in good faith and acting reasonably after:
 - (A) consultation with Aevum's independent financial adviser, that the Alternative Proposal is:
 - (I) capable of being valued and completed; and
 - (II) of higher financial value to Aevum and Aevum's Shareholders than the Transaction,after taking into account all aspects of the Alternative Proposal (including its terms and conditions) and the person making it; and
 - (B) receiving written advice from its Counsel in relation to the Scheme, that failing to respond to such a bona fide Alternative Proposal would be likely to constitute a breach of the Aevum Board's fiduciary duties or statutory obligations.
- (b) Aevum represents and warrants to IOR that, as at the date of this agreement neither it nor any of its Representatives:
 - (i) is participating, directly or indirectly, in any discussions or negotiations with a third party that concern, or that could reasonably be expected to lead to, an Alternative Proposal for that party; or
 - (ii) is a party to any agreement, arrangement or understanding with a third party in relation to an Alternative Proposal for it or a possible Alternative Proposal that would prevent it entering into this agreement or complying with its obligations under this agreement.

8.3 Notice of breach

Each party must give notice to the other as soon as practicable after it becomes aware of a breach by it of this agreement (including in respect of any representation or warranty).

8.4 Termination right

- (a) Any right to terminate this agreement under clause 8.1(a), 8.1(c), 8.1(d), 8.1(e) or 8.2 that arises before the Second Court Date ceases at 8.00am on the Second Court Date.
- (b) Subject to clause 8.4(a), any right to terminate this agreement ceases when the Scheme becomes Effective.

8.5 Effect of termination

- (a) If a party terminates this agreement or if this agreement otherwise terminates in accordance with its terms, then in either case, each party will be released from all further obligations under this agreement other than under clauses 9, 11, 12, 13 and 14.
- (b) Termination of this agreement does not affect any accrued rights or remedies of a party (including in respect of any past breach of this agreement by the other party).

9. Public announcements

9.1 Announcement of transaction

Aevum and IOR must issue the Public Announcement promptly after the execution of this agreement.

9.2 Public announcements

- (a) Subject to paragraphs (b) and (c), IOR and Aevum must not make any public announcement or disclosure in relation to the Transaction (including any staff or client announcements or presentations) other than in a form approved by the other party (acting reasonably). Each party will use all reasonable endeavours to provide such approval as soon as practicable.
- (b) Where IOR or Aevum is required by law to make any announcement or make any disclosure in relation to the Transaction, it may do so only after it has given as much notice as possible to, and has consulted (to the fullest extent reasonable in the circumstances) with, the other party (acting reasonably).
- (c) Nothing in clause (a) prevents Aevum or IOR from making presentations to, and to responding to enquiries from, brokers, portfolio investors and analysts in relation to the Transaction provided that the information provided is consistent with the form previously approved by the other party.

9.3 Statements on termination

The parties must act in good faith and use all reasonable endeavours to issue agreed statements in respect of any termination of this agreement and, to that end but without limitation, clause 9.2 applies to any such statements or disclosures.

10. Exclusivity

10.1 No-shop

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

- (a) solicits, invites, encourages or initiates any enquiries, negotiations, discussions, proposals or provides information relating to the IOR Group or any of its businesses or operations; or
- (b) communicates any intention to do any of these things,

in relation to, or which may reasonably be expected to lead to, a Competing Transaction. Nothing in the foregoing prevents the parties from continuing to make normal presentations to, and to respond to enquiries from, brokers, portfolio investors and analysts in the normal course in relation to the Transaction or their business generally.

10.2 No-talk

During the Exclusivity Period, but subject to clause 10.7, must ensure that neither it nor any of its Representatives directly or indirectly:

- (a) negotiates or enters into or participates in negotiations or discussions with any person; or
- (b) communicates any intention to do any of these things,

in relation to, or which may reasonably be expected to lead to:

- (c) a Competing Transaction, even if that person's Competing Transaction was not directly or indirectly solicited, encouraged or initiated by IOR or any of its Representatives or the person has publicly announced the Competing Transaction; or
- (d) the Transaction not proceeding.

10.3 Due diligence information

During the Exclusivity Period, IOR must ensure that neither it nor any of its Representatives in relation to a Competing Transaction:

- (a) solicits, invites, initiates, encourages, or subject to clause 10.7, facilitates any party other than Aevum to undertake due diligence investigations on IOR, any of its Related Entities or their respective businesses and operations; or
- (b) subject to clause 10.7, makes available to any other person or permits any other person to receive (in the course of due diligence investigations or otherwise) any non-public information relating to IOR, any of its Related Entities or their respective businesses and operations.

10.4 Notification of approaches

- (a) During the Exclusivity Period, if IOR is approached by any person to engage in any activity that, when done, would be reasonably expected to breach its obligations in clauses 10.1, 10.2 or 10.3 (or would, when done, be reasonably expected to breach its obligations under clauses 10.2 or 10.3 if it were not for clause 10.7), IOR must promptly notify Aevum in accordance with clause 10.4(b).
- (b) A notice given under this clause 10.4 must be accompanied by all material details of the relevant event, including:
 - (i) the identity of the person or persons taking any action referred to in clause 10.4 or on whose behalf any such action was taken or any person to whom IOR intends to provide information under clause 10.4(a) (**Rival Bidder**);
 - (ii) the key terms and conditions of any Competing Transaction or any proposed Competing Transaction (to the extent known); and
 - (iii) the circumstances in which any information is provided to the Rival Bidder,

except that where the consideration for the Competing Transaction involves cash only IOR is not obliged to identify the Rival Bidder to Aevum unless such Competing Transaction, or details of the Competing Transaction, has been made public.

10.5 Access to information

- (a) Where, in reliance on clause 10.7, the IOR Group or any member of the IOR Group or any of their Representatives proposes to provide any information relating to the IOR Group to any person in connection with or for the purposes of a current or future Competing Transaction, it must, to the extent that Aevum has not previously been provided with the information, provide Aevum with a complete copy of that information at the same time as it is provided to the third party.
- (b) Nothing in this clause 10 prevents IOR or its Representatives from:
 - (i) providing information to its Representatives;
 - (ii) providing information required to be provided by law, a Court or any Regulatory Authority; or
 - (iii) making presentations to brokers, portfolio investors and analysts in the ordinary and usual course of business.

10.6 IOR's response to Rival Bidder and Aevum's right to respond

- (a) If IOR is permitted by virtue of clause 10.7 to engage in activity that would otherwise breach clauses 10.2 and 10.3, IOR must enter into a confidentiality agreement with the Rival Bidder which is on terms no less onerous to the Rival Bidder than the Confidentiality Agreement is to Aevum.
- (b) Without prejudice to Aevum's rights under this clause 10, if at any time during the Exclusivity Period any IOR Director wishes to approve or recommend entry into any agreement, commitment, arrangement or understanding relating to a Competing Transaction (other than a confidentiality agreement contemplated by clause 10.6(a)), IOR must ensure that he or she does not do so:
 - (i) unless the Competing Transaction is bona fide and, assuming that the Competing Transaction is implemented, it would mean a person (other than Aevum) would directly or indirectly acquire 100% of the IOR Group; and
 - (ii) until each of the following has occurred:
 - (A) the IOR Directors have made the determination contemplated by clause 10.7(b) in respect of that Competing Transaction;
 - (B) IOR has given Aevum notice in writing of its intention to enter into an agreement, commitment, arrangement or understanding relating to that Competing Transaction, subject to Aevum's rights under clause 10.6(c);
 - (C) Aevum's rights under clause 10.6(c) have been exhausted; and
 - (D) the IOR Directors have made the determination contemplated by clause 10.7(b) in respect of that Competing Transaction after Aevum's rights under clause 10.6(c) have been exhausted and after evaluation of any Counterproposal.
- (c) If IOR gives notice to Aevum under clause 10.6(b)(ii)(B), Aevum will have the right, but not the obligation, at any time during the period of three Business Days following receipt of the notice, to:
 - (i) offer to amend the terms of the Scheme;

- (ii) make a takeover bid for IOR; or
- (iii) propose any other form of transaction,

(each a **Counterproposal**), and if it does so then IOR and the IOR Directors must review the Counterproposal in good faith. If the Counterproposal would, in the opinion of the IOR Directors, be more favourable to IOR and IOR Shareholders than the Competing Transaction (having regard to the matters noted in clause 10.7(b)), then:

- (iv) if the Counterproposal contemplates an amendment to the Scheme – the parties must negotiate in good faith to enter into an amended agreement in relation to the Scheme reflecting the Counterproposal; or
- (v) if the Counterproposal contemplates any other form of transaction – IOR must announce promptly to the market that the IOR Directors unanimously recommend the Counterproposal, and the parties must pursue implementation of the Counterproposal in good faith,

in each case as soon as reasonably practicable.

- (d) For the purposes of this clause 10.6, each successive modification of any third party expression of interest, offer or proposal in relation to a Competing Transaction will constitute a new Competing Transaction.

10.7 Fiduciary and other carve-out

The restrictions in clause 10.2 and clause 10.3 do not apply to the extent that they restrict IOR or the IOR Directors from taking or refusing to take any action with respect to a Competing Transaction (in relation to which there has been no contravention of this clause 10) provided:

- (a) the Competing Transaction is bona fide and is made in writing by or on behalf of a person that each of the IOR Directors consider is of reputable commercial standing; and
- (b) the IOR Directors have determined in good faith and acting reasonably after:
 - (i) consultation with IOR's independent financial adviser, that the Competing Transaction:
 - (A) is capable of being valued and completed; and
 - (B) is of higher financial value to IOR and IOR Shareholders than the Transaction,after taking into account all aspects of the Competing Transaction (including its terms and conditions) and the person making it; and
 - (ii) receiving written advice from Queen's Counsel or Senior Counsel representing IOR in relation to the Scheme,

that failing to respond to such a bona fide Competing Transaction would be likely to constitute a breach of the IOR Directors' fiduciary duties or statutory obligations.

10.8 No current discussions

IOR represents and warrants to Aevum that, as at the date of this agreement neither it nor any of its Representatives:

- (a) is participating, directly or indirectly, in any discussions or negotiations with a third party that concern, or that could reasonably be expected to lead to, a Competing Transaction for that party; or

- (b) is a party to any agreement, arrangement or understanding with a third party in relation to a Competing Transaction for it or a possible Competing Transaction that would prevent it entering into this agreement or complying with its obligations under this agreement.

10.9 Legal advice

IOR represents and warrants that:

- (a) prior to entering into this agreement:
 - (i) it has received legal advice on this agreement and the operation of this clause 10;
 - (ii) it has clear documentary evidence supporting the IOR Board's detailed consideration of this agreement and this clause 10 in particular; and
- (b) it and the IOR Board considers this clause 10 to be fair and reasonable and that it is appropriate to agree to the terms in this clause 10 in order to secure the significant benefits to it, and IOR Shareholders, resulting from the Transaction.

11. Reimbursement Fee

11.1 Declarations

Each party would not have entered into this agreement without the benefit of this clause 11 and it would not have entered into and continued the negotiations and conducted due diligence into the other party leading up to this agreement unless the party had a reasonable expectation that the other party would agree to enter into a clause of this kind.

11.2 Acknowledgments

- (a) Each party acknowledges that the other party will incur:
 - (i) significant external advisory costs;
 - (ii) some internal costs of a similar kind (including directors and management time costs, risk management costs and capital costs);
 - (iii) out of pocket expenses including air fares and hotel accommodation;
 - (iv) commitment fees and other financing costs; and
 - (v) reasonable opportunity costs incurred by the other party in pursuing the Transaction or in not pursuing other alternative acquisitions or strategic initiatives,in relation to the Transaction and will incur further costs if the Transaction is not successful (**Costs**).
- (b) Each party confirms that:
 - (i) it has received legal advice on this agreement and the operation of this clause 11;
 - (ii) it has clear documentary evidence supporting its board's detailed consideration of this agreement and this clause 11 in particular; and
 - (iii) it and its board considers this clause to be fair and reasonable and that it is appropriate to agree to the terms in this clause 11 in order to secure the significant benefits to it, its shareholders, resulting from the Transaction.

11.3 Agreement on Costs

- (a) The parties acknowledge that the amount of the Costs is inherently unascertainable and that, even after termination of this agreement, the Costs will not be able to be accurately ascertained.

- (b) As a genuine and reasonable pre-estimate of the costs that each party will suffer if the Transaction does not proceed, the parties agree that, for the purposes of this clause 11, the Costs will be equal to the amount of the Reimbursement Fee (it being acknowledged by the parties that the Costs would most likely be significantly in excess of this amount).

11.4 Aevum Reimbursement of Costs

- (a) Subject to clauses 11.6 and 11.7, IOR agrees to pay to Aevum the Reimbursement Fee if, at any time after execution of this agreement, any of the following events occur:
- (i) any IOR Director fails to recommend, or any Director of IOR recommends against, qualifies their support of or withdraws his or her recommendation or approval of, the Transaction, other than in either such case:
 - (A) in circumstances where IOR is entitled to terminate this agreement under clause 3.7(b); or
 - (B) because the Independent Expert has concluded that, in the Independent Expert's opinion, the Scheme is not in the best interests of IOR Shareholders;
 - (ii) any IOR Director recommends or promotes a Competing Transaction;
 - (iii) the Court fails (taking into account all appeals) to approve the Scheme for the purposes of section 411(1)(b) of the Corporations Act as a result of a material non-compliance by IOR with any of its obligations under this agreement;
 - (iv) if the Effective Date has not occurred on or prior to the Sunset Date as a direct result of the failure by IOR to perform or satisfy their material obligations under this agreement which has not been remedied in accordance with clause 8.1;
 - (v) if:
 - (A) before the Scheme becomes Effective a Competing Transaction in relation to IOR is announced or open for acceptance;
 - (B) the Competing Transaction is more favourable to Scheme Participants than the Scheme, taking into account all the terms and conditions of the Competing Transaction; and
 - (C) that Competing Transaction becomes free of any defeating conditions;
 - (vi) any person other than Aevum:
 - (A) obtains control of, or merges or amalgamates with, IOR; or
 - (B) acquires directly or indirectly (including by way of joint venture or dual listed company structure) an interest in all or a substantial part of the business or assets of the IOR Group;
 - (vii) Aevum terminates this agreement under clause 8.1(b)(i); or
 - (viii) if the Effective Date has not occurred on or prior to the Sunset Date and, by the Sunset Date:
 - (A) IOR has not been admitted to the Official List of ASX; and
 - (B) the IOR Shares have not been approved for official quotation by ASX.
- (b) The payment of the Reimbursement Fee by IOR to Aevum provided for in this clause 11.4 must be made in accordance with clause 11.8.

11.5 IOR Reimbursement of Costs

- (a) Subject to clauses 11.6 and 11.7, Aevum agrees to pay to IOR the Reimbursement Fee if, at any time after execution of this agreement, any of the following events occur:
 - (i) Aevum terminates this agreement under clause 8.2;
 - (ii) IOR terminates this agreement under clause 8.1(b)(i);
 - (iii) the Effective Date has not occurred on or prior to the Sunset Date as a direct result of the failure by Aevum to perform or satisfy their material obligations under this agreement which has not been remedied in accordance with clause 8.1.
- (b) The payment of the Reimbursement Fee by IOR to Aevum provided for in this clause 11.5 must be made in accordance with clause 11.8.

11.6 No payment if prior termination or Scheme becomes Effective

The Reimbursement Fee is not payable under clause 11.4 or clause 11.5 if:

- (a) prior to an event referred to in that clause occurring, this agreement has already been validly terminated, or
- (b) the Scheme becomes Effective notwithstanding the occurrence of any event under clause 11.4.

11.7 Compliance with law

If the payment of all or any part of a Reimbursement Fee is:

- (a) unlawful;
- (b) involves a breach of directors' duties; or
- (c) constitutes unacceptable circumstances (within the meaning of the Corporations Act and as declared by the Australian Takeovers Panel or a Court),

(Impugned Amount)

then:

- (d) the requirement to pay the Reimbursement Fee does not apply to the extent of the Impugned Amount; and
- (e) if the relevant party has received the Impugned Amount, it must refund it within 10 Business Days of the final determination being made.

11.8 Payment

Any payment of a Reimbursement Fee under this clause 11 must be made within 5 Business Days of receipt of a written demand. The demand of a Reimbursement Fee may only be made after:

- (a) the Scheme fails to become Effective by the Sunset Date; or
- (b) this agreement is terminated in accordance with its terms.

11.9 Claims

The liability of a party in respect of any Claim that arises under this agreement is limited to the amount of the Reimbursement Fee.

12. GST

12.1 Interpretation

In this clause 12 and the rest of this agreement, a word or expression defined in the *A New Tax System (Goods and Services Tax) Act 1999* (Cth) has the meaning given to it in that Act.

12.2 GST exclusive

- (a) Any consideration or amount payable under this agreement, including any non-monetary consideration (as reduced in accordance with clause 12.2(e) if required) (**Consideration**) is exclusive of GST.
- (b) If GST is or becomes payable on a Supply made under or in connection with this agreement, an additional amount (**Additional Amount**) is payable by the party providing consideration for the Supply (**Recipient**) equal to the amount of GST payable on that Supply as calculated by the party making the Supply (**Supplier**) in accordance with the GST Law.
- (c) The additional amount payable under clause 12.2(b) is payable at the same time and in the same manner as the consideration for the supply, subject to the provision of a valid Tax Invoice at or before that time. If a valid Tax Invoice is not provided at or before that time then the Additional Amount is only payable on receipt of a valid Tax Invoice.
- (d) If for any reason (including, without limitation, the occurrence of an Adjustment Event) the amount of GST payable on a Supply (taking into account any Decreasing or Increasing Adjustments in relation to the Supply) varies from the Additional Amount payable by the Recipient under clause 12.2(b):
 - (i) the Supplier must provide a refund or credit to the Recipient, or the Recipient must pay a further amount to the Supplier, as appropriate;
 - (ii) the refund, credit or further amount (as the case may be) will be calculated by the Supplier in accordance with the GST Law; and
 - (iii) the Supplier must notify the Recipient of the refund, credit or further amount within 10 Business Days after becoming aware of the variation to the amount of GST payable. Any refund or credit must accompany such notification or the Recipient must pay any further amount within five Business Days after receiving such notification, as appropriate. If there is an Adjustment Event in relation to the Supply, the requirement for the Supplier to notify the Recipient will be satisfied by the Supplier issuing to the Recipient an Adjustment Note within 10 Business Days after becoming aware of the occurrence of the Adjustment Event.
- (e) Despite any other provision in this agreement:
 - (i) if an amount payable under or in connection with this agreement (whether by way of reimbursement, indemnity or otherwise) is calculated by reference to an amount incurred by a party, whether by way of cost, expense, outlay, disbursement or otherwise (**Amount Incurred**), the amount payable must be reduced by the amount of any Input Tax Credit to which that party is entitled in respect of that Amount Incurred; and
 - (ii) no Additional Amount is payable under clause 12.2(b) in respect of a Supply to which section 84-5 of the GST Act applies.
- (f) Any reference in this clause to an Input Tax Credit to which a party is entitled includes an Input Tax Credit arising from a Creditable Acquisition by that party and to which the Representative Member of a GST Group of which the party is a member is entitled.

13. Notices

13.1 Service of notices

A notice, demand, consent, approval or communication under this agreement (**Notice**) must be:

- (a) in writing and in English directed to the recipient's address for notices specified in the Details, as varied by any Notice; and
- (b) hand delivered or sent by prepaid post or facsimile to that address.

13.2 Effective on receipt

A Notice given in accordance with clause 13.1 takes effect when received (or at a later time specified in it), and is taken to be received:

- (a) if hand delivered, on delivery;
- (b) if sent by prepaid post, the second Business Day after the date of posting (or the seventh Business Day after the date of posting if posted to or from outside Australia); or
- (c) if sent by facsimile, when the sender's facsimile system generates a message confirming successful transmission of the entire Notice unless, within eight hours after the transmission, the recipient informs the sender that it has not received the entire Notice,

but if the delivery or transmission under clause 13.2(a) or 13.2(c) is not on a Business Day or after 5.00pm on a Business Day, the Notice is taken to be received at 9.00am on the Business Day after that delivery, receipt or transmission.

14. General

14.1 Alterations

This agreement may be altered only in writing signed by each party.

14.2 Approvals and consents

Except where this agreement expressly states otherwise, a party may, in its discretion, give conditionally or unconditionally or withhold any approval or consent under this agreement.

14.3 Assignment

A party may only assign this agreement or a right under this agreement with the prior written consent of each other party.

14.4 Entire agreement

This agreement and the Confidentiality Agreement contain the entire agreement between the parties as at the date of this agreement with respect to their subject matter and supersede all prior agreements and understandings between the parties in connection with them.

14.5 Survival and indemnities

- (a) Any indemnity or obligation of confidentiality under in this agreement is independent and survives termination of this agreement. Any other term which by its nature is intended to survive termination of this agreement survives termination of this agreement.
- (b) It is not necessary for a party to incur expense or make payment before enforcing a right of indemnity under this agreement.

14.6 Costs and stamp duty

- (a) Except as otherwise provided in this agreement, each party must pay its own costs of negotiating, preparing, executing and performing this agreement and the Scheme Booklet and the proposed, attempted or actual implementation of this agreement and the Scheme.

- (b) Any stamp duty payable on or relating to the transfer of IOR Shares to Aevum under the Scheme must be paid by Aevum.

14.7 Counterparts

This agreement may be executed in counterparts. All executed counterparts constitute one document.

14.8 No merger

The rights and obligations of the parties under this agreement do not merge on completion of any transaction contemplated by this agreement.

14.9 Severability

A term or part of a term of this agreement that is illegal or unenforceable may be severed from this agreement and the remaining terms or part of a term of this agreement continue in force.

14.10 Waiver

A party does not waive a right, power or remedy if it fails to exercise or delays in exercising the right, power or remedy. A single or partial exercise by a party of a right, power or remedy does not prevent another or further exercise of that or another right, power or remedy. A waiver of a right, power or remedy must be in writing and signed by the party giving the waiver.

14.11 Relationship

Except where this agreement expressly states otherwise, this agreement does not create a relationship of employment, trust, agency or partnership between the parties.

14.12 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 agreement, except for representations or inducements expressly set out in this agreement;
- (b) it does not enter into this agreement 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 agreement; and
- (c) clauses 14.12(a) and 14.12(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.

14.13 Governing law and jurisdiction

This agreement is governed by the law of Victoria and each party irrevocably and unconditionally submits to the non-exclusive jurisdiction of the courts of Victoria.

14.14 Specific performance

The parties acknowledge that monetary damages alone would not be adequate compensation for a breach by any party of an obligation under this agreement and that specific performance of that obligation is an appropriate remedy.

14.15 Effect of agreement

- (a) This agreement supersedes any previous understandings or agreements between the parties concerning the subject matter of this agreement.
- (b) Despite clause 14.15(a), the Confidentiality Agreement continues to apply to the parties in accordance with its terms.

14.16 Mutual further assurances

Each party must do all things necessary or expedient to be done by it in connection with the matters referred to in this agreement.

Signing page

Executed as an agreement.

Signed for Aevum Limited by

Signature of Director



Signature of Director/Secretary



Name of Director (print)

Name of Director/Secretary (print)

Signed for IOR Group Limited by

Signature of Director



Signature of Director/Secretary



Name of Director (print)

Name of Director/Secretary (print)

Annexure 1

Public Announcement

Annexure to Merger Implementation Agreement

MinterEllison

LAWYERS

**FOR IMMEDIATE
RELEASE**



2 November 2009

Company Announcements Office
Australian Securities Exchange
Level 4, 20 Bridge Street
Sydney NSW 2000

AEVUM TO MERGE WITH IOR GROUP

- Will create one of the largest pure retirement and aged care companies on the ASX.
- Expected to be EPS and Operating Cash Flow accretive from FY11
- Decreases Aevum's gearing from 22% to 19%
- Increased market capitalisation and potential liquidity
- Potential for S & P/ ASX 300 inclusion
- Graham Lenzner and Steven Mann will continue as Chairman and Managing Director

Aevum Limited ('Aevum') (ASX: AVE) and IOR Group Limited ('IOR') are pleased to announce that they have entered into a Merger Implementation Agreement ('MIA') under which Aevum will acquire all of the shares in IOR (the 'Proposal'). Under the Proposal each IOR shareholder will receive 8 new Aevum shares for every 9 IOR shares that they hold (which is expected to comprise a total issue to IOR shareholders of 48,275,000 new Aevum shares)¹.

The merger represents a major milestone for both companies and the merged entity will be one of the largest pure retirement and aged care companies listed on the ASX.

Commenting on the Proposal, Aevum Chairman Graham Lenzner said, 'We are very proud to announce the merger of Aevum and IOR. The merger creates a significantly larger business with a national footprint, increased market presence and scale and provides a solid foundation for future growth. The merger is expected to be earnings per share accretive in FY11, it will enhance group cash flows and reduce overall gearing'.

Mr. Lenzner said, 'IOR village residents can rest assured that the villages they live in will maintain the high standards of care and quality to which they have grown accustomed.'

Aevum Managing Director, Steve Mann said IOR was a good strategic fit.

'The merged group will have a substantial national footprint with a strong position in New South Wales and a presence in Victoria, Queensland, South Australia and Western Australia, which will see us well positioned for further growth.'

'Synergies will flow from leveraging Aevum's high quality systems and processes and the benefits that will flow from consolidating under Aevum's brand nationally', Mr. Mann said.

¹ This ratio may vary depending on the outcome of resolutions to be considered at IOR's AGM in November 2009, but no more than 48,275,000 new Aevum shares will be issued.

Graham Lenzner and Steven Mann will continue as Chairman and Managing Director respectively of the merged entity and the other existing Directors of Aevum will also continue in their current roles. It is proposed that the current IOR Chairman, Margaret Campbell, will join the Aevum board upon completion of the Proposal.

Summary of the benefits of the Merger Proposal:

IOR has very attractive assets

- Consists of 8 villages with a total of 943 Independent Living Units (ILUs) and Serviced Apartments (SAs) and 165 Aged Care beds
- Attractive village occupancy rates with average occupancy across the portfolio of greater than 96% at June 2009
- All of the villages are well established, with 6 villages being at least 10 years old
- The profile of the residents is attractive with the average age of the residents being approximately 80 years old
- The potential for short, medium and long term development opportunities

Excellent strategic fit

- Adds significant scale to Aevum with the merged entity consisting of 29 villages, with more than 3,100 ILUs and SA and 360 Aged Care beds
- The merged group will have a substantial national footprint with a strong position in NSW and a presence in VIC, QLD, SA and WA
- Very similar cultures and operating philosophies – Continuum of Care business model

Positive financial impact

- The merger is expected to be EPS and Operating Cash Flow accretive from FY11
- Synergies are achieved, primarily by removal of duplicated head office costs with potential upside from operational efficiencies and enhancements
- Decreases Aevum's gearing from 22% to 19%
- Lower volatility of operating cash flows due to diversification and increased geographic spread
- Increases future growth opportunities to grow the business clusters in four states outside of NSW

Substantial capital markets benefits

- Broadening of share register
- Increased market capitalisation and potential liquidity
- Potential for S&P / ASX 300 index inclusion

Description of the Proposal

The merger is to be implemented by way of a scheme of arrangement between IOR and its shareholders ('Scheme'). Aevum will acquire 100% of the issued shares in IOR in consideration for each IOR shareholder receiving 8 new Aevum shares for every 9 IOR shares that they hold (which

is expected to comprise a total issue of 48,275,000 new Aevum shares)². Based on the closing price of Aevum shares on the ASX on 30 October 2009, the Proposal values the equity in IOR at \$73.9m which equates to \$1.36 per IOR share. The Proposal results in an equity split of 72.7% to 27.3% in favour of Aevum.

Graham Lenzner and Steven Mann will continue as Chairman and Managing Director respectively of the merged entity and the other existing Directors of Aevum will also continue in their current roles. It is proposed that the current IOR Chairman, Margaret Campbell, will join the Aevum board upon completion of the Proposal. Redundancies are expected to occur at the IOR board level and where duplication of head office activities exists.

The Proposal is subject to a number of conditions as set out in the MIA including IOR shareholder approval, regulatory approvals, Material Adverse Change conditions and other conditions that are typical for a transaction of this nature. Having regard to the commitments entered into as part of the IOR demutualisation, the Proposal is also subject to IOR achieving a compliance listing on the Australian Securities Exchange. A copy of the MIA is provided in the Appendix to this announcement.

Full CGT rollover relief is expected to be available for IOR shareholders in respect of the Aevum shares they would receive under the proposal.

The Directors of IOR unanimously recommend the Proposal, subject only to the Independent Expert concluding the Proposal is in the best interests of IOR shareholders and in the absence of a superior proposal.

All Directors of IOR have also confirmed their intention to vote all of the shares they hold directly and indirectly in favour of the Scheme subject to the Independent Expert concluding the Proposal is in the best interests of IOR shareholders and in the absence of a superior proposal.

Timing:

An Explanatory Booklet with full details of the Proposal, including an Independent Expert's Report, is expected to be dispatched to IOR shareholders in November 2009. The meeting to approve the Scheme is expected to be held in December 2009.

Advisers:

IOR has retained Cubis Consulting as Financial Adviser and Blake Dawson as Legal Adviser in connection with the Proposal.

Aevum has retained RBS Morgans as Financial Adviser and Minter Ellison as Legal Adviser in connection with the Proposal.

² See footnote above

Background to the Merger:

Overview of IOR:

For more than 27 years, IOR Group has owned and operated retirement village and aged care facilities in Australia. These communities care for a wide range of residents and offer a variety of lifestyle and support services within an active and enjoyment-focused culture. They are located in:

- **Queensland:** Salford Waters Retirement Estate at Victoria Point and Bellcarra Retirement Resort at Caloundra.
- **Victoria:** Salford Park Retirement Community in Wantirna, Gillin Park Retirement Community in Warrnambool and Tarneit Skies Retirement Village in Tarneit.
- **South Australia:** Unity Retirement Village and Salford Retirement Estate in Aberfoyle Park and Grange Retirement Estate in Grange.

The villages are set in landscaped gardens and located in close proximity to transport, shopping and recreation facilities. A variety of opportunities exist for participation in the social life of each village. The safety and security of residents is a priority with 24 hour emergency call systems.

The company's current portfolio comprises 800 ILUs, 143 SAs, 165 aged care places across 8 retirement villages. In addition the Victorian assets have vacant land for 40 ILUs and 18 SAs at Gillin Park and 36 ILUs at Tarneit Skies, together with substantial medium term redevelopment potential at Salford Park.

Overview of Aevum:

Aevum Limited is a long established owner, operator and developer of retirement villages and aged care facilities. Today it is the largest for-profit operator of retirement living villages in NSW managing 21 facilities across Sydney, coastal NSW and Western Australia. Aevum provides retirement accommodation and services to over 2,600 Australian seniors. Aevum employs over 340 dedicated and committed staff.

Contact:
Steve Mann, Managing Director
Telephone: 02 8223 0900
Email: smann@aevum.com.au

Issued by:
Peter Homan, Company Secretary
Telephone: 02 8223 0900
Email: phoman@aevum.com.au

Annexure 2

Deed Poll

Annexure to Merger Implementation Agreement

MinterEllison

L A W Y E R S

Deed poll

Aevum Limited (**Aevum**)

in favour of each Scheme Participant

MinterEllison

L A W Y E R S

AURORA PLACE, 88 PHILLIP STREET, SYDNEY NSW 2000, DX 117 SYDNEY
TEL: +61 2 9921 8888 FAX: +61 2 9921 8123
www.minterellison.com

Deed poll

In favour of each Scheme Participant

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Details

Date

Parties

Name	Aevum Limited
ABN	80 087 648 691
Short form name	Aevum
Notice details	Level 6, 23-25 O'Connell Street, Sydney NSW 2000
Fax number	02 8223 0999
Attention	Steven Mann

Background

- A On 2 November 2009, IOR Group Limited ABN 31 124 030 253 (**IOR**) and Aevum entered into a merger implementation agreement (**Implementation Agreement**).
- B Under the Implementation Agreement, Aevum has agreed, subject to the satisfaction or waiver of certain conditions, to execute this deed poll.
- C Aevum is entering into this deed poll to covenant in favour of each Scheme Participant to perform its obligations under the Scheme.

Agreed terms

1. Defined terms & interpretation

1.1 Defined terms

Terms used in this deed poll have the same meaning as given to the terms in the Implementation Agreement, unless otherwise defined in this deed poll or the context makes it clear that a definition is not intended to apply.

1.2 Rules for interpreting this deed

The provisions specified in clause 1.2 of the Implementation Agreement apply in interpreting this deed, unless the context makes it clear that any provision is not intended to apply.

1.3 Nature of deed poll

Aevum acknowledges that this deed poll may be relied on and enforced by any Scheme Participant in accordance with its terms even though the Scheme Participants are not party to it.

2. Conditions Precedent and Termination

2.1 Conditions Precedent

Aevum's obligations under clause 3 are subject to the Scheme becoming Effective.

2.2 Termination

The obligations of Aevum under this deed poll to each Scheme Participant will automatically terminate, and the terms of this deed poll will be of no further force or effect, if the Implementation Agreement is terminated in accordance with its terms prior to the occurrence of the Effective Date for the Scheme or the Scheme does not become Effective by the Sunset Date.

2.3 Consequences of Termination

If the obligations of Aevum under this deed poll are terminated under clause 2.2 then, in addition and without prejudice to any other rights, powers or remedies available to a party:

- (a) Aevum is released from its obligations to further perform this deed poll except those obligations contained in clause 10; and
- (b) Scheme Participants retain the rights, powers or remedies they have against Aevum in respect of any breach of this deed poll by Aevum which occurred before termination of this deed poll.

3. Compliance with Scheme Obligations

3.1 Timing and Procedures

Subject to clause 2, in consideration of the transfer of their IOR Shares to Aevum in accordance with the Scheme, Aevum covenants in favour of each Scheme Participant to:

- (a) do all those things which it is required to do under the Scheme or which the Scheme contemplates will be done by Aevum; and
- (b) without limiting the generality of paragraph (a), provide or procure to each Scheme Participant, the Scheme Consideration on the Implementation Date in accordance with the terms of the Scheme.

4. Warranties

Aevum represents and warrants that:

- (a) **incorporation:** it is a corporation validly existing under the laws of its place of incorporation;
- (b) **corporate power:** it has the corporate power to enter into and perform its obligations under this deed poll and to carry out the transactions contemplated by this deed poll;
- (c) **corporate authorisations:** it has taken all necessary corporate action to authorise the entry into this deed poll and has taken or, if the conditions precedent referred to in clause 2.1 are satisfied or waived, will take all necessary corporate action to authorise the performance of this deed poll and to carry out the transactions contemplated by this deed poll;
- (d) **binding obligations:** this deed poll is valid and binding upon it;
- (e) **solvency:** it is solvent and no resolutions have been passed nor has any other step been taken or legal proceedings commenced or threatened against it for its winding up or dissolution or for the appointment of a liquidator, receiver, administrator or similar officer over any or all of its assets;
- (f) **regulatory action:** no regulatory action of any nature has been taken which would prevent, inhibit or otherwise have a material adverse effect on its ability to fulfil its obligations under this deed poll;
- (g) **no default:** this deed poll does not conflict with or result in the breach of or default under any provision of its constitution, any material term or provision of any material agreement or any writ, order or injunction, judgement, law, rule, regulation or instrument to which Aevum is party or subject or of which it is bound; and
- (h) **New Aevum Shares:** the New Aevum Shares which are issued to Scheme Participants in accordance with the Scheme will be validly issued, fully paid and will rank equally in all respects with other Aevum Shares.

5. Continuing Obligations

This deed poll is irrevocable and remains in full force and effect until Aevum has completely performed its obligations under this deed poll or the earlier termination of this deed poll under clause 2.

6. Further assurances

Aevum will do all things and execute all deeds, instruments, transfers or other documents as may be necessary to give full effect to the provisions of this deed poll and the transactions contemplated by it.

7. Remedies cumulative

The rights, powers and remedies provided of Aevum and each Scheme Participant in this deed poll are in addition to, and do not exclude or limit, any right, power or remedy provided by law or equity.

8. Variation

A provision in this deed poll may only be varied by Aevum if:

- (a) the variation is agreed to by IOR, which agreement IOR may give or withhold in its absolute discretion without reference to or approval by any Scheme Participant being required; and
- (b) the Court indicates that the amendment would not, of itself, preclude approval of the Scheme.

Aevum will enter into a further deed poll in favour of the Scheme Participants giving effect to any such amendment.

9. No waiver

No failure to exercise nor any delay in exercising any right, power or remedy by a party operates as a waiver. A single or partial exercise of any right, power or remedy does not preclude any other or further exercise of that or any other right, power or remedy. A waiver is not valid or binding on the party granting that waiver unless made in writing.

10. Costs and stamp duty

- (a) All stamp duty and any related fines, penalties and interest that may be payable on or in connection with this deed poll and each transaction and any instrument effected by, executed under or pursuant to this deed poll must be borne by Aevum.
- (b) Aevum must indemnify each Scheme Participant on demand against any liability arising from failure to comply with paragraph (a).

11. Assignment

The rights and obligations of Aevum and each Scheme Participant under this deed poll are personal. They cannot be assigned, encumbered or otherwise dealt with and neither Aevum nor any Scheme Participant may attempt, or purport, to do so without the prior written consent of IOR and Aevum (which consent may be given or withheld in the parties' absolute discretion).

12. Notices

12.1 Form

Any notices or communications in connection with this deed poll (**Notice**) must be:

- (a) in writing and in English;
- (b) addressed to Aevum at the address shown in the Details section of this deed poll, as varied by any Notice; and
- (c) hand delivered or sent by prepaid post or facsimile to that address.

12.2 Effective on receipt

A Notice given in accordance with clause 12.1 takes effect when received (or at a later time specified in it), and is taken to be received:

- (a) if hand delivered, on delivery;
- (b) if sent by prepaid post, the second Business Day after the date of posting (or the seventh Business Day after the date of posting if posted to or from outside Australia); or

- (c) if sent by facsimile, when the sender's facsimile system generates a message confirming successful transmission of the entire Notice unless, within eight hours after the transmission, the recipient informs the sender that it has not received the entire Notice,

but if the delivery or transmission under clause 12.2(a) or 12.2(c) is not on a Business Day or after 5.00pm on a Business Day, the Notice is taken to be received at 9.00am on the Business Day after that delivery, receipt or transmission.

13. Severability

If the whole or any part of a provision of this deed poll is void, unenforceable or illegal in a jurisdiction it is severed for that jurisdiction. The remainder of this deed poll has full force and effect and the validity or enforceability of that provision in any other jurisdiction is not affected. This clause 13 has no effect if the severance alters the basic nature of this deed poll or is contrary to public policy.

14. Governing law and jurisdiction

This deed poll is governed by the laws of Victoria. Aevum submits to the non-exclusive jurisdiction of courts of the State of Victoria in connection with matters concerning this deed poll.

Signing page

EXECUTED as a deed poll

Executed by Aevum Limited

Signature of director



Signature of director/company secretary
(Please delete as applicable)



Name of director (print)

Name of director/company secretary (print)

Annexure 3

Scheme

Annexure to Merger Implementation Agreement

MinterEllison

L A W Y E R S

Scheme of arrangement made under section 411 of the Corporations Act 2001 (Cth)

Parties

IOR Group Limited ABN 31 124 030 253 of Level 4, 991 Whitehorse Road, Box Hill, Victoria 3128
and

IOR Shareholders

1. Background

- (a) IOR is a public company limited by shares, incorporated in Australia and registered in Victoria. Its registered office is at Level 4, 991 Whitehorse Road, Box Hill, Victoria 3128.
- (b) As at the date of the Scheme Booklet, there are 55,063,823 IOR Shares on issue.
- (c) The Register contains the name and registered address of IOR Shareholders.
- (d) Aevum is a public company limited by shares, incorporated in Australia and registered in New South Wales. Its registered office is at Level 6, 23-25 O'Connell Street, Sydney, New South Wales 2000.
- (e) IOR and Aevum agreed, by executing the Implementation Agreement, to propose and implement the terms of, and to perform their respective obligations under, this Scheme.
- (f) Aevum has executed a Deed Poll pursuant to which Aevum has covenanted in favour of each Scheme Participant (being the holders of IOR Shares at the Record Date other than Aevum or a Related Entity of Aevum) to carry out the obligations to be performed by it under this Scheme.

2. Definitions and interpretation

2.1 Defined terms

In this Scheme the following definitions apply unless the context requires otherwise.

Aevum means Aevum Limited ABN 80 087 648 691.

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

ASIC means the Australian Securities and Investments Commission.

ASTC means ASX Settlement and Transfer Corporation Pty Ltd ABN 49 008 504 532.

ASX means ASX Limited ACN 008 624 691.

ASX Listing Rules means the official listing rules, from time to time, of ASX.

Business Day means:

- (a) for receiving a notice under clause 8.5, Monday to Friday inclusive except new Year's Day, Good Friday, Easter Monday, Christmas Day, Boxing Day and any other day that ASX declares is not a business day; and

- (b) for all other purposes, a day that is not a Saturday, Sunday, bank holiday or public holiday in New South Wales or Victoria.

CHESS means the Clearing House Electronic Subregister System for the electronic transfer of securities and other financial products operated by the ASTC.

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

Court means the Federal Court of Australia.

Deed Poll means the deed poll that has been entered into by Aevum in favour of the Scheme Participants substantially in the form of Annexure 2 of the Implementation Agreement or as otherwise agreed by Aevum and IOR.

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

Effective Date in relation to the Scheme means the date on which the Scheme becomes Effective.

Eligible Overseas Shareholder means a Scheme Participant other than an Ineligible Overseas Shareholder.

IOR means IOR Group Limited ABN 31 124 030 253.

IOR AGM means IOR's annual general meeting scheduled to be held on 27 November 2009.

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

IOR Shareholder means a person who is registered in the Register as the holder of one or more IOR Shares.

Implementation Agreement means the merger implementation agreement dated 2 November 2009 between Aevum and IOR.

Implementation Date means the fifth Business Day after the Record Date or such other date as is agreed by Aevum and IOR.

Ineligible Overseas Shareholder means:

- (a) a Scheme Participant whose address shown in the Register as at the Record Date is a place outside Australia (including its external territories) or New Zealand; or
- (b) a Scheme Participant who is (or is acting on behalf of) a citizen or resident of a jurisdiction other than the residents of Australia (including its external territories) or New Zealand,

unless Aevum and IOR agree in writing that it is lawful and not unduly onerous or impracticable to issue the Scheme Participant with New Aevum Shares when the Scheme becomes Effective and it is lawful for that Scheme Participant to participate in the Scheme by law of the relevant place outside of Australia (including its external territories) or New Zealand.

New Aevum Shares means Aevum Shares to be issued pursuant to the Scheme as Scheme Consideration.

Notice of Meeting means the notice convening the Scheme Meeting together with the proxy forms for that meeting.

Proceeds means the proceeds of sale, after deduction of any applicable brokerage and other selling costs, taxes and charges.

Record Date means 5.00pm on the fifth Business Day following the Effective Date or such other date (after the Effective Date) as IOR and Aevum may agree in writing.

Register means the share register of IOR kept pursuant to the Corporations Act.

Related Entity means in relation to a party, any entity that is related to that party within the meaning of section 50 of the Corporations Act or which is an economic entity (as defined in any approved Australian accounting standard) that is Controlled by that party.

Sale Agent means the person nominated by Aevum and approved by IOR to sell any New Aevum Shares that are attributable to Ineligible Overseas Shareholders under the terms of the Scheme.

Scheme means this scheme of arrangement pursuant to Part 5.1 of the Corporations Act between IOR and Scheme Participants together with any alterations or conditions made or required by the Court under Section 411(6) of the Corporations Act and approved in writing by Aevum and IOR.

Scheme Booklet means the information to be despatched to all IOR Shareholders and approved by the Court in connection with the Scheme, including the Scheme, the Explanatory Statement in respect of the Scheme, an independent expert's report prepared by the Independent Expert and the Notice of Meeting.

Scheme Consideration means, in respect of each Scheme Participant:

- (a) subject to paragraph (b), 8 New Aevum Shares for every 9 IOR Shares held by that Scheme Participant at the Record Date (which is expected to comprise a total issue to Scheme Participants of 48,274,995 New Aevum Shares); or
- (b) if one or both of the resolutions proposed for consideration at the IOR AGM relating to the cancellation of forfeited or unverified IOR Shares is not passed or the IOR Shares the subject of such resolutions are not duly cancelled, the ratio of New Aevum Shares to IOR Shares held by that Scheme Participant at the Record Date shall be adjusted on the basis that the maximum number of New Aevum Shares to be issued to Scheme Participants shall not exceed 48,275,000,

together with any further fraction of a New Aevum Share to which a Scheme Participant becomes entitled in accordance with the Scheme.

Scheme Meeting means the meeting of the IOR Shareholders convened by the Court in relation to the Scheme pursuant to section 411(1) of the Corporations Act. It includes any adjournment of that meeting.

Scheme Participant means each person who is an IOR Shareholder (other than Aevum or a Related Entity of Aevum) as at the Record Date.

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

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, if the application is adjourned or subject to appeal for any reason, the day on which the adjourned or appealed application is heard.

2.2 Interpretation

In this Scheme except where the context otherwise requires:

- (a) the singular includes the plural and vice versa, and a gender includes other genders;
- (b) another grammatical form of a defined word or expression has a corresponding meaning;
- (c) a reference to a clause, paragraph, schedule or annexure is to a clause or paragraph of, or schedule or annexure to, this Scheme, a reference to this Scheme includes any schedule or annexure;
- (d) a reference to a document or instrument includes the document or instrument as novated, altered, supplemented or replaced from time to time;
- (e) a reference to A\$, \$A, dollar or \$ is to Australian currency;
- (f) a reference to time is to Melbourne, Australia time;
- (g) a reference to a party is to a party to this Scheme, and a reference to a party to a document includes the party's executors, administrators, successors and permitted assigns and substitutes;
- (h) a reference to a person includes a natural person, partnership, body corporate, association, governmental or local authority or agency or other entity;
- (i) a reference to a statute, ordinance, code or other law includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements of any of them;
- (j) a word or expression defined in the Corporations Act has the meaning given to it in the Corporations Act;
- (k) the meaning of general words is not limited by specific examples introduced by including, for example or similar expressions;
- (l) any agreement, representation, warranty or indemnity by two or more parties (including where two or more persons are included in the same defined term) binds them jointly and severally;
- (m) any agreement, representation, warranty or indemnity in favour of two or more parties (including where two or more persons are included in the same defined term) is for the benefit of them jointly and severally;
- (n) a result of construction does not apply to the disadvantage of a party because the party was responsible for the preparation of this agreement or any part of it;
- (o) a reference to day, including a Business Day, is to be interpreted as the period of time commencing at 9.00am and ending 5.00pm; and
- (p) if a day on or by which an obligation must be performed or an event must occur is not a Business Day, the obligation must be performed or the event must occur on or by the next Business Day.

2.3 Headings

Headings are for ease of reference only and do not affect interpretation.

3. Conditions precedent

3.1 Conditions of Scheme

This Scheme is conditional on:

- (a) as at 8.00am on the Second Court Date, each of the conditions set out in clause 3.1 of the Implementation Agreement (other than the condition precedent set out in clause 3.1(k) of the Implementation Agreement) having been satisfied or, as applicable, waived in accordance with clause 3.2 of the Implementation Agreement;
- (b) as at 8.00am on the Second Court Date, the Implementation Agreement not having been terminated;
- (c) as at 8.00am on the Second Court Date, the Deed Poll not having been terminated;
- (d) the Court approving the Scheme in accordance with section 411(4)(b) of the Corporations Act, with or without modifications, and if applicable, IOR and Aevum having accepted any modification or condition made or required by the Court under section 411(6) of the Corporations Act; and
- (e) the coming into effect, pursuant to section 411(1) of the Corporations Act (and if, applicable, section 411(6) of the Corporations Act) of the Scheme,

and the provisions of this Scheme will be of no effect unless and until each of the conditions in this clause 3.1 is satisfied.

3.2 Certificate in relation to conditions

Each of Aevum and IOR shall provide to the Court at the hearing on the Second Court Date a certificate confirming whether all the conditions in clause 3.1 of the Scheme (other than in relation to the conditions in clauses 3.1(d) and 3.1(e)) have been satisfied or, as applicable, waived as at 8.00am on the Second Court Date.

3.3 Certificate

The giving of a certificate by each of Aevum and IOR under clause 3.2 confirming that any conditions precedent set out in clause 3.1 (other than the conditions in clauses 3.1(d) and 3.1(e) of this Scheme) have been satisfied or waived as at 8.00am on the Second Court Date will be conclusive evidence for the purpose only of assessing whether the conditions precedent referred to clause 3.1 (other than the conditions precedent in clauses 3.1(d) and 3.1(e) of this Scheme) have been satisfied or waived.

3.4 Termination of Implementation Agreement

If the Implementation Agreement is terminated in accordance with its terms, each of Aevum and IOR are released from any further obligation to take steps to implement the Scheme and any liability with respect to the Scheme.

4. Scheme

4.1 Lodgement

- (a) Subject to paragraph (b) and the satisfaction of the conditions in clause 3.1 of this Scheme (other than the condition in clause 3.1(e)), IOR will lodge with ASIC office copies of the Court orders under section 411(4)(b) of the Corporations Act approving the Scheme.
- (b) The lodgement in paragraph (a) will be made as soon as possible, and in any event no later than 4.00pm on the first Business Day after the date on which the Court approves the Scheme or such other Business Day as Aevum and IOR agree in writing.

- (c) The Scheme will come into effect on the Effective Date.

4.2 Transfer and registration of IOR Shares

On the Implementation Date:

- (a) subject to the provision of the Scheme Consideration in accordance with clause 5.1 and written confirmation of that provision of the Scheme Consideration being given by Aevum to IOR, the IOR Shares registered in the names of Scheme Participants together with all rights and entitlements attaching to the IOR Shares as at the Implementation Date, will be transferred to Aevum without the need for any further act by any Scheme Participant (other than acts performed pursuant to clause 4.4(b) or by IOR as agent and attorney for Scheme Participants under this Scheme) by:
- (i) IOR delivering to Aevum a duly completed Scheme Transfer executed on behalf of Scheme Participants for execution by Aevum; and
 - (ii) Aevum duly executing the Scheme Transfer and delivering it to IOR for registration;
- (b) Aevum will issue the Scheme Consideration to each Scheme Participant for their IOR Shares in accordance with clause 5 of the Scheme; and
- (c) after the duly completed and executed Scheme Transfer is received by IOR, IOR will, subject to Aevum complying with the obligations under clause 4.2(a)(ii) and 4.2(b), enter the name of Aevum in the Register in respect of all IOR Shares the subject of the Scheme Transfer.

4.3 Agreement to transfer

The Scheme Participants agree to the transfer of all of their IOR Shares in accordance with this Scheme and agree to the variation, cancellation or modification of the rights attached to their IOR Shares constituted by or resulting from this Scheme (if any).

4.4 Appointment of sole proxy

On and from the Implementation Date and pending registration by IOR of Aevum in the Register as a holder of all the IOR Shares, each Scheme Participant:

- (a) is deemed to have irrevocably appointed Aevum as attorney and agent (and directs Aevum in such capacity) to appoint the Chairman of Aevum as its sole proxy and, where applicable, corporate representative to attend shareholders' meetings, exercise the votes attaching to the IOR Shares registered in their name and sign any shareholders' resolution, and no Scheme Participant may itself attend or vote at any of those meetings or sign any resolutions, whether in person, by proxy or by corporate representative (other than pursuant to this clause 4.4(a)); and
- (b) must take all other actions in the capacity of a registered holder of IOR Shares as Aevum reasonably directs.

Aevum undertakes in favour of each Scheme Participant that it will appoint the Chairman of Aevum as that Scheme Participant's proxy or, where applicable, corporate representative in accordance with clause 4.4(a).

5. New Aevum Shares issued as Scheme Consideration

5.1 Provision of Scheme Consideration

The obligation of Aevum to provide each Scheme Participant the Scheme Consideration (other than Ineligible Overseas Shareholders dealt with in accordance with clause 5.4) shall be satisfied by:

- (a) issuing and allotting the Scheme Consideration to each Scheme Participant in respect of each IOR Share registered in the name of that Scheme Participant in the Register at the Record Date;
- (b) on the Implementation Date, entering the name of each Scheme Participant (subject, in the case of Ineligible Overseas Shareholders, to clause 5.4) on the Aevum register of members as the holder of the New Aevum Shares issued to that Scheme Participant under the Scheme; and
- (c) as soon as practicable after the Implementation Date but in any event no later than seven Business Days after the Implementation Date, despatching or procuring the despatch to each Scheme Participant by pre-paid post to his or her registered address at the Record Date, an uncertificated holding statement in the name of that Scheme Participant in accordance with this Scheme. In the case of joint holders of shares, uncertificated holding statements shall be issued in the name of joint holders and sent to the holder whose name appears first in the Register on the Record Date.

5.2 New Aevum Shares

- (a) All New Aevum Shares issued pursuant to the Scheme will rank equally in all respects with other Aevum Shares issued at the Effective Date.
- (b) On issue, each New Aevum Share issued to Scheme Participants will be duly and validly issued, fully paid and free from all mortgages, charges, liens, encumbrances and interests of third parties of any kind, whether legal or otherwise, and any restrictions on transfer of any kind (other than as provided for in the constitution of Aevum).
- (c) Aevum will, before the Second Court Date, obtain confirmation from ASX that, as from the Business Day following the Effective Date, the New Aevum Shares comprising the Scheme Consideration will be quoted on the official list of ASX, initially on a deferred settlement basis and on an ordinary settlement basis on the first Business Day after the Implementation Date, which approval for quotation may be conditional on the issue of those shares and other conditions customarily imposed by ASX including implementation of the Scheme.
- (d) Aevum will take all steps necessary or expedient to ensure that the New Aevum Shares comprising the Scheme Consideration will be listed for quotation on the official list of ASX.

5.3 Subject to constitution

Scheme Participants to whom New Aevum Shares are to be issued under the Scheme agree to become members of Aevum and have their names entered into Aevum's register of members, and will accept the New Aevum Shares issued by way of Scheme Consideration subject to the constitution of Aevum and agree to be bound thereby.

5.4 Ineligible Overseas Shareholders

- (a) Aevum will be under no obligation under the Scheme to issue, and will not issue, any New Aevum Shares to an Ineligible Overseas Shareholder, and instead:

- (i) all the New Aevum Shares which would be required to be issued to any Ineligible Overseas Shareholder under the Scheme if they were an Eligible Overseas Shareholder will be issued to the Sale Agent;
- (ii) Aevum will procure that as soon as reasonably practicable (and, in any event, not more than 15 Business Days after the Implementation Date), the Sale Agent sells for the benefit of the Ineligible Overseas Shareholder in the ordinary course of trading on ASX all of the New Aevum Shares issued to the Sale Agent pursuant to this clause in such manner, and at such price and on such other terms as the Sale Agent determines in good faith (and at the risk of the Ineligible Overseas Shareholder), and remits to Aevum the Proceeds and income referable to the New Aevum Shares; and
- (iii) Aevum will pay, or will procure the payment, to each Ineligible Overseas Shareholder such fraction of the Proceeds as is equal to the number of New Aevum Shares which would have been issued to that Ineligible Overseas Shareholder if they were an Eligible Overseas Shareholder divided by the total number of New Aevum Shares issued to the Sale Agent under this clause (so that all Ineligible Overseas Shareholders receive the same price per New Aevum Share, subject to rounding down to the nearest whole cent), and any income referable to the New Aevum Shares, promptly after the last sale of New Aevum Shares by the Sale Agent,

in full satisfaction of Aevum's obligations to that Ineligible Overseas Shareholder under the Scheme in respect of the Scheme Consideration.

- (b) Aevum will pay, or will procure the payment of, the relevant fraction of the Proceeds to each Ineligible Overseas Shareholder by either:
 - (i) dispatching, or procuring the dispatch, to that Ineligible Overseas Shareholder by prepaid post to that Ineligible Overseas Shareholder's postal address (as shown in the Register at the Record Date), a cheque in the name of that Ineligible Overseas Shareholder; or
 - (ii) making a deposit in an account in Australia, notified by the Ineligible Overseas Shareholder to IOR and recorded in or for the purposes of the Register at the Record Date,

for the relevant amount, with that amount being denominated in Australian dollars.

- (c) Each Ineligible Overseas Shareholder appoints IOR as its agent to receive on its behalf any notice that the Sale Agent is required to provide to Ineligible Overseas Shareholders under the Corporations Act.
- (d) The Sale Agent will be an authorised representative of a holder of an Australian financial services licence.

5.5 Joint holders

In the case of IOR Shares held in joint names any bank cheque required to be paid to Scheme Participants by Aevum must be payable to the joint holders and be forwarded to the holder whose name appears first in the Register as at the Record Date.

6. Fractions

6.1 Rounding of fractional entitlements

Subject to clause 6.2, if the number of IOR Shares held by a Scheme Participant is such that the aggregate entitlement of that Scheme Participant to New Aevum Shares is not a whole number, then any fractional entitlement to New Aevum Shares will be rounded up or down (as the case may be) to the nearest whole number of New Aevum Shares (with 0.5 New Aevum Shares being rounded up).

6.2 Shareholder splitting or division

If Aevum is of the opinion that two or more Scheme Participants, each of whom holds a number of IOR Shares which results in rounding in accordance with clause 6.1, have, before the Record Date, been party to shareholding splitting or division in an attempt to obtain advantage by reference to such rounding, Aevum may give notice to those Scheme Participants:

- (a) setting out the names and registered address of all of them;
- (b) stating that opinion; and
- (c) attributing to one of them specifically identified in the notice the IOR Shares held by all of them,

and, after the notice has been so given, the Scheme Participant specifically identified in the notice will, for the purposes of the other provisions of clause 6.1, be taken to hold all those IOR Shares and each of the other Scheme Participants whose names and registered addresses are set out in the notice, will, for the purposes of the other provisions of clause 6, to be taken to hold no IOR Shares. Aevum, in complying with the other provision of clause 6 relating to it in respect of the Scheme Participant specifically identified in the notice as the deemed holder of all the specified IOR Shares, will be taken to have satisfied and discharged its obligations to the other Scheme Participants named in the notice under the terms of the Scheme.

7. Dealings in IOR Shares

7.1 IOR Register

- (a) IOR must apply to ASX for suspension of trading in IOR Shares with effect from close of business on the Effective Date.
- (b) For the purpose of establishing the persons who are Scheme Participants, dealings in IOR Shares will only be recognised if:
 - (i) in the case of dealings of the type to be effected using CHESS, the transferee is registered in the Register as the holder of the relevant IOR Shares on or by the Record Date; and
 - (ii) in all other cases, registrable transfers or transmission applications in registrable form in respect of those dealings are received at IOR's registry by the Record Date.
- (c) IOR will register registrable transfers or transmission applications of the kind referred to in clause 7.1(b)(ii) by, or as soon as practicable after, the Record Date. The persons shown in the Register, and the number of IOR Shares shown as being held by them, after registration of those transfers and transmission applications will be taken to be the IOR Shareholders, and the number of IOR Shares held by them, on the Record Date.

- (d) IOR will not accept for registration, nor recognise for any purpose, any transfer or transmission application in respect of IOR Shares received after the Record Date (or received prior to the Record Date not in registrable form).
- (e) For the purpose of determining entitlements to the Scheme Consideration, IOR will, until the Scheme Consideration has been provided, maintain or procure the maintenance of the Register in accordance with this clause 7 and subject to clause 5.4(d), the Register immediately after registration of registrable transfers or transmission applications of the kind referred to in clause 7.1(b)(ii) will solely determine the persons who are Scheme Participants and their entitlements to the Scheme Consideration.
- (f) From the Record Date and until registration of Aevum in respect of all of the IOR Shares under clause 4.2(c), no IOR Shareholder may deal with IOR Shares in any way except as set out in this Scheme and any attempt to do so will have no effect.
- (g) IOR must procure that no later than three Business Days before the Implementation Date, details of the names and addresses shown in the Register of all Scheme Participants and of the number of IOR Shares held by each of them on the Record Date are available to Aevum in such form as Aevum may reasonably require.
- (h) All statements of holding of IOR Shares (other than the statements of holding in favour of Aevum or any Related Entity of Aevum) will cease to have any effect after the Record Date as documents of title in respect of those IOR Shares. Subject to provision of the Scheme Consideration by Aevum and registration of the transfer to Aevum contemplated in clause 4.2 after the Record Date, each entry current at that date on the Register relating to the IOR Shares will cease to be of any effect other than as evidence of entitlement to the Scheme Consideration in respect of the IOR Shares relating to that entry.

7.2 Quotation of IOR Shares

At a time after the Implementation Date to be determined by Aevum, IOR must apply:

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

8. General

8.1 Alterations and conditions

If the Court proposes to approve this Scheme subject to any alterations or conditions, IOR may, by its counsel or solicitors but subject to the prior written approval of Aevum (which consent will not be unreasonably withheld or delayed), consent on behalf of all Scheme Participants to those alterations or conditions.

8.2 Covenants by Scheme Participants

Each Scheme Participant without the need for any further act, irrevocably appoints IOR and each of its directors and officers, jointly and severally, as that Scheme Participant's attorney and agent for the purpose of:

- (a) in the case of IOR Shares in a CHESS holding:
 - (i) causing a message to be transmitted to ASTC in accordance with ASTC Settlement Rules so as to transfer the IOR Shares held by the Scheme Participant from the CHESS subregister of IOR to the issuer sponsored subregister operated by IOR notwithstanding that, at the time of such transfer, Aevum has not provided

the Scheme Consideration which is due under this Scheme to the Scheme Participants; and

- (ii) completing and signing on behalf of Scheme Participants any required form of transfer of IOR Shares;
- (b) in the case of IOR Shares registered in the issuer sponsored subregister operated by the IOR share registry, completing and signing on behalf of Scheme Participants any required form of transfer;
- (c) executing any document (including any other instrument of transfer necessary to give effect to the registration of Aevum as the holder of all the IOR Shares held by the Scheme Participants) or doing any other act necessary or desirable to give full effect to the Scheme and the transactions contemplated by it;
- (d) consents to IOR doing all things and executing all deeds, instruments, transfers or other documents as may be necessary or desirable to give full effect to this Scheme and the transactions contemplated by it; and
- (e) enforcing the Deed Poll against Aevum.

8.3 Status of IOR Shares

- (a) Each Scheme Participant is deemed to have warranted to IOR in its own right and on behalf of Aevum that all its IOR Shares at the Record Date (including any rights and entitlements attaching to those shares) which are transferred to Aevum under this Scheme will, at the date they are transferred to Aevum, be fully paid and free from all mortgages, charges, liens, encumbrances and interests of third parties of any kind, whether legal or otherwise, and any restrictions on transfer of any kind and that they have full power and capacity to sell and to transfer such IOR Shares (including any rights and entitlements attaching to those shares).
- (b) To the extent permitted by law, all IOR Shares (including any rights and entitlements attaching to those shares) which are transferred to Aevum under this Scheme will, at the date of the transfer of them to Aevum, vest in Aevum free from all mortgages, charges, liens encumbrances and interests of third parties of any kind, whether legal or otherwise, and free from any restrictions on transfer of any kind not referred to in this Scheme.
- (c) Subject to provision of the Scheme Consideration for the IOR Shares in the manner contemplated in clause 5, on and from the Implementation Date and pending registration by IOR of Aevum in the Register as the holder of all of the IOR Shares, Aevum will be beneficially entitled to all of the IOR Shares transferred to it under this Scheme.

8.4 Effect of Scheme

If this Scheme becomes Effective, it will bind IOR and all Scheme Participants, including those who do not attend the Scheme Meeting, those who do not vote at that meeting and those who vote against this Scheme at that meeting, and override IOR's constitution to the extent of any inconsistency.

8.5 Notices

Where a notice, transfer, transmission application, direction or other communication referred to in this Scheme is sent by post to IOR, it will not be deemed to be received in the ordinary course of post or on a date other than the date (if any) on which it is actually received at IOR's registered office. If communications are sent by fax, they are taken to be received at the time shown in the transmission report as at the time that the whole fax was sent.

8.6 Further assurances

IOR must do all things and execute all deeds, instruments, transfers or other documents as may be necessary or desirable to give full effect to this Scheme and the transactions contemplated by it.

8.7 Costs

IOR will pay the costs of this Scheme, except that Aevum will pay any stamp duty and any related fines, penalties and interest payable on, or in connection with, the transfer by Scheme Participants of the IOR Shares to Aevum.

8.8 No liability when acting in good faith

Neither IOR nor Aevum, nor any of their respective officers, will be liable for anything done or omitted to be done in the performance of this Scheme in good faith.

8.9 Proper Law

The proper law of this Scheme is the law of Victoria. The parties submit to the non-exclusive jurisdiction of the courts in the State of Victoria.

Annexure 4

Indicative Timetable

Annexure to Merger Implementation Agreement

MinterEllison

L A W Y E R S

Indicative timetable

Event	Target Date
Lodge Scheme Booklet with ASIC	5 November 2009
First Court hearing	20 November 2009
Dispatch Scheme Booklet	30 November 2009
Scheme Meeting	29 December 2009
Second Court Date	6 January 2010
Effective Date	6 January 2010
Record Date	13 January 2010
Implementation Date	20 January 2010

NOTE – these dates are indicative only and are subject to change