

ASX Announcement NVL

16 December 2019

National Veterinary Care enters into Scheme Implementation Deed with VetPartners

National Veterinary Care Ltd (ASX: NVL) (**NVL**) announces that it has entered into a binding Scheme Implementation Deed (**SID**) with Australian Veterinary Owner's League Pty Ltd trading as VetPartners (**VetPartners**), under which it is proposed that NVL and VetPartners will come together by VetPartners acquiring 100% of the issued share capital of NVL by way of scheme of arrangement (**Scheme**) for \$3.70 per share in cash.

Key highlights:

- Subject to the Scheme becoming effective and being implemented, NVL shareholders will receive \$3.70 per share in cash (**Scheme Consideration**).
- The Scheme Consideration represents a significant premium to NVL's pre-announcement share price.
- NVL's Directors unanimously recommend that NVL shareholders vote in favour of the Scheme, subject to customary qualifications (outlined below).
- A Scheme booklet containing detailed information of the Scheme proposal, including an Independent Expert Report, is expected to be issued to NVL shareholders in or around mid-February 2020.
- The transaction is subject to certain conditions which must be satisfied before the Scheme is implemented, including shareholder and Court approval and, potentially, approval from the Australian Foreign Investment Review Board (**FIRB**).

Scheme Consideration

Under the terms of the Scheme, NVL shareholders will be entitled to receive \$3.70 per share in cash, subject to all applicable conditions being satisfied or waived and the Scheme being implemented. The Scheme Consideration of \$3.70 per share represents:

- a 56.8% premium to NVL's closing share price of \$2.36 on 13 December 2019;¹
- a 59.5% premium to the 1-month VWAP of \$2.32;²
- a 56.8% premium to the 3-month VWAP of \$2.36.³

The Scheme Consideration implies a fully diluted market capitalisation for NVL of approximately \$251.5 million and an enterprise valuation of approximately \$325.5 million.⁴

¹ The last closing price prior to announcing the Scheme.

² VWAP based on cumulative trading volume from 13 November 2019 to 13 December 2019 (inclusive).

³ VWAP based on cumulative trading volume from 13 September 2019 to 13 December 2019 (inclusive).

⁴ Enterprise value calculated as the fully diluted market capitalisation plus National Veterinary Care's net debt (including debt like items) of \$74.0 million. National Veterinary Care's fully diluted market capitalisation is calculated based on approximately 68.0 million shares.

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NVL's Board of Directors unanimously recommends the Scheme

The Directors of NVL unanimously recommend that NVL shareholders vote in favour of the Scheme, in the absence of a superior proposal emerging and subject to the Independent Expert concluding and continuing to conclude that the Scheme is in the best interests of NVL shareholders. Subject to those same qualifications, each Director of NVL that holds or controls NVL shares intends to vote or cause those shares to be voted in favour of the Scheme.

NVL's Chair, Susan Forrester, commented: "VetPartners' proposal represents a significant premium to National Veterinary Care's current share price, is 100% cash consideration and offers National Veterinary Care shareholders a high degree of certainty. We believe the proposal is consistent with the Board's efforts to maximise shareholder value."

NVL's Managing Director Tomas Steenackers added: "The coming together of National Veterinary Care and VetPartners is an exciting milestone for both relatively young, fast growing businesses. They are aligned through a collective commitment to clinical excellence and our clients will continue to enjoy high standards of care and a community feel from their local clinics. Both businesses also have a shared focus on employees, education and wellness and will be able to offer a wide range of exciting new professional development opportunities for our employees. Together, National Veterinary Care and VetPartners will continue to support and improve the broader veterinary industry across Australia and New Zealand, which has been a core philosophy of National Veterinary Care since it started in 2015."

VetPartners Vision

VetPartners is an owner-operator of more than 140 veterinary clinics in Australia, New Zealand and Singapore.

Chief Executive Officer of VetPartners, John Burns said: "National Veterinary Care and VetPartners have a shared passion for creating a supportive network to enable veterinary professionals to focus on what they love – providing care for animals and their families. Our combined management teams are excited about working together to build on the key strengths of each business to create one stronger community that values learning, individuality and excellence in patient care, and that strengthens the veterinary industry as a whole. We are thrilled to join with the team at National Veterinary Care, and look forward to maintaining the National Veterinary Care culture and legacy as part of this exciting next chapter for our two companies."

Key terms of the SID

The implementation of the Scheme is subject to NVL shareholders approving the Scheme by the requisite majorities under the Corporations Act. NVL shareholders will have the opportunity to vote on the Scheme at a Scheme meeting expected to be held in or around mid-March 2020 (**Scheme Meeting**).

In addition to NVL shareholder approval, the implementation of the Scheme remains subject to certain other customary conditions, including:

- potentially, FIRB approval;
- there being no "Material Adverse Change" or "Prescribed Occurrence" in respect of NVL or its business; and
- Court approval.

The Scheme is not subject to due diligence or funding conditions.

The SID includes customary exclusivity provisions including “no shop”, “no talk” and “no due diligence” restrictions (the latter two being subject to a customary fiduciary carve-out), a notification obligation and a matching right. The SID also details circumstances under which a break fee may be payable by NVL to VetPartners, as well as the circumstances in which a break fee may be payable by VetPartners to NVL.

A full copy of the SID, including all applicable conditions, is attached to this announcement.

Indicative timetable and next steps

NVL shareholders do not need to take any action at the present time.

An Independent Expert will prepare a report on whether, in the Independent Expert’s opinion, the Scheme is in the best interests of NVL shareholders. The Independent Expert Report will be included in the Scheme booklet, together with information relating to the Scheme, reasons for the Directors’ recommendation and details of the Scheme Meeting. The Scheme booklet is expected to be sent to NVL shareholders in or around mid-February 2020.

Subject to NVL shareholder approval, Court approval and other conditions of the Scheme being satisfied or waived (as applicable), the Scheme is expected to be implemented in early April 2020.

These dates are indicative and subject to change.

Advisers

NVL has appointed Allens as legal adviser, InterFinancial as lead financial adviser and Wilsons as financial adviser.

ENDS

For further information please contact:

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About NVL:

NVL aims to be a leading provider of veterinary services in Australia and New Zealand. NVL has acquired and integrated 103 veterinary services businesses across Australia and New Zealand. NVL strives to achieve excellence in clinical care for pets, and to build a platform for loyal, long term relationships with their owners. The key growth strategies for NVL are expanding the NVL network of clinics through acquisition and driving organic growth at a clinic level.

Australian Veterinary Owners League Pty Ltd
National Veterinary Care Ltd

Scheme Implementation Deed

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This Deed is made on 15 December 2019

Parties

- 1 **Australian Veterinary Owners League Pty Ltd** (ACN 601 874 588) registered in Australia of Unit 1, 277 Lane Cove Road, Macquarie Park, New South Wales, 2113 (**Bidder**).
- 2 **National Veterinary Care Ltd** (ACN 166 200 059) registered in Australia of Unit 1, 28 Burnside Road, Ormeau, Qld, 4208 (**Target**).

Recitals

- A The parties have agreed that Bidder will acquire all of the Scheme Shares by means of a scheme of arrangement under Part 5.1 of the Corporations Act between Target and its shareholders.
- B Target has agreed to propose and implement the Scheme, and Bidder has agreed to assist Target to propose and implement the Scheme, on the terms of this deed.

It is agreed as follows.

1 Definitions and Interpretation

1.1 Definitions

The following definitions apply unless the context requires otherwise.

ACCC means the Australian Competition and Consumer Commission.

Adviser means, in relation to an entity:

- (a) a financier to the entity in connection with the Transaction; or
- (b) a financial, corporate, legal or other expert adviser or consultant, who provides advisory or consultancy services in a professional capacity in the ordinary course of its business and has been engaged in that capacity in connection with the Transaction by the entity.

ASIC means the Australian Securities and Investments Commission.

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

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

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

Bidder Break Fee means \$2,500,000.00.

Bidder Counterproposal means a proposal to amend the terms of the Transaction, as defined in clause 11.8(a)(ii).

Bidder Group means Bidder and each of its Subsidiaries (excluding, at any time, Target and its Subsidiaries to the extent that Target and its Subsidiaries are subsidiaries of Bidder at that time). A reference to a **member of the Bidder Group** is a reference to Bidder or any such Subsidiaries.

Bidder Information means information about the Bidder Group provided or approved by Bidder or any of its Advisers to Target in writing for inclusion in the Scheme Booklet, as required by clauses 5.3(a) and 5.3(f).

Bidder Parent Acquisition Agreement means the Stock Purchase Agreement dated 3 June 2019 between Dino Grandparent, Inc., a Delaware corporation as Buyer (**Buyer**) and NVA Group

L.P., a Delaware limited partnership as Seller (**Seller**), various other parties associated with each of the Buyer and Seller, and NVA Parent, Inc., a Delaware corporation being the company the subject of the Stock Purchase Agreement.

Bidder Parent Acquisition Completion means completion of the acquisition by Dino Grandparent, Inc., an entity associated with JAB Holdings B.V., a limited liability company incorporated under the laws of the Netherlands, of all of the equity interests in NVA Parent, Inc. pursuant to the Bidder Parent Acquisition Agreement.

Bidder Party means any member of the Bidder Group or any officer, employee or Adviser of any of them.

Bidder Representation and Warranty means a representation and warranty of Bidder set out in Schedule 1.

Business Day means any day that is each of the following:

- (a) a Business Day within the meaning given in the ASX Listing Rules; and
- (b) a day that banks are open for business in Brisbane and Sydney, Australia.

Claim means, in relation to a person, a demand, claim, action or proceeding made or brought by or against the person, however arising and whether present, unascertained, immediate, future or contingent.

Communications has the meaning given in clause 3.3(a)(v).

Competing Proposal means any expression of interest, offer, proposal, agreement, arrangement or transaction which, if entered into or completed substantially in accordance with its terms, would result in a Third Party:

- (a) directly or indirectly acquiring voting power in, or having a right to acquire a legal, beneficial or economic interest in, or control of, 15% or more of the issued share capital of Target or any other member of the Target Group;
- (b) acquiring control of Target or any other member of the Target Group (as defined in section 50AA of the Corporations Act);
- (c) directly or indirectly acquiring or becoming the holder of, or otherwise acquiring or having a right to acquire a legal, beneficial or economic interest in, or control of, all or substantially all or a material part of the business or assets of the Target Group; or
- (d) otherwise directly or indirectly acquiring, being stapled with or merging with Target or any other member of the Target Group,

whether by way of a takeover bid, scheme of arrangement, shareholder approved acquisition, capital reduction, share buy-back, sale, lease or purchase of shares, other securities or assets, assignment of assets or liabilities, joint venture, dual-listed company (or other synthetic merger), deed of company arrangement, any debt for equity arrangement or other transaction or arrangement.

Conditions Precedent has the meaning given in clause 3.1.

Confidentiality Deed means the confidentiality deed between Bidder and Target dated 11 September 2019.

Corporations Act means the *Corporations Act 2001* (Cth), as amended by any applicable ASIC class order, ASIC legislative instrument or ASIC relief.

Court means the Supreme Court of Queensland or such other court of competent jurisdiction under the Corporations Act agreed to in writing between the parties.

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Deed Poll means a deed poll in favour of all Scheme Shareholders in the form of Annexure B (or such other form agreed to in writing between the parties).

Disclosure Letter means any letter identified as such provided by Target to Bidder and countersigned by or on behalf of Bidder on or prior to the date of this deed, and any document identified in such letter as having been disclosed to Bidder (subject to such document having been Fairly Disclosed in the Due Diligence Material).

Due Diligence Material means the information disclosed by or on behalf of the Target Group (including in response to requests for information) to a Bidder Party through the electronic data room prior to the date of this deed, as included on a USB delivered to or a link to an electronic data room sent to Thomson Geer Lawyers (acting on behalf of Bidder) prior to execution of this deed (subject to Thomson Geer Lawyers confirming on behalf of Bidder that such USB or link to an electronic data room contains the full contents of the Due Diligence Material for the purposes of this deed).

EBITDA means earnings before interest, tax, depreciation and amortisation, calculated in accordance with the accounting policies and practices applied by Target as at the date of this deed.

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

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

End Date means the date which is six months after the date of this deed or such other date as may be agreed in writing between Target and Bidder.

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

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

Fairly Disclosed in relation to a matter is to such matter being disclosed with sufficient detail to enable a reasonable person experienced in the industries in which the Target Group operates or transactions similar to the Transaction to identify the nature and scope of the relevant matter.

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

FIRB means the Australian Foreign Investment Review Board.

First Court Date means the first day on which an application made to the Court for orders under section 411(1) of the Corporations Act that the Scheme Meeting be convened is heard or, if the application is adjourned for any reason, the day on which the adjourned application is heard.

Government Agency means any Australian or foreign government or governmental, semi-governmental or judicial entity or authority. It also includes any government minister (and his or her delegate), any self-regulatory organisation established under statute or any securities exchange and, for the avoidance of doubt, includes ASIC, ASX, FIRB, the ACCC and equivalent bodies in jurisdictions outside Australia such as, without limitation, the New Zealand Commerce Commission and New Zealand Overseas Investment Office.

GST means a goods and services tax or similar value added tax levied or imposed in Australia under the GST Law or otherwise on a supply.

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

GST Law has the same meaning as in the GST Act.

Implementation Date means the fifth Business Day after the Scheme Record Date or such other date agreed to in writing between Bidder and Target.

Independent Expert means an independent expert to be engaged by Target.

Independent Expert's Report means a report (including any written updates to such report) of the Independent Expert stating whether or not, in its opinion, the Scheme is in the best interests of Target Shareholders.

Insolvency Event means, in the case of any entity:

- (a) it ceases, suspends, or threatens to cease or suspend the conduct of all or a substantial part of its business or disposes of or threatens to dispose of all or a substantial part of its assets;
- (b) it stops or suspends or threatens to stop or suspend payment of all or a class of its debts;
- (c) it is, or under legislation is presumed or taken to be, insolvent (other than as the result of a failure to pay a debt or Claim the subject of a good faith dispute);
- (d) it has an administrator, controller or similar officer appointed, or any step preliminary to the appointment of such an officer is taken;
- (e) an application or an order is made, proceedings are commenced, or a resolution is passed (and in the case of an application, it is not stayed, withdrawn or dismissed within 30 days) for:
 - (i) its winding up, dissolution or administration; or
 - (ii) it entering into an arrangement, compromise or composition with, or assignment for the benefit of, its creditors or a class of them;
- (f) a:
 - (i) receiver, receiver and manager, administrative receiver or similar officer is appointed to;
 - (ii) security interest becomes enforceable or is enforced over; or
 - (iii) distress, attachment or other execution is levied or enforced or applied for over, all or a substantial part of its assets; or
- (g) anything analogous to anything referred to in the above paragraphs, or which has a substantially similar effect, occurs with respect to it, including under any foreign law.

Integration Committee has the meaning given in clause 6.3(a).

Loan Share means a Target Share issued by the Target under a Target loan share plan, pursuant to which a Target Share has been issued to or acquired by the holder with the assistance of a loan from the Target or a Subsidiary of the Target in certain circumstances.

Matching Date means the date that is five Business Days after the date of the provision of the information referred to in clause 11.8(a)(i).

Nominee has the meaning given in clause 16.1.

Order means any decree, judgment, injunction, direction, writ or other order, whether temporary, preliminary or permanent, made or given by a court of competent jurisdiction or by another Government Agency.

Performance Right means a performance right granted by Target under a Target long-term incentive plan, which entitles the holder to receive a Target Share in certain circumstances.

Regulatory Approvals means an approval or consent specified in a Regulatory Condition.

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Regulatory Conditions means the Conditions Precedent set out in clauses 3.1(d) and 3.1(e).

Related Body Corporate means in relation to a person, a related body corporate of that person under section 50 of the Corporations Act, but on the basis that:

- (a) 'subsidiary' has the meaning given to Subsidiary in this deed;
- (b) 'body corporate' includes any entity and a trust;
- (c) any partnership comprised of related bodies corporate (as defined in the Corporations Act) of a person is, for the purposes of this deed, a Related Body Corporate of that person; and
- (d) in the case of a party that comprises a partnership, a related body corporate (as defined in the Corporations Act) of a partner in that partnership is, for the purposes of this deed, a Related Body Corporate of that party.

Representative means, in relation to Bidder or Target:

- (a) each other member of the Bidder Group or Target Group (as applicable);
- (b) an officer or employee of a member of the Bidder Group or Target Group (as applicable); or
- (c) an Adviser to a member of the Bidder Group or Target Group (as applicable).

Scheme means the scheme of arrangement under Part 5.1 of the Corporations Act between Target and the Scheme Shareholders in the form of Annexure A (or such other form agreed to in writing between the parties to this deed).

Scheme Booklet means the scheme booklet to be prepared by Target in accordance with clause 5.1(a) and to be approved by the Court and despatched to Target Shareholders and which must include the Scheme, an explanatory statement complying with the requirements of the Corporations Act, the Independent Expert's Report, notice of the Scheme Meeting and a proxy form for the Scheme Meeting.

Scheme Consideration has the meaning given in clause 4.2.

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

Scheme Record Date means 7:00pm on the fifth Business Day after the Effective Date or such other time and date agreed to in writing between the parties.

Scheme Shares means the Target Shares on issue as at the Scheme Record Date.

Scheme Shareholder means a person registered in the Target Share Register as the holder of one or more Scheme Shares at the Scheme Record Date.

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

Subsidiary has the meaning given in the Corporations Act, amended as necessary such that:

- (a) a body corporate or a trust will also be taken to be a Subsidiary of an entity if it is controlled by that entity (as defined in section 50AA of the Corporations Act);
- (b) a trust may be a Subsidiary, for the purpose of which a unit or other beneficial interest in the trust will be regarded as a share (ignoring the operation of section 48(2) of the Corporations Act);

- (c) an entity may be a Subsidiary of a trust if it would have been a Subsidiary if that trust were a body corporate; and
- (d) an entity will also be deemed to be a Subsidiary of an entity if that entity is required by the accounting standards to be consolidated with that entity.

Superior Proposal means a bona fide, written Competing Proposal which the Target Board, acting in good faith and to satisfy its fiduciary and statutory duties, and after taking advice from its legal and financial advisers, determines:

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

Target Board means the board of directors of Target.

Target Break Fee means \$2,500,000.00.

Target Group means Target and each of its Subsidiaries. A reference to a **member of the Target Group** is a reference to Target or any such Subsidiary.

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

Target Material Adverse Change means any event, occurrence or matter which has resulted in, or is reasonably likely to result in, either individually or when aggregated with all such events, occurrences or matters:

- (a) a diminution in the consolidated net assets of the Target Group by \$15 million or more, as compared to what the consolidated net assets of the Target Group could reasonably be expected to have been but for the relevant events, occurrences or matters; or
- (b) the consolidated annual EBITDA of the Target Group being reduced (on a recurring basis) by \$3.4 million or more (calculated after taking into account any event, occurrence or matter after the date of this deed that has or could reasonably be expected to have a positive effect on consolidated annual EBITDA), as compared to what the consolidated annual EBITDA of the Target Group could reasonably be expected to have been in the relevant financial year but for the relevant events, occurrences or matters,

in each case other than an event, occurrence or matter:

- (c) required or expressly permitted by this deed or the Scheme;
- (d) which Bidder has previously approved or requested in writing, including any consequences reasonably foreseeable as a result of such matters;
- (e) that was actually known to Bidder prior to the date of this deed (but which does not include Bidder's knowledge of the risk of an event, matter or circumstance occurring);
- (f) to the extent that it was Fairly Disclosed in the Due Diligence Material or the Disclosure Letter;
- (g) Fairly Disclosed to ASX during the period commencing three years prior to the date of this deed or Fairly Disclosed in a document lodged with ASIC that is publicly available by or on behalf of Target during the period commencing three years prior to the date of this deed;

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- (h) arising from any actual or proposed change in any law or change in accounting standards or generally accepted accounting principles after the date of this deed;
- (i) arising from general economic, retail industry or political conditions or changes in those conditions (including financial market fluctuations, changes in interest rates or changes in foreign currency exchange rates) after the date of this deed affecting the industry in which the Target Group conducts business or the economy of any region in which the Target Group conducts business;
- (j) arising from an act of terrorism, war (whether or not declared), natural disaster or the like after the date of this deed; or
- (k) relating to third party costs and expenses incurred by Target or its Subsidiaries associated with the Transaction, including any fees payable to Advisers of Target, to the extent such amounts or comparable estimates of such amounts are Fairly Disclosed in the Due Diligence Material or Disclosure Letter.

Target Party means any member of the Target Group or any officer, employee or Adviser of any member of the Target Group.

Target Prescribed Occurrence means any of the occurrences set out in Schedule 3 occurring on or after the date of this deed, other than an occurrence:

- (a) required or expressly permitted by this deed or the Scheme;
- (b) Fairly Disclosed in the Due Diligence Material or the Disclosure Letter;
- (c) Fairly Disclosed to ASX during the period commencing three years prior to the date of this deed or Fairly Disclosed in a document lodged with ASIC that is publicly available during the period commencing three years prior to the date of this deed; or
- (d) with the written consent of Bidder.

Target Registry means Link Market Services Limited or any replacement provider of share registry services to Target.

Target Representation and Warranty means a representation and warranty of Target set out in Schedule 2.

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

Target Shareholder means a person who is registered as the holder of one or more Target Shares from time to time.

Target Share Register means the register of members of Target maintained in accordance with the Corporations Act.

Third Party means a person other than any member of the Bidder Group.

Timetable means the indicative timetable for the implementation of the Transaction set out in Schedule 4.

Transaction means the acquisition of the Scheme Shares by Bidder through implementation of the Scheme in accordance with the terms of this deed.

1.2 Interpretation

Headings are for convenience only and do not affect interpretation. The following rules apply unless the context requires otherwise.

- (a) The singular includes the plural, and the converse also applies.
- (b) A gender includes all genders.

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- (c) If a word or phrase is defined, its other grammatical forms have a corresponding meaning.
- (d) A reference to a person, corporation, trust, partnership, unincorporated body or other entity includes any of them.
- (e) A reference to a clause, schedule or annexure is a reference to a clause of, or schedule or annexure to, this deed.
- (f) A reference to an agreement or document (including a reference to this deed) is to the agreement or document as amended, supplemented, novated or replaced, except to the extent prohibited by this deed or that other agreement or document, and includes the recitals, schedules and annexures to that agreement or document.
- (g) A reference to a party to this deed or another agreement or document includes the party's successors, permitted substitutes and permitted assigns (and, where applicable, the party's legal personal representatives).
- (h) A reference to legislation or to a provision of legislation includes a modification or re-enactment of it, a legislative provision substituted for it and a regulation or statutory instrument issued under it.
- (i) A reference to conduct includes an omission, statement or undertaking, whether or not in writing.
- (j) A reference to an agreement includes any undertaking, deed, agreement and legally enforceable arrangement, whether or not in writing, and a reference to a document includes an agreement (as so defined) in writing and any certificate, notice, instrument and document of any kind.
- (k) A reference to dollars and \$ is to Australian currency.
- (l) All references to time are to Brisbane, Australia time.
- (m) Mentioning anything after includes, including, for example, or similar expressions, does not limit what else might be included.
- (n) Nothing in this deed is to be interpreted against a party solely on the ground that the party put forward this deed or a relevant part of it.
- (o) A reference to officer, relevant interest or voting power is to that term as it is defined in the Corporations Act.

1.3 Business Day

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

1.4 Best and reasonable endeavours

A reference to a party using or obligation on a party to use its best endeavours or reasonable endeavours or all reasonable endeavours does not oblige that party to:

- (a) pay money:
- (i) in the form of an inducement or consideration to a third party to procure something (other than the payment of immaterial expenses or costs, including costs of advisers, to procure the relevant thing); or
 - (ii) in circumstances that are commercially onerous or unreasonable in the context of this deed;

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- (b) provide other valuable consideration to or for the benefit of any person; or
- (c) agree to commercially onerous or unreasonable conditions.

1.5 Consents or approvals

If the doing of any act, matter or thing under this deed is dependent on the consent or approval of a party or is within the discretion of a party, the consent or approval may be given or the discretion may be exercised conditionally or unconditionally or withheld by the party in its absolute discretion unless expressly provided otherwise.

1.6 Knowledge, belief or awareness of Target

- (a) Certain statements made in this deed (including certain Target Representations and Warranties) are given and made by Target only on the basis of its knowledge, belief or awareness. For the purposes of this deed, Target's knowledge, belief or awareness is limited to the actual knowledge, belief or awareness of Susan Forrester (Non-Executive Director), Kaylene Gaffney (Non-Executive Director), Tomas Steenackers (Managing Director and Chief Executive Officer), Janita Robba (Commercial Manager and Company Secretary) and Jason Beddow (Chief Financial Officer). The knowledge, belief or awareness of any person other than the persons identified in this clause 1.6(a) will not be imputed to Target.
- (b) None of the persons named in clause 1.6(a) will bear any personal liability in respect of the Target Representations and Warranties or otherwise under this deed.

1.7 Listing requirements included as law

A listing rule or business rule of a securities exchange (including the ASX Listing Rules) will be regarded as a law, and a reference to such a rule is to be taken to be subject to any waiver or exemption granted to a party.

2 Agreement to Proceed with Scheme

2.1 Target to propose the Scheme

Target agrees to propose and implement the Scheme on and subject to the terms of this deed.

2.2 Bidder to assist

Bidder agrees to assist Target to propose and implement the Scheme, on and subject to the terms of this deed.

3 Conditions Precedent and Pre-implementation Steps

3.1 Conditions Precedent

Subject to this clause 3, the Scheme will not become Effective, and the obligations of Bidder under clause 4.3 are not binding, unless each of the following Conditions Precedent (the **Conditions Precedent**) is satisfied or waived in accordance with, respectively, clauses 3.2 and 3.4:

Conditions Precedent for the benefit of both parties

- (a) **(Target Shareholder approval)** Target Shareholders approve the Scheme by the requisite majorities under section 411(4)(a)(ii) of the Corporations Act at the Scheme Meeting.
- (b) **(Court approval)** The Court approves the Scheme in accordance with section 411(4)(b) of the Corporations Act.

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- (c) **(No restraints)** No applicable law has been enacted and no Order is in effect as at 8:00am on the Second Court Date (or the intended date for the Second Court Date, but for such Order) that prevents, makes illegal or prohibits the implementation of the Scheme.
- (d) **(ASIC and ASX)** Before 8:00am on the Second Court Date, Target has received from ASIC and ASX all consents, approvals, waivers or authorisations as are necessary, or which Target and Bidder agree are reasonably necessary or desirable, to implement the Scheme, and none of those consents, approvals, waivers or authorisations have been withdrawn, cancelled or revoked before such time.
- (e) **(FIRB approval)** Before 8:00am on the Second Court Date, the Treasurer (or his delegate) has either:
- (i) provided written notice that there is no objection under the FATA to the Scheme, either on an unconditional basis or subject only to:
 - (A) tax-related conditions which are in the form, or substantially in the form, of those set out in Part A of Attachment B of the Australian Foreign Investment Review Board's Guidance Note 47 on 'Tax Conditions' (in the form released on 13 August 2018); and
 - (B) such other conditions which are acceptable to Bidder, acting reasonably;or
 - (ii) become precluded by passage of time from making any order or decision under Division 2 of Part 3 of the FATA in respect of the Scheme,
- whichever occurs first.

Conditions Precedent for the benefit of Bidder only

- (f) **(No Target Material Adverse Change)** No Target Material Adverse Change occurs between the date of this deed and 8:00am on the Second Court Date.
- (g) **(No Target Prescribed Occurrence)** No Target Prescribed Occurrence occurs between the date of this deed and 8:00am on the Second Court Date.

3.2 Best endeavours and co-operation

Without prejudice to any other obligations of the parties under this deed:

- (a) subject to clause 3.3(a)(ii), Bidder must use its best endeavours to satisfy, or procure the satisfaction of, the Condition Precedent in clause 3.1(e);
- (b) Target must use its best endeavours to satisfy, or procure the satisfaction of, the Conditions Precedent in clauses 3.1(f) and 3.1(g);
- (c) each party must, to the extent it is within its power to do so, use its best endeavours to satisfy, or procure the satisfaction of, the Conditions Precedent in clauses 3.1(a), 3.1(b), 3.1(c) and 3.1(d); and
- (d) no party will take any action that will or is likely to hinder or prevent the satisfaction of any Condition Precedent, except to the extent that such action is required to be done or procured pursuant to, or is otherwise permitted by, this deed or the Scheme, or is required by law.

3.3 Regulatory Approvals

- (a) Without limiting the generality of clause 3.2 and subject to clause 3.3(b):

- (i) subject to clause 3.3(a)(ii), to the extent it has not already done so prior to the date of this deed, each party must, within 10 Business Days after the date of this deed, apply for all Regulatory Approvals for which it is responsible;
- (ii) if Bidder Parent Acquisition Completion has not occurred by 21 January 2020 (and Bidder must, from the date of this deed, promptly keep the Target informed of all progress towards Bidder Parent Acquisition Completion), Bidder must on 21 January 2020 apply for the Regulatory Approval specified in the Condition Precedent set out in clause 3.1(e);
- (iii) each party must provide such assistance in respect of any such application for a Regulatory Approval as the other party may reasonably request, and each party must take all reasonable steps required as part of the approval process in respect of any such application, including responding to reasonable requests for information at the earliest practicable time;
- (iv) each party must keep the other party fully informed of progress in relation to obtaining the Regulatory Approvals, including:
- (A) by promptly providing the other party with reasonable details of all dealings with Government Agencies in relation to the applications for Regulatory Approvals (including any requests for information by such Government Agencies and any conditions or other arrangements proposed by any Government Agency in respect of such Regulatory Approvals); and
 - (B) any material information or matter which is likely to result in a delay in receipt of a Regulatory Approval that would mean the Timetable is unlikely to be achieved or indicate that a Regulatory Approval is unlikely to be given;
- (v) each party must consult with the other party in advance in relation to all proposed material communications (whether written or oral and whether direct or via an Adviser) with any Government Agency relating to any Regulatory Approval (**Communications**) and in relation to each material step in the process of obtaining each Regulatory Approval;
- (vi) each party must give the other party a reasonable opportunity to be represented at any proposed meeting with any Government Agency relating to any Regulatory Approval; and
- (vii) without limiting any other provision of this clause 3.3(a), each party must:
- (A) provide the other party with drafts of any material written Communications to be sent to a Government Agency, and allow the other party a reasonable opportunity to make comments on them prior to them being sent; and
 - (B) promptly provide copies of any material written Communications received from a Government Agency.
- (b) Before providing any document or other information to the other party (in this clause 3.3(b), the **Recipient**) pursuant to clause 3.3(a), a party (in this clause 3.3(b), the **Discloser**) may redact any part of that document, or not disclose any part of that information, which contains or constitutes confidential, competitively sensitive, commercially sensitive or privileged information relating to the existing business or affairs of the Discloser or its Subsidiaries (**Sensitive Information**) to the extent that the

Discloser reasonably considers that the disclosure of such document or information to the Recipient would be unlawful or damaging to the commercial or legal interests of the Discloser or its Subsidiaries or would be reasonably likely to jeopardise any attorney-client, work product or other legal privilege. Where Sensitive Information is so redacted or excluded, the Discloser must provide:

- (i) the Recipient with as much detail about the relevant communication, submission or correspondence (and any other relevant circumstances) as is reasonably possible without disclosing Sensitive Information; and
- (ii) a complete version of the document or other information, without any redaction or exclusion of information (save for any redaction or exclusion of privileged information), to the Recipient's external lawyers on the basis that the Recipient's external lawyers will not disclose the Sensitive Information to the Recipient or any other third party (including any Government Agency) without the Discloser's prior written consent and will only use the information for the purpose of satisfying a Regulatory Condition.

3.4 Waiver of Conditions Precedent

- (a) The Conditions Precedent in clauses 3.1(a) to 3.1(e) are for the benefit of Target and Bidder. Any breach or non-satisfaction of any of the Conditions Precedent in clauses 3.1(a) or 3.1(b) cannot be waived. Any breach or non-satisfaction of the Conditions Precedent in clause 3.1(c) or 3.1(d) may only be waived by Bidder and Target giving their written consent. Subject to clause 3.4(g), any breach or non-satisfaction of the Condition Precedent in clause 3.1(e) cannot be waived.
- (b) The Conditions Precedent in clauses 3.1(f) and 3.1(g) are for the sole benefit of Bidder, and any breach or non-satisfaction of those Conditions Precedent may only be waived by Bidder giving its written consent.
- (c) A party entitled to waive the breach or non-satisfaction of a Condition Precedent pursuant to this clause 3.4 may do so in its absolute discretion.
- (d) If a waiver by a party of a Condition Precedent is itself expressed to be conditional and the other party accepts the conditions, the terms of the conditions apply accordingly. If the other party does not accept the conditions, the relevant Condition Precedent has not been waived.
- (e) If a party waives the breach or non-satisfaction of a Condition Precedent, that waiver will not preclude it from suing the other party for any breach of this deed constituted by the same event that gave rise to the breach or non-satisfaction of the Condition Precedent.
- (f) Waiver of a breach or non-satisfaction in respect of one Condition Precedent does not constitute:
 - (i) a waiver of breach or non-satisfaction of any other Condition Precedent resulting from the same events or circumstances; or
 - (ii) a waiver of breach or non-satisfaction of that Condition Precedent resulting from any other event or circumstance.
- (g) The Condition Precedent in clause 3.1(e) will be deemed to be waived when Bidder Parent Acquisition Completion occurs. Bidder must promptly notify the Target in writing when Bidder Parent Acquisition Completion has occurred.

3.5 Notifications

Each party must:

- (a) keep the other party promptly and reasonably informed of the steps it has taken and of its progress towards satisfaction of the Conditions Precedent;
- (b) promptly notify the other party in writing if it becomes aware that any Condition Precedent has been satisfied, in which case the notifying party must also provide reasonable evidence that the Condition Precedent has been satisfied; and
- (c) promptly notify the other party in writing of a failure to satisfy a Condition Precedent or of any fact or circumstance that results in that Condition Precedent becoming incapable of being satisfied or that may result in that Condition Precedent not being satisfied in accordance with its terms.

3.6 Failure of Conditions Precedent

- (a) If:
 - (i) there is a breach or non-satisfaction of a Condition Precedent which is not waived in accordance with this deed by the time or date specified in this deed for the satisfaction of the Condition Precedent; or
 - (ii) there is an act, failure to act or occurrence which will prevent a Condition Precedent being satisfied by the time or date specified in this deed for the satisfaction of the Condition Precedent (and the breach or non-satisfaction which would otherwise occur has not already been waived in accordance with this deed);then either party may serve a written notice on the other party, and the parties must promptly consult in good faith with a view to determining whether:
 - (iii) the Scheme or the Transaction may proceed by way of alternative means or methods;
 - (iv) to extend the relevant time or date for satisfaction of the Condition Precedent;
 - (v) to change the First Court Date or to adjourn the application for orders pursuant to section 411(1) of the Corporations Act convening the Scheme Meeting to another date agreed by the parties;
 - (vi) to change the Second Court Date or to adjourn the application for orders pursuant to section 411(4)(b) of the Corporations Act approving the Scheme to another date agreed by the parties; or
 - (vii) to extend the End Date.
- (b) If Target and Bidder are unable to reach agreement under clause 3.6(a)(iii), 3.6(a)(iv), 3.6(a)(v), 3.6(a)(vi) or 3.6(a)(vii) within five Business Days after the delivery of the notice under clause 3.6(a) (or any shorter period ending at 5:00pm on the Business Day before the Second Court Date), either party may terminate this deed by notice in writing to the other party, provided that:
 - (i) the Condition Precedent to which the notice relates is for the benefit of that party (whether or not the Condition Precedent is also for the benefit of the other party); and
 - (ii) there has been no failure by that party to comply with its obligations under this deed (provided that such failure will only be relevant for the purposes of this clause where that failure contributed in a material respect to the Condition

Precedent to which the notice relates becoming incapable of satisfaction, or being breached or not fulfilled, before the End Date),

in which case clause 14.3 will have effect.

- (c) If the Condition Precedent in clause 3.1(a) is not satisfied only because of a failure to obtain the majority required by sub-subparagraph 411(4)(a)(ii)(A) of the Corporations Act, then either party may by written notice to the other within three Business Days after the date of the conclusion of the Scheme Meeting require the approval of the Court to be sought, pursuant to the Court's discretion in that sub-subparagraph, provided the party has, in good faith, formed the view that the prospect of the Court exercising its discretion in that way is reasonable. If approval is given, the Condition Precedent in clause 3.1(a) is deemed to be satisfied for all purposes.

3.7 Certificates in relation to Conditions Precedent

- (a) On the Second Court Date each party must provide to the Court a certificate (or such other evidence as the Court may request) confirming (in respect of matters within its knowledge) whether or not as at 8:00am on the Second Court Date the Conditions Precedent have been satisfied or waived in accordance with this deed.
- (b) Each party must provide to the other party a draft of the certificate to be provided by it pursuant to clause 3.7(a) by 5:00pm on the day that is two Business Days prior to the Second Court Date, and must provide to the other party on the Second Court Date a copy of the final certificate or other evidence provided to the Court.

4 Transaction Steps

4.1 Scheme

- (a) Target must propose a scheme of arrangement under which:
- (i) all of the Scheme Shares will be transferred to Bidder; and
 - (ii) the Scheme Shareholders will be entitled to receive the Scheme Consideration.
- (b) Target must not consent to any modification of, or amendment to, or the making or imposition by the Court of any condition in respect of, the Scheme without the prior written consent of the Bidder (such consent not to be unreasonably withheld or delayed).

4.2 Scheme Consideration

The ***Scheme Consideration***, in respect of a Scheme Shareholder, means \$3.70 per Scheme Share held by that Scheme Shareholder.

4.3 Provision of Scheme Consideration

Bidder undertakes to Target (in its own right and as trustee on behalf of the Scheme Shareholders) that, in consideration of the transfer to Bidder of the Scheme Shares under the terms of the Scheme, on the Implementation Date it will:

- (a) accept that transfer; and
- (b) pay or procure payment of the Scheme Consideration for each Scheme Share in accordance with the Scheme and the Deed Poll.

4.4 Performance Rights

- (a) Target must ensure that:

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- (i) before 8:00am on the Second Court Date, it has taken all necessary steps to ensure that all outstanding Performance Rights vest or lapse before the Scheme Record Date; and
 - (ii) by no later than the Scheme Record Date, there are no outstanding Performance Rights.
- (b) In order to comply with its obligation under clause 4.4(a), Target must:
- (i) cause some or all of the outstanding Performance Rights to vest (including by accelerating the conversion or exercise period of such rights) and, following such vesting, cause the relevant number of Target Shares to be transferred or issued (as applicable) to allow the relevant former holders of the relevant Performance Rights to participate in the Scheme; and
 - (ii) take such action as may be necessary to cancel for no consideration any outstanding Performance Rights which it does not cause to vest in accordance with clause 4.4(b)(i) (if any).

4.5 Loan shares

- (a) Target must ensure that:
- (i) before 8:00am on the Second Court Date, it has taken all necessary steps to ensure that all outstanding amounts owing in respect of each Loan Share will be repaid and paid (as applicable) to the Target on the Implementation Date out of the Scheme Consideration payable to each relevant holder of Loan Shares on that date and that such Target Shares will be transferred to the Bidder free of any encumbrances; and
 - (ii) immediately following payment of the Scheme Consideration as specified in clause 4.3(b), there are no Target Shares which are Loan Shares.
- (b) In order to comply with its obligation under clause 4.5(a), Target must cause all holders of Loan Shares to direct payment of so much of their Scheme Consideration to the Target as is necessary to extinguish the amounts owing on their Loan Shares to allow the Target Sharers (being formerly Loan Shares) to participate in the Scheme.

5 Implementation

5.1 Target's obligations

Target must take all steps reasonably necessary to propose and implement the Scheme as soon as is reasonably practicable after the date of this deed and must use reasonable endeavours to ensure that each step in the Timetable is met by the date set out beside that step, including by doing any acts it is authorised and able to do on behalf of Target Shareholders and each of the following.

- (a) **(Preparation of Scheme Booklet)** Prepare the Scheme Booklet so that it complies with all applicable laws, including the Corporations Act, ASIC Regulatory Guide 60 and the ASX Listing Rules, and undertake reasonable verification procedures in respect of the Scheme Booklet (other than the Independent Expert's Report and the Bidder Information) so as to ensure that the information in it is not misleading or deceptive in any material respect (whether by omission or otherwise). The Scheme Booklet must include a statement that:
- (i) other than the Bidder Information and the Independent Expert's Report, the Scheme Booklet has been prepared by Target and is the responsibility of Target,

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and that no Bidder Party assumes any responsibility and disclaims any liability for the accuracy or completeness of the Scheme Booklet (other than the Bidder Information); and

- (ii) the Bidder Information has been provided by Bidder and is the responsibility of Bidder, and that no Target Party assumes any responsibility and disclaims any liability for the accuracy or completeness of the Bidder Information.

The Scheme Booklet must also include the recommendation and statement required under clause 7.

- (b) **(Independent Expert)** Promptly appoint the Independent Expert (if the Independent Expert has not been appointed prior to the date of this deed), and provide all assistance and information reasonably requested by the Independent Expert in connection with the preparation of the Independent Expert's Report.
- (c) **(Consultation with Bidder)** Consult with Bidder as to the content and presentation of the Scheme Booklet, such consultation to include allowing Bidder a reasonable opportunity to review and make comments on successive drafts of the Scheme Booklet a reasonable time before its lodgement with ASIC and obtain Bidder's written consent to the inclusion of the Bidder Information (including in respect of the form and context in which the Bidder Information appears in the Scheme Booklet) prior to lodgement of the Scheme Booklet with ASIC. If the parties are unable to agree on the form or content of the Bidder Information, Target must, acting in good faith, make such amendments to the Bidder Information as Bidder may require (acting reasonably). Target must consider in good faith any comments on drafts of the Scheme Booklet provided by or on behalf of Bidder.
- (d) **(Approval of draft Scheme Booklet)** Before the draft Scheme Booklet is provided to ASIC pursuant to clause 5.1(e), procure that a meeting of the Target Board is held to approve such lodgement.
- (e) **(Liaison with ASIC)** As soon as reasonably practicable after the date of this deed but no later than 14 days before the First Court Date, and following Bidder giving confirmation or providing changes as contemplated by clause 5.1(c), provide an advanced draft of the Scheme Booklet to ASIC for its review and approval for the purposes of section 411(2) of the Corporations Act, and to Bidder, and keep Bidder reasonably informed of any matters raised by ASIC in relation to the Scheme Booklet (and of any resolution of those matters), and use reasonable endeavours, in consultation with Bidder, to resolve any such matters (provided that Target may not resolve any such matters without the prior written consent of Bidder to the extent that such matters relate to the Bidder Information).
- (f) **(Indication of intent)** Apply to ASIC for a letter indicating whether ASIC proposes to make submissions to the Court, or intervene to oppose the Scheme, on the First Court Date.
- (g) **(Approval of Scheme Booklet)** As soon as practicable after ASIC has provided its indication of intent in accordance with clause 5.1(f), procure that a meeting of the Target Board is convened for the purpose of approving the Scheme Booklet for registration with ASIC and, subject to orders of the Court, despatch to Target Shareholders.
- (h) **(Court direction)** Apply to the Court for orders directing Target to convene the Scheme Meeting, and consult with Bidder as to the content of all relevant originating process, affidavits, submissions and draft minutes of Court orders. Such consultation must include providing Bidder with a reasonable opportunity to review and comment on the relevant Court documents before they are lodged, and Target must consider in good faith any comments provided by or on behalf of Bidder.

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- (i) **(ASIC registration)** Request ASIC to register the Scheme Booklet in the form approved by the Court.
- (j) **(Despatch)** Send the Scheme Booklet in the form approved by the Court to Target Shareholders following receipt of Bidder's written consent to the inclusion of the Bidder Information in the form and context in which the Bidder Information appears in such version of the Scheme Booklet.
- (k) **(Update Scheme Booklet)** If, after the Scheme Booklet has been sent to Target Shareholders, it becomes aware of information that is:
- (i) not included in the Scheme Booklet and is:
 - (A) material for disclosure to Target Shareholders in deciding whether to approve the Scheme; or
 - (B) required to be disclosed to Target Shareholders under any applicable law; or
 - (ii) included in the Scheme Booklet and is misleading or deceptive in a material respect in the form and context in which it appears in the Scheme Booklet,
- inform Target Shareholders of the information in an appropriate and timely manner, in accordance with applicable law. Target must consult with Bidder as to the form and content of any supplementary disclosure before it is made to Target Shareholders and, to the extent reasonably practicable, must provide Bidder with a reasonable opportunity to review and comment on such disclosure before it is made and must consider in good faith any comments provided by or on behalf of Bidder. To the extent that any supplementary disclosure relates to (or constitutes) Bidder Information, it may only be made with Bidder's prior written consent (not to be unreasonably withheld or delayed).
- (l) **(Scheme Meeting)** Convene the Scheme Meeting to approve the Scheme (in accordance with any orders made by the Court).
- (m) **(No objection statement)** Apply to ASIC for the production of a statement in writing pursuant to section 411(17)(b) of the Corporations Act stating that ASIC has no objection to the Scheme.
- (n) **(Court approval)** Subject to all Conditions Precedent in clause 3.1 (other than that in clause 3.1(b)) being satisfied or waived in accordance with this deed, or the parties agreeing in writing that those Conditions Precedent can reasonably be expected to be satisfied or waived before 8.00am on the Second Court Date, apply to the Court for orders approving the Scheme, and consult with Bidder as to the content of all relevant affidavits, submissions and draft minutes of Court orders. Such consultation must include providing Bidder with a reasonable opportunity to review and comment on the relevant Court documents before they are lodged, and Target must consider in good faith any comments provided by or on behalf of Bidder.
- (o) **(Court order)** Lodge with ASIC an office copy of any Court order approving the Scheme by not later than the first Business Day after the day such office copy is received (or such later date as Bidder may agree in writing).
- (p) **(Representation)** Allow, and not oppose, any application by Bidder for leave of the Court to be represented by counsel at the Court hearings in relation to the Scheme.
- (q) **(Information)** Provide all necessary information, and procure that the Target Registry provides all necessary information, in each case in a form reasonably requested by Bidder, for the purpose of understanding legal and beneficial ownership of Target Shares

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and proxy appointments and directions received by Target prior to the Scheme Meeting. This will include information as to the beneficial ownership of Target Shares as at the date of this deed and updated beneficial ownership reports as received and weekly updates on proxy information received by the Target Registry.

- (r) **(Promotion)** Unless a majority of Target Board directors change or withdraw their recommendation as permitted by clause 7, without limiting the rights of the Bidder to communicate directly with Target Shareholders following the execution of this deed, participate in efforts reasonably requested by Bidder to promote the merits of the Scheme, including conducting lawful proxy solicitation, meeting with key Target Shareholders and providing Bidder with such information and assistance as Bidder reasonably requests to enable it to promote the merits of the Scheme.
- (s) **(Implementation)** If the Scheme becomes Effective:
- (i) procure ASX to suspend trading in Target Shares from the close of trading on the Effective Date;
 - (ii) close the Target Share Register at the Scheme Record Date to determine the identity of Scheme Shareholders and their entitlements to the Scheme Consideration; and
 - (iii) subject to Bidder satisfying its obligations under clause 4.3, execute proper instruments of transfer of the Scheme Shares on behalf of the Scheme Shareholders in favour of Bidder and procure the registration in the Target Share Register of all transfers of Scheme Shares to Bidder under those instruments on the Implementation Date.
- (t) **(ASX listing)** Maintain Target's admission to the official list of ASX and the quotation of Target Shares on ASX up to and including the Implementation Date.
- (u) **(Bidder Information)** During the period until the Bidder Information becomes publicly available, not use the Bidder Information for any purposes other than those expressly contemplated by this deed or the Scheme without the prior written consent of the Bidder.

5.2 Appeal process

If the Court refuses to make any orders convening the Scheme Meeting or approving the Scheme:

- (a) Target and Bidder must consult with each other in good faith as to whether to appeal the Court's decision; and
- (b) Target must appeal the Court's decision (unless the parties agree otherwise, or an independent senior counsel of the Queensland bar advises that, in their view, an appeal would have no reasonable prospect of success before the End Date).

5.3 Bidder's obligations

Bidder must take all steps reasonably necessary to assist Target to propose and implement the Scheme as soon as is reasonably practicable and, without limiting the foregoing, must use reasonable endeavours to ensure that each step in the Timetable is met by the date set out beside that step, including by doing each of the following.

- (a) **(Bidder Information)** Prepare and provide to Target the Bidder Information for inclusion in the Scheme Booklet to comply with all applicable laws, including the Corporations Act, ASIC Regulatory Guide 60 and the ASX Listing Rules, relevant to the Bidder Information, and consult with Target as to the content and presentation of the Bidder Information in

the Scheme Booklet, such consultation to include allowing Target a reasonable opportunity to review and make comments on successive drafts of the Bidder Information before lodgement of the Scheme Booklet with ASIC. Bidder must consider in good faith any comments on drafts of the Bidder Information provided by or on behalf of Target and must undertake reasonable verification procedures in respect of the Bidder Information so as to ensure that it is not misleading or deceptive in any material respect (whether by omission or otherwise).

- (b) **(Review drafts of Scheme Booklet)** As soon as practicable after delivery, review drafts of the Scheme Booklet prepared by Target and provide any comments on those drafts.
- (c) **(Independent Expert information)** Promptly provide all assistance and information reasonably requested by Target or the Independent Expert in connection with the preparation of the Independent Expert's Report.
- (d) **(Confirmation of Bidder Information)** Before the Scheme Booklet is provided to ASIC pursuant to section 411(2) of the Corporations Act, procure that a meeting of the board of directors of Bidder is held to consider the Bidder Information included in the Scheme Booklet as being in a form appropriate for provision to ASIC for review, and either:
- (i) confirm in writing to Target that the Bidder Information in the form and context in which it appears in the Scheme Booklet is not misleading or deceptive in any material respect (including because of any material omission); or
 - (ii) provide to Target the changes required to ensure that the Bidder Information in the form and context in which it appears in the Scheme Booklet is not misleading or deceptive in any material respect (including because of any material omission).
- (e) **(Approval of Bidder Information)** As soon as reasonably practicable after the conclusion of the review by ASIC of the Scheme Booklet, procure that a meeting of the board of directors of Bidder is held to consider the Bidder Information included in the Scheme Booklet as being in a form appropriate for despatch to Target Shareholders, subject to approval of the Court.
- (f) **(Update Bidder Information)** If at any time after the despatch of the Scheme Booklet, Bidder becomes aware:
- (i) of new information which, were it known at the time of despatch, should have been included in any Bidder Information included in that version of the Scheme Booklet; or
 - (ii) that any part of the Bidder Information included in that version of the Scheme Booklet is misleading or deceptive in any material respect (whether by omission or otherwise),
- it must advise Target so that Target can determine whether supplementary disclosure to Target Shareholders is required in accordance with (and subject to the terms of) clause 5.1(k).
- (g) **(Deed Poll)** Before the first Court hearing on the First Court Date, enter into the Deed Poll and deliver it to Target.
- (h) **(Court representation)** Procure that it is represented by counsel at the Court hearings convened in relation to the Scheme, at which, through its counsel or solicitors, Bidder will undertake (if requested by the Court) to do all such things and take all such steps within its power as may be reasonably necessary in order to ensure the fulfilment of its obligations under this deed and the Scheme.

- (i) **(Scheme Consideration)** If the Scheme becomes Effective, provide the Scheme Consideration in the manner and amount contemplated by clause 4.3 and the terms of the Scheme.
- (j) **(Liaison with ASIC)** Promptly provide any assistance reasonably requested by Target to assist Target in resolving any matter raised by ASIC regarding the Scheme Booklet or the Scheme during ASIC's review of the Scheme Booklet.
- (k) **(Court documents)** Consult with Target in relation to the content of the Court documents required for the purpose of the Scheme (including originating process, affidavits, submissions and draft minutes of Court orders).
- (l) **(Financing)** Do everything necessary to ensure that:
- (i) all equity or debt finance agreements, arrangements or funding commitments to which Bidder is party relating to the availability of funds for the purpose of paying the Scheme Consideration to Scheme Shareholders remain on foot;
 - (ii) all conditions precedent to draw down of funds or contribution of equity have been satisfied or waived under those agreements, arrangements or funding commitments; and
 - (iii) it holds the proceeds of the financing to the extent required to pay the Scheme Consideration to Scheme Shareholders on the Implementation Date.
- (m) **(Promotion)** Participate in efforts reasonably requested by Target and efforts which Bidder, acting reasonably, considers appropriate to promote the merits of the Scheme, including discussions with and lawful solicitation of proxies from Target Shareholders.
- (n) **(Target Information)** During the period until the Target Information becomes publicly available, not use the Target Information for any purposes other than those expressly contemplated by this deed or the Scheme without the prior written consent of the Target.

5.4 Appointment of directors

On the Implementation Date, but subject to the Scheme Consideration having been paid by Bidder in accordance with the Scheme and receipt by Target of signed consents to act, Target must:

- (a) take all actions necessary to appoint the persons nominated by Bidder as new directors of Target and other members of the Target Group; and
- (b) procure that all directors on the Target Board or the board of another member of the Target Group (other than the new directors appointed pursuant to clause 5.4(a)) resign from the Target Board or such other board (as applicable).

6 Conduct of Business and Requests for Access

6.1 Conduct of Target business

During the period from the date of this deed up to and including the Implementation Date, Target must:

- (a) procure that the Target Group conducts its business and operations in the ordinary course and substantially consistent (subject to any applicable laws and regulations) with the manner in which each such business and operation has been conducted in the 12 months prior to the date of this deed (or if any business or operation was acquired after that date, then substantially consistent with the manner in which such business or operation has been conducted from the date of acquisition by the Target Group);

- (b) to the extent consistent with the obligation in paragraph (a), use best endeavours to preserve intact the Target Group's current business organisation, to keep available the services of the current officers and senior employees of it and the other members of the Target Group, to maintain at least the current level of insurance of each member of the Target Group, and to preserve the Target Group's relationship with Government Agencies, customers, suppliers, licensors, licensees and others having business dealings with it; and
- (c) not take any action that constitutes a Target Prescribed Occurrence or that could reasonably be expected to result in a Target Prescribed Occurrence, or, where a Target Prescribed Occurrence could reasonably be expected to occur due to a failure to take any action, fail to take that action,

in each case except to the extent:

- (d) required or expressly permitted by this deed or the Scheme;
- (e) required in order to comply with any applicable law, the rules of any securities exchange (including ASX) or the order of any court or Government Agency;
- (f) Fairly Disclosed in the Due Diligence Material or the Disclosure Letter;
- (g) Fairly Disclosed to ASX during the period commencing three years prior to the date of this deed or Fairly Disclosed in a document lodged with ASIC that is publicly available by or on behalf of Target during the period commencing three years prior to the date of this deed; or
- (h) agreed to in writing by Bidder (such agreement not to be unreasonably withheld or delayed).

6.2 Access to information and co-operation

- (a) **(Provision of access and information)** During the period from the date of this deed up to and including the Implementation Date, Target must, and must procure each of its Subsidiaries to, respond to reasonable requests from Bidder and its Representatives for information concerning the Target Group businesses, operations and affairs as soon as reasonably practicable after such requests are made, and give Bidder and its Representatives reasonable access to Target's senior executive team and records, and otherwise provide reasonable co-operation to Bidder and its Representatives, in each case for the purposes of:
- (i) the implementation of the Scheme;
 - (ii) integration planning prior to implementation of the Scheme which, for the avoidance of doubt, does not include ongoing due diligence on the Target Group;
 - (iii) finalisation of the Bidder Group's structuring arrangements for the Transaction; or
 - (iv) any other purpose that is agreed in writing between the parties.
- (b) **(Limits on Target obligations)** The obligations in clause 6.2(a) and clause 6.3 do not require Target to:
- (i) do anything which would cause significant undue disruption to the operation of its business in the ordinary course;
 - (ii) require a member of the Target Group to take any action that would reasonably be expected to conflict with or violate the entity's constituent documents or any law;

- (iii) require a member of the Target Group to take any action that would breach an obligation to any person (including any confidentiality obligations);
 - (iv) provide information to Bidder concerning the Target directors' and management's consideration of the Scheme; or
 - (v) provide any confidential, competitively sensitive or privileged information where the provision of such information is reasonably likely to cause prejudice to the commercial or legal interests of the Target Group taken as a whole, or would be reasonably likely to jeopardise any attorney-client, work product or other legal privilege.
- (c) The parties acknowledge that all information that is provided pursuant to this clause 6.2 will be provided subject to the terms of the Confidentiality Deed.

6.3 Integration planning

- (a) On and from the date of this deed, the parties agree to establish a committee (**Integration Committee**) initially comprising of the following individuals:
- (i) as representative of Target: Tomas Steenackers;
 - (ii) as representative of Bidder: John Burns.
- (b) The role of the Integration Committee will be to act as a forum for discussion and planning in respect of the following:
- (i) matters related to integration planning, including employee retention and incentivisation, stakeholder engagement and communications and consolidation of operations and functions or processes, the key principles of some (or all) of which may have been developed by Bidder and Target prior to the date of this deed; and
 - (ii) the process referred to in clause 6.4.
- (c) Each party must ensure that its representatives on the Integration Committee act in good faith in their capacity as members of the Integration Committee with a view to fulfilling the role and objectives of such committee (to the extent within their power).
- (d) The Integration Committee will meet at such times and places as agreed between the members of the Integration Committee from time to time, taking into account the existing roles and duties of Target's representatives on the Integration Committee. Meetings may be held via telephone, video or any other technology that permits each member to communicate with every other member (or any combination of these technologies).
- (e) The members of the Integration Committee may agree to invite other persons to attend meetings of the Integration Committee from time to time.
- (f) From time to time, certain members of the Integration Committee or other representatives of the parties (as agreed between the parties) will meet separately to meetings of the Integration Committee to discuss and progress matters considered or plans developed by the Integration Committee.
- (g) The parties acknowledge and agree that:
- (i) the Integration Committee is a discussion and planning forum only, and the members of the Integration Committee do not have power to bind the other party or to give any consent, approval or waiver on behalf of such other party;

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- (ii) nothing in this clause 6.3 or elsewhere in this deed requires a party to act at the direction of the other party or is intended to create a relationship of partnership, joint venture or similar between the parties;
- (iii) nothing in this clause 6.3 or elsewhere in this deed requires a party to take any action that would reasonably be expected to conflict with or violate the entity's constituent documents or any law;
- (iv) the respective businesses of the Bidder Group and the Target Group are to continue to operate independently until (and subject to) implementation of the Scheme; and
- (v) nothing in this clause 6.3 requires any of Target's representatives on the Integration Committee to do anything which would unduly interfere with their responsibilities to Target and the ongoing conduct of Target's business.

6.4 Change of control consents

As soon as practicable after the date of this deed, Target and Bidder must seek to identify any change of control or unilateral termination rights in material contracts and leases to which Target or another member of the Target Group is party which may be triggered by or exercised in response to the implementation of the Transaction. In respect of those contracts and leases:

- (a) Target and Bidder will agree a proposed course of action (which, among other things, will have due regard to applicable legal restrictions) and then Target will initiate contact, including joint discussions if required, with the relevant counterparties and request that they provide any consents or confirmations required or appropriate. Bidder must not contact any counterparties without Target present or without Target's prior written consent (which is not to be unreasonably withheld, conditioned or delayed).
- (b) Target must cooperate with, and provide reasonable assistance to, Bidder to obtain such consents or confirmations as expeditiously as possible, including by promptly providing any information reasonably required by counterparties (but nothing in this clause requires Target or Bidder to incur material expense).
- (c) Bidder must take all action necessary to comply with any requirements of counterparties that are reasonably necessary to obtain the relevant consent or confirmation, including providing any information required and entering into such forms of guarantee or security as counterparties may reasonably require and make officers and employees available, where necessary, to meet with counterparties to deal with any issues arising in relation to the matter.
- (d) A failure by a member of the Target Group to obtain any third party consent or confirmation contemplated in this clause 6.4, or the exercise of a termination right by a counterparty, will not constitute a breach of this deed by Target and, together with any consequences that arise, will be disregarded when assessing the operation of any other provision of this deed.

6.5 Directors' and officers' insurance and indemnities

- (a) Subject to the Scheme becoming Effective and the Transaction completing, Bidder undertakes in favour of Target and each other person who is a Target Party that it will:
 - (i) for a period of seven years from the Implementation Date or until a company ceases to be part of the Target Group (whichever is earlier), ensure that the constitutions of Target and each other member of the Target Group continue to contain such rules as are contained in those constitutions at the date of this deed

that provide for each company to indemnify each of its current and previous directors and officers against any liability incurred by that person in his or her capacity as a director or officer of the company to any person other than a member of the Target Group; and

- (ii) procure that each member of the Target Group complies with any deeds of indemnity, access and insurance made by them in favour of their respective directors and officers from time to time and, without limiting the foregoing, ensure that directors' and officers' run-off insurance cover for such directors and officers is maintained for a period of seven years from the retirement date of each director and officer.
- (b) Bidder acknowledges that, subject to the next sentence and notwithstanding any other provision of this deed, Target will, prior to the Implementation Date, enter into arrangements to secure directors' and officers' run-off insurance for up to such seven year period, and that any actions to facilitate that insurance or in connection therewith will not be a Target Prescribed Occurrence or breach any provision of this deed. Before entering into any contract of insurance, Target must first present to Bidder a quotation for such insurance policy, and Bidder must first approve such quotation (acting reasonably and expeditiously) before Target may enter into a contract of insurance, provided that if the terms of the quotation for such insurance policy are substantially the same as the terms disclosed to Bidder in writing before the execution of this deed, Bidder must not withhold its approval.
- (c) The undertakings contained in clause 6.5(a) are subject to any Corporations Act restriction and will be read down accordingly.
- (d) Target receives and holds the benefit of clause 6.5(a), to the extent it relates to the other Target Parties, as trustee for them.
- (e) The undertakings contained in clause 6.5(a) are given until the earlier of the end of the relevant period specified in clause 6.5(a) or the relevant member of the Target Group ceasing to be part of the Target Group.

7 Target Board Recommendations

- (a) Subject to clause 7(b), Target must use all reasonable endeavours to ensure that:
 - (i) the Target Board unanimously (or with such number of the directors of Target who may provide a recommendation taking into account clause 7(b)(iii)) recommends that, in the absence of a Superior Proposal and subject to the Independent Expert opining at all times prior to the Second Court Date that the Scheme is in the best interests of Target Shareholders, Target Shareholders vote in favour of the Scheme at the Scheme Meeting;
 - (ii) the Scheme Booklet includes a statement by the Target Board to that effect, and to the effect that each director of Target will, in the absence of a Superior Proposal, vote (or procure the voting of) all Target Shares held or controlled by him or her in favour of the Scheme at the Scheme Meeting; and
 - (iii) a director of Target does not change, withdraw or modify his or her recommendation under clause 7(a)(i) or a statement under clause 7(a)(ii) or make a recommendation or statement that is inconsistent with such recommendation or statement.

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- (b) Clause 7(a) will cease to apply in the following circumstances:
- (i) the Independent Expert opines either prior to the despatch of the Scheme Booklet or prior to the Scheme Meeting to the effect that the Scheme is not in the best interests of Target Shareholders;
 - (ii) Target receives a Competing Proposal that constitutes a Superior Proposal, Target's and Bidder's respective obligations and rights under clause 11.8 have been satisfied or exhausted (as applicable) in respect of that Competing Proposal, and Target has complied with all of its other obligations to Bidder under clause 11; or
 - (iii) in the case of the recommendation in clause 7(a)(i) by a director of the Target only (and not the voting intention statement in clause 7(a)(ii)), the director withdraws his or her recommendation, so as to not make any recommendation, provided that the director:
 - (A) has first obtained written advice from independent senior counsel of the Queensland bar;
 - (B) determines, having regard to that advice, that he or she has an interest in the Scheme (***Scheme Interest***) that renders it inappropriate for him or her to maintain any such recommendation; and
 - (C) the Court would be unlikely to grant an order under section 411(1) of the Corporations Act directing Target to convene the Scheme Meeting or under section 411(4)(b) and 411(6) of the Corporations Act approving the Scheme, in each case solely as a result of the Scheme Interest.

8 Representations and Warranties

8.1 Bidder Representations and Warranties

- (a) Bidder represents and warrants to Target (in its own right and separately as trustee or nominee for each of the other Target Parties) that each Bidder Representation and Warranty is true and correct.
- (b) Bidder indemnifies Target against, and must pay Target on demand the amount of, any losses, liabilities, damages, costs, charges, expenses, duties and other outgoings of whatever nature suffered or incurred by any member of the Target Group as a result of, or in connection with, a breach of a Bidder Representation and Warranty.

8.2 Target Representations and Warranties

- (a) Target represents and warrants to Bidder (in its own right and separately as trustee or nominee for each of the other Bidder Parties) that each Target Representation and Warranty is true and correct in all material respects.
- (b) Bidder acknowledges and agrees that the Target Representations and Warranties and the indemnity in clause 8.2(c) are given subject to those matters which:
 - (i) are expressly provided for in this deed;
 - (ii) are Fairly Disclosed in the Due Diligence Material or the Disclosure Letter;
 - (iii) are Fairly Disclosed in Target's announcements to or filings with ASX, or a document lodged with ASIC that is publicly available, in each case during the period commencing three years prior to the date of this deed and ending on the Business Day prior to the date of this deed;

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- (iv) would have been Fairly Disclosed to Bidder had Bidder conducted searches of public records maintained by:
- (A) ASIC on the Business Day prior to the date of this deed;
 - (B) the Personal Property Securities Register established under the *Personal Property Securities Act 2009* (Cth) on the Business Day prior to the date of this deed; and
 - (C) the High Court of Australia, Federal Court of Australia and the Supreme Courts of each of New South Wales, Queensland, South Australia, Tasmania, Victoria and Western Australia on 18 October 2019; or
- (v) are within the actual knowledge of John Burns or Max Connell of Bidder as at the date of this deed.
- (c) Target indemnifies Bidder against, and must pay Bidder on demand the amount of, any losses, liabilities, damages, costs, charges, expenses, duties and other outgoings of whatever nature suffered or incurred by any member of the Bidder Group as a result of, or in connection with, a breach of a Target Representation and Warranty.

8.3 Timing of representations and warranties

Unless expressed to be given at a particular time or during a particular period (in which case it is given at that time or during that period), each Bidder Representation and Warranty and each Target Representation and Warranty is given:

- (a) at the date of this deed; and
- (b) at 8:00am on the Second Court Date.

8.4 Survival of representations

Each Bidder Representation and Warranty and Target Representation and Warranty:

- (a) is severable; and
- (b) survives the termination of this deed (but does not survive, and will be taken to have no further force or effect following, implementation of the Scheme).

8.5 Notifications

Each party will promptly notify the other party in writing if it becomes aware of any fact, matter or circumstance that constitutes or may reasonably constitute a breach of any of the Bidder Representations and Warranties or Target Representations and Warranties, as applicable.

9 Releases

9.1 Target Parties

- (a) Without limiting clause 12, Bidder releases its rights against, and agrees with Target that it will not make a Claim against, any Target Party (other than Target) in connection with:
 - (i) any breach of any representation, covenant or warranty of Target in this deed; or
 - (ii) any disclosure made (at any time) by any Target Party that contains any statement which is false or misleading whether in content or by omission,except to the extent the relevant Target Party has not acted in good faith or has acted fraudulently or engaged in wilful misconduct.

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- (b) This clause 9.1 is subject to any Corporations Act restriction and will (if and to the extent required) be read down accordingly. Target receives and holds the benefit of this clause as trustee for each other Target Party.

9.2 Bidder Parties

- (a) Without limiting clause 13, Target releases its rights against, and agrees with Bidder that it will not make a Claim against, any Bidder Party (other than Bidder) in connection with:
 - (i) any breach of any representation, covenant or warranty of Bidder in this deed; or
 - (ii) any disclosure made (at any time) by any Bidder Party that contains any statement which is false or misleading whether in content or by omission,except to the extent that the relevant Bidder Party has not acted in good faith or has acted fraudulently or engaged in wilful misconduct.
- (b) This clause 9.2 is subject to any Corporations Act restriction and will (if and to the extent required) be read down accordingly. Bidder receives and holds the benefit of this clause as trustee for each other Bidder Party.

10 Public Announcements

10.1 Announcement of the Transaction

Immediately after the execution of this deed, Target must issue a public announcement in a form previously agreed to in writing between the parties. The Target announcement must include:

- (a) a unanimous recommendation by the Target Board to Target Shareholders consistent with that set out in clause 7(a)(i); and
- (b) a statement consistent with that set out in clause 7(a)(ii), although such statement will also be subject to the Independent Expert opining that the Scheme is in the best interests of Target Shareholders.

10.2 Other public announcements

Prior to making any public announcement or disclosure of or in relation to the Transaction or any other transaction the subject of this deed or the Scheme (other than any transaction related to a Competing Proposal or Superior Proposal), each party must agree, to the extent reasonably practicable and lawful, as to the timing, form and content of that announcement or disclosure.

11 Exclusivity

11.1 No current discussions regarding a Competing Proposal

Target represents and warrants that, as at the date of this deed, neither Target nor any Representative of Target is in negotiations or discussions with any person in respect of any Competing Proposal.

11.2 No-shop

During the Exclusivity Period, Target must ensure that neither it nor any of its Representatives directly or indirectly solicits, invites, encourages or initiates any enquiries, expressions of interest, offers, proposals, negotiations or discussions with a view to, or that may be reasonably expected

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

11.3 No talk

Subject to clause 11.5, during the Exclusivity Period, Target must ensure that neither it nor any of its Representatives:

- (a) negotiates or enters into; or
- (b) participates in negotiations or discussions with any other person regarding, a Competing Proposal, even if that person's Competing Proposal was not directly or indirectly solicited, invited, encouraged or initiated by Target or any of its Representatives.

11.4 No due diligence

- (a) Subject to clause 11.5, during the Exclusivity Period, Target must ensure that neither it nor any of its Representatives makes available to any person (other than Bidder and its Representatives), or permits any such person to receive, any non-public information relating to any member of the Target Group, any of the operations or assets of the Target Group's businesses or any part thereof.
- (b) If Target or any of its Representatives makes available to any person (other than Bidder and its Representatives), or permits any such person to receive, any information referred to in clause 11.4(a) in reliance on clause 11.5, Target must promptly make such information available to Bidder and its Representatives.

11.5 Limitation to no talk and no due diligence

Clauses 11.3 and 11.4 do not apply to the extent that they restrict Target, the Target Board or any director of the Target from taking or refusing to take any action with respect to a Competing Proposal (in relation to which there has been no contravention of clause 11.2) provided that the Target Board has determined in good faith and after receiving advice from its legal and financial advisors that:

- (a) the Competing Proposal is, or could reasonably be expected to lead to, a Superior Proposal; and
- (b) failing or refusing to take the action (as the case may be) with respect to the Competing Proposal would be reasonably likely to constitute a breach of the Target Board's fiduciary or statutory obligations.

11.6 Notification by Target

During the Exclusivity Period, Target must promptly, and in any event within two Business Days of such occurrence, notify Bidder if it or any of its Representatives receives in writing any:

- (a) approach, inquiry or proposal in relation to a Competing Proposal (and, if so, it must also disclose to Bidder the identity of the person making the approach, inquiry or proposal (and, if different, details of the proposed bidder or acquirer) and the material terms of the Competing Proposal); or
- (b) request for information relating to Target or its business or affairs in connection with a person formulating, developing or finalising, or assisting in the formulation, development or finalisation of, a Competing Proposal, or which Target has reasonable grounds to suspect may relate to a Competing Proposal (and, if so, it must also disclose to Bidder the identity of the person making the request and the details of the request).

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- (c) During the Exclusivity Period, Target must also notify Bidder in writing as soon as possible after becoming aware of any material developments in relation to any Competing Proposal, including in respect of any of the information previously notified to Bidder under this clause 11.6.

11.7 Exceptions to exclusivity

Nothing in this clause 11 prevents Target from:

- (a) engaging with its shareholders (in their capacity as shareholders of Target) in relation to the Target Group, provided that such engagement does not relate to Target soliciting, inviting, encouraging or initiating an actual, proposed or potential Competing Proposal;
- (b) continuing to make presentations to, and responding to enquiries from, brokers, portfolio investors, analysts and institutional investors and lenders in the ordinary course in relation to its business generally; or
- (c) fulfilling its continuous disclosure requirements under the ASX Listing Rules.

11.8 Bidder matching right

- (a) During the Exclusivity Period, before any member of the Target Group enters into any legally binding document to give effect to, or incidental to, a Competing Proposal (other than a confidentiality agreement which does not contain any arrangements which may require any member of the Target Group to pay a break fee or other compensation), each of the following conditions must be satisfied:
 - (i) Target must provide Bidder with the material terms and conditions of the Competing Proposal, including price and the identity of the third party making the Competing Proposal;
 - (ii) Target must give Bidder until the Matching Date to provide a matching or superior proposal to the terms of the Competing Proposal (a **Bidder Counterproposal**); and
 - (iii) either:
 - (A) Bidder has not announced or provided Target with a Bidder Counterproposal by 5:00pm on the Matching Date; or
 - (B) Bidder has exhausted its matching rights set out in clause 11.8(c).
- (b) Target agrees that each successive modification of any Competing Proposal will constitute a new Competing Proposal for the purposes of the requirements under clause 11.8(a).
- (c) If, in accordance with clause 11.8(a)(ii), Bidder provides a Bidder Counterproposal to Target, Target must procure that the Target Board considers it in good faith and determines whether it would provide an equivalent or superior outcome to Target Shareholders as compared with the relevant Competing Proposal. Following that determination, Target must:
 - (i) procure that the Target Board promptly, and in any event within one Business Day of its determination, notifies Bidder of its determination in writing, stating reasons where its determination is that the Bidder Counterproposal would not provide an equivalent or superior outcome to Target Shareholders as compared with the relevant Competing Proposal;
 - (ii) if the Target Board's determination is that the Bidder Counterproposal would provide an equivalent or superior outcome to Target Shareholders as compared

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- with the relevant Competing Proposal, then Target and Bidder must use reasonable endeavours to agree the transaction documentation required to implement the Bidder Counterproposal as soon as reasonably practicable; and
- (iii) if the Target Board's determination is that the Bidder Counterproposal would not provide an equivalent or superior outcome to Target Shareholders as compared with the relevant Competing Proposal, then Bidder may take steps to amend the Bidder Counterproposal to address the reasons given by the Target Board within a period of three Business Days after the notice given in clause 11.8(c)(i) (and, for the avoidance of doubt, Bidder will have only one opportunity to amend the Bidder Counterproposal for each iteration of the relevant Competing Proposal). If Bidder does so to the Target Board's satisfaction, then the process in clause 11.8(c)(ii) applies to that amended Bidder Counterproposal.

11.9 Normal provision of information

Nothing in this clause 11 prevents a party from:

- (a) providing information to its Representatives;
- (b) providing information to any Government Agency;
- (c) providing information to its auditors, customers, financiers, joint venturers and suppliers acting in that capacity in the ordinary course of business;
- (d) engaging with its shareholders (in their capacity as shareholders), in the ordinary course and consistent with past practice;
- (e) providing information required to be provided by law, including to satisfy its disclosure obligations under the ASX Listing Rules; or
- (f) making presentations to brokers, portfolio investors, analysts and other third parties in the ordinary course of business.

12 Target Break Fee

12.1 Background

This clause 12 has been agreed to in circumstances where:

- (a) Target believes the implementation of the Scheme will provide significant benefits to it and Target Shareholders, and acknowledges that, if Bidder enters into this deed and the Scheme is subsequently not implemented, Bidder will have incurred significant costs, including those set out in clause 12.5;
- (b) Bidder requested provision be made for the relevant payment outlined in this clause 12, without which it would not have entered into this deed;
- (c) Target's board of directors believes that it is appropriate to agree to the payment referred to in this clause 12 to secure Bidder's entry into this deed; and
- (d) Target has received separate legal advice in relation to this deed and the operation of this clause 12.

The parties acknowledge and agree that the costs actually incurred by Bidder as referred to in clause 12.1(a) will be of such nature that they cannot be accurately ascertained, but that the Target Break Fee is a genuine and reasonable pre-estimate of the minimum cost and loss that would actually be suffered by Bidder.

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12.2 Payment of Target Break Fee

Subject to clauses 12.3 and 12.6, Target must pay Bidder the Target Break Fee if:

- (a) at any time before the Second Court Date, any director of Target makes a public statement:
- (i) withdrawing or adversely changing or modifying their recommendation that Target Shareholders vote in favour of the Scheme at the Scheme Meeting;
 - (ii) that they will or may not vote (or procure the voting of) all Target Shares held or controlled by him or her in favour of the Scheme at the Scheme Meeting; or
 - (iii) supporting or endorsing a Competing Proposal,
- other than:
- (iv) in circumstances where the Independent Expert concludes (whether in the Independent Expert's Report or any update, revision or amendment thereto) that the Scheme is not in the best interests of Target Shareholders (except in circumstances where the Independent Expert reaches that conclusion as a result of a Competing Proposal);
 - (v) as a result of any matter or thing giving Target the right to terminate this deed under clause 14.1(a)(i) or 14.1(a)(ii);
 - (vi) as a result of failure of a Condition Precedent in clause 3.1, other than as a result of a breach by Target of clause 3.2 or 3.3; or
 - (vii) where a director withdraws his or her recommendation that Target Shareholders vote in favour of the Scheme (so as to not make any recommendation to Target Shareholders in respect of voting on the Scheme) in accordance with clause 7(b)(iii),
- and, for the avoidance of doubt, a statement that Target Shareholders should "take no action pending further advice" (or words to that effect) is not regarded as an adverse change or modification of a recommendation for the purposes of clause 12.2(a)(i), provided that the Target Board publicly reaffirms its recommendation in favour of the Transaction at least five Business Days before the earlier of the date of the Scheme Meeting and the End Date;
- (b) at any time before the End Date or, if earlier, the date this deed is terminated under clause 14, a Competing Proposal is announced by or in relation to the Target and, within twelve months from the date of such announcement, a Third Party or an Associate of the Third Party:
- (i) completes that Competing Proposal; or
 - (ii) has a relevant interest in at least 50% of Target Shares or substantially all the assets of the Target; or
- (c) Bidder terminates this deed under:
- (i) clause 14.1(a)(i); or
 - (ii) provided the relevant breach of a Target Representation and Warranty or failure to satisfy a Condition Precedent is caused by actions or events substantially within the control of Target, clause 14.1(a)(ii) or 14.1(a)(iii) respectively.

and the Transaction is not implemented.

12.3 Payment conditions

- (a) Notwithstanding the occurrence of any event under clause 12.2, no amount is payable under that clause if the Scheme becomes Effective.
- (b) Target can only ever be liable to pay the Target Break Fee once.
- (c) The Target Break Fee will not be payable merely because the Scheme is not approved by Target Shareholders, unless a director of the Target Board who holds or controls Target Shares votes against or abstains from voting to approve the Scheme at the Scheme Meeting in circumstances where the requisite majorities under section 411(4)(a)(ii) of the Corporations Act would have been satisfied (all else being equal) but for that director casting those votes against the Scheme or abstaining from voting.

12.4 Timing of payment

If the Target Break Fee is payable under this clause 12, Target must, subject to clause 12.7(c), pay the Target Break Fee without set-off or withholding within ten Business Days of receipt of a demand for payment from Bidder.

12.5 Nature of payment

The amount payable by Target to Bidder under clause 12.2 is an amount to compensate Bidder for:

- (a) advisory costs (including costs of Advisers, other than success fees);
- (b) costs of management and directors' time;
- (c) out-of-pocket expenses; and
- (d) opportunity costs incurred in pursuing the Transaction (including the significant disruption of its existing business and the diversion of board and management time and focus from its existing business) or in not pursuing other alternative acquisitions or strategic initiatives which could have been developed to further business and objectives,

incurred by Bidder.

12.6 Compliance with law

- (a) This clause 12 imposes obligations on Target only to the extent that the performance of all or part of those obligations:
 - (i) does not involve a breach of the Target Board's fiduciary or statutory duties;
 - (ii) does not constitute unacceptable circumstances (within the meaning of the Corporations Act) as declared by the Australian Takeovers Panel; and
 - (iii) is not determined to be unlawful by a court,subject to all proper avenues of appeal and review, judicial and otherwise, having been exhausted.
- (b) The parties must not make, or cause or permit to be made, any application to the Australian Takeovers Panel or a court for or in relation to a declaration or determination of a kind referred to in clause 12.6(a).

12.7 Limitation of liability

Notwithstanding any other provision of this deed:

- (a) the maximum aggregate liability of Target to Bidder under or in connection with this deed, including in respect of any breach of this deed, will be the amount of the Target Break Fee;
- (b) a payment by Target of the Target Break Fee in accordance with this clause 12 represents the sole and absolute liability of Target to Bidder under or in connection with this deed and no further damages, fees, expenses or reimbursements of any kind will be payable by Target to Bidder in connection with this deed; and
- (c) the amount of the Target Break Fee payable to Bidder under this clause 12 will be reduced by the amount of any loss or damage recovered by Bidder in relation to a breach of any other clause of this deed.

13 Bidder Break Fee

13.1 Background

This clause 13 has been agreed to in circumstances where:

- (a) Bidder believes the implementation of the Scheme will provide significant benefits to it and its securityholders, and acknowledges that, if Target enters into this deed and the Scheme is subsequently not implemented, Target will have incurred significant costs, including those set out in clause 13.4;
- (b) Target requested provision be made for the relevant payment outlined in this clause 13, without which it would not have entered into this deed;
- (c) Bidder's board of directors believes that it is appropriate to agree to the payment referred to in this clause 13 to secure Target's entry into this deed; and
- (d) Bidder has received separate legal advice in relation to this deed and the operation of this clause 13.

The parties acknowledge and agree that the costs actually incurred by Target as referred to in clause 13.1(a) will be of such nature that they cannot be accurately ascertained, but that the Bidder Break Fee is a genuine and reasonable pre-estimate of the minimum cost and loss that would actually be suffered by Target.

13.2 Payment of Bidder Break Fee

- (a) Bidder must pay Target the Bidder Break Fee if Target terminates this deed under clause 14.1(a)(i).
- (b) Bidder can only ever be liable to pay the Bidder Break Fee once.
- (c) The parties must not make, or cause or permit to be made, any application to the Australian Takeovers Panel or a court for or in relation to a declaration or determination that payment of the Bidder Break Fee:
 - (i) involves a breach of the fiduciary or statutory duties of the board of directors of Bidder;
 - (ii) constitutes unacceptable circumstances (within the meaning of the Corporations Act); or
 - (iii) is otherwise unlawful.

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13.3 Timing of payment

If the Bidder Break Fee is payable under this clause 13, Bidder must, subject to clause 13.5(c), pay the Bidder Break Fee without set-off or withholding within ten Business Days of receipt of a demand for payment from Target.

13.4 Nature of payment

The amount payable by Bidder to Target under clause 13.2 is an amount to compensate Target for:

- (a) advisory costs (including costs of Advisers, other than success fees);
- (b) costs of management and directors' time;
- (c) out-of-pocket expenses; and
- (d) opportunity costs incurred in pursuing the Transaction (including the significant disruption of its existing business and the diversion of board and management time and focus from its existing business) or in not pursuing other alternative acquisitions or strategic initiatives which could have been developed to further business and objectives,

incurred by Target.

13.5 Limitation of liability

Notwithstanding any other provision of this deed:

- (a) the maximum aggregate liability of Bidder to Target under or in connection with this deed, including in respect of any breach of this deed, will be the amount of the Bidder Break Fee;
- (b) a payment by Bidder of the Bidder Break Fee in accordance with this clause 13 represents the sole and absolute liability of Bidder to Target under or in connection with this deed and no further damages, fees, expenses or reimbursements of any kind will be payable by Bidder to Target in connection with this deed; and
- (c) the amount of the Bidder Break Fee payable to Target under this clause 13 will be reduced by the amount of any loss or damage recovered by Target in relation to a breach of any other clause of this deed,

but for the avoidance of doubt, nothing in this clause 13 limits Bidder's liability under the Deed Poll or any other document, deed or agreement entered into in connection with this deed.

14 Termination

14.1 General rights

- (a) Either party may terminate this deed by written notice to the other at any time before 8:00am on the Second Court Date:
 - (i) if:
 - (A) the other party is in material breach of any of its obligations under this deed;
 - (B) the party wishing to terminate has given written notice to the other setting out the relevant circumstances and stating an intention to terminate this deed; and
 - (C) either:

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- (1) the relevant circumstances continue to exist for five Business Days from the time the notice of intention to terminate is given (or any shorter period ending at 8:00am on the Second Court Date); or
- (2) the breach cannot be remedied by the other party before 8:00am on the Second Court Date;
- (ii) if:
- (A) a representation and warranty given by the other party (being the Bidder Representations and Warranties where the 'other party' is Bidder, and being the Target Representations and Warranties where the 'other party' is Target) is not true and correct, where that breach of representation and warranty is material in the context of the Transaction as a whole;
- (B) the party wishing to terminate has given written notice to the other setting out the relevant circumstances and stating an intention to terminate this deed; and
- (C) either:
- (1) the relevant circumstances continue to exist for five Business Days from the time the notice of intention to terminate is given (or any shorter period ending at 8:00am on the Second Court Date); or
- (2) the breach cannot be remedied by the other party before 8:00am on the Second Court Date; or
- (iii) in the circumstances set out in, and in accordance with, clause 3.6(b).
- (b) Bidder may terminate this deed by written notice to Target at any time before 8:00am on the Second Court Date if any director of Target has changed, withdrawn or adversely modified their recommendation that Target Shareholders vote in favour of the Scheme at the Scheme Meeting or has recommended or made a statement supporting or endorsing a Competing Proposal.
- (c) Without limiting Target's obligations under clause 7, Target may terminate this deed by written notice to Bidder at any time before 8:00am on the Second Court Date if a majority of the Target Board changes, withdraws or adversely modifies its recommendation that Target Shareholders vote in favour of the Scheme at the Scheme Meeting (and, if required to pay the Target Break Fee as a result of such change, withdrawal or adverse modification, Target has paid Bidder the Target Break Fee).

14.2 Automatic termination

Without limiting any other term of this deed, this deed will terminate three (3) Business Days after the Scheme Meeting if, at the Scheme Meeting, Target Shareholders do not pass the resolution to approve the Scheme in accordance with the requirements of section 411(4)(a)(ii) of the Corporations Act and a party has not by then given the notice contemplated by clause 3.6(c).

14.3 Effect of termination

If this deed is terminated by a party under clause 3.6(b) or 14.1 or pursuant to clause 14.2 or 14.4, this deed will be of no force or effect, without any liability or obligation on the part of any party, other than in relation to rights and obligations that accrued before termination and the

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provisions of this clause 14 and of clauses 1, 8.4, 9, 10, 12, 13, 15, 17, 18 and 19, which will remain in force after the termination.

14.4 Termination by written agreement

The parties may terminate this deed in writing at any time.

15 Confidentiality

Each party agrees and acknowledges that it is bound by the terms of the Confidentiality Deed save that the terms of this deed will prevail over the Confidentiality Deed to the extent of any inconsistency.

16 Nominee

16.1 Nomination of Nominee

Bidder may nominate a wholly-owned Subsidiary (**Nominee**) to acquire the Target Shares under the Scheme by giving written notice to Target on or before 21 January 2020.

16.2 References in this deed

If Bidder gives a notice in accordance with clause 16.1, then:

- (a) unless the context requires otherwise, any references in this deed, the Deed Poll or the Scheme to Bidder acquiring the Scheme Shares or taking any other action under or in respect of this deed, the Deed Poll or the Scheme (as applicable) are to be read as references to the Nominee doing so, and the parties shall document the necessary modifications to the Deed Poll and the Scheme prior to the First Court Date;
- (b) Bidder must procure, and undertakes and warrants to Target and separately for the benefit of each of the Scheme Shareholders that it will procure, that the Nominee complies with Bidder's obligations under this deed, the Deed Poll and the Scheme as if the Nominee, and not the Bidder, was the original party to this deed; and
- (c) notwithstanding the foregoing provisions of this clause, Bidder will continue to be bound by all of the obligations of Bidder under this deed, the Deed Poll and the Scheme and will not be released from any such obligation. For the avoidance of doubt, Bidder will not be in breach of any obligation under this deed, the Deed Poll or the Scheme if the Nominee fully discharges that obligation in accordance with the terms of this deed, the Deed Poll or the Scheme (as applicable).

17 GST

17.1 Recovery of GST

If GST is or becomes payable, or notionally payable, on a supply made under or in connection with this deed, the party providing the consideration for that supply must pay as additional consideration an amount equal to the amount of GST payable, or notionally payable, on that supply (the **GST Amount**) as calculated by the party making the supply (the **Supplier**) in accordance with the GST Law. Subject to the prior receipt of a tax invoice, the GST Amount is payable at the same time and in the same manner that the other consideration for the supply is provided. This clause 17 does not apply to the extent that the consideration for the supply is expressly stated to be GST inclusive or the supply is subject to reverse charge.

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17.2 Liability net of GST

Notwithstanding any other provision in this deed, where any indemnity, reimbursement or similar payment under this deed is based on any cost, expense or other liability incurred by a party, it may be reduced by any input tax credit entitlement, or notional input tax credit entitlement, of that party (or its representative member) in relation to the relevant cost, expense or other liability.

17.3 Adjustment events

If an adjustment event occurs in relation to a supply under or in connection with this deed, the GST Amount will be recalculated in accordance with the GST Law to reflect that adjustment and an appropriate payment will be made between the parties and the Supplier must issue an adjustment note to the recipient within 10 Business Days after becoming aware of the occurrence of the adjustment event.

17.4 Survival

This clause 17 will continue to apply after expiration or termination of this deed.

17.5 Definitions

Unless the context requires otherwise, words used in this clause 17 that have a specific meaning in the GST Law have the same meaning in this clause 17.

18 Notices

Any notice, demand, consent or other communication (a **Notice**) given or made under this deed:

- (a) must be in writing and signed by a person duly authorised by the sender (or in the case of email, set out the full name and position or title of the sender or person duly authorised by the sender);
- (b) must be delivered to the intended recipient:
 - (i) by prepaid post (or, if posted to an address in another country, by registered airmail) or by hand to the address below or the address last notified by the intended recipient to the sender; or
 - (ii) by email to the email address below or the email address last notified by the intended recipient to the sender:

to Bidder: Address: Unit 1, 277 Lane Cove Road, Macquarie Park NSW 2113

 Email: john.burns@vet.partners

 Attention: John Burns

 with a copy to (which by itself does not constitute a Notice) max.connell@vetpartners.com, dzwi@tglaw.com.au and jwilkin@tglaw.com.au

to Target: Address: Unit 1, 28 Burnside Road, Ormeau, Qld, 4208

 Email: board@susanforrester.com.au

 Attention: Susan Forrester

 with a copy to (which by itself does not constitute a Notice) Franki.Ganter@allens.com.au,

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Noah.Obradovic@allens.com.au and

Greg.Travers@allens.com.au

- (c) will be conclusively taken to be duly given or made:
- (i) in the case of delivery in person, when delivered;
 - (ii) in the case of delivery by post, two Business Days after the date of posting (if posted to an address in the same country) or seven Business Days after the date of posting (if posted to an address in another country); and
 - (iii) in the case of delivery by email, the earlier of:
 - (A) the time that the sender receives an automated message from the intended recipient's information system confirming delivery of the email;
 - (B) the time that the email is first opened or read by the intended recipient, or an employee or officer of the intended recipient; and
 - (C) two hours after the time the email is sent (as recorded on the device from which the sender sent the email) unless the sender receives, during that two hour period, an automated message that the email has not been delivered,
- but if the result is that a Notice would be taken to be given or made:
- (iv) on a day that is not a business day in the place to which the Notice is sent or later than 5:00pm (local time), then it will be taken to have been duly given or made at the start of business on the next business day in that place; or
 - (v) before 9:00am (local time) on a business day in the place to which the Notice is sent, then it will be taken to have been duly given or made at 9:00am (local time) on that business day in that place.

19 General Provisions

19.1 Amendment

This deed may be amended only by another deed executed by all the parties.

19.2 Assignment

A party cannot assign, charge, encumber or otherwise deal with at law or in equity any of its rights or obligations under this deed, or attempt or purport to do so, without the prior written consent of the other party.

19.3 Costs and stamp duty

Each party must bear its own costs arising out of the negotiation, preparation and execution of this deed. All stamp duty (including fines, penalties and interest) payable on or in connection with this deed and any instrument executed under or any transaction evidenced by this deed must be borne by the Bidder.

19.4 Counterparts

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

19.5 Entire agreement

This deed, the Confidentiality Deed and any other documents specified by the parties for the purposes of this clause 19.5 contain the entire agreement between the parties with respect to

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their subject matter. This deed, the Confidentiality Deed and any other documents specified by the parties for the purposes of this clause 19.5 set out the only conduct relied on by the parties and supersede all earlier conduct and prior agreements and understandings between the parties in connection with their subject matter, with this deed prevailing to the extent of any inconsistency.

19.6 Further assurances

Each party must do anything necessary (including executing agreements, deeds and other documents) to give full effect to this deed and the transactions contemplated by it.

19.7 Governing law and jurisdiction

This deed is governed by the laws of Queensland. In relation to it and related non-contractual matters, each party irrevocably submits to the non-exclusive jurisdiction of courts with jurisdiction there and waives any right to object to the venue on any ground.

19.8 Process agent

Bidder irrevocably appoints Thomson Geer Lawyers of Level 25, 1 O'Connell Street, Sydney 2000 (Attention: David Zwi/Sanushka Seomangal) to receive on its behalf service of process issued out of the courts of Queensland or courts exercising jurisdiction in Queensland in relation to any dispute, claim, legal action or proceeding arising out of or in any way related to this deed and related non-contractual matters, and agrees that service of any process or documents on the agent will be sufficient service on it.

19.9 No merger

The rights and obligations of the parties will not merge on the completion of any transaction contemplated by this deed. They will survive the execution and delivery of any assignment or other document entered into for the purpose of implementing a transaction.

19.10 No waiver

A failure to exercise or a delay in exercising any right, power or remedy under this deed does not operate as a waiver. A single or partial exercise or waiver of the 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.

19.11 Severability of provisions

Any provision of this deed that is prohibited or unenforceable in any jurisdiction is ineffective as to that jurisdiction to the extent of the prohibition or unenforceability. That does not invalidate the remaining provisions of this deed nor affect the validity or enforceability of that provision in any other jurisdiction.

Schedule 1**Bidder Representations and Warranties**

- 1 **(Status)** It is a corporation duly incorporated and validly existing under the laws of the place of its incorporation.
- 2 **(Power)** It has the power to enter into and perform its obligations under this deed to carry out the transactions contemplated by this deed.
- 3 **(Corporate authorisations)** It has taken all necessary corporate action to authorise the entry into and performance of this deed by it and to carry out the transactions contemplated by this deed.
- 4 **(Documents binding)** This deed is its valid and binding obligation enforceable in accordance with its terms.
- 5 **(Transactions permitted)** The execution and performance by it of this deed and each transaction contemplated by this deed did not and will not violate any provision of:
- (a) a law or treaty or a judgment, ruling, order or decree of a Government Agency binding on it or any of its Related Bodies Corporate; or
 - (b) its constituent documents.
- 6 **(Solvency)** No member of the Bidder Group is affected by an Insolvency Event.
- 7 **(Scheme Booklet)** At the time Target commences sending the Scheme Booklet to Target Shareholders, the Bidder Information contained in the Scheme Booklet (in the form consented to by Bidder) will be true and correct in all material respects, will comply with all applicable laws and will not contain any statement which is misleading or deceptive in any material respect (whether by omission or otherwise).
- 8 **(No regulatory approvals)** No approval from any Government Agency is required to be obtained by Bidder in order to execute and perform this deed, other than the Regulatory Approvals.
- 9 **(No relevant interests)** As at the date of this deed, no member of the Bidder Group has a relevant interest in any Target Shares.
- 10 **(No dealings with Target Shareholders)** No member of the Bidder Group has any agreement, arrangement or understanding with any Target Shareholder under which that Target Shareholder (or an Associate of that Target Shareholder) would be entitled to receive any collateral benefit in relation to the Scheme, or, as at the date of this deed, under which the Target Shareholder has agreed to vote in favour of the Scheme (or against any Competing Proposal).
- 11 **(No dealings with Target directors or employees)** Other than as disclosed to Target and approved by the Target Board, no member of the Bidder Group has any agreement, arrangement or understanding with any director or employee of Target relating in any way to the Transaction or operations of Target after the Effective Date.
- 12 **(Reasonable basis)** As at the date of this deed, Bidder has a reasonable basis to expect that it will have available to it sufficient cash amounts (whether from internal cash reserves or external debt financing arrangements) to satisfy Bidder's obligations to pay the Scheme Consideration in accordance with its obligations under this deed, the Scheme and the Deed Poll.
- 13 **(Unconditional cash reserves)** By 8.00am on the Second Court Date, Bidder will have available to it on an unconditional basis (other than conditions relating to, or which will cease to apply or be satisfied following, the approval of the Court and other conditions within the control of Bidder) sufficient cash reserves (whether from internal cash reserves or external debt financing

arrangements) to satisfy Bidder's obligations to pay the Scheme Consideration in accordance with its obligations under this deed, the Scheme and the Deed Poll.

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Schedule 2**Target Representations and Warranties**

- 1 **(Status)** It is a corporation duly incorporated and validly existing under the laws of the place of its incorporation.
- 2 **(Power)** It has the power to enter into and perform its obligations under this deed to carry out the transactions contemplated by this deed.
- 3 **(Corporate authorisations)** It has taken all necessary corporate action to authorise the entry into and performance of this deed by it and to carry out the transactions contemplated by this deed.
- 4 **(Documents binding)** This deed is its valid and binding obligation enforceable in accordance with its terms.
- 5 **(Transactions permitted)** The execution and performance by it of this deed and each transaction contemplated by this deed did not and will not violate any provision of:
- (a) a law or treaty or a judgment, ruling, order or decree of a Government Agency binding on it or any of its Related Bodies Corporate; or
 - (b) its constituent documents.
- 6 **(Capital structure)**
- (a) As at the date of this deed, Target:
 - (i) has 67,141,626 Target Shares on issue;
 - (ii) has 711,580 Performance Rights on issue (or entitled to be issued on execution of this deed); and
 - (iii) may be required to issue up to an additional 257,753 Target Shares prior to the Scheme Record Date to the vendors of certain businesses it has acquired in connection with earn-out arrangements agreed with those vendors, and there are no other securities issued and outstanding at the date of this deed.
 - (b) No member of the Target Group is subject to any obligation (including any contingent obligation) to, or intends to, issue or have transferred to any person securities in or of it or any other member of the Target Group, other than:
 - (i) ordinary shares to be issued under the terms of the Performance Rights that Target has issued and outstanding at the date of this deed; and
 - (ii) as disclosed in the Due Diligence Material or the Disclosure Letter.
- 7 **(Continuous disclosure):**
- (a) It has complied in all material respects with its continuous disclosure obligations under ASX Listing Rule 3.1; and
 - (b) as at the date of this deed, it is not withholding any information from public disclosure in reliance on ASX Listing Rule 3.1A (other than information in relation to the Transaction or as disclosed in the Due Diligence Material or the Disclosure Letter).
- 8 **(Scheme Booklet)** At the time Target commences sending the Scheme Booklet to Target Shareholders, the information contained in the Scheme Booklet (other than the Bidder Information and the Independent Expert's Report) will be true and correct in all material respects, will comply with all applicable laws and will not contain any statement which is misleading or deceptive in any material respect (whether by omission or otherwise).
- 9 **(Solvency)** No member of the Target Group is affected by an Insolvency Event.

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- 10 **(No material breach of laws)** Target is not aware of any material breach by any member of the Target Group of any Australian or foreign laws and regulations applicable to it or orders of Australian or foreign Government Agencies having jurisdiction over it.
- 11 **(Licences and authorisations)** The Target Group holds, and has complied in all material respects with all conditions of, all licences, permits and franchises necessary for it to conduct its activities as they are conducted as at the date of this deed.
- 12 **(Disputes)** So far as the Target is aware, there is no current, pending or threatened claim, dispute, demand, action, litigation, prosecution, arbitration, investigation, mediation or other proceeding which could reasonably be expected to result in an award, settlement, fine, penalty, order, loss or other liability to the Target Group of more than \$100,000.
- 12 **(Due Diligence Material)** The Due Diligence Material has been collated and prepared in good faith, and Target is not aware of any information contained in the Due Diligence Material that is false or misleading in any material respect (including by omission). Target has not intentionally withheld information from disclosure to Bidder which could reasonably be expected to be material to Bidder's evaluation of the Target Group and the merits of the Transaction (including full details of all fees, costs and expenses which Target (or any other member of the Target Group) has paid or agreed to pay, or may become liable to pay, to Advisers in connection with the Transaction). For the avoidance of doubt, Target makes no representation or warranty whatsoever as to the adequacy or sufficiency of the Due Diligence Material for the purpose of Bidder acquiring the Scheme Shares or for Bidder's funding of that acquisition, which are matters of which Bidder has to satisfy itself.

Schedule 3**Target Prescribed Occurrences**

- 1 Target converts all or any of its shares into a larger or smaller number of shares.
- 2 Any member of the Target Group resolves to reduce its share capital in any way.
- 3 Any member of the Target Group:
 - (a) enters into a buy-back agreement; or
 - (b) resolves to approve the terms of a buy-back agreement under the Corporations Act.
- 4 Any member of the Target Group issues shares or other securities to a person, or grants an option over or a right to receive its shares or other securities, or agrees to make such an issue or grant such an option or right, other than:
 - (a) where the shares or other securities are issued, or where the options or rights are granted, by a member of the Target Group (other than Target) to another member of the Target Group; or
 - (b) the issue of Target Shares upon the exercise or vesting of Performance Rights which are on issue as at the date of this deed.
- 5 Any member of the Target Group issues, or agrees to issue, convertible notes or any other instrument or security convertible into shares or securities in or of any member of the Target Group, other than to another member of the Target Group.
- 6 Any member of the Target Group disposes, or offers or agrees to dispose, of any part of its business or assets (including any beneficial or economic interest or right in such business or assets) where the amount or value of such transactions exceeds or might reasonably be expected to exceed \$1 million in aggregate.
- 7 Any member of the Target Group acquires, or offers or agrees to acquire, any business, securities, entity, real property or other asset (or legal or beneficial interest in any of the foregoing) where the amount or value of such transactions exceeds or might reasonably be expected to exceed \$1 million in aggregate.
- 8 Any member of the Target Group enters into a commitment or a series of commitments for capital expenditure where the amount or value involved in such commitments exceeds or might reasonably be expected to exceed \$1 million in aggregate.
- 9 Any member of the Target Group grants, or agrees to grant, a security interest in or over any part of its business or property securing indebtedness or performance of an obligation exceeding or which might reasonably be expected to exceed \$1 million, other than in the ordinary course of business or in respect of any transaction contemplated by this deed.
- 10 An Insolvency Event occurs in respect of any member of the Target Group.
- 11 Target pays or determines to pay, declares, distributes or incurs a liability to make or pay a share of its profits, income, capital or assets by way of dividend, bonus or other form of distribution.
- 12 Any disposal of shares or securities by a member of the Target Group in any member of the Target Group other than to a member of the Target Group.
- 13 Any member of the Target Group (other than a dormant, non-operating member of the Target Group) being deregistered as a company or being otherwise dissolved.
- 14 Any member of the Target Group makes any change to its constitution or convenes a meeting to consider a resolution to change a constitution of any member of the Target Group.

- 15 Any member of the Target Group terminates, enters into, renews, extends or materially alters or amends any contract to which it is a party requiring payment by or to any member of the Target Group of more than \$500,000 per annum.
- 16 Any member of the Target Group incurs any financial indebtedness or issues any indebtedness or debt securities, other than:
- (a) to other members of the Target Group, Target or any Subsidiary of Target;
 - (b) drawdowns, advances under or the refinancing of any debt facilities in existence as at the date of this deed;
 - (c) in connection with finance leases, hire purchase agreements or vendor financing arrangements; or
 - (d) in connection with derivative or similar transactions to manage currency, interest rate or commodity price exposure.
- 17 Target or any Subsidiary of Target:
- (a) enters into a new contract with any officer, executive, contractor, consultant or employee of the Target Group (other than to replace any officer, executive, contractor, consultant or employee who has ceased to be employed or engaged by the Target Group) in respect of which the fixed annual remuneration or fees payable to that officer, executive, contractor, consultant or employee is in excess of \$150,000;
 - (b) pays any bonus or other incentive to any officer, executive, contractor, consultant or employee of Target or any Subsidiary of Target other than bonuses payable in accordance with the employment or engagement terms of that officer, executive, contractor, consultant or employee in existence as at the date of this deed;
 - (c) increases the remuneration or compensation of any officer, executive, contractor, consultant or employee of Target or any Subsidiary of Target, other than in accordance with Target's normal salary or fee review procedure conducted in good faith and in the ordinary and usual course of business;
 - (d) grants to any officer, executive, contractor, consultant or employee of Target or any Subsidiary of Target any increase in severance or termination pay or superannuation entitlements other than as required by law or in accordance with the employment or engagement terms of that officer, executive, contractor, consultant or employee in existence as at the date of this deed; or
 - (e) makes or agrees to make any material change to the terms of, or waives any claims or rights under, or waives the benefit of any material provisions of, any contract of employment or engagement with any officer, executive, contractor, consultant or employee of Target or of any Subsidiary of Target.

Schedule 4**Timetable**

Event	Date for Completion
Target submits draft Scheme Booklet to ASIC for review and comment	24 January 2020
Bidder to execute and deliver Deed Poll	8 February 2020
First Court Date	10 February 2020
Target registers Scheme Booklet	10 February 2020
Target sends Scheme Booklet to Target Shareholders	14 February 2020
Deadline for receipt of proxy forms for Scheme Meeting	12 March 2020
Time and date for determining eligibility to vote at Scheme Meeting	12 March 2020
Scheme Meeting	16 March 2020
Second Court Date	20 March 2020
Effective Date	23 March 2020
Scheme Record Date	30 March 2020
Implementation Date	6 April 2020

Execution Page

Each attorney executing this Deed states that he or she has no notice of the revocation or suspension of his or her power of attorney.

Executed and delivered as a Deed in Brisbane, Queensland.

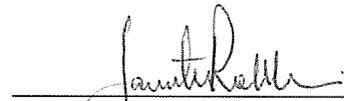
Executed as a deed in accordance with section 127 of the *Corporations Act 2001* by **National Veterinary Care Ltd:**



Director Signature

Susan Margaret Forrester

Print Name



Director/Secretary Signature

JANITA ROBBA

Print Name

Executed as a deed in accordance with section 127 of the *Corporations Act 2001* by **Australian Veterinary Owners League Pty Ltd:**

Director Signature

Print Name

Director/Secretary Signature

Print Name

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Execution Page

Each attorney executing this Deed states that he or she has no notice of the revocation or suspension of his or her power of attorney.

Executed and delivered as a Deed in Brisbane, Queensland.

Executed as a deed in accordance with section 127 of the *Corporations Act 2001* by **National Veterinary Care Ltd:**

Director Signature

Director/Secretary Signature

Print Name

Print Name

Executed as a deed in accordance with section 127 of the *Corporations Act 2001* by **Australian Veterinary Owners League Pty Ltd:**



Director Signature



Secretary Signature

Michael Quirk

John Burns

Print Name

Print Name

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Annexure A – Form of Scheme**Scheme of Arrangement pursuant to section 411 of the *Corporations Act 2001* (Cth)****Between**

National Veterinary Care Ltd (ACN 166 200 059) registered in Australia of Unit 1, 28 Burnside Road, Ormeau, Qld, 4208 (**Target**)

And

The holders of fully paid ordinary shares in the capital of Target

Recitals

- A Target is a public company limited by shares incorporated in Australia, and has been admitted to the official list of ASX.
- B Bidder is a proprietary company incorporated in Australia.
- C Target and Bidder have entered into the Implementation Deed, pursuant to which, amongst other things, Target has agreed to propose the Scheme to Target Shareholders and take certain steps to give effect to the Scheme.
- D If the Scheme becomes Effective, then:
- (a) all the Scheme Shares will be transferred to Bidder and the Scheme Consideration will be provided to the Scheme Shareholders in accordance with the terms of the Scheme; and
 - (b) Target will enter the name and address of Bidder in the Target Register as the holder of the Scheme Shares.
- E Bidder has entered into the Deed Poll for the purpose of covenanting in favour of the Scheme Shareholders that it will observe and perform the obligations contemplated of it under the Scheme.

It is agreed as follows.

1 Definitions and Interpretation**1.1 Definitions**

In this document, unless the context requires otherwise:

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

ASX Listing Rules means the official listing rules of ASX.

Bidder means Australian Veterinary Owners League Pty Ltd (ACN 601 874 588) registered in Australia of Unit 1, 277 Lane Cove Road, Macquarie Park, New South Wales, 2113.

Business Day means any day that is each of the following:

- (a) a Business Day within the meaning given in the ASX Listing Rules; and
- (b) a day that banks are open for business in Brisbane and Sydney, Australia.

Cash Consideration means \$3.70 in cash, being the amount payable pursuant to the Scheme

for each Scheme Share, subject to the terms of the Scheme.

CHES means the Clearing House Electronic Subregister System for the electronic transfer of securities, operated by ASX Settlement Pty Limited (ABN 49 008 504 532).

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

Court means the Supreme Court of Queensland or such other court of competent jurisdiction under the Corporations Act agreed to in writing between the parties.

Deed Poll means the Deed Poll in favour of Scheme Shareholders dated [] which has been executed by Bidder and delivered to Target.

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

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

End Date means the date which is six months after the date of the Implementation Deed or such other date as may be agreed in writing between Target and Bidder.

Implementation Date means the fifth Business Day after the Record Date or such other date agreed to in writing between Bidder and Target.

Implementation Deed means the Scheme Implementation Deed dated 15 December 2019 between Bidder and Target.

Record Date means 7:00pm on the fifth Business Day after the Effective Date or such other time and date agreed to in writing between the parties.

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

Scheme means the scheme of arrangement under Part 5.1 of the Corporations Act between Target and Target Shareholders as set out in this document, subject to any alterations or conditions made or required by the Court and agreed to by Bidder and Target.

Scheme Consideration means the consideration to be provided to Scheme Shareholders under the terms of the Scheme for the transfer to Bidder of their Scheme Shares, as ascertained in accordance with clause 5.

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

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

Scheme Shares means the Target Shares on issue as at the Record Date.

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

Second Court Date means the first day of hearing of an application made to the Court for orders pursuant to section 411(4)(b) of the Corporations Act approving the Scheme or, if the hearing of such application is adjourned for any reason, means the first day of the adjourned hearing.

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

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

Target Share Registry means Link Market Services Limited or any replacement provider of share registry services to Target.

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

Trust Account means an Australian dollar denominated trust account operated by Target (or the Target Share Registry) as trustee for the benefit of Scheme Shareholders.

1.2 Interpretation

- (a) Headings are for convenience only and do not affect interpretation.
- (b) Mentioning anything after includes, including, for example, or similar expressions, does not limit what else might be included.
- (c) The following rules apply unless the context requires otherwise.
 - (i) The singular includes the plural, and the converse also applies.
 - (ii) A gender includes all genders.
 - (iii) If a word or phrase is defined, its other grammatical forms have a corresponding meaning.
 - (iv) A reference to a person includes a corporation, trust, partnership, unincorporated body or other entity, whether or not it comprises a separate legal entity.
 - (v) A reference to a clause is a reference to a clause of this document.
 - (vi) A reference to an agreement or document (including a reference to this document) is to the agreement or document as amended, supplemented, novated or replaced, except to the extent prohibited by this document or that other agreement or document.
 - (vii) A reference to writing includes any method of representing or reproducing words, figures, drawings or symbols in a visible and tangible form.
 - (viii) A reference to a person includes the person's successors, permitted substitutes and permitted assigns (and, where applicable, the person's legal personal representatives).
 - (ix) A reference to legislation or to a provision of legislation includes a modification or re-enactment of it, a legislative provision substituted for it and a regulation or statutory instrument issued under it.
 - (x) A reference to *dollars* or \$ is to Australian currency.
 - (xi) A reference to time is to Brisbane, Australia time.
 - (xii) If the day on which any act, matter or thing is to be done is a day other than a Business Day, such act, matter or thing must be done on the immediately succeeding Business Day.
 - (xiii) Words and phrases not specifically defined in this document have the same meanings (if any) given to them in the Corporations Act.

2 Conditions Precedent

2.1 Conditions Precedent to the Scheme

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

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- (a) as at 8:00am on the Second Court Date, each of the conditions precedent set out in clause 3.1 of the Implementation Deed (other than the condition precedent relating to the approval of the Court set out in clause 3.1(b) of the Implementation Deed) has been satisfied or waived in accordance with the Implementation Deed;
- (b) as at 8:00am on the Second Court Date, the Implementation Deed has not been terminated;
- (c) the Court makes orders approving the Scheme under section 411(4)(b) of the Corporations Act, including with such alterations made or required by the Court under section 411(6) of the Corporations Act as are acceptable to Bidder and Target;
- (d) such other conditions made or required by the Court under section 411(6) of the Corporations Act in relation to the Scheme as are acceptable to Bidder and Target have been satisfied; and
- (e) the orders of the Court made under section 411(4)(b) (and, if applicable, section 411(6)) of the Corporations Act approving the Scheme come into effect, pursuant to section 411(10) of the Corporations Act.

2.2 Termination of Implementation Deed

Without limiting any rights under the Implementation Deed, in the event that the Implementation Deed is terminated in accordance with its terms before 8:00am on the Second Court Date, Target and Bidder are each released from:

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

3 Scheme Becoming Effective

3.1 Effective Date of the Scheme

Subject to clause 3.2, the Scheme will take effect on and from the Effective Date.

3.2 End Date

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

4 Implementation of Scheme

4.1 Transfer of Scheme Shares

On the Implementation Date, subject to:

- (a) the provision of the Scheme Consideration in the manner contemplated by clauses 4.2, 5 and 6; and
- (b) Bidder having provided Target with written confirmation of that having occurred, all of the Scheme Shares, together with all rights and entitlements attaching to the Scheme Shares as at the Implementation Date, will be transferred to Bidder, without the need for any further act by any Scheme Shareholder (other than acts performed by Target or any of its directors and officers as attorney and agent for Scheme Shareholders under the Scheme), by Target effecting a valid transfer or transfers of the Scheme Shares to Bidder under section 1074D of the Corporations Act or, if that procedure is not available for any reason, by:
- (c) Target delivering to Bidder for execution duly completed Scheme Transfers to transfer all of the Scheme Shares to Bidder, duly executed by Target (or any of its directors and

officers) as the attorney and agent of each Scheme Shareholder as transferor under clause 9.3;

- (d) Bidder executing the Scheme Transfers as transferee and delivering them to Target for registration; and
- (e) Target, immediately after receipt of the Scheme Transfers under clause 4.1(d), entering, or procuring the entry of, the name and address of Bidder in the Target Register as the holder of all of the Scheme Shares.

4.2 Provision of Scheme Consideration

In consideration for, and prior to, the transfer to Bidder of the Scheme Shares, Bidder will pay into the Trust Account an amount equal to the aggregate amount of the Cash Consideration payable to Scheme Shareholders, in accordance with clause 6;

5 Scheme Consideration

5.1 Entitlement to Scheme Consideration

Subject to clauses 5.2 and 5.3, the Scheme Consideration in respect of the Scheme Shares for which a Scheme Shareholder is registered in the Target Register as the holder as at the Record Date comprises, for each of those Scheme Shares, the Cash Consideration.

5.2 Fractional entitlements

If the number of Scheme Shares held by a Scheme Shareholder as at the Record Date is such that the aggregate entitlement of that Scheme Shareholder to Scheme Consideration includes a fractional entitlement to a cent in cash, then the entitlement of that Scheme Shareholder must be rounded up or down, with any fractional entitlement of less than 0.5 being rounded down to the nearest whole number of cents and any fractional entitlement of 0.5 or more being rounded up to the nearest whole number of cents.

5.3 Shareholding splitting or division

If Bidder is of the opinion (acting reasonably) that two or more Scheme Shareholders (each of whom holds a number of Scheme Shares that results in rounding in accordance with clause 5.2) have, before the Record Date, been party to shareholding splitting or division in an attempt to obtain unfair advantage by reference to such rounding, Bidder may give notice to those Scheme Shareholders:

- (a) setting out their names (as shown in the Target Register) and Registered Addresses;
- (b) stating that opinion; and
- (c) attributing to one of them specifically identified in the notice the Scheme Shares held by all of them,

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

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6 Provision of Scheme Consideration

6.1 Payment of Cash Consideration

- (a) Bidder must, no later than two Business Days before the Implementation Date, deposit in cleared funds into the Trust Account an amount equal to the aggregate amount of the Cash Consideration payable to Scheme Shareholders, such amount to be held by Target or the Target Share Registry (as applicable) on trust for the Scheme Shareholders and for the purpose of sending the aggregate amount of the Cash Consideration to the Scheme Shareholders (except that any interest on the amount will be for the account of Bidder).
- (b) On the Implementation Date and subject to funds having been deposited in accordance with clause 6.1(a), Target must pay or procure the payment of the Cash Consideration to each Scheme Shareholder from the Trust Account by either (in the sole discretion of Target):
- (i) despatching, or procuring the despatch, to that Scheme Shareholder of a pre-printed cheque in the name of that Scheme Shareholder and for the relevant amount (denominated in \$) drawn on the Trust Account, with such despatch to be made by pre-paid post to that Scheme Shareholder's Registered Address (as at the Record Date); or
 - (ii) making, or procuring the making of, a deposit for the relevant amount (denominated in \$) in an account with any Australian ADI in Australia notified by that Scheme Shareholder to Target and recorded in or for the purposes of the Target Register as at the Record Date.
- (c) To the extent that, following satisfaction of Target's obligations under clause 6.1(b), there is any remaining amount held in the Trust Account, Target must pay, or procure the payment of, that amount promptly to Bidder.

6.2 Joint holders

In the case of Scheme Shares held in joint names, any cheque required to be paid to Scheme Shareholders will be payable to the joint holders and will be forwarded to the holder whose name appears first in the Target Register as at the Record Date.

7 Dealings in Target Shares

7.1 Dealings in Target Shares by Scheme Shareholders

For the purpose of establishing the persons who are Scheme Shareholders, dealings in Target Shares will be recognised by Target provided that:

- (a) in the case of dealings of the type to be effected using CHESSE, the transferee is registered in the Target Register as the holder of the relevant Target Shares by the Record Date; and
- (b) in all other cases, registrable transfers or transmission applications in respect of those dealings are received by the Target Share Registry by 5:00pm on the Record Date (in which case Target must register such transfers or transmission applications before 7:00pm on that day),

and Target will not accept for registration, nor recognise for the purpose of establishing the persons who are Scheme Shareholders, any transfer or transmission application in respect of Target Shares received after such times, or received prior to such times but not in registrable form.

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7.2 Target Register

Target will, until the Scheme Consideration has been provided and the name and address of Bidder has been entered in the Target Register as the holder of all of the Scheme Shares, maintain, or procure the maintenance of, the Target Register in accordance with this clause 7, and the Target Register in this form and the terms of the Scheme will solely determine entitlements to the Scheme Consideration. As from the Record Date (and other than for Bidder following the Implementation Date), each entry in the Target Register as at the Record Date relating to Scheme Shares will cease to have any effect other than as evidence of the entitlements of Scheme Shareholders to the Scheme Consideration in respect of those Scheme Shares.

7.3 Effect of share certificates and holding statements

As from the Record Date (and other than for Bidder following the Implementation Date), all share certificates and holding statements for Scheme Shares will cease to have effect as documents of title in respect of those Scheme Shares.

7.4 Information to be given to Bidder

Target must procure that, as soon as practicable after the Record Date and in any event at least three Business Days before the Implementation Date, details of the names, Registered Addresses and holdings of Target Shares of every Scheme Shareholder as shown in the Target Register as at the Record Date are given to Bidder (or as it directs) in such form as Bidder may reasonably require.

7.5 No disposals after Record Date

If the Scheme becomes Effective, each Scheme Shareholder, and any person claiming through that Scheme Shareholder, must not dispose of or purport or agree to dispose of any Scheme Shares or any interest in them after the Record Date.

8 Suspension and Termination of Quotation of Target Shares

- (a) Target must apply to ASX for suspension of trading of the Target Shares on ASX with effect from the close of business on the Effective Date (or from such earlier time as may be reasonably appropriate to ensure that all trades made prior to suspension may be completed, and the Target Register amended accordingly, prior to the Record Date).
- (b) Target must apply to ASX for termination of official quotation of the Target Shares on ASX and the removal of Target from the official list of ASX with effect from the Business Day immediately following the Implementation Date.

9 General Provisions

9.1 Further assurances

- (a) Each Scheme Shareholder and Target will do all things and execute all deeds, instruments, transfers or other documents as may be necessary or desirable to give full effect to the terms of the Scheme and the transactions contemplated by it.
- (b) Without limiting Target's other powers under the Scheme, Target has power to do all things that it considers necessary or desirable to give effect to the Scheme and the Implementation Deed.

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9.2 Scheme Shareholders' agreements and consents

Each Scheme Shareholder:

- (a) irrevocably agrees to the transfer of their Scheme Shares, together with all rights and entitlements attaching to those Scheme Shares, to Bidder in accordance with the terms of the Scheme; and
- (b) irrevocably consents to Target doing all things and executing all deeds, instruments, transfers or other documents as may be necessary or desirable to give full effect to the terms of the Scheme and the transactions contemplated by it,

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

9.3 Appointment of Target as attorney for implementation of Scheme

Each Scheme Shareholder, without the need for any further act by that Scheme Shareholder, irrevocably appoints Target as that Scheme Shareholder's agent and attorney for the purpose of:

- (a) doing all things and executing all deeds, instruments, transfers or other documents as may be necessary or desirable to give full effect to the terms of the Scheme and the transactions contemplated by it, including the effecting of a valid transfer or transfers (or the execution and delivery of any Scheme Transfers) under clause 4.1(c); and
- (b) enforcing the Deed Poll against Bidder,

and Target accepts such appointment. Target, as agent and attorney of each Scheme Shareholder, may delegate its functions, authorities or powers under this clause 9.3 to all or any of its directors and officers (jointly, severally, or jointly and severally).

9.4 Warranty by Scheme Shareholders

Each Scheme Shareholder is deemed to have warranted to Bidder and, to the extent enforceable, to have appointed and authorised Target as that Scheme Shareholder's agent and attorney to warrant to Bidder, that all of their Scheme Shares (including any rights and entitlements attaching to those Scheme Shares) will, at the time of the transfer of them to Bidder pursuant to the Scheme, be fully paid and free from all mortgages, charges, liens, encumbrances, pledges, security interests and other interests of third parties of any kind, whether legal or otherwise, and restrictions on transfer of any kind, and that they have full power and capacity to sell and to transfer their Scheme Shares (together with any rights and entitlements attaching to those Scheme Shares) to Bidder pursuant to the Scheme. Target undertakes in favour of each Scheme Shareholder that it will provide such warranty, to the extent enforceable, to Bidder on behalf of that Scheme Shareholder.

9.5 Title to Scheme Shares

Bidder will be beneficially entitled to the Scheme Shares transferred to it under the Scheme pending registration by Target of the name and address of Bidder in the Target Register as the holder of the Scheme Shares.

9.6 Appointment of Bidder as attorney for Scheme Shares

- (a) From the Effective Date until Bidder is registered in the Target Register as the holder of all Scheme Shares, each Target Shareholder:
 - (i) without the need for any further act by that Target Shareholder, irrevocably appoints Bidder as its proxy to (and irrevocably appoints Bidder as its agent and attorney for the purpose of appointing any director or officer of Bidder as that

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Target Shareholder's proxy and, where appropriate, its corporate representative to):

- (A) attend shareholders' meetings of Target;
 - (B) exercise the votes attaching to the Target Shares registered in the name of the Target Shareholder; and
 - (C) sign any Target Shareholders' resolution; and
- (ii) must take all other action in the capacity of a Target Shareholder as Bidder reasonably directs.
- (b) From the Effective Date until Bidder is registered in the Target Register as the holder of all Scheme Shares, no Target Shareholder may attend or vote at any meetings of Target Shareholders or sign any Target Shareholders' resolution (whether in person, by proxy or by corporate representative) other than under this clause 9.6.

9.7 Alterations and conditions to Scheme

If the Court proposes to approve the Scheme subject to any alterations or conditions, Target may, by its counsel or solicitors, and with the prior consent of Bidder, consent on behalf of all persons concerned, including each Target Shareholder, to those alterations or conditions.

9.8 Binding effect of Scheme

The Scheme binds Target and all of the Target Shareholders from time to time (including those who did not attend the Scheme Meeting, did not vote at that meeting or voted against the Scheme) and, to the extent of any inconsistency, overrides the constitution of Target.

9.9 Enforcement of Deed Poll

Target undertakes in favour of each Scheme Shareholder that it will enforce the Deed Poll against Bidder on behalf of and as agent and attorney for the Scheme Shareholders.

9.10 Notices

Where a notice, transfer, transmission application, direction or other communication referred to in the Scheme is sent by post to Target, 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 Target's registered office or by the Target Share Registry, as the case may be.

9.11 Costs and duty

- (a) Subject to clause 9.11(b), each of Bidder and Target will pay their share of the costs of the Scheme in accordance with the Implementation Deed.
- (b) Bidder will pay all duty (including stamp duty and any related fines, penalties and interest thereon) payable on or in connection with the transfer by Scheme Shareholders of the Scheme Shares to Bidder pursuant to the Scheme.

9.12 Governing law and jurisdiction

This Scheme is governed by the laws of Queensland. Each party submits to the non-exclusive jurisdiction of courts exercising jurisdiction there in connection with matters concerning the Scheme.

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Annexure B – Form of Deed Poll**This Deed Poll** is made on

2020

By

Australian Veterinary Owners League Pty Ltd (ACN 601 874 588), registered in Australia of Unit 1, 277 Lane Cove Road, Macquarie Park, New South Wales, 2113 (**Bidder**).

In favour of**Each Scheme Shareholder****Recitals**

- A Bidder and National Veterinary Care Ltd (ACN 166 200 059) (**Target**) have entered into a scheme implementation deed dated 15 December 2019 (the **Implementation Deed**).
- B Target has agreed in the Implementation Deed to propose the Scheme, pursuant to which, subject to the satisfaction or waiver of certain conditions precedent, Bidder will acquire all of the Scheme Shares from Scheme Shareholders for the Scheme Consideration.
- C In accordance with the Implementation Deed, Bidder is entering into this Deed Poll for the purpose of covenanting in favour of the Scheme Shareholders that it will observe and perform the obligations contemplated of it under the Scheme.

It is agreed as follows.**1 Definitions and Interpretation****1.1 Definitions**

Terms defined in the Implementation Deed have the same meaning in this Deed Poll unless the context requires otherwise.

1.2 Interpretation

The provisions of clause 1.2 of the Implementation Deed form part of this Deed Poll as if set out in full in this Deed Poll, and on the basis that references to 'this deed' in that clause are references to 'this Deed Poll'.

2 Nature of Deed Poll

Bidder acknowledges that:

- (a) this Deed Poll may be relied on and enforced by any Scheme Shareholder in accordance with its terms, even though the Scheme Shareholders are not party to it; and
- (b) under the Scheme, each Scheme Shareholder appoints Target as its agent and attorney to enforce this Deed Poll against Bidder on behalf of that Scheme Shareholder.

3 Conditions Precedent and Termination**3.1 Conditions precedent**

Bidder's obligations under this Deed Poll are subject to the Scheme becoming Effective.

3.2 Termination

If the Implementation Deed is terminated before the Effective Date or the Scheme does not become Effective on or before the End Date, Bidder's obligations under this Deed Poll will automatically terminate and the terms of this Deed Poll will be of no further force or effect, unless Target and Bidder otherwise agree in accordance with the Implementation Deed.

3.3 Consequences of termination

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

- (a) Bidder is released from its obligations under this Deed Poll, except those obligations under clause 8.6; and
- (b) each Scheme Shareholder retains any rights, powers or remedies that Scheme Shareholder has against Bidder in respect of any breach of its obligations under this Deed Poll that occurred before termination of this Deed Poll.

4 Bidder's Compliance with Scheme Obligations

Subject to clause 3, in consideration for the transfer to Bidder of the Scheme Shares in accordance with the Scheme, Bidder covenants in favour of each Scheme Shareholder that it will observe and perform all obligations contemplated of it under the Scheme, including the relevant obligations relating to the provision of the Scheme Consideration in accordance with the terms of the Scheme.

5 Representations and Warranties

Bidder makes the following representations and warranties.

- (a) **(Status)** It is a corporation validly existing under the laws of the place of its incorporation.
- (b) **(Power)** It has the 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 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) **(Document binding)** This Deed Poll is its valid and binding obligation enforceable in accordance with its terms, subject to any necessary stamping and registration.
- (e) **(Transactions permitted)** The execution and performance by it of this Deed Poll and each transaction contemplated by this Deed Poll did not and will not violate in any respect a provision of:
 - (i) a law, judgment, ruling, order or decree binding on it; or
 - (ii) its constituent documents.

6 Continuing Obligations

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

- (a) Bidder having fully performed its obligations under this Deed Poll; and
- (b) termination of this Deed Poll under clause 3.

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7 Further Assurances

Bidder will, on its own behalf and, to the extent authorised by the Scheme, on behalf of each Scheme Shareholder, do all things and execute all deeds, instruments, transfers or other documents as may be necessary or desirable to give full effect to the provisions of this Deed Poll and the transactions contemplated by it.

8 General

8.1 Notices

Any notice, demand, consent or other communication to Bidder (a **Notice**) given or made under this Deed Poll:

- (a) must be in writing and signed by the sender or a person duly authorised by the sender (or in the case of email, set out the full name and position or title of the sender or person duly authorised by the sender);
- (b) must be delivered to the intended recipient by prepaid post (if posted to an address in another country, by registered airmail) or by hand or email to the address or email address below (or the address or email address last notified by the intended recipient to the sender):

Address: Unit 1, 277 Lane Cove Road,
Macquarie Park NSW 2113

Email: john.burns@vet.partners

Attention: John Burns

- (c) will be conclusively taken to be duly given or made:
 - (i) in the case of delivery in person, when delivered;
 - (ii) in the case of delivery by post, two Business Days after the date of posting (if posted to an address in the same country) or seven Business Days after the date of posting (if posted to an address in another country); and
 - (iii) in the case of delivery by email, the earlier of:
 - (A) the time that the sender receives an automated message from the intended recipient's information system confirming delivery of the email;
 - (B) the time that the email is first opened or read by the intended recipient, or an employee or officer of the intended recipient; and
 - (C) two hours after the time the email is sent (as recorded on the device from which the sender sent the email) unless the sender receives, during that two hour period, an automated message that the email has not been delivered,

but if the result is that a Notice would be taken to be given or made:

- (iv) on a day that is not a business day in the place to which the Notice is sent or later than 5:00pm (local time), then it will be taken to have been duly given or made at the start of business on the next business day in that place; or
- (v) before 9:00am (local time) on a business day in the place to which the Notice is sent, then it will be taken to have been duly given or made at 9:00am (local time) on that business day in that place.

8.2 No waiver

No failure to exercise nor any delay in exercising any right, power or remedy by Bidder or by any Scheme Shareholder 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 of any right, power or remedy on one or more occasions does not operate as a waiver of that right, power or remedy on any other occasion, or of any other right, power or remedy. A waiver is not valid or binding on the person granting that waiver unless made in writing.

8.3 Remedies cumulative

The rights, powers and remedies of Bidder and of each Scheme Shareholder under this Deed Poll are in addition to, and do not exclude or limit, any right, power or remedy provided by law or equity or by any agreement.

8.4 Amendment

No amendment or variation of this Deed Poll is valid or binding unless:

- (a) either:
 - (i) before the Second Court Date, the amendment or variation is agreed to in writing by Target and Bidder (which such agreement may be given or withheld without reference to or approval by any Target Shareholder); or
 - (ii) on or after the Second Court Date, the amendment or variation is agreed to in writing by Target and Bidder (which such agreement may be given or withheld without reference to or approval by any Target Shareholder) and is approved by the Court; and
- (b) Bidder enters into a further deed poll in favour of the Scheme Shareholders giving effect to that amendment or variation.

8.5 Assignment

The rights and obligations of Bidder and of each Scheme Shareholder under this Deed Poll are personal. They cannot be assigned, encumbered or otherwise dealt with and no person may attempt, or purport, to do so without the prior consent of Bidder and Target.

8.6 Costs and duty

Bidder must bear its own costs arising out of the negotiation, preparation and execution of this Deed Poll. All duty (including stamp duty and any fines, penalties and interest thereon) payable on or in connection with this Deed Poll and any instrument executed under or any transaction evidenced by this Deed Poll must be borne by Bidder. Bidder must indemnify each Scheme Shareholder on demand against any liability for that duty (including any related fines, penalties and interest thereon).

8.7 Governing law and jurisdiction

This Deed Poll is governed by the laws of Queensland. Bidder submits to the non-exclusive jurisdiction of courts exercising jurisdiction there in connection with matters concerning this Deed Poll.

Executed and delivered as a Deed Poll in Brisbane, Queensland.

Executed as a deed in accordance with section 127 of the *Corporations Act 2001* by **Australian Veterinary Owners League Pty Ltd:**

Director Signature

Director/Secretary Signature

Print Name

Print Name

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