

## DRA ENTERS BINDING SCHEME IMPLEMENTATION DEED WITH APEX CAPITAL PARTNERS

DRA Global Limited (**DRA** or **Company**) is pleased to announce that it has entered into a binding Scheme Implementation Deed (**SID**) with Apex Capital Partners Limited (**ACP** or the **Bidder**), a special purpose South African company that is presently a wholly owned subsidiary of Apex Partners Holdings Proprietary Limited (**APH**), under which ACP will acquire 100% of the shares in DRA (**DRA Shares**) (subject to the satisfaction of various conditions) for cash consideration per DRA Share of ZAR30.00 for DRA shareholders resident in South Africa, the Republic of Namibia and the Kingdom of Lesotho and Estawini (or the AUD equivalent thereof for all other DRA shareholders) (the **Cash Consideration**), OR scrip consideration per DRA Share of 1 fully paid ordinary share in ACP (**ACP Share**) (the **Scrip Consideration**) OR for each DRA Share held a mix of both Scrip Consideration and Cash Consideration, via a court approved scheme of arrangement under the *Corporations Act 2001* (Cth) (**Scheme**).

Eligible DRA shareholders, which include DRA shareholders in Australia and its external territories, New Zealand and South Africa, are entitled to elect either, or a combination of, the Cash Consideration and the Scrip Consideration in respect of their total DRA shareholding (the **Transaction**). DRA shareholders who make no election, and ineligible foreign DRA shareholders will receive Cash Consideration.

If the Scheme is approved by DRA shareholders and implemented, then ACP will become the new ultimate holding company for DRA and will be renamed "DRA Holdings Limited" or similar.

### Highlights of the Transaction

- The Cash Consideration of ZAR30.00 per share implies an equity value for DRA of AUD116.1m (ZAR1.35bn at an exchange rate of ZAR11.60: AUD1).
- The Cash Consideration represents a premium of:
  - 22.2% to the buyback of DRA ordinary shares (**Buyback**) concluded by the Company on 17 December 2024 (**Buyback Price**);
  - 36.44% and 30.17% to the 30 day volume weighted average price on the JSE and ASX respectively as at 9 October 2024, being the unaffected share price prior to the announcement of the Buyback; and
  - 36.15% and 31.54% to the 30 day volume weighted average price on the JSE and ASX respectively as at 30 December 2024, being the last trading day prior to the delisting of the Company from both the JSE and ASX.
- The Transaction is subject to certain customary conditions precedent, including *inter alia* regulatory approvals and DRA shareholder approval.



- The DRA Independent Board Committee IBC<sup>1</sup> unanimously recommends the Transaction in the absence of a superior proposal (as defined in the SID) and subject to the independent expert concluding (and continuing to conclude) that the Transaction is in the best interests of DRA shareholders.
- Following implementation of the Scheme, DRA shareholders could own up to 69.1% of the combined DRA and Bidder group.<sup>2</sup>

### **Unanimous recommendation of the DRA Independent Board Committee (DRA IBC)<sup>1</sup>**

The DRA IBC unanimously recommend that DRA shareholders support the Transaction by voting in favour of the resolutions to approve the Scheme, in the absence of a superior proposal and subject to an independent expert concluding (and continuing to conclude) that the Scheme is in the best interests of DRA shareholders.

Subject to those same qualifications, each member of the DRA IBC and Charles Pettit (who is not part of the DRA IBC) intends to vote all DRA shares held or controlled by them (where applicable) in support of the Transaction.

### **Board changes**

On implementation of the Scheme, it is proposed that:

- all current members of the board of the Bidder, other than Charles Pettit, will resign; and
- all current DRA IBC members (comprising James Smith, Sebastiano Randazzo, Darren Naylor, Lindiwe Mthimunya and Valentine Coetzee) will be appointed as directors of the Bidder, such that on implementation, the board of the Bidder will comprise all members of the current DRA board.

### **Background**

APH is the sole shareholder of the Bidder and also the largest shareholder in the Company, holding 30.9% of DRA's issued share capital.<sup>3</sup> The rationale for the offer is as follows:

- To provide an opportunity to all shareholders, excluding APH, to exit up to 100% of their shares in DRA for cash;
- To provide a reinvestment opportunity to all shareholders to swap up to 100% of their shareholding in DRA for shares in ACP; and
- To create a holding company for DRA in South Africa, being the most appropriate jurisdiction given that the majority of DRA shareholders are domiciled in South Africa.

### **Overview of the Scheme**

If the Scheme is approved and implemented, each DRA shareholder on the Scheme Record Date (as defined in the SID) will receive either the Cash Consideration, the Scrip Consideration or a mix of both Cash

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<sup>1</sup> Means the DRA board, other than Charles Pettit. Mr Pettit is an indirect shareholder and director of the Bidder, APH and DRA and has excluded himself from discussions about the Scheme, and abstains from making a recommendation in relation to the Scheme.

<sup>2</sup> Assuming 100% elections are made for Scrip Consideration.

<sup>3</sup> As at the date of this announcement.



Consideration and Scrip Consideration. The Cash Consideration implies an equity valuation of DRA of AUD116.1m and a premium of 22.2% to the Buyback Price.

DRA shareholders who make no election, and ineligible foreign DRA shareholders, will receive Cash Consideration.

The Scheme is conditional on ACP receiving funds from APH up to the maximum amount required to fund the entire amount of the Scheme Consideration in cash (assuming no elections are made for Scrip Consideration, other than with respect to APH and its Associates (as defined in the SID) existing shareholding in DRA). This capitalisation of ACP will be achieved via either (i) a subscription by APH for new shares in ACP at a subscription price of ZAR30.00 per share (being the same value of the Cash Consideration per DRA Share) or (ii) such other funding mechanism(s) (to be provided or underwritten by APH) as the parties may agree before the Second Court Date as would (a) provide or procure the provision of the Scheme Consideration on the Implementation Date; and (b) facilitate a legal restructuring of the Target Group, in accordance with professional advice procured by Target, which restructuring is to be implemented post completion of the Scheme. The number of new ACP Shares that will be issued pursuant to this funding arrangement will be matched to the number of cash acceptances received in respect of DRA Shares.

The Scheme remains subject to various customary conditions precedent, including the approval of DRA shareholders, and the Court, which are summarised below:

- Prior to the date of the first Court hearing, ACP providing DRA with evidence that it has sufficient committed funding for up to the maximum amount required to fund the entire amount of the Scheme Consideration in cash (assuming no elections are made for Scrip Consideration) other than with respect to APH and its Associates' existing shareholding in DRA);
- Australia's Foreign Investment Review Board (FIRB) approval;
- Approval of relevant Competition Authorities (as defined in the SID) as may be applicable;
- South African Reserve Bank (SARB) approval;
- Any other required regulatory approvals;
- No material adverse change, prescribed occurrence or regulated event having occurred in respect of the Company;
- The DRA board, and DRA subsidiary boards to the extent required, having approved a legal restructuring proposed by the Bidder and to be implemented immediately post completion of the Scheme;
- The business of DRA being conducted in the ordinary course;
- No superior competing proposal in respect of the Company being made, subject to standard "no talk" and "no shop" and "no due diligence" restrictions;
- DRA shareholder approval and Australian Court approval for the Scheme is obtained;
- DRA and ACP agreeing on the treatment of the DRA options presently on issue;
- ACP adopting a replacement memorandum of incorporation that is customary for a South African public unlisted company;



The SID also includes customary deal protection and exclusivity terms, including “no shop”, “no talk”, “notification” and “matching right” obligations in the event of a Competing Proposal<sup>4</sup> (as defined in the SID) and a “fiduciary out” exception. No break fees apply to the transaction.

Full details of the conditions of the Scheme are set out in the SID, a copy of which is attached to this announcement.

### **Indicative timetable and next steps**

DRA shareholders do not need to take any action at this time. A Scheme Booklet containing important information in relation to the Transaction, including reasons for the unanimous recommendation of DRA’s Board and IBC and the independent expert’s report, is expected to be sent to DRA shareholders before the end of August 2025.

Due to the protracted timeline anticipated for the various regulatory approvals required to complete the Transaction (which are beyond the parties’ control), the DRA shareholders meeting to approve the Transaction is expected to be held in early September 2025. If approved by DRA shareholders and the Court, the Scheme will then be implemented once all transaction conditions precedent have been fulfilled.

The DRA board will keep shareholders informed of any material developments in accordance with its continuous disclosure requirements.

- ENDS -

This announcement was approved for release by the Board of DRA Global Limited.

For further information, please contact the DRA shareholder line: [shareholder@draglobal.com](mailto:shareholder@draglobal.com)

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### **About DRA Global Limited**

DRA Global Limited (DRA or the Group) is an international multi-disciplinary engineering, project delivery and operations management group, predominantly focused on the mining, minerals and metals industry.

The Group has an extensive track record spanning four decades across a wide range of commodities. Thousands of projects, studies and managed services solutions have been delivered through DRA’s projects business, and its operations and maintenance division currently operate more than a dozen sites.

DRA’s teams have deep expertise in the mining, minerals and metals processing industries, as well as related non-process infrastructure such as, water, and energy solutions. The Group delivers comprehensive advisory, engineering and project delivery services throughout the capital project lifecycle, from concept through to operational readiness and commissioning as well as ongoing operations, maintenance and engineering services; all with a focus on sustainability and assisting clients to achieve their ESG goals.

DRA covers all major mining centres with offices across Africa and the Middle East, North and South America, and Asia-Pacific.

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<sup>4</sup> As defined in the SID.

**Ashurst**

# Scheme Implementation Deed

DRA Global Limited

Apex Capital Partners Limited

12 March 2025

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**THIS DEED** is made on 12 March 2025

**BETWEEN:**

- (1) **DRA Global Limited** (ACN 622 581 935) of Level 7, 256 Adelaide Terrace, Perth, Australia (**Target**); and
- (2) **Apex Capital Partners Limited** (Registration number 2021/916057/06) of 39 Rivonia Road, Commerce Square, Sandton, Johannesburg, South Africa (**Bidder**).

**RECITALS:**

- (A) The Bidder is a 100% held subsidiary of Apex Partners Holdings Proprietary Limited (**APH**). APH has a 30.9% shareholding in the Target.
- (B) The Bidder is of the view that the current structure of the Target as an unlisted Australian public company is not efficient for it given its significant South African business and its predominantly South African shareholder base.
- (C) The Bidder, a South African company, is, in the Bidder's opinion, a more appropriate long term holding vehicle for the Target and its shareholders.
- (D) The proposed Scheme provides DRA shareholders with an opportunity to elect an immediate cash exit at an attractive premium to the recently concluded buyback of the Target in December 2024, or the opportunity to participate in an unlisted, South African domiciled holding vehicle that will, subject to successful implementation of a Scheme, own 100% of the Target.
- (E) Bidder and Target have agreed that Bidder will acquire all of the Scheme Shares by way of a scheme of arrangement between Target and the holders of its ordinary shares under Part 5.1 of the Corporations Act.
- (F) Target has agreed to propose and implement, and Bidder has agreed to assist Target to propose and implement, the Scheme, and to undertake associated matters, on the terms of this deed.

**THE PARTIES AGREE AS FOLLOWS:**

**1. Interpretation**

**1.1 Definitions**

The following definitions apply in this deed.

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

**APH** has the meaning given in recital (A).

**Approach Notice** means a notice setting out all material details of a Competing Proposal including the identity of the Third Party, consideration offered or proposed, conditions, proposed timetable and break or reimbursement fee (if any).

**ASIC** means the Australian Securities and Investments Commission.

**ASIC Regulatory Guides** means the regulatory guides published by ASIC from time to time.

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

**Associate** has the meaning given in section 12(2) of the Corporations Act, as if section 12(1) of the Corporations Act included a reference to this deed.

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

**ATO** means the Australian Taxation Office.

**Authorisation** means:

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

**Bidder Board** means the board of directors of Bidder as constituted from time to time.

**Bidder Material** means the information regarding the Bidder that is provided by or on behalf of Bidder to Target for inclusion in the Scheme Booklet as is required under the Corporations Act, Corporations Regulations and ASIC Regulatory Guide 60, and which would include the Bidder Prospectus as is required under the SA Companies Act.

**Bidder Material Adverse Effect** means an event, matter or circumstance that occurs, is announced or becomes known to Target after the date of this deed which, either individually or when aggregated with all such events or circumstances that have occurred, has had or would be reasonably likely to have a material adverse effect on the ability of the Bidder to perform its obligations under this deed, the Scheme, or the Deed Poll, other than any event, matter or circumstance:

- (a) relating to a Bidder Permitted Event;
- (b) resulting from changes in generally accepted accounting principles or the interpretation of them by any professional body or Government Agency;
- (c) which is the payment of, or incurring by, the Bidder of costs and expenses relating to the Transaction substantially in the ordinary course of business;
- (d) arising as a result of a change to legislation or regulation, any judicial or administrative interpretation of the law or any practice or policy of a Government Agency (whether or not retrospective in effect), including in relation to Tax; or
- (e) that arises as a result of general changes in economic, political or business conditions (including interest rates, commodity prices and exchange rates), or in securities, credit or financial markets,

provided, further, however, that any event, matter or circumstance set forth in subclause (e) above may be taken into account in determining whether there is or has been a Bidder

Material Adverse Effect to the extent that such event, matter or circumstance has had or could reasonably be expected to have, individually or in the aggregate, a disproportionately adverse effect on the Bidder compared to other similarly situated entities.

**Bidder MOI** means the memorandum of incorporation of the Bidder.

**Bidder Permitted Event** means any agreement, arrangement, understanding or other transaction, event, occurrence or matter:

- (a) that was Fairly Disclosed to the Target prior to entry into this Deed;
- (b) that is required or permitted to be done, or procured by the Bidder, under this deed, the Subscription Agreement or the Transaction, or the transactions contemplated by any of them; or
- (c) that the Target has consented to in writing.

**Bidder Prescribed Event** means any of the following events:

- (a) **(conversion)** the Bidder converts all or any of its shares into a larger or smaller number of shares;
- (b) **(capital reduction)** the Bidder resolves to reduce its share capital in any way or reclassifying, combining, splitting or redeeming or repurchasing directly or indirectly any of its shares;
- (c) **(buy-back)** the Bidder:
  - (i) enters into a buy-back agreement; or
  - (ii) resolves to approve the terms of a buy-back agreement under the SA Companies Act;
- (d) **(distribution)** the Bidder declares, pays or distributes any dividend, bonus or other share of its profits or assets or returns or agrees to return any capital to its members;
- (e) **(issue of securities)** the Bidder issues shares or securities convertible into shares, or grants an option over its shares, or agrees to make such an issue or grant such an option;
- (f) **(grant of performance rights and options)** the Bidder issuing securities, or granting a performance right or option over its securities, or agreeing to make such an issue or grant such a performance right or option;
- (g) **(change to memorandum of incorporation)** the Bidder adopts a new memorandum of incorporation or modifies or repeals the Bidder MOI or a provision of it;
- (h) **(deregistration)** APH is deregistered as a company or otherwise dissolved; or
- (i) **(Insolvency Event)** an Insolvency Event occurring in relation to Bidder or APH, other than any Bidder Permitted Event.

**Bidder Prospectus** means the prospectus registered with the CIPC in terms of Chapter 4 of the SA Companies Act, to be issued by Bidder in respect of the offer of the Scrip Consideration under the Scheme.

**Bidder Representation and Warranty** means a representation and warranty set out in clause 12.2.

**Bidder Share** means a fully paid ordinary share of no par value in the Bidder.

**Business Day** means a day (other than a Saturday, Sunday or public holiday) on which banks are open in both Western Australia and South Africa.

**Cash Consideration** means an amount of ZAR30.00 cash per Scheme Share payable to Scheme Shareholders whose address shown in the Register as at the Record Date is in the Common Monetary Area and the AUD equivalent (converted at the spot rate as obtained from the Bidder's bank's Bloomberg terminal or foreign exchange trading desk on the Record Date) of such amount per Scheme Share for Scheme Shareholders whose address shown in the Register as at the Record Date is outside the Common Monetary Area.

**CIPC** means the South African Companies and Intellectual Property Commission established under section 185 of the SA Companies Act, or its successor body.

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

**Common Monetary Area** means the area comprising South Africa, the Republic of Namibia and the Kingdom of Lesotho and eSwatini.

**Competing Proposal** means any proposal, offer, transaction, agreement or arrangement which, if ultimately entered into or completed substantially in accordance with its terms, would result in:

- (a) a Third Party (whether alone or together with its Associates), directly or indirectly:
  - (i) acquiring control (within the meaning given in section 50AA of the Corporations Act) of Target or any member of the Target Group which holds all or a substantial part of the business or assets of the Target Group;
  - (ii) acquiring an interest, or a Relevant Interest, in more than 20% of the Target Shares; or
  - (iii) acquiring, becoming the holder of, or having a right to acquire an economic interest in all or a substantial part of the business or assets of the Target Group,

whether by way of takeover bid, members' or creditors' scheme of arrangement, shareholder approved acquisition, capital reduction, buy-back, sale or purchase of shares, other securities or assets, assignment of assets and liabilities, incorporated or unincorporated joint venture, dual-listed company (or other synthetic merger), deed of company arrangement, any debt for equity arrangement or other transaction or arrangement; or

- (b) the Transaction not being capable of being implemented on the basis set out in this deed.

**Competition Authorities** means the Competition Commission of South Africa and/or the Competition Tribunal and/or the Competition Appeal Court of South Africa created in terms of the Competition Act, No. 89 of 1998 (of South Africa), as amended, competition authorities in Ethiopia, Morocco, Namibia, Saudi Arabia Tanzania and Zimbabwe and/or

competition authorities in any other relevant jurisdiction as determined by the Bidder Board.

**Competition Filing** means the submission of all materials required to the Competition Authorities in order for them to make an assessment of the Transaction.

**Condition** means a condition precedent set out in clause 4.2 and **Conditions** means all of them.

**Confidential Information** means:

- (a) if it is written, is marked as "confidential" or the like, or
- (b) if it is oral, is designated confidential at disclosure and is confirmed to be confidential in writing by the disclosing party within one (1) Business Day from it being disclosed, or
- (c) whether it being written or oral and whether it being designated as confidential or not, by its nature makes it obvious that it is confidential;

but excluding any information which:

- (d) is in the public domain at the time of execution of this deed, or which comes in the public domain during the term of this deed other than pursuant to a breach by the receiving party;
- (e) is known to the receiving party at the time of disclosure by the disclosing party as evidenced by its written records;
- (f) is received from a Third Party and it is evidenced that the Third Party has not received the information, directly or indirectly, from the disclosing party;
- (g) is independently developed by an employee or consultant of the receiving party, provided that the employee or consultant has been without knowledge of the information disclosed by the disclosing party;
- (h) is disclosed by the disclosing party expressly without restrictions on disclosure and/or use; or
- (i) the receiving party is required to disclose by law or by a Government Agency or body or decision by a court of law, but then only after first notifying the disclosing party of the required disclosure.

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

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

**Counter Proposal** has the meaning given in clause 10.2(b)(v).

**Court** means the Supreme Court of Western Australia or such other court of competent jurisdiction under the Corporations Act agreed to in writing by the parties.

**Deed Poll** means a document in the form or substantially in the form of Schedule 2, or in such other form as is agreed in writing between the parties.

**Defaulting Party** has the meaning given in clause 11.1(c).

**Disclosure Letter** means the letter so titled from the Target provided to the Bidder on or about the date of this deed and countersigned by Bidder before entry into 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.

**Election** means an election by a Target Shareholder to receive, in respect of each Scheme Share, the relevant Scheme Consideration.

**Election Date** means 5.00 pm on the date which is at least three Business Days prior to the Record Date (unless ASIC requires an earlier date, in which case such earlier date shall apply) or such other date as agreed between Bidder and Target in writing.

**Election Form** means the form of election under which a Target Shareholder is offered the opportunity to make an Election, which must comply with the requirements set out in clause 3.2(c).

**Encumbrance** means:

- (a) a Security Interest; or
- (b) an easement, restrictive covenant, caveat or similar restriction over property.

**End Date** means the date that is 12 months after the date of this deed.

**Exclusivity Period** means the period commencing on the date of this deed and ending on the earliest of:

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

**Fairly Disclosed** means, in relation to a matter, event or circumstance, disclosed by the Target Group or their Representatives to the Bidder or by Bidder or their Representatives to Target, their respective related bodies corporate or any of their Representatives, in reasonably sufficient detail, so as to allow a reasonable and sophisticated investor experienced in transactions similar to the transactions contemplated by this deed to identify or otherwise determine the nature and scope of the relevant matter, event or circumstance.

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

**FinSurv** means the Financial Surveillance Department of the SARB.

**FIRB** means the Foreign Investment Review Board.

**FIRB Approval** has the meaning given in item 1 of clause 4.2.

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

**Government Agency** means a government, government department or a governmental, semi-governmental, administrative, statutory or judicial entity, agency, authority, commission, department, tribunal, or person charged with the administration of a law or agency, whether in Australia, South Africa or elsewhere, including FIRB, ASIC, ATO, the Takeovers Panel, CIPC, SARB and the Competition Authorities and any self-regulatory organisation established under statute.

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

**GST Law** means the same as "GST Law" in the GST Act.

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

**Implementation Date** means the fifth Business Day following the Record Date, or such other date as ordered by the Court or agreed in writing between the parties.

**Independent Expert** means the independent expert appointed by Target in respect of the Scheme.

**Independent Expert's Report** means a report prepared by the Independent Expert in accordance with ASIC Regulatory Guide 111 stating whether or not, in the Independent Expert's opinion, the Scheme is in the best interests of Target Shareholders and setting out the Independent Expert's reasons for that opinion.

**Independent Target Board** means the Target Board other than Charles Pettit.

**Ineligible Foreign Shareholder** means a Scheme Shareholder whose address shown in the Register at 7.00 pm on the Record Date is outside Australia and its external territories, New Zealand or South Africa, unless the Bidder is satisfied that, it is permitted to allot and issue Bidder Shares to that Scheme Shareholder pursuant to the Scheme by the laws of that place without having to comply with any governmental approval or other consent or registration, filing or other formality, and it is not unduly onerous or impracticable to issue that Scheme Shareholder with Bidder Shares to be issued under this Scheme when the Scheme becomes Effective.

**Insolvency Event** means, in respect of a person:

- (a) an administrator being appointed to the person;
- (b) a controller or analogous person being appointed to the person or any of the person's property;
- (c) an application being made to a court for an order to appoint a controller, provisional liquidator, trustee for creditors or in bankruptcy or analogous person to the person or any of the person's property;
- (d) an appointment of the kind referred to in paragraph (c) being made (whether or not following a resolution or application);
- (e) the person being taken under section 459F(1) of the Corporations Act to have failed to comply with a statutory demand;
- (f) an application being made to a court for an order for its winding up;
- (g) an order being made, or the person passing a resolution, for its winding up;
- (h) the person:
  - (i) suspending payment of its debts, ceasing (or threatening to cease) to carry on all or a material part of its business, stating that it is unable to pay its debts or being or becoming otherwise insolvent; or
  - (ii) being unable to pay its debts or otherwise insolvent;

- (i) the person taking any step toward entering into a compromise or arrangement with, or assignment for the benefit of, any of its members or creditors;
- (j) a court or other authority enforcing any judgment or order against the person for the payment of money or the recovery of any property; or
- (k) any analogous event to paragraphs (a) to (j) above occurring in connection with that person under the laws of any applicable jurisdiction,

unless this takes place as part of a solvent reconstruction, amalgamation, merger or consolidation.

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

**Matching Period** has the meaning given in clause 10.2.

**Matching Right Notice** means a notice given in accordance with clause 10.2(a) setting out all material details of a Competing Proposal, including identifying details of the Third Party who made the Competing Proposal, the consideration, conditions, proposed timetable and break or reimbursement fee (if any), that the Target Board has determined is a Superior Proposal.

**Order** has the meaning given in clause 4.11.

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

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

**Record Date** means 5.00 pm on the day which is two Business Days after the Effective Date, or any other date agreed in writing between Target and Bidder.

**Register** means the register of members of Target.

**Regulatory Approvals** means:

- (a) any approval, consent, waiver, exemption, ruling or declaration from a Government Agency that is necessary, required by law, or which Bidder and Target agree (acting reasonably) is desirable, to implement the Transaction, including (without limitation) any relief, waiver, confirmation, exemption or consent granted by ASIC, FIRB, CIPC, SARB or Competition Authorities required to implement the Transaction substantially on the terms of this deed and the Scheme; or
- (b) in relation to anything that would be fully or partly prohibited or restricted by law if a Government Agency intervened or acting in any way within a specified period after lodgement, filing, registration or notification, the expiry of that period without intervention or action.

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

**Representatives** means, in relation to a party:

- (a) each of the party's subsidiaries; and



- (b) each of the directors, officers, employees, agents, representatives and advisers of the party or any of its subsidiaries.

**SA Companies Act** means the South African Companies Act, 71 of 2008.

**SARB** means the South African Reserve Bank governed by the South African Reserve Bank Act, 90 of 1989, as amended from time to time and includes reference to the FinSurv, as the case may be.

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

**Scheme Booklet** means the scheme booklet in respect of the Scheme to be prepared by Target (other than the Bidder Material, which is to be prepared by Bidder) in accordance with the terms of this deed, approved by the Court and dispatched to Target Shareholders, and that includes the Scheme, a copy of the Deed Poll executed by Bidder, explanatory statement under section 412(1) of the Corporations Act complying with the requirements of the Corporations Act and the Corporations Regulations, the Independent Expert's Report, the notice of the Scheme Meeting, the proxy form for the Scheme Meeting, the Election Form and the Bidder Prospectus.

**Scheme Consideration** means for each Scheme Share held by a Scheme Shareholder, the consideration payable to Scheme Shareholders under the Scheme, being one of:

- (a) the Cash Consideration;
- (b) the Scrip Consideration; or
- (c) a proportion of the Cash Consideration and the inverse proportion of the Scrip Consideration, provided that a Scheme Shareholder may not make this election if they would receive less than 250 Bidder Shares in aggregate, in each case depending on the Valid Elections made and the terms of the Scheme.

**Scheme Meeting** means the meeting of Target Shareholders to be convened as ordered by the Court under section 411(1) of the Corporations Act, to consider and vote on the Scheme and includes any meeting convened following any adjournment or postponement of that meeting.

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

**Scheme Shareholder** means a person who holds one or more Scheme Shares.

**Scrip Consideration** means one (1) new Bidder Share per Scheme Share.

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

**Security Interest** means any security interest, including:

- (a) a PPS Security Interest;
- (b) any other mortgage, charge, pledge or lien; or

- (c) any other interest or arrangement of any kind that in substance secures the payment of money or the performance of an obligation, or that gives a creditor priority over unsecured creditors in relation to any property.

**South Africa** means the Republic of South Africa.

**Subscription Agreement** means the agreement entered into by the Bidder and APH on or around the date of this deed to subscribe for Bidder Shares.

**Superior Proposal** means a Competing Proposal which the Target Board, acting in good faith and after consulting with Target's financial and legal advisers, determines:

- (a) is reasonably capable of being implemented in accordance with its terms; and
- (b) would, if so implemented, likely result in a more favourable outcome for Target Shareholders than would result from the implementation of the Transaction.

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

**Target Board** means the board of directors of Target as constituted from time to time.

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

**Target Group** means Target and its subsidiaries.

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

**Target Material Adverse Effect** means an event, matter or circumstance that occurs, is announced or becomes known to Bidder after the date of this deed which, either individually or when aggregated with all such events or circumstances that have occurred, has had or would be reasonably likely to have the effect of diminishing the consolidated net asset value of the Target Group (calculated in accordance with the accounting policies and practices applied by Target as at the date of this deed and calculated on the date of the relevant event, matter or circumstance) by an amount of at least \$20 million, other than any event, matter or circumstance:

- (a) relating to a Target Permitted Event;
- (b) resulting from changes in generally accepted accounting principles or the interpretation of them by any professional body or Government Agency;
- (c) which is the payment of, or incurring by, the Target Group of costs and expenses relating to the Transaction substantially in the ordinary course of business;
- (d) arising as a result of a change to legislation or regulation, any judicial or administrative interpretation of the law or any practice or policy of a Government Agency (whether or not retrospective in effect), including in relation to Tax; or
- (e) that arises as a result of general changes in economic, political or business conditions (including interest rates, commodity prices and exchange rates), or in securities, credit or financial markets,

provided, further, however, that any event, matter or circumstance set forth in subclause (e) above may be taken into account in determining whether there is or has been a Target Material Adverse Effect to the extent that such event, matter or

circumstance has had or could reasonably be expected to have, individually or in the aggregate, a disproportionately adverse effect on Target compared to other similarly situated entities.

**Target Options** means the zero exercise price options, which are granted pursuant to the Target's long term incentive plan to Target employees from time to time, which option grants a Target employee a right to be issued with 1 (one) Target Share for nil consideration upon exercise and subject to the satisfaction of various vesting conditions.

**Target Permitted Event** means any agreement, arrangement, understanding or other transaction, event, occurrence or matter:

- (a) that was Fairly Disclosed to the Bidder prior to entry into this Deed, including but not limited to, the disclosures made in the Disclosure Letter;
- (b) that was Fairly Disclosed by the Target in any documents lodged with ASX by the Target during the period that it was listed on the ASX or published on its website following the Target de-listing from the ASX, in the 24 months prior to the date of this deed;
- (c) that would have been Fairly Disclosed to the Bidder had the Bidder conducted searches of public records in respect of each Target Group Member incorporated in Australia maintained by:
  - (i) ASIC (had the relevant searches been conducted 2 Business Days prior to the date of this deed);
  - (ii) the register established under the *Personal Property Securities Act 2009* (Cth) (had the relevant searches been conducted 2 Business Days prior to the date of this deed);
  - (iii) the High Court of Australia, Federal Court of Australia and the Supreme Court of Western Australia (had the relevant searches been conducted 2 Business Days prior to the date of this deed);
- (d) that is required by any applicable law, regulation (including industry specific regulation), generally accepted accounting standards or generally accepted accounting principles, contract or by a Government Agency;
- (e) that is within the actual knowledge of the Bidder as at the date of this deed;
- (f) that is required or permitted to be done, or procured by the Target, under this deed or the Transaction, or the transactions contemplated by either;
- (g) that the Bidder has consented to in writing; or
- (h) that relates to the issue of any Target Shares on the exercise or conversion of any Target Options, the vesting of those Target Options, or anything done in connection with the transactions contemplated by this deed as so far as they relate to the treatment of the Target Options.

**Target Prescribed Event** means any of the following events:

- (a) **(conversion)** the Target converts all or any of its shares into a larger or smaller number of shares;

- (b) **(capital reduction)** any member of the Target Group resolves to reduce its share capital in any way or reclassifying, combining, splitting or redeeming or repurchasing directly or indirectly any of its shares;
- (c) **(buy-back)** any member of the Target Group:
  - (i) enters into a buy-back agreement; or
  - (ii) resolves to approve the terms of a buy-back agreement under the Corporations Act;
- (d) **(distribution)** any member of the Target Group declares, pays or distributes any dividend, bonus or other share of its profits or assets or returns or agrees to return any capital to its members;
- (e) **(issue of securities)** any member of the Target Group issues shares or securities convertible into shares, or grants an option over its shares, or agrees to make such an issue or grant such an option, other than to Target or another member of the Target Group;
- (f) **(grant of performance rights and options)** any member of the Target Group issuing securities, or granting a performance right or option over its securities, or agreeing to make such an issue or grant such a performance right or option, other than:
  - (i) an issue or grant (or an agreement to issue or grant) to another member of the Target Group; or
  - (ii) the vesting, conversion and/or exercise of any Target Options;
- (g) **(change to constitution)** any member of the Target Group adopts a new constitution or modifies or repeals its constitution or a provision of it;
- (h) **(deregistration)** any member of the Target Group is deregistered as a company or otherwise dissolved except in the case of the voluntary deregistration or dissolution of a solvent subsidiary with less than \$1 million in net assets as at the date of this deed; or
- (i) **(Insolvency Event)** an Insolvency Event occurring in relation to any member of the Target Group,

other than any Target Permitted Event.

**Target Regulated Event** means the occurrence of any of the following:

- (a) **(acquisitions or disposals)** any member of the Target Group acquires or disposes of, offers to acquire or dispose of or agrees to acquire or dispose of any business, entity or undertaking or assets comprising a business, the value of which exceeds ZAR5,000,000 (or the Australian dollar equivalent);
- (b) **(Encumbrances)** a member of the Target Group creating, granting or agreeing to any Encumbrance over the whole, or a substantial part, of its business or assets;
- (c) **(finance)** a member of the Target Group:
  - (i) enters into any new financing arrangement, agreement or otherwise provides financial accommodation other than with the Bidder or any of its related bodies corporate or a member of the Target Group, or amends the

- terms of any existing financial arrangement, agreement or instrument in any material respect;
- (ii) incurs capital expenditure in excess of ZAR50,000,000 (or the Australian dollar equivalent) per annum;
  - (iii) waives any material Third Party default where the financial impact on the Target Group will be in excess of ZAR30,000,000 (or the Australian dollar equivalent)(individually or in aggregate in a financial year); or
  - (iv) accepts as a compromise of a matter less than the full compensation due to a member of the Target Group where the financial impact of the compromise on the Target Group is more than ZAR5,000,000 (or the Australian dollar equivalent) (individually or in aggregate in a financial year);
- (d) **(related party transactions)** a member of the Target Group enters into, or resolves to enter into, a transaction with any related party of Target (other than a related party which is a member of the Target Group), as defined in section 228 of the Corporations Act;
- (e) **(legal restructuring)** a member of the Target Group enters into, or resolves to enter into, a transaction which restructures or reorganises the legal structure of the Target Group;
- (f) **(new employment agreements)** a member of the Target Group employs or agrees to employ any person, the value of whose total annual remuneration is or is to be ZAR4,000,000 (or the Australian dollar equivalent) or more, except where such employment is to replace an existing employee whose employment has ceased, provided that (i) the remuneration of the replacement employee does not exceed that of the departing employee and (ii) the role and responsibilities of the replacement employee are substantially the same as those of the departing employee;
- (g) **(varying employment arrangements)** a member of the Target Group materially alters, varies or amends any employment, consulting, severance or similar agreement or arrangement with one or more of its officers, directors, other executives or employees, or otherwise materially increases compensation or benefits for any of the above, in each case other than pursuant to:
- (i) an increase of base salary in the ordinary course as part of annual remuneration reviews consistent with past practices;
  - (ii) fees paid to directors of Target in accordance with the Target's constitution in connection with genuine special exertions or extra services provided by those directors for the benefit of the Target Group (including their work in relation to the Transaction) up to an aggregate amount for all Directors of ZAR10,000,000 (or the Australian dollar equivalent); or
  - (iii) Target's policies and guidelines in effect on the date of this deed,
- (h) **(employee share schemes)** a member of the Target Group amends the terms of an employee share scheme or any other plan or scheme operated for the benefit of directors or employees;
- (i) **(settle legal proceedings)** a member of the Target Group settles any legal proceeding, disputed claim, investigation, arbitration or other like proceedings

where the settlement amount payable exceeds ZAR2,500,000 (or the Australian dollar equivalent);

- (j) **(accounting policy)** a member of the Target Group changes any accounting policy applied by them to report their financial position other than any change in policy required by a change in accounting standards or law;
- (k) **(tax)** a member of the Target Group does anything that would result in a change to the Target Consolidated Tax Group; or
- (l) **(agreement)** a member of the Target Group agrees to do any of the matters set out above,

other than any Target Permitted Event.

**Target Representation and Warranty** means a representation and warranty set out in clause 12.1.

**Target Share** means each fully paid ordinary share in Target.

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

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

**Tax** means any tax, levy, charge, impost, fee, deduction, goods and services tax, compulsory loan or withholding, stamp, transaction or registration duty or similar charge that is assessed, levied, imposed or collected by any Government Agency and includes any interest, fine, penalty, charge, fee or any other amount imposed on, or in respect of any of the above.

**Terminating Party** has the meaning given in clause 11.1.

**Third Party** means a person other than the Bidder, any of the Bidder's related bodies corporate, the Target or a member of the Target Group, and that person's related bodies corporate and Associates.

**Timetable** means the timetable for the implementation of the Transaction as set out in Schedule 1, subject to any modifications as the parties may agree in writing.

**Transaction** means:

- (a) the acquisition of 100% of the Scheme Shares by Bidder through the implementation of the Scheme; and
- (b) all associated transactions and steps contemplated in the Transaction Documents, in each case in accordance with the terms of the applicable Transaction Documents.

**Transaction Document** means each of:

- (a) this deed;
- (b) the Scheme; and
- (c) the Deed Poll.

**Treasurer** means the Treasurer of the Commonwealth of Australia.

**Valid Election** has the meaning given to it in clause 3.2(c)(i).

## 1.2 Rules for interpreting this deed

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

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

## 1.3 Non-Business Days

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

## **2. Transaction structure**

### **2.1 Agreement to propose and implement Transaction**

- (a) Target agrees to propose and implement the Scheme on and subject to the terms and conditions of this deed, and must use all reasonable endeavours to do so in accordance with the Timetable.
- (b) Bidder agrees to assist Target to propose and implement the Scheme on and subject to the terms and conditions of this deed, and must use all reasonable endeavours to do so in accordance with the Timetable.

### **2.2 Outline of Scheme**

Subject to the terms and conditions of this deed and the Scheme (including the Conditions), on the Implementation Date:

- (a) all of the Scheme Shares held by Scheme Shareholders will be transferred to Bidder; and
- (b) each Scheme Shareholder will be entitled to receive, in accordance with their Valid Election, or deemed election under clause 3.3, the Scheme Consideration for each Scheme Share they held on the Record Date.

### **2.3 No amendments to Transaction without consent**

Target must not consent to:

- (a) any modification of;
- (b) any amendment to; or
- (c) the making or imposition by the Court of any condition in respect of,

the Scheme, without the prior written consent of Bidder (not to be unreasonably withheld or delayed).

## **3. Scheme Consideration**

### **3.1 Bidder undertakings in relation to Scheme Consideration**

Subject to the Scheme becoming Effective, Bidder agrees with Target that in consideration of the transfer to Bidder of each Scheme Share held by a Scheme Shareholder under the terms of the Scheme, Bidder will on the Implementation Date, in accordance with the terms of this deed, the Deed Poll and the Scheme:

- (a) accept that transfer; and
- (b) provide (or procure the provision) to each Scheme Shareholder (of) the applicable Scheme Consideration for each Scheme Share in accordance with the terms of this deed and the Scheme.

### **3.2 Election Mechanism**

- (a) Each Target Shareholder (other than Ineligible Foreign Shareholders) will be entitled to make an Election. All Elections take effect in accordance with the Scheme to the extent any Target Shareholder who makes an Election is a Scheme Shareholder.
- (b) Target must ensure that the Scheme Booklet is accompanied by an Election Form and the Bidder Prospectus.



- (c) The Election Form must include the relevant matters as may be required by applicable law and set out in the Scheme and include the following terms and conditions:
- (i) for an Election to be valid (**Valid Election**):
    - (A) the Target Shareholder must not be an Ineligible Foreign Shareholder;
    - (B) the Target Shareholder must complete and sign the Election Form in accordance with the terms and conditions set out in the Election Form;
    - (C) the Election Form must be received by the Target's share registry by the Election Date at the address specified by the Target on the Election Form; and
    - (D) if Scrip Consideration is elected, the Election must be for not less than 250 Bidder Shares;
  - (ii) an Election will apply to all of the Target Shares of the Target Shareholder included in the Election Form as at the Election Date;
  - (iii) once made, an Election may be varied, waived or revoked before the Election Date by notice in writing to the Target; and
  - (iv) in the manner considered appropriate by the Bidder and the Target (acting reasonably), a Target Shareholder who holds one or more parcels of Target Shares as trustee or nominee for, or otherwise on account of, another person, may make separate Elections in relation to each of those parcels of Target Shares (subject to providing to Bidder and the Target any substantiating information they reasonably require), and if it does so will be treated as a separate Target Shareholder in respect of each such parcel in respect of which a separate Election is made (and in respect of any balance of its holding), provided that if, at the Election Date, it holds fewer Target Shares than it held at the time it made the Election, then, unless it has at the time of any sale of Target Shares notified the Target whether the Target Shares sold relate to any such separate Election (and if so, which separate Election the Target Shares sold relate to), it will be treated as not having made a Valid Election in respect of any of its Target Shares (or will be treated in any other manner that Bidder and the Target agrees is fair to the Target Shareholder in all circumstances acting reasonably).
- (d) The Target must ensure that, to the extent reasonably practicable, persons who acquire Target Shares after the date of the dispatch of the Scheme Booklet and until the Election Date are sent an Election Form accompanied by the Bidder Prospectus upon those persons requesting one from the Target.
- (e) Ineligible Foreign Shareholder may not make an Election and any purported Election by such persons will be of no effect. Clause 3.5 will apply to any Target Shareholder who makes an Election but who is an Ineligible Foreign Shareholder.
- (f) If a Target Shareholder does not make a Valid Election or fails to include all of its Target Shares in one or more Election Forms, that Target Shareholder will receive Cash Consideration in respect of those Scheme Shares held by that Target Shareholder which are affected by either an invalid Election or by no Election made.

- (g) Target Shareholders who make a Valid Election agree to become members of the Bidder from the Implementation Date and become bound by the Bidder MOI pursuant to the Scheme.
- (h) Target Shareholders who make a Valid Election must provide, before the Election Date, the information and documents described in the Election Form as being required by Bidder and Target.
- (i) In order to facilitate the issue of the Scrip Consideration (if applicable), the Target must provide, or procure the provision, to Bidder, details of any Election made by a Target Shareholder, on the Business Day after the Election Date, including the name and address of each Target Shareholder who has made a Valid Election and the number of Bidder Shares that the Bidder must issue to that Target Shareholder to meet its obligations under the Scheme in accordance with that Target Shareholder's Election.

### **3.3 Cash Consideration**

- (a) If a Target Shareholder:
  - (i) is an Ineligible Foreign Shareholder;
  - (ii) does not make a Valid Election; or
  - (iii) fails to make a Valid Election for some of its Target Shares held on the Record Date,

that Target Shareholder will only be entitled to receive: in the case of (i) and (ii), the Cash Consideration for all the Scheme Shares held by them, and in the case of (iii), the Cash Consideration for such number of Scheme Shares held by them in respect of which no Valid Election has been received.
- (b) Where the calculation of the Scheme Consideration would result in a Scheme Shareholder becoming entitled to a fraction of a cent:
  - (i) where the entitlement is to half a cent more, the fractional entitlement will be rounded up to the nearest whole cent; and
  - (ii) where the entitlement is to less than half a cent, the fractional entitlement will be rounded down to the nearest whole cent.

### **3.4 Scrip Consideration**

If a Target Shareholder makes a Valid Election, the Target Shareholder will be entitled to receive the Scheme Consideration relevant to their Election. Bidder must ensure that:

- (a) the Scrip Consideration to be issued under the Scheme ranks equally in all respects with each existing share on issue in the Bidder of the same class and will have the rights set out in the Bidder MOI; and
- (b) the Scrip Consideration is duly and validly issued in accordance with all applicable laws, the Bidder MOI, fully paid and free from any Encumbrance (other than any Encumbrances which may apply to all Bidder Shares by virtue of a provision of the Bidder MOI).

### **3.5 Ineligible Foreign Shareholder**

Bidder has no obligation to provide, and will not provide, under the Scheme any Scrip Consideration to Ineligible Foreign Shareholders, regardless of any Election made by

those persons, but must pay the Cash Consideration to each Ineligible Foreign Shareholder for the Scheme Shares they hold in accordance with the Scheme.

**4. Conditions**

**4.1 Obligations not binding until Conditions satisfied**

The Scheme will not become effective and the obligations of the parties with respect to implementation of the Transaction (including the obligations of Bidder under clause 5.3(l)) do not become binding unless and until each Condition is satisfied or waived under clause 4.3.

**4.2 Conditions**

The Conditions are as follows:

Condition	Party entitled to benefit	Party responsible
<i>For the benefit of both parties</i>		
<p>1. <b>FIRB Approval</b></p> <p>Before 8.00 am on the Second Court Date, either:</p> <p>(a) Bidder receives written notice under the FATA, by or on behalf of the Treasurer (or the Treasurer's delegate) stating that, or to the effect that, the Commonwealth Government does not object to Bidder acquiring all of the Target Shares in accordance with this deed and the Scheme, either without conditions or subject only to:</p> <p>(i) the "standard tax conditions" set out in FIRB's Guidance Note 12 'Tax Conditions'; and</p> <p>(ii) such other conditions which are acceptable to Bidder (acting reasonably); or</p> <p>(b) following notice of the proposed Scheme and Bidder's proposed acquisition of all the Target Shares having been given by Bidder to the Treasurer under the FATA:</p> <p>(i) the Treasurer has ceased to be empowered to make any order under Part 3 of the FATA because the applicable time limit on making orders and decisions has expired; or</p> <p>(ii) if an interim order is made under Part 3 of the FATA to prohibit</p>	<p>Target and Bidder, but cannot be waived</p>	<p>Bidder</p>

Condition	Party entitled to benefit	Party responsible
<p>Bidder acquiring Target Shares in accordance with this deed and the Scheme, the subsequent period for making a final order under Part 3 of the FATA prohibiting Bidder so acquiring the Target Shares elapses without any final order being made,</p> <p>(FIRB Approval).</p>		
<p>2. <b>Competition Authorities Approval</b></p> <p>Before 8.00 am on the Second Court Date, approval is obtained from the Competition Authorities on such conditions which are acceptable to the Target and the Bidder (acting reasonably).</p>	Target and Bidder, but cannot be waived	Bidder and Target
<p>3. <b>Target Shareholder Scheme Approval</b></p> <p>Before 8.00 am on the Second Court Date, Target Shareholder Scheme Approval is obtained at the Scheme Meeting (or any adjournment or postponement of it) convened in accordance with the orders made under section 411(1) of the Corporations Act.</p>	Target and Bidder, but cannot be waived	Target
<p>4. <b>Court approval of Scheme</b></p> <p>Subject to clause 4.10, the Court makes orders under section 411(4)(b) of the Corporations Act approving the Scheme.</p>	Target and Bidder, but cannot be waived	Target
<p>5. <b>Government Agency Authorisations</b></p> <p>Prior to the Second Court Date, all Government Agency Authorisations have been obtained and there is not in effect:</p> <p>(a) any temporary, preliminary or final decision, order, injunction or decree issued by a court or other Government Agency (which includes SARB and Competition Authorities); or</p> <p>(b) any action or investigation by any Government Agency outside of Australia or South Africa,</p> <p>in consequence of, or in connection with, the Transaction which restrains, prohibits or impedes the implementation of the Transaction</p>	Target and Bidder, but cannot be waived	Target and Bidder

Condition		Party entitled to benefit	Party responsible
	(including the acquisition of any or all of the Scheme Shares by Bidder) or any part of it.		
6.	<p><b>Cash reserves</b></p> <p>Prior to the First Court Date, the Bidder producing evidence, to the sole satisfaction of the Target, that it has sufficient committed funding (whether from internal cash reserves, external funding arrangements, or a combination of both) to satisfy its obligation to pay the entire amount of the Cash Consideration (assuming no Elections are made for Scrip Consideration, excluding by APH and its Associates), in accordance with this deed, the Scheme, and the Deed Poll. Such funding may be subject only to conditions customary for transactions of this nature.</p>	Target and Bidder, but cannot be waived	Target and Bidder
7.	<p><b>Bidder MOI</b></p> <p>The Bidder adopting a new Memorandum of Incorporation on terms that are customary for a South African public unlisted company and are otherwise acceptable to both the Bidder and the Target (acting reasonably).</p>	Target and Bidder, but cannot be waived	Bidder
8.	<p><b>Target Options</b></p> <p>The Bidder and Target agreeing, prior to the First Court Date, on the treatment of the Target Options, which may include (but is not limited to) private agreements with each optionholder under which the optionholder agrees to cancel their Target Options in exchange for a cash payment, equivalent options over Bidder Shares or some other form of consideration agreed between Bidder and Target.</p>	Target and Bidder	Target and Bidder
<b><i>For the benefit of Bidder</i></b>			
9.	<p><b>No Target Material Adverse Effect</b></p> <p>No Target Material Adverse Effect occurs between the date of this deed and 8.00 am on the Second Court Date.</p>	Bidder	Target
10.	<p><b>No Target Prescribed Event</b></p> <p>No Target Prescribed Event occurs between the date of this deed and 8.00 am on the Second Court Date.</p>	Bidder	Target
11.	<p><b>No Target Regulated Event</b></p>	Bidder	Target

Condition	Party entitled to benefit	Party responsible
No Target Regulated Event occurs between the date of this deed and 8.00 am on the Second Court Date.		
<b>12. Target Representations and Warranties</b> Each Target Representation and Warranty is true and correct in all material respects as at the time it is given or made.	Bidder	Target
<b>13. Legal Structure</b> The boards of the Target Group, to the extent required, have approved a legal restructuring, proposed by the Bidder and to be implemented post completion of the Scheme.	Bidder	Bidder and Target
<b>For the benefit of Target</b>		
<b>14. No Bidder Material Adverse Effect</b> No Bidder Material Adverse Effect occurs between the date of this deed and 8.00 am on the Second Court Date.	Target	Bidder
<b>15. No Bidder Prescribed Event</b> No Bidder Prescribed Event occurs between the date of this deed and 8.00 am on the Second Court Date.	Target	Bidder
<b>16. Independent Expert's Report</b> The Independent Expert issues the Independent Expert's Report, which concludes that the Scheme is in the best interests of Target Shareholders and the Independent Expert does not withdraw or qualify its conclusion in any written update to its Independent Expert's Report or withdraw the Independent Expert's Report prior to 8.00 am on the Second Court Date.	Target	Target
<b>17. Bidder Representations and Warranties</b> Each Bidder Representation and Warranty is true and correct in all material respects as at the time it is given or made.	Target	Bidder

#### **4.3 Waiver of Conditions**

- (a) To avoid any doubt, the Conditions that the table in clause 4.2 specifies "cannot be waived", cannot be waived.
- (b) Subject to clause 4.3(a), if a Condition has been included for the benefit of:
  - (i) one party only, only that party may (in its sole and absolute discretion), waive the breach or non-fulfilment of the Condition; or
  - (ii) more than one party, the breach or non-fulfilment of the Condition may be waived only by the written consent of all those parties (in their sole and absolute discretion).
- (c) The breach or non-fulfilment of a Condition may only be waived in writing.
- (d) If a party waives the breach or non-fulfilment of a Condition, that waiver precludes that party from suing the other party for any breach of this deed arising as a result of the breach or non-fulfilment of that Condition or arising from the same event which gave rise to the breach or non-fulfilment of that Condition.
- (e) Waiver of a breach or non-fulfilment in respect of one Condition does not constitute:
  - (i) a waiver of breach or non-fulfilment of any other Condition resulting from the same event; or
  - (ii) a waiver of breach or non-fulfilment of that Condition resulting from any other event.

#### **4.4 Satisfaction of Conditions**

Each party must:

- (a) use reasonable endeavours (other than waiver) to ensure and procure that each Condition for which that party is responsible (according to the table in clause 4.2, and whether solely or jointly):
  - (i) is satisfied as soon as practicable after the date of this deed; and
  - (ii) continues to be satisfied at all times until the last time it is to be satisfied (as the case may require);
- (b) where it is reasonable and lawful for it to do so, provide any information or assistance reasonably requested by the other party to satisfy a Condition for which the other party is solely responsible for satisfying; and
- (c) not take any action or refrain from taking any action (except as required by law) designed to prevent the Conditions being satisfied, without the prior written consent of the other party.

#### **4.5 Regulatory Approvals**

Without limiting clause 4.4(a), each party must:

- (a) promptly make all necessary applications and filings (and, if a fee or tax is payable under a law in connection with an application or filing, pay the fee or tax) to obtain each Regulatory Approval as soon as practicable after the date of this deed and give the other party a copy of each such application and filing and evidence of the submission of such applications and filings having been made;

- (b) take all the steps which it is responsible for, or which are otherwise reasonably necessary on its part in order to obtain the Regulatory Approvals;
- (c) consult with the other party in relation to any proposed communications with a Government Agency relating to any application for a Regulatory Approval, including by providing the other party with drafts of any written submissions and other correspondence (including the Competition Filing) to be given to a Government Agency and considering in good faith any reasonable comments of the other party on such drafts;
- (d) promptly provide the other party with a copy of all material written communications received from any Government Agency or other person in relation to an application for a Regulatory Approval;
- (e) respond to all requests for information in respect of the applications for Regulatory Approvals at the earliest practicable time, to the extent such information is within its possession or control;
- (f) provide the other party with all information and assistance reasonably requested by such other party in connection with the applications for Regulatory Approvals; and
- (g) so far as it is able, allow the other party and its authorised Representatives the opportunity to be present and make submissions at any meetings with any Government Agency relating to the Regulatory Approvals.

#### **4.6 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;
- (b) promptly notify the other party in writing if it becomes aware that any Condition has been satisfied, in which case the notifying party must also provide reasonable evidence to the other party that the Condition has been satisfied;
- (c) promptly notify the other party in writing of any circumstances of which it becomes aware which may result in any of the Conditions not being satisfied or becoming incapable of satisfaction in accordance with its terms; and
- (d) upon receipt of a notice given under clause 4.6(c) promptly and without delay and in any event not later than 5.00 pm the day before the Second Court Date, give notice to the other party stating whether or not the breach or non-fulfilment of any specified Condition is waived.

#### **4.7 Parties to provide certificate to Court**

- (a) Before 8.00 am on the Second Court Date, each party must provide:
  - (i) to the other party and to the Court a certificate signed by a duly authorised representative (or such other evidence as the Court requests), confirming whether or not the Conditions set out in clause 4.2 included for its benefit (whether solely or jointly), other than the Condition in item 4 of clause 4.2, have been satisfied or waived in accordance with this deed; and



- (ii) to the other party a certificate signed by a duly authorised representative stating whether or not:
  - (A) it has materially breached any of its obligations under this deed; and
  - (B) each of the representations and warranties given by it under clause 12 is true and accurate in all material respects as at the time(s) it is given or made under clause 12.
- (b) A certificate provided under clause 4.7(a) constitutes conclusive evidence that the relevant Conditions have been fulfilled, waived or taken to be waived.

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

If:

- (a) **(Condition not satisfied or waived)** any Condition is not satisfied or (where capable of waiver) waived by the time or date specified in this deed for its satisfaction;
- (b) **(Condition not capable of being satisfied)** for any reason, a Condition is not capable of being satisfied, or a circumstance occurs which is reasonably likely to result in a Condition not being capable of being satisfied, and the Condition has not been waived in accordance with clause 4.3 or cannot be waived; or
- (c) **(Scheme not Effective)** the Scheme does not become Effective by 11.59 pm on the End Date,

then the parties must consult in good faith to determine whether to:

- (d) proceed by way of alternative means or method so as to achieve a commercial outcome that is substantially the same as the Transaction;
- (e) extend the relevant time or date for satisfaction of a particular Condition or Conditions;
- (f) change the date of the application to be made to the Court for orders under section 411(4)(b) of the Corporations Act approving the Scheme or adjourning that application (as applicable) to another date agreed by the parties;
- (g) extend the End Date; or
- (h) do any combination of the matters listed in clauses 4.8(d) to 4.8(g) (inclusive).

**4.9 Failure to agree**

If the parties are unable to reach agreement under clause 4.8 within 5 Business Days after the delivery of the notice under that clause (or any shorter period ending at 5.00 pm on the day before the Second Court Date):

- (a) subject to clause 4.9(b), either party may terminate this deed (and that termination will be in accordance with clause 11.1(b)); or
- (b) if a Condition may be waived and exists for the benefit of one party only, that party only may waive that Condition or terminate this deed (and that termination will be in accordance with clause 11.1(b)),

in each case before 8.00 am on the Second Court Date. A party will not be entitled to terminate this deed under this clause 4.9 if the relevant Condition has not been satisfied

or agreement cannot be reached as a result of a breach of this deed by that party or a deliberate act or omission of that party.

#### **4.10 Court approval**

If the Court's approval of the Scheme in accordance with section 411(4) of the Corporations Act would impose any terms or conditions other than those set out in the Scheme, then each such term or condition must be approved in writing by Target and Bidder (both acting reasonably) prior to the Court granting the final orders and, if not so agreed, the Condition in item 4 of clause 4.2 will not be satisfied.

#### **4.11 Scheme voted down**

If Target Shareholder Scheme Approval is not obtained at the Scheme Meeting by reason only of the non-satisfaction of the Headcount Test and it appears to either party (acting reasonably) that there are reasonable grounds on which an application could be made to the Court to exercise its discretion under section 411(4)(a)(ii)(A) of the Corporations Act to disregard the Headcount Test (**Order**), that party may give notice to the other within three Business Days after the Scheme Meeting setting out those grounds and if such notice is given, Target must promptly after such notice is given apply to Court for the Order by making such submissions to the Court and filing such evidence as counsel engaged by Target to represent it in Court proceedings related to the Scheme, in consultation with Bidder, considers is reasonably required to persuade the Court to exercise its discretion.

### **5. Implementation obligations**

#### **5.1 Timetable**

- (a) Subject to clause 5.1(b), without limiting the parties' obligations under clauses 5.2 to 5.4 (inclusive), the parties must each use all reasonable endeavours to commit necessary resources (including management and the resources of external advisers) and ensure that their respective officers and advisers work in good faith and in a timely and cooperative fashion with the other parties (including by attending meetings and providing information), to produce the Scheme Booklet (including the Independent Expert Report), complete material required for the Competition Filing and implement the Transaction as soon as reasonably practicable and in accordance with the Timetable, subject to the terms and conditions of this deed.
- (b) Failure by a party to meet any timeframe or deadline set out in the Timetable will not constitute a breach of clause 5.1(a) to the extent that such failure is due to circumstances and matters outside the party's control.
- (c) Each party must keep the other informed about their progress against the Timetable and notify each other if it believes that any of the dates in the Timetable are unachievable.
- (d) To the extent that any of the dates or timeframes set out in the Timetable become unachievable due to matters outside of a party's control, the parties will consult in good faith to agree any necessary extension to ensure such matters are completed within the shortest practicable timeframe.

## 5.2 Target obligations

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

- (a) **(Announcement)** in accordance with clause 8.4, make an Announcement, in a form agreed between Bidder and Target (on the basis of written statements made to the Target by each of its directors) that:
- (i) the Independent Target Board unanimously recommends that Target Shareholders vote in favour of the Scheme at the Scheme Meeting; and
  - (ii) each director of Target who holds or controls Target Shares intends to vote the Target Shares that he or she directly or indirectly owns or controls in favour of the Scheme at the Scheme Meeting,
- in each case:
- (iii) in the absence of a Superior Proposal; and
  - (iv) subject to the Independent Expert concluding (and continuing to conclude at all times prior to the Second Court Date) that the Scheme is in the best interests of Target Shareholders;
- (b) **(prepare Scheme Booklet)** as soon as practicable after the date of this deed, commence preparation of the Scheme Booklet and, subject to Bidder complying with its obligations under clauses 5.3(a) and 5.3(b) in respect of the Bidder Material, ensure that the Scheme Booklet includes all information required by applicable laws, ASIC Regulatory Guides, Takeovers Panel policy and guidance notes and, unless there has been a change of recommendation permitted by clause 6, include in the Scheme Booklet a statement (on the basis of written statements made to it by each of its directors) that:
- (i) the Independent Target Board unanimously recommends that Target Shareholders vote in favour of the Scheme at the Scheme Meeting; and
  - (ii) each director of Target who holds or controls Target Shares intends to vote the Target Shares that he or she directly or indirectly owns or controls in favour of the Scheme at the Scheme Meeting,
- in each case:
- (iii) in the absence of a Superior Proposal; and
  - (iv) subject to the Independent Expert concluding (and continuing to conclude at all times prior to the Second Court Date) that the Scheme is in the best interests of Target Shareholders;
- (c) **(court documents)** prepare all documents which Target determines (acting reasonably) to be necessary for the Court proceedings relating to the Scheme;
- (d) **(Independent Expert's Report)** promptly appoint the Independent Expert and commission the preparation of the Independent Expert's Report, and provide all assistance and information reasonably requested by the Independent Expert to enable it to prepare the Independent Expert's Report;

- (e) **(consult with Bidder)** in a timely manner consult with Bidder as to the form and content of all material documents required for the purposes of the Scheme, including:
- (i) the Scheme Booklet, including:
    - (A) providing Bidder with drafts of the Scheme Booklet and Independent Expert's Report for the purpose of providing Bidder a reasonable opportunity to review and make comments on drafts of the Scheme Booklet (accepting that any review of the Independent Expert's Report is limited to review for factual accuracy including of those parts that include information relating to Bidder);
    - (B) taking into account Bidder's reasonable comments on drafts of the Scheme Booklet in good faith, and incorporating the Bidder Material;
    - (C) providing to Bidder a revised draft of the Scheme Booklet within a reasonable time before the ASIC Review Draft is finalised and to enable Bidder to review the ASIC Review Draft before the date of its submission; and
    - (D) obtaining Bidder's written consent to the inclusion of the Bidder Material (including in respect of the form and context in which the Bidder Material appears in the Scheme Booklet) prior to lodgement of the Scheme Booklet with ASIC; and
  - (ii) the documents required:
    - (A) for the Court proceedings relating to the Scheme, including providing drafts of each affidavit or other document to be provided by Target (or its Representatives) that the Target (acting reasonably) deems necessary for the Court proceedings in relation to the Scheme to Bidder for the purpose of enabling Bidder to review and comment on those drafts; and
    - (B) in connection with the Scheme Meeting (including any notices of meeting or explanatory statements),

and taking into account in good faith Bidder's reasonable comments on such documents;
- (f) **(lodgement of Scheme Booklet with ASIC)** as soon as practicable, and no later than 14 days before the First Court Date, provide the ASIC Review Draft to ASIC for its review and approval for the purposes of section 411(2) of the Corporations Act and provide to the Bidder a copy of the ASIC Review Draft provided to ASIC as soon as practicable thereafter;
- (g) **(ASIC review of Scheme Booklet)** keep the Bidder reasonably informed of any matters raised by ASIC in relation to the Scheme Booklet, the Scheme or the Transaction generally and consult with, and consider in good faith any reasonable comments made by, the Bidder in relation to such matters raised by ASIC;
- (h) **(ASIC no objection)** apply to ASIC for the production of a statement under section 411(17)(b) of the Corporations Act that ASIC has no objection to the Scheme;
- (i) **(approve the Scheme Booklet)** as soon as reasonably practicable after ASIC has confirmed that it has no objection to the Scheme Booklet, or if ASIC raises any

objection to the Scheme Booklet, after that objection has been resolved, procure that a meeting of the Target Board is convened to approve the Scheme Booklet for dispatch to Target Shareholders, subject to the making of an order by the Court under section 411(1) of the Corporations Act;

- (j) **(representation)** procure that it is represented by counsel at the Court hearings convened for the purposes of the Scheme;
- (k) **(first Court hearing)** apply to the Court under section 411(1) of the Corporations Act for an order directing Target to convene the Scheme Meeting;
- (l) **(register Scheme Booklet)** if the Court directs Target to convene the Scheme Meeting, request ASIC to register the Scheme Booklet under section 412(6) of the Corporations Act;
- (m) **(dispatch Scheme Booklet)** as expeditiously as practicable following an order made by the Court under section 411(1) of the Corporations Act, dispatch the Scheme Booklet to Target Shareholders and all other persons entitled to receive notice of the Scheme Meeting;
- (n) **(convene Scheme Meeting)** convene the Scheme Meeting in accordance with any order made by the Court under section 411(1) of the Corporations Act;
- (o) **(supplementary disclosure)** if, after the dispatch of the Scheme Booklet, Target becomes aware:
  - (i) that information included in the Scheme Booklet is or has become misleading or deceptive in any material respect (whether by omission or otherwise); or
  - (ii) of information that is required to be disclosed to Target Shareholders under any applicable law, relevant ASIC Regulatory Guides, Takeovers Panel policy or guidance notes but was not included in the Scheme Booklet,

promptly consult with Bidder in good faith as to the form of any supplementary disclosure to Scheme Shareholders, following which:

- (iii) provide Bidder with drafts of any documents that it proposes to issue to Target Shareholders under this clause 5.2(o) and (acting reasonably and in good faith) take into account, for the purpose of amending those drafts, any comments received in a timely manner from Bidder or its Representatives on those drafts; and
  - (iv) make any disclosure that Target considers necessary to ensure that the Scheme Booklet is not misleading or deceptive in any material respect (including because of any material omission) and otherwise complies with all applicable laws, relevant ASIC Regulatory Guides, Takeovers Panel policy or guidance notes;
- (p) **(promote Transaction)** participate in efforts reasonably requested by Bidder to promote the merits of the Transaction and the Scheme Consideration, including, where requested in writing by Bidder (acting reasonably), meeting with key Target Shareholders, subject in each case to:
- (i) applicable law and ASIC policy;

(ii) the Independent Expert not having concluded in the Independent Expert's Report that the Scheme is not in the best interests of Target Shareholders; and

(iii) there being no Superior Proposal,

except where all or a majority of the Independent Target Board have withdrawn, adversely revised, adversely modified or adversely qualified their recommendation of the Scheme as permitted under clause 6;

(q) **(proxy information)** keep Bidder informed on the status of proxy forms received by Target's share registry for the Scheme Meeting:

(i) over the period commencing five Business Days before the Scheme Meeting and ending on the deadline for receipt of proxy forms; and

(ii) on the Business Day following the deadline for receipt of proxy forms;

(r) **(Election Forms)** keep Bidder informed of all Election Forms received by Target's share registry that have been received on a weekly basis up to the Election Date and to the extent practicable, acting reasonably, each day in the 7 days before the Election Date;

(s) **(second Court hearing)** if Target Shareholder Scheme Approval is obtained under section 411(4)(a)(ii) of the Corporations Act (or, where clause 4.11 applies, the majority required under section 411(4)(a)(ii)(B) of the Corporations Act) and all the Conditions other than the Condition in item 4 of clause 4.2 are satisfied or waived in accordance with clause 3, apply (and, to the extent necessary, re-apply) to the Court for orders approving the Scheme under section 411(4) of the Corporations Act;

(t) **(certificates)** before 8.00 am on the Second Court Date, provide the Court and Bidder with certificates in accordance with clause 4.7;

(u) **(lodge copy of Court order)** if the Court approves the Scheme under section 411(4) of the Corporations Act, the Target must lodge an office copy of the Court order with ASIC in accordance with section 411(10) of the Corporations Act by no later than 2.00 pm on the Business Day after the date on which those orders are made or entered (whichever is later) (or any other later date agreed with the Bidder in writing);

(v) **(implementation of Scheme)** if the Scheme is approved by the Court:

(i) close the Register as at the Record Date to determine the identity of the Scheme Shareholders and their entitlements to the Scheme Consideration, in accordance with the Scheme, and provide such information to Bidder;

(ii) subject to the Bidder having provided the Scheme Consideration in accordance with the Scheme and Deed Poll, execute proper instruments of transfer and effect and register the transfer of the Scheme Shares to Bidder on the Implementation Date;

(w) **(other things)** do all other things contemplated by, or necessary or desirable to lawfully give effect to, the Scheme and the orders of the Court approving the Scheme.

### 5.3 Bidder's obligations

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

- (a) **(Bidder Material)**
  - (i) as expeditiously as practicable and in reasonable time to allow Target to prepare the Scheme Booklet in accordance with its obligations under this deed, prepare and provide to Target the Bidder Material for inclusion in the Scheme Booklet in accordance with all applicable laws, relevant ASIC Regulatory Guides (including ASIC Regulatory Guide 60), Takeovers Panel policy and guidance notes including all the information that would be required under section 636 of the Corporations Act to be included in a bidder's statement if the Bidder was offering the Scheme Consideration as consideration under a takeover bid;
  - (ii) must provide to the Target such assistance as the Target may reasonably require in order to adapt the Bidder Material for inclusion in the Scheme Booklet;
  - (iii) provide Target with drafts of the Bidder Material in a timely manner and, acting reasonably and in good faith, consider any reasonable comments provided by or on behalf of Target; and
  - (iv) provide Target with the final form of the Bidder Material for inclusion in the Scheme Booklet;
- (b) **(keep Target informed regarding Bidder Material)**
  - (i) promptly inform Target in writing if it becomes aware that the Bidder Material (or any part of it) is or has become misleading or deceptive in any material respect (including because of any material omission) or otherwise does not comply with all applicable laws, relevant ASIC Regulatory Guides (including ASIC Regulatory Guide 60), Takeovers Panel policy and guidance notes; and
  - (ii) promptly give to Target any further information reasonably required by Target before the date of the Scheme Meeting to ensure that the Scheme Booklet is not, having regard to applicable disclosure requirements, false, misleading or deceptive in any material respect (including because of any material omission) and complies with all applicable laws, relevant ASIC Regulatory Guides (including ASIC Regulatory Guide 60), Takeovers Panel policy and guidance notes;
- (c) **(confirmation of Bidder Material)** subject to Target complying with clause 5.2(e), promptly after written notice from Target, provide written consent to Target to the inclusion of the Bidder Material in the Scheme Booklet (or any supplementary disclosure to Target Shareholders in respect of the Transaction), in the form and context in which the Bidder Material appears prior to lodgement of the Scheme Booklet with ASIC;
- (d) **(Independent Expert's Report)** provide all assistance and information reasonably requested by the Independent Expert in connection with the preparation of the Independent Expert's Report;

- (e) **(review of Scheme Booklet)** as soon as reasonably practicable after receiving them, review the drafts of the Scheme Booklet prepared by Target and provide comments on those drafts (acting reasonably and in good faith);
- (f) **(liaison with ASIC)** provide reasonable assistance to Target to assist Target to resolve any matter raised by ASIC regarding the Scheme Booklet (or any supplementary disclosure to Target Shareholders in respect of the Transaction) or the Transaction;
- (g) **(approval of Scheme Booklet)** as soon as reasonably practicable after the conclusion of the review by ASIC of the Scheme Booklet, procure that a meeting of the Bidder Board is held to consider approving the Bidder Material contained in the Scheme Booklet as being in a form appropriate for dispatch to Target Shareholders, subject to the making of an order by the Court under section 411(1) of the Corporations Act;
- (h) **(representation)** procure that it is represented by counsel at the Court hearings convened for the purposes of subsection 411(1) and paragraph 411(4)(b) of the Corporations Act;
- (i) **(Court documents)** as soon as reasonably practicable after receiving them, review the draft Court documents prepared by Target and provide comments on those drafts (acting reasonably and in good faith);
- (j) **(Deed Poll)** by no later than the Business Day prior to the First Court Date, duly execute and deliver to Target the Deed Poll;
- (k) **(certificates)** before 8.00 am on the Second Court Date, provide the Court and Target with certificates in accordance with clause 4.7;
- (l) **(Scheme Consideration)** if the Scheme becomes Effective, provide or procure the provision of the Scheme Consideration on the Implementation Date in accordance with the Scheme and the Deed Poll. The Bidder warrants that it has secured a binding funding commitment from APH to enable it to satisfy its obligations in respect of all Target Shareholders who elect to receive the Cash Consideration, which commitment will be fulfilled through either (i) APH subscribing for new Bidder Shares at an issue price of ZAR30.00 per share on the basis that the number of new Bidder Shares that will be issued to APH will be as provided for in the Subscription Agreement; or (ii) such other funding mechanism(s) (to be provided or underwritten by APH) as the parties may agree before the Second Court Date as would (a) provide or procure the provision of the Scheme Consideration on the Implementation Date; and (b) facilitate a legal restructuring of the Target Group, in accordance with professional advice procured by Target, which restructuring is to be implemented post completion of the Scheme;
- (m) **(share transfer)** if the Scheme becomes Effective:
  - (i) accept a transfer of the Scheme Shares as contemplated by clause 3.1(a); and
  - (ii) execute instruments of transfer in respect of the Scheme Shares;
- (n) **(Target Material)** during the period until the Target Material becomes publicly available, only use the Target Material with the prior written consent of the Target (such consent not to be unreasonably withheld or delayed);



- (o) **(costs)** all joint costs incurred by the Bidder in relation to the Scheme will be paid directly by APH (or its elected nominee) and the Bidder will create an interest-free loan account in favour of APH for all amounts paid. These costs will include (but are not limited to) regulatory fees paid to any relevant Competition Authority or other regulatory body and legal fees paid in relation to the Scheme (either in South Africa, Australia or any other relevant jurisdiction).
- (p) **(compliance with laws)** do everything reasonably within its power to ensure that all transactions contemplated by this deed are effected in accordance with all applicable laws and regulations; and
- (q) **(other things)** do all other things contemplated by, or necessary or desirable to lawfully give effect to, the Scheme and the orders of the Court approving the Scheme.

#### 5.4 Board changes

- (a) With effect from the Implementation Date, the Bidder will procure that:
  - (i) all existing members of the Bidder Board except Charles Pettit will resign from their office as a director by providing to the Bidder Board their resignation in writing (such resignation to include a statement to the effect that the outgoing director has no claim outstanding against the Bidder); and
  - (ii) the present directors of the Independent Target Board will be appointed to the Bidder Board as follows:
    - (A) Sebastiano Randazzo as Non-Executive Chairman;
    - (B) James Smith as Managing Director;
    - (C) Darren Naylor as Executive Director;
    - (D) Val Coetzee as Executive Director; and
    - (E) Lindiwe Mthimunya as Non-Executive Director.
- (b) The obligations of the Bidder in clause 5.4(a) are subject to and conditional on:
  - (i) the Scheme Consideration having been provided in full to the Scheme Shareholders in accordance with the Scheme; and
  - (ii) the receipt by Bidder of signed consents to act as directors of the Bidder from those persons set out in clause 5.4(a)(ii), including, in respect of each such person, any proof of identification as may be required by the CIPC in order to update Bidder's statutory records maintained by the CIPC.

#### 5.5 Scheme Booklet content and responsibility statements

- (a) Bidder and Target agree the Scheme Booklet must include a responsibility statement in a form to be agreed by the parties which will contain words to the effect that:
  - (i) Target has provided, and is responsible for, the Target Material, and that to the extent permitted by law, Bidder does not assume any responsibility or liability for the accuracy or completeness of that information, but Target does take responsibility and liability for that information;
  - (ii) Bidder has provided, and is responsible for, the Bidder Material, and that to the extent permitted by law, Target does not assume any responsibility or

liability for the accuracy or completeness of that information, but Bidder does take responsibility and liability for that information; and

- (iii) the Independent Expert has provided and is responsible for the Independent Expert's Report and, to the maximum extent permitted by law, neither the Target nor the Bidder assume any responsibility for the accuracy or completeness of the Independent Expert's Report.
- (b) If Bidder and Target are unable to agree on the form and content of the Scheme Booklet (or any supplementary disclosure to Target Shareholders in respect of the Transaction), Bidder and Target shall consult in good faith to try to settle the agreed form of the Scheme Booklet or supplementary disclosure. If complete agreement is not reached after a reasonable period of consultation (and in any event, five Business Days), then:
- (i) if the disagreement relates to the form or content of the Bidder Material (or any information solely derived from, or prepared solely in reliance on, the Bidder Material or otherwise relating to the Bidder's intentions regarding the Target or arrangements that will operate after implementation of the Scheme), Bidder will, acting reasonably and in good faith, make the final determination as to the form and content of that information in the Scheme Booklet; and
  - (ii) in any other case, Target will, acting reasonably and in good faith, decide the final form of that information in the Scheme Booklet.

#### **5.6 Verification**

- (a) Target must undertake appropriate verification processes in relation to the Target Material so as to ensure that such information is not misleading or deceptive in any material respect (whether by omission or otherwise).
- (b) Bidder must undertake appropriate verification processes in relation to the Bidder Material included in the Scheme Booklet so as to ensure that such information is not misleading or deceptive in any material respect (whether by omission or otherwise).

#### **5.7 Conduct of Court proceedings**

- (a) Each of Target and Bidder are entitled to separate representation at all Court proceedings relating to the Scheme.
- (b) Neither party has any authority, right or power to give any undertaking to the Court for or on behalf of the other party without that other party's written consent. However, each party must give any undertakings to the Court that are reasonably required in order to obtain Court approval of the Scheme under section 411(4)(b) of the Corporations Act as contemplated by this deed.
- (c) Each party must defend, or procure the defence of, any lawsuit or other legal proceeding brought against it (or any of its subsidiaries) challenging this deed or completion of the Scheme.

#### **6. Independent Target Board recommendations and voting**

Target must use reasonable endeavours to procure that members of the Independent Target Board maintain the recommendation referred to in clause 5.2(a)(i) and the intention referred to in clause 5.2(a)(ii) until the Implementation Date and repeat this

recommendation and voting intention statement in all public announcements in connection with the Transaction, unless:

- (a) the Independent Target Board, acting in good faith and after consulting with the Target's legal advisers, determines that maintaining the recommendation referred to in clause 5.2(a)(i) would be likely to breach the directors' fiduciary or statutory obligations;
- (b) the Independent Target Board determines that a Competing Proposal received by Target is a Superior Proposal or announces the receipt of a Superior Proposal;
- (c) the Independent Expert concludes (either in its initial Independent Expert's Report or in any written update, revision, amendment, addendum or supplementary reports to it) that the Scheme is not in the best interests of Target Shareholders, or the Independent Expert withdraws its Independent Expert's Report prior to 5.00 pm on the day before the Second Court Date; or
- (d) in the case of the recommendation referred to in clause 5.2(a)(i), the Court, ASIC or the Takeovers Panel orders, requires, requests or otherwise indicates it would be desirable for a director to withdraw, or abstain from making, their recommendation,

provided in each case, Target has complied with its obligations under clause 9. For the purposes of this deed, if a Competing Proposal is publicly announced in respect of Target or provided to the Target Board, the release by Target of one or more Announcements to the effect that Target Shareholders should take no action while the Target Board considers its response will not (in and of itself) be regarded as a failure of the Independent Target Board to maintain the recommendation referred to in clause 5.2(a)(i) and the voting intention referred to in clause 5.2(a)(ii).

## **7. Pre-implementation obligations**

### **7.1 Conduct of business**

Subject to clause 7.2, during the Exclusivity Period, Target must (and must procure that each member of the Target Group):

- (a) conduct its business and operations in the ordinary course and in substantially the same manner (subject to any applicable law) as have been conducted in the 12 months before the date of this deed; and
- (b) use reasonable endeavours to:
  - (i) preserve its relationship with its existing financiers, suppliers, customers, Government Agencies and others having business dealings with it;
  - (ii) retain the services of its key officers and employees;
  - (iii) comply in all material respects with laws and Authorisations applicable to it;
  - (iv) maintain and preserve the value of its business and assets consistent with past practices, including maintaining at least its current level of insurance; and
  - (v) ensure that no Target Prescribed Event or Target Regulated Event occurs and there is no occurrence within any member of the Target Group's reasonable control that would have a Target Material Adverse Effect.

## **7.2 Exceptions**

Clause 7.1 does not apply to any action which:

- (a) is a Target Permitted Event; or
- (b) is reasonably and prudently required to respond to any epidemic, pandemic, hurricane, earthquake, flood, weather conditions, calamity or other natural disaster, act of God or other force majeure event (or any worsening of or recovery from any of the foregoing), provided that, to the extent reasonably practicable, Target has consulted with Bidder in good faith in respect of the proposal to take such action or not take such action (as applicable) and considers any reasonable comments or requests of Bidder in relation to such proposal in good faith.

## **7.3 Access to information**

- (a) Subject to clause 7.3(b), during the Exclusivity Period, the Target Group will make available to the Bidder, its officers and advisers, premises and documents, records and other information, as reasonably requested by the Bidder and afford the Bidder reasonable co-operation for the purposes of:
  - (i) any Regulatory Approvals;
  - (ii) Bidder developing plans for transition of the business of the Target Group to Bidder following implementation of the Transaction;
  - (iii) keeping Bidder informed of any material developments relating to the Target Group's business, including matters raised by any Government Agency and the matters referred to in clause 7.1 and providing Bidder with regular updates in relation to actual performance of the business expenditures and comparisons of such performance and expenditures to budgeted figures; and
  - (iv) any other purpose which is agreed in writing between the parties.
- (b) Target and Bidder acknowledge and agree that:
  - (i) nothing in this clause 7.3 or elsewhere in this deed:
    - (A) requires Target to act at the direction or otherwise under the control of Bidder;
    - (B) gives Bidder any rights as to the decision making of Target; or
    - (C) requires Target to provide information concerning its directors' and management's consideration of the Transaction; and
  - (ii) information provided shall be subject to clause 8 and all applicable laws or requirements of any Government Agency.

## **8. Confidentiality and announcement**

### **8.1 Information provided subject to confidentiality obligation**

- (a) A party may not disclose any Confidential Information to any person except:
  - (i) with prior written consent of the other party;
  - (ii) on a confidential basis to its representatives, or to an existing or proposed debt or equity financier (or its advisers), and to any of their respective directors, employees and professional advisers who have a need to know

(and only to the extent that each has a need to know) and provided they are aware the Confidential Information must be kept confidential on the same terms as required of the receiving party; or

- (iii) if it is required to do so by an applicable law or regulation;
- (b) a party who has received Confidential Information from another under this deed must not use it except for the purpose of exercising its rights or performing its obligations under this deed.

## **8.2 Disclosure by recipient of Confidential information**

Any party disclosing information under clause 8.1 must use all reasonable endeavours to ensure that each recipient of the information complies in all respects with the disclosing party's obligations under this clause as if the recipient were a party to this deed.

## **8.3 Use of the Confidential Information**

- (a) The receiving party may use the Confidential Information only for the Scheme as set out in this deed (**Purpose**). The receiving party shall always maintain the Confidential Information in confidence, keep it secret and not divulge or disclose it, or allow or suffer it to be disclosed or divulged except as may be expressly permitted in this deed or by the disclosing party. The receiving party shall ensure that disclosure of any part of the Confidential Information is restricted to those of its affiliates, group members, employees and/or directors having the need to know the same for the Purpose and that these affiliates, group members, employees and/or directors adhere to the same obligations of confidentiality in this deed.
- (b) The receiving party may only copy the Confidential Information to such extent as may be necessary for the Purpose.
- (c) The receiving party may only make such notes or memoranda relating to the Confidential Information as are necessary for the Purpose and such notes and memoranda shall be considered to be a part of the Confidential Information.
- (d) All Confidential Information in any tangible form (including, but not limited to, any document, physical specimen or apparatus constituting or containing Confidential Information and any copies thereof) and any documents or records containing or reflecting Confidential Information shall be returned upon the request of the producing party, except for information to be kept for regulatory purposes. In case a physical handover should be too difficult or impossible the other party shall produce a document stating that the party's internal documents or records containing or reflecting the other party's Confidential Information are destroyed.

## **8.4 Announcement of execution**

Immediately following execution of this deed (or as otherwise agreed by Target and Bidder), Target must make an Announcement in the form agreed between Target and Bidder.

## **8.5 No Announcement**

Neither the Target nor the Bidder may make an Announcement relating to the Transaction or otherwise relating to the subject matter of this deed or the Transaction unless the Announcement or publication:

- (a) is required by this deed;
- (b) has the prior approval of the other party; or

- (c) is required to be made by any applicable law.

## **8.6 Consultation on Announcements**

- (a) If Target or Bidder is permitted to make an Announcement under clause 8.5, it may do so only after:
  - (i) giving the other party such written notice as is reasonably practicable in the circumstances of its intention to make the Announcement;
  - (ii) consulting with the other party as to the form and content of that Announcement (and after having taken all reasonable steps to restrict disclosure of information to which confidentiality obligations apply, to the greatest extent possible); and
  - (iii) providing the other party with a draft of the Announcement and an opportunity to comment on the contents of the draft Announcement and taking into account any reasonable comments made by the other party.
- (b) For the avoidance of doubt, nothing in this clause 8.6 requires the giving of prior notice or the taking of any action if doing so would lead to a party breaching an applicable law.

## **8.7 Excluded Announcements**

Clauses 8.5 and 8.6 do not apply to any Announcement relating to:

- (a) a Competing Proposal; or
- (b) the termination of this deed in accordance with its terms.

## **9. Exclusivity**

### **9.1 Existing discussions**

Target represents and warrants that, as at the date of this deed:

- (a) it is not party to any agreement or arrangement with any Third Party entered into for the purposes of facilitating a Competing Proposal;
- (b) it is not, directly or indirectly, participating in any discussions or negotiations with a Third Party that concern, or that could be reasonably expected to lead to, a Competing Proposal; and
- (c) any due diligence access granted to any Third Party for the purposes of such Third Party making, formulating, developing or finalising, or assisting in the making, formulation, development or finalisation of, a Competing Proposal has been terminated.

### **9.2 No-shop, no-talk and no-due diligence**

During the Exclusivity Period, Target must not (and must ensure that none of its related bodies corporate or Representatives, nor any other person on its behalf) directly or indirectly:

- (a) (**no-shop**) solicit, encourage, initiate or invite any offer, enquiries, expressions of interest, discussions or proposals from any Third Party in relation to, or that may reasonably be expected to encourage or lead to, a Competing Proposal, or announce or communicate to any person any intention to do any of these things;

- (b) **(no-talk)** subject to clause 9.3, negotiate, accept or enter into, participate in or continue any discussions or negotiations with a Third Party in relation to, or that may reasonably be expected to encourage or lead to, a Competing Proposal, or otherwise facilitate a Competing Proposal, or announce or communicate to any person any intention to do any of these things; or
- (c) **(no-due diligence)** without limiting clause 9.2(b), and subject to clause 9.3, disclose, make available to any Third Party, or cause or permit any Third Party to receive, any non-public information relating to Target or any of its related bodies corporate that may reasonably be expected to assist such Third Party in formulating, developing or finalising a Competing Proposal or communicate to any person any intention to do any of these things.

### 9.3 **Fiduciary exception**

The restrictions in clauses 9.2(b) and 9.2(c) do not:

- (a) apply in respect of a Competing Proposal where:
  - (i) there has not been any breach of clause 9.2(a) in respect of a Competing Proposal; and
  - (ii) the Target Board, acting in good faith and after consulting with the Target's financial and legal advisers, determines that such Competing Proposal is, or may reasonably be likely to constitute, a Superior Proposal if it were proposed and that failing to respond to such Competing Proposal would be reasonably likely to constitute a breach of the fiduciary duties or statutory obligations of the Target Board; and
- (b) prevent Target disclosing non-public information to its auditors or advisers, or a Government Agency or regulatory body in the ordinary course of its business or as required under Target's existing contractual obligations provided it is not done in a manner which is intended to circumvent the intent of this clause 9.

## 10. **Notification and matching rights**

### 10.1 **Initial notification**

- (a) If, during the Exclusivity Period:
  - (i) Target or any of its related bodies corporate or Representatives receives a Competing Proposal; and
  - (ii) Target proposes to take or takes any action in reliance on the exception in clause 9.3 (other than clause 9.3(b)),

Target must as soon as reasonably practicable (and in any event within 2 clear Business Days after receiving a Competing Proposal) give Bidder an Approach Notice in relation to the Competing Proposal.

- (b) Bidder agrees that any information received under clause 10.1(a) shall be confidential information and subject to the terms of confidentiality under clause 8.

### 10.2 **Matching right**

- (a) If, during the Exclusivity Period, the Target Board determines that a Competing Proposal is a Superior Proposal, Target must as soon as practicable (and in any event within 2 clear Business Days of making that determination) give Bidder a Matching Right Notice.

- (b) During the Exclusivity Period, Target:
- (i) must not enter into, or agree to enter into, any binding documentation to give effect or implement the Competing Proposal;
  - (ii) must use its best endeavours to ensure that no director of Target makes any public statement recommending the Competing Proposal to Target Shareholders,
- unless:
- (iii) the Target Board (or a majority of them), acting in good faith and after consulting with Target's financial and legal advisers, determines that such Competing Proposal is, or may reasonably be likely to constitute, a Superior Proposal and that failing to respond to such Competing Proposal would be reasonably likely to constitute a breach of the fiduciary duties or statutory obligations of the Target Board;
  - (iv) Target has provided Bidder with a Matching Right Notice;
  - (v) Target has given Bidder at least 5 clear Business Days after the date that Target gives Bidder the Matching Right Notice (**Matching Period**) to announce or otherwise propose or provide to Target an alternative proposal with a view to providing an equivalent or a superior outcome for the Target Shareholders than those offered under the relevant Competing Proposal (**Counter Proposal**); and
  - (vi) Bidder has not announced or otherwise proposed or provided to Target such Counter Proposal by the expiry of the Matching Period.
- (c) If, during the Matching Period, Bidder makes a Counter Proposal:
- (i) Target must use its best endeavours to procure that the Target Board promptly considers the Counter Proposal in good faith before entering into, or agreeing to enter into, any binding documentation to give effect to or implement the Competing Proposal; and
  - (ii) if the Target Board acting in good faith determines that the terms and conditions of the Counter Proposal taken as a whole would provide an equivalent or superior outcome to Target Shareholders than those in the relevant Competing Proposal, then:
    - (A) Target must as soon as reasonably practicable notify Bidder of the determination in writing;
    - (B) the parties must use their reasonable endeavours to agree any amendments to this deed and enter into such documentation as is necessary to give effect to and implement the Counter Proposal as soon as reasonably practicable; and
    - (C) Target must use its best endeavours to procure that each director of Target makes a public statement recommending the Counter Proposal to its shareholders, subject to any exceptions in clause 6 (as they apply to the Counter Proposal).
- (d) If the Target Board acting in good faith determines that the terms and conditions of the Counter Proposal taken as a whole would not provide an equivalent or superior outcome to Target Shareholders than those in the relevant Competing



Proposal, then Target must as soon as reasonably practicable, notify Bidder of the determination in writing.

- (e) Each new Competing Proposal or any material change to the terms of a Competing Proposal will be taken to constitute a new Competing Proposal in respect of which Target must separately comply with its obligations under clauses 10.2(a) to 10.2(c) (inclusive).

### 10.3 Target Board determination

Despite any provision in this deed, any Announcement by Target or the Target Board to the effect that:

- (a) the Target Board has determined that a Competing Proposal is a Superior Proposal and commenced the matching right process set out in clause 10.2; or
- (b) Target Shareholders should take no action pending the completion of the matching right process set out in clause 10.2,

does not, of itself:

- (c) constitute a change, withdrawal, modification or qualification of the recommendation by the Target Board or an endorsement of a Competing Proposal;
- (d) contravene this deed; or
- (e) give rise to a termination right under clause 11.

## 11. Termination

### 11.1 Termination by either party

Bidder or Target (the **Terminating Party**) may terminate this deed by notice in writing to the other party:

- (a) if the Scheme has not become Effective on or before the End Date;
- (b) in accordance with clause 4.9;
- (c) if at any time before 8.00 am on the Second Court Date, the other party (the **Defaulting Party**) commits a breach of this deed (including a representation and warranty) and:
  - (i) the breach is material taken in the context of the Transaction as a whole;
  - (ii) the Terminating Party has given the Defaulting Party written notice setting out the relevant circumstances giving rise to the breach, and stating an intention to terminate this deed unless the breach is remedied; and
  - (iii) the relevant circumstances giving rise to the breach are not remedied to the Terminating Party's reasonable satisfaction by the earlier of:
    - (A) 5 Business Days after the date of the notice given by the Terminating Party under clause 11.1(c)(ii); or
    - (B) 5.00 pm on the Business Day before the Second Court Date;
- (d) if an Insolvency Event occurs in relation to the other party; or
- (e) if agreed to in writing by Target and Bidder.

## **11.2 Termination by Bidder**

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

- (a) any member of the Independent Target Board does not recommend the Scheme or withdraws or adversely modifies an earlier recommendation (other than as permitted under clause 6(d)), or approves, recommends or makes an announcement in support of a Competing Proposal, or announces an intention to do any of these acts; or
- (b) any member of the Target Board does not state that he or she intends to vote any Target Shares that he or she directly or indirectly owns or controls in favour of the Scheme at the Scheme Meeting or withdraws or adversely modifies an earlier statement that they intend to vote in favour of the Scheme at the Scheme Meeting (other than as permitted under clause 6(d)); or
- (c) Target or a member of the Target Group enters into a definitive agreement (excluding, for the avoidance of doubt, a confidentiality agreement on customary terms) in relation to the implementation of a Competing Proposal.

## **11.3 Termination by Target**

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

- (a) the Independent Expert concludes (either in its initial Independent Expert's Report or in any written update, revision, amendment, addendum or supplementary reports to it) that the Scheme is not in the best interests of Target Shareholders, or the Independent Expert withdraws its Independent Expert's Report, other than where such conclusion or withdrawal is due (in whole or in part) to a Superior Proposal being proposed or announced; or
- (b) Target receives a Competing Proposal and the Target Board (or a majority of the directors of the Target) acting in good faith after having consulted with its legal and financial advisers, have determined that the Competing Proposal constitutes a Superior Proposal, subject to Target having followed the processes set out in clause 10.

## **11.4 Effect of termination**

If a party terminates this deed in accordance with this clause 11, this deed will cease to have force and effect without any liability or obligation on the part of any party, except that:

- (a) this clause 11 (Termination), and clauses 1 (Interpretation), 8 (Confidentiality and Announcement), 12 (Representations and warranties), 13 (GST), 14 (Notices) and 15 (General) will survive termination and remain in force; and
- (b) each party will retain any rights it has or may have against the other party in respect of any past breach of this deed, including in respect of the breach giving rise to termination.

## **11.5 Notice of termination**

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

## 11.6 Remedies

The parties acknowledge and agree that damages may not be a sufficient remedy for breach of this deed. Specific performance, injunctive relief or any other remedies which would otherwise be available in equity or law are available as a remedy for a breach or threatened breach of this deed by any party, notwithstanding the ability of any party to terminate this deed or seek damages for such a breach or threatened breach.

## 12. Representations and warranties

### 12.1 Target Representations and Warranties

Target represents and warrants to Bidder (on its own behalf) that:

- (a) **(status)** it, and each member of the Target Group is a validly existing corporation registered under the laws of the place of its incorporation;
- (b) **(power)** it, and each member of the Target Group, has full legal capacity and power to:
  - (i) own its property and to carry on its business; and
  - (ii) in respect of the Target only, enter into this deed and carry out the transactions that this deed contemplates in accordance with its terms;
- (c) **(corporate authority)** it has taken all corporate action that is necessary or desirable to authorise it entering into this deed and carrying out the transactions that this deed contemplates in accordance with its terms;
- (d) **(Authorisations)** subject to obtaining any Authorisations to implement the Transaction as provided in this deed, it holds each Authorisation that is necessary or desirable to:
  - (i) enable it to properly execute this deed and to carry out the transactions that this deed contemplates in accordance with its terms;
  - (ii) ensure that this deed is legal, valid, binding and admissible in evidence; and
  - (iii) enable it to properly carry on its business,and it is complying with any conditions to which any such Authorisation is subject;
- (e) **(deed effective)** this deed constitutes legal, valid and binding obligations, enforceable against it in accordance with its terms;
- (f) **(no contravention)** neither its execution of this deed nor the carrying out by it of the transactions that this deed contemplates in accordance with its terms, does or will contravene:
  - (i) any law to which it or any of its property is subject or any order of any Government Agency that is binding on it or any of its property;
  - (ii) any Authorisation held by it;
  - (iii) any undertaking or instrument binding on it or any of its property; or
  - (iv) its constituent documents;

- (g) **(no Insolvency Event)** neither it nor any member of the Target Group is affected by an Insolvency Event;
- (h) **(not representative capacity)** it is not entering into this deed as trustee of any trust or settlement or otherwise in a representative capacity;
- (i) **(information provided to the Independent Expert)** all information provided by it to the Independent Expert will be provided in good faith and on the understanding that the Independent Expert will rely on that information for the purpose of preparing the Independent Expert's Report for inclusion in the Scheme Booklet;
- (j) **(new information)** it will, as a continuing obligation (but in respect of Bidder Material, only to the extent that Bidder provides Target with updates to Bidder Material), ensure that the Scheme Booklet is updated or supplemented to include all further or new information which arises after the Scheme Booklet has been despatched to Target Shareholders until the date of the Scheme Meeting which is necessary to ensure that the Scheme Booklet is not misleading or deceptive in a material manner (including by way of omission);
- (k) **(Scheme Booklet not false or misleading)** as at the date of the Scheme Booklet and on the Second Court Date, the Scheme Booklet (other than the Bidder Material and the Independent Expert's Report) as updated in any supplementary disclosure to Target Shareholders in respect of the Transaction:
  - (i) is true and correct in all material respects and does not contain any material statement which is false or misleading in any material respect (including because of any material omission) having regard to applicable disclosure requirements; and
  - (ii) complies in all material respects with all applicable laws, relevant ASIC Regulatory Guides (including ASIC Regulatory Guide 60), Takeovers Panel policy and guidance notes;
- (l) **(compliance)** Target and its wholly owned subsidiaries have complied in all material respects with all Australian, South African and foreign laws and regulations applicable to them and orders of Australian and other Government Agencies having jurisdiction over them (disregarding any instances of non-compliance that individually and in aggregate, could not reasonably be expected to have a Target Material Adverse Effect);
- (m) **(periodic disclosure)** all financial reports prepared by Target and members of Target Group in accordance with Chapter 2M of the Corporations Act comply with applicable accounting standards and disclosure obligations and give a true and fair view of the financial position and performance of Target and the Target Group;
- (n) **(continuous disclosure)** Target has at all relevant times complied with its obligation to disclose information pursuant to Part 6CA of the Corporations Act;
- (o) **(no default)**
  - (i) neither Target nor any of its wholly owned subsidiaries is in default in any material respect under any material document, contract or agreement binding on it or its assets; and
  - (ii) so far as the Target Board is aware, nothing has occurred which is, or would with the giving of notice or lapse of time or both constitute, an event of

default, a termination event, a prepayment event or similar event under any such document, contract or agreement,

which individually and in aggregate, could reasonably be expected to have a Target Material Adverse Effect;

- (p) **(no litigation)** no litigation, arbitration, mediation, conciliation or administrative proceedings are taking place, pending or so far as the Target is aware, threatened which, if adversely decided, could reasonably be expected to have a Target Material Adverse Effect;
- (q) **(material licences and permits)** the Target Group has all material licences and permits necessary for it to conduct its activities in the manner in which it is conducted as at the date of this deed;
- (r) **(claims and royalties)** no member of the Target Group has any unpaid or outstanding claims or royalties (whether to a Government Agency or under a private treaty) or similar arrangements in respect of any asset outside of Australia in an amount exceeding, or reasonably likely to exceed, \$250,000; and
- (s) **(no other approvals necessary)** so far as the Target Board is aware, no consents, approvals or other acts by a Government Agency are necessary to effect implementation of the Transaction, other than the Regulatory Approvals.

## 12.2 Bidder Representations and Warranties

Bidder represents and warrants to Target (on its own behalf) that:

- (a) **(status)** it is a validly existing corporation registered under the laws of the place of its incorporation;
- (b) **(power)** it has full legal capacity and power to enter into this deed and carry out the transactions that this deed contemplates in accordance with its terms;
- (c) **(corporate authority)** it has taken all corporate action that is necessary or desirable to authorise it entering into this deed and carrying out the transactions that this deed contemplates in accordance with its terms;
- (d) **(Authorisations)** subject to obtaining any Authorisations outside of Australia or South Africa to implement the Transaction as provided in this deed, it holds each Authorisation that is necessary or desirable to:
  - (i) enable it to properly execute this deed and to carry out the transactions that this deed contemplates in accordance with its terms; and
  - (ii) ensure that this deed is legal, valid, binding and admissible in evidence, and it is complying with any conditions to which any such Authorisation is subject;
- (e) **(deed effective)** this deed constitutes its legal, valid and binding obligations, enforceable against it in accordance with its terms;
- (f) **(no contravention)** neither its execution of this deed nor the carrying out by it of the transactions that this deed contemplates in accordance with its terms, does or will contravene:
  - (i) any law to which it or any of its property is subject or any order of any Government Agency that is binding on it or any of its property;

- (ii) any Authorisation held by it;
  - (iii) any undertaking or instrument binding on it or any of its property; or
  - (iv) its constituent documents;
- (g) **(no Insolvency Event)** no member of the Bidder is affected by an Insolvency Event;
- (h) **(not representative capacity)** it is not entering into this deed as trustee of any trust or settlement or otherwise in a representative capacity;
- (i) **(information provided to the Independent Expert)** all information provided by it to the Independent Expert will be provided in good faith and on the understanding that the Independent Expert will rely on that information for the purpose of preparing the Independent Expert's Report for inclusion in the Scheme Booklet;
- (j) **(new information)** it will, as a continuing obligation, provide to Target all further or new information which arises after the Scheme Booklet has been despatched to Target Shareholders until the date of the Scheme Meeting which is necessary to ensure that the Bidder Material is not misleading or deceptive in a material manner (including by way of omission);
- (k) **(Bidder Material not false or misleading)** as at the date of the Scheme Booklet, and on the Second Court Date, the Bidder Material, as updated in any supplementary disclosure to Target Shareholders in respect of the Transaction:
- (i) is true and correct in all material respects and does not contain any material statement which is false or misleading (including because of any material omission) having regard to applicable disclosure requirements; and
  - (ii) complies in all material respects with all applicable laws, relevant ASIC Regulatory Guides (including ASIC Regulatory Guide 60), Takeovers Panel policy and guidance notes;
- (l) **(unconditional cash reserves)** by 8.00 am on the Second Court Date and the Implementation Date, the Bidder will have available to it on an unconditional basis (other than, on the Second Court Date, conditions relating to the approval of the Court and other conditions within the sole control of the Bidder) sufficient cash reserves (whether from internal cash reserves or external funding arrangements, including equity and debt financing or a combination of both) to satisfy Bidder's obligations to pay the Scheme Consideration in accordance with its obligations under this deed, the Scheme and the Deed Poll;
- (m) **(no material operations)** Bidder does not conduct, and has not conducted, any business or trading activities other than activities necessary to give effect to the Transaction;
- (n) **(no material assets or liabilities)** Bidder has no material assets, liabilities, or obligations (contingent or otherwise), and has no employees, contracts or other arrangements that would result in material liabilities or obligations, other than:
- (i) as Fairly Disclosed to the Target prior to the date of this deed;
  - (ii) those arising under any funding arrangements entered into to finance the Scheme Consideration; and
  - (iii) those incurred in the ordinary course of implementing the Scheme;

- (o) **(capital structure)** as at the date of this deed, the capital structure of the Bidder comprises 1,600 fully paid ordinary shares of no par value, all of which are legally and beneficially owned by APH, and no other securities, rights, options, or instruments convertible into shares in the Bidder have been issued or agreed to be issued; and
- (p) **(no subsidiaries)**: the Bidder has no subsidiaries, associated entities, joint ventures, or partnerships, and has not entered into any agreements or commitments that would require it to establish or acquire any such entities.

### **12.3 Qualifications on representations and warranties**

- (a) Each of the Target Representations and Warranties are subject to all facts and matters that (and the Target Representations and Warranties will not be breached to the extent they) are, or relate to, a Target Permitted Event.
- (b) Each of the Bidder Representations and Warranties are subject to all facts and matters that (and the Bidder Representations and Warranties will not be breached to the extent they) are, or relate to, a Bidder Permitted Event.

### **12.4 No representations made on economic or future matters**

Each party acknowledges and agrees that:

- (a) each other party makes no representation or warranty other than as set out in this clause 12; and
- (b) at no time has each other party made or given any representation or warranty in relation to the achievability of:
  - (i) any economic, fiscal or other interpretations or evaluations by it; or
  - (ii) future matters, including future or forecast costs, prices, revenues or profits.

### **12.5 Reliance on Representations and Warranties**

- (a) Each party acknowledges that each other party has executed this deed and agreed to take part in the transactions that this deed contemplates in reliance on the representations and warranties that are made in clauses 12.1 and 12.2.
- (b) Each party acknowledges and confirms that no party (nor any person acting on its behalf) has made any representation or other inducement to it to enter into this deed, other than the representations and warranties made by the parties in accordance with clauses 12.1 and 12.2, and (to the maximum extent permitted by law) all other representations, warranties and conditions implied by statute or otherwise in relation to any matter relating to this deed, the circumstances surrounding the parties' entry into it and the transactions contemplated by it are expressly excluded.

### **12.6 When Representations and Warranties are given**

Unless stated to be given at a specific date or time in clauses 12.1 and 12.2, each representation and warranty given or made under clauses 12.1 and 12.2 is given:

- (a) as at the date of this deed; and
- (b) as at 5.00 pm on the Business Day immediately prior to the Second Court Date.

### **12.7 Information on representations and warranties**

From the date of this deed and up to and including the Implementation Date, each party must promptly give to the other party details of any matter or occurrence which might reasonably make any representation and warranty given by the first mentioned party under this deed inaccurate in any material respect.

### **12.8 Survival of representations and warranties**

Each representation and warranty given or made under clauses 12.1 and 12.2:

- (a) is severable;
- (b) survives the termination of this deed;
- (c) is given with the intent that liability thereunder will not be confined to breaches which are discovered prior to the date of termination of this deed;
- (d) is to be construed independently of all other representations and warranties given or made under clauses 12.1 and 12.2 (as applicable); and
- (e) is not limited by any other representation or warranty given or made under clauses 12.1 and 12.2 (as applicable).

## **13. GST**

### **13.1 Definitions**

Unless the context requires otherwise, words used in this clause 13 that have a specific meaning in the GST Law have the same meaning in this clause 13.

### **13.2 GST pass on**

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

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

### **13.3 Tax Invoice**

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

### **13.4 Consideration exclusive of GST**

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

### **13.5 Adjustments**

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



- (a) may recover from the recipient the amount by which the amount of GST on the supply exceeds the amount already recovered by issuing an adjustment note; or
- (b) must refund to the recipient the amount by which the amount already recovered exceeds the amount of GST on the supply; and
- (c) must issue an adjustment note or tax invoice reflecting the adjustment event in relation to the supply to the recipient within 28 days of the adjustment event.

### **13.6 Reimbursements**

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

## **14. Notices**

### **14.1 How to give a notice**

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

- (a) in writing, signed by or on behalf of the person giving it;
- (b) addressed to the person to whom it is to be given; and
- (c) either:
  - (i) delivered or sent by pre-paid mail to that person's address; or
  - (ii) sent in electronic form (such as email).

### **14.2 When a notice is given**

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

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

provided that no notice of failure of transmission or other error message is received by the sender.

#### **14.3 Address for notices**

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

##### Target

Address: Building 33 Woodlands Office Park, 20 Woodlands Drive  
Woodlands, Sandton, 2080, South Africa

Email: [sam.randazzo@intercept.com.au](mailto:sam.randazzo@intercept.com.au)

Attention: Sam Randazzo (Chairman)

Copy to (which shall not constitute notice):

Address: Building 33 Woodlands Office Park, 20 Woodlands Drive  
Woodlands, Sandton, 2080, South Africa

Email: [tonyb@westozcorporate.com.au](mailto:tonyb@westozcorporate.com.au)

Attention: Tony Bevan (Company Secretary)

##### Bidder

Address: 39 Rivonia Road, Commerce Square, Johannesburg,  
South Africa

Email: [julie@apexpartners.com](mailto:julie@apexpartners.com)

Attention: Julie Gehle

Copy to (which shall not constitute notice):

Address: Level 10, 123 St Georges Terrace, Perth, WA 6000,  
Australia

Email: [murray.wheater@ashurst.com](mailto:murray.wheater@ashurst.com) and  
[josh.walsh@ashurst.com](mailto:josh.walsh@ashurst.com)

Attention: Murray Wheeler and Josh Walsh

### **15. General**

#### **15.1 Amendment**

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

#### **15.2 Assignment**

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

#### **15.3 Governing law**

(a) This deed and any dispute arising out of or in connection with the subject matter of this deed is governed by the laws of the State of Western Australia.

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

**15.4 Liability for expenses**

- (a) Bidder must pay for all stamp duty payable on this deed or any instrument or transaction contemplated in or necessary to give effect to this deed.
- (b) Subject to clause 15.4(a), each party must pay its own expenses incurred in negotiating, preparing, executing and registering this deed.

**15.5 Giving effect to this deed**

Each party must promptly do and perform all further acts and execute and deliver all further documents (in form and content reasonably satisfactory to that party) required by law or reasonably requested by any other party to give effect to this deed.

**15.6 Variation of rights**

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

**15.7 No partnership or agency**

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

**15.8 Operation of this deed**

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

**15.9 Third party benefit**

If a provision of this deed is expressed to be for the benefit of (for example, by conferring an indemnity or an exclusion of liability upon) a person such as an officer, employee, agent or adviser of Target or Bidder that is not a party to this deed (**third party**, for the purposes of this clause 15.9), the third party:

- (a) (**benefit, enforcement**) is entitled to the benefit of the provision and may enforce it but only in accordance with this clause;

- (b) **(variation, cancellation)** accepts that Target and Bidder may vary or cancel the provision as they see fit without the consent of and without having regard to the interests of or being responsible for any detriment to the third party;
- (c) **(indemnity acceptance)** may accept the benefit of an indemnity only when the third party has suffered a Loss or received a Claim to which the indemnity would apply;
- (d) **(time limit)** must accept the benefit of an indemnity and issue and serve any legal proceedings to enforce it within two years after suffering the Loss or receiving the Claim;
- (e) **(exclusion acceptance)** may accept the benefit of an exclusion from or limitation of liability only when the third party has received a Claim or a threat of a Claim to which the exclusion would apply; and
- (f) **(time limit)** must accept the benefit of an exclusion from or limitation of liability and issue and serve any legal proceedings to enforce it within two years after receiving the Claim or threat of a Claim.

#### **15.10 Consents**

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

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

#### **15.11 No merger**

No provisions of this deed merge on implementation of the Transaction.

#### **15.12 Inconsistency with other documents**

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

#### **15.13 Counterparts**

This deed may be executed electronically and in counterparts.

#### **15.14 Withholding**

- (a) Target agrees that Bidder may approach the relevant Government Agency to obtain clarification as to the application of the applicable law to the Transaction and will provide all information and assistance that Bidder reasonably requires in making that approach. Bidder agrees:
  - (i) to provide Target a reasonable opportunity to review the form and content of all materials to be provided to the relevant Government Agency, to take into account Target's reasonable comments on those documents and more generally in relation to Bidder's engagement with the relevant Government Agency in connection with the application of the applicable law to the Transaction; and
  - (ii) not to contact any Target Shareholder in connection with the application of the applicable law to the Transaction without Target's prior written consent.

## Schedule 1

### Indicative Timetable

Action	Date
<b>Feb/Mar Actions</b>	
- SA competition filings are lodged	Late Feb 25
- Publish joint offer announcement	Late Feb 25
- Commence drafting of scheme explanatory booklet	Late Feb 25
- Appoint Independent Expert	Late Feb 25
- DRA special board meeting to obtain approval to sign SID	Early Mar 25
<b>Apr Actions</b>	
- Scheme explanatory booklet sent to ACP for review/comments	Mid Apr 25
- Receive explanatory booklet comments from ACP	Mid Apr 25
<b>Aug Actions</b>	
- Independent Expert Report Finalised	Early Aug 25
- Scheme Booklet - DRA Board Approved	Early to mid Aug 25
- Scheme explanatory booklet sent to ASIC	Early to mid Aug 25
- Prepare documents for 1st court hearing	Mid Aug 25
- Scheme Booklet ASIC Approval	Mid Aug 25
- Scheme Court Approval 1	Mid to late Aug 25
- Scheme Booklet Posted	Late Aug 25
<b>Sep/Oct Actions</b>	
- Scheme Meeting	Early Sep 25
- SA Competition Commission Approval (Latest expected date)	Late Oct 25
<b>Nov Actions</b>	
- Scheme Court Approval 2	Early Nov 25
- Scheme Implementation Date	Mid Nov 25

## Schedule 2

### Deed Poll

Ashurst

Deed Poll

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**THIS DEED POLL is made on**

**2025**

**BY:** Apex Capital Partners Limited (Registration number 2021/916057/06) of 39 Rivonia Road, Commerce Square, Sandton, Johannesburg, South Africa (**Bidder**).

**IN FAVOUR OF:** Each person registered as a holder of fully paid ordinary shares in DRA Global Limited (ACN 622 581 935) of Level 7, 256 Adelaide Terrace, Perth, Australia (**Target**) in the Register as at the Record Date (each a **Scheme Shareholder** and together, the **Scheme Shareholders**)

**BACKGROUND:**

- (A) On 12 March 2025, the Target and the Bidder entered into a Scheme Implementation Deed (**SID**) to provide for the implementation of the Scheme.
- (B) The effect of the Scheme will be that, subject to the satisfaction or waiver of certain conditions precedent, all Scheme Shares will be transferred to the Bidder in exchange for the Scheme Consideration.
- (C) The Bidder enters into this deed poll to covenant in favour of the Scheme Shareholders to perform its obligations to provide or procure the provision of the Scheme Consideration in accordance with the Scheme.

The parties agree as follows:

**1. Definitions and interpretation**

**1.1 Terms defined in the SID**

Capitalised words and phrases defined in the SID and not in this deed poll have the same meaning in this deed poll as in the SID unless the context requires otherwise.

**1.2 Nature of this deed poll**

The Bidder acknowledges that the deed poll may be relied upon and enforced by any Scheme Shareholder in accordance with its terms even though the Scheme Shareholders are not party to it.

**2. Conditions precedent**

**2.1 Condition**

This deed poll and the obligations of the Bidder under this deed poll are subject to the Scheme becoming Effective.

**2.2 Termination**

Subject to clause 2.3(b), the obligations of the Bidder under this deed poll will automatically terminate and this deed poll will be of no further force or effect if:

- (a) the SID is terminated in accordance with its terms; or
- (b) the Scheme is not Effective by the End Date,

unless Bidder and Target otherwise agree in writing in accordance with the SID (and, if required, as approved by the Court).

### **2.3 Consequences of termination**

If this deed poll terminates under clause 2.2, in addition to and without prejudice to any other rights, powers or remedies available to Scheme Shareholders:

- (a) the Bidder is released from its obligations to further perform this deed poll; and
- (b) each Scheme Shareholder retains the rights, powers and remedies that it has against the Bidder in respect of any breach of this deed poll by the Bidder which occurs before it is terminated.

### **3. Certificate in relation to Conditions**

The Bidder must provide to the Court on the Second Court Date a certificate which is signed by a duly authorised representative (or such other evidence as the Court requests), stating, to the best of its knowledge, whether or not the Conditions have been satisfied or waived, subject to the terms of the SID as at 8:00am on the Second Court Date.

### **4. Provision of the Scheme Consideration**

#### **4.1 Undertaking**

Subject to clause 2, the Bidder undertakes in favour of each Scheme Shareholder:

- (a) to acquire all of the Scheme Shares from Scheme Shareholders in accordance with the provisions of the Scheme;
- (b) to provide or procure the provision of the Scheme Consideration to each Scheme Shareholder in accordance with the terms of the Scheme; and
- (c) to undertake or procure the undertaking of all the actions attributed to the Bidder under the Scheme.

#### **4.2 Status of Bidder Shares**

The Bidder undertakes in favour of each Scheme Shareholder who makes a Valid Election for Scrip Consideration (other than Ineligible Foreign Shareholders, who will not be entitled to elect receive Scrip Consideration), that the Bidder Shares which are issued to such Scheme Shareholders in accordance with the Scheme will be duly and validly issued:

- (a) ranking equally in all respects with each existing share on issue in the Bidder of the same class and will have the rights set out in the Bidder MOI; and
- (b) fully paid, free from any Encumbrances (other than any Encumbrances which may apply to all Bidder Shares by virtue of a provision of the Bidder MOI) and will have the rights attaching to them as set out in the Bidder MOI.

#### **4.3 Joint holders**

In the case of Scheme Shares held by Scheme Shareholders in joint names:

- (a) any entry in the register of members of the Bidder required to be made must record the names and registered addresses of the joint holders; and

- (b) any uncertificated holding statement for Scheme Shares (if any) must be issued to Scheme Shareholders in the names of the joint holders and must be forwarded to the holder whose name first appears in the Register at the Record Date.

## 5. **Warranties**

The Bidder warrants to each Scheme Shareholder that:

- (a) it is a company properly incorporated and validly existing under the laws of the country or jurisdiction of its incorporation;
- (b) it has the legal right and corporate power to execute, deliver and perform its obligations under this deed poll and to carry out the transactions contemplated under this deed poll;
- (c) it has taken all necessary corporate action to authorise its entry into this deed poll and has taken or will take all necessary corporation action to authorise the performance of this deed poll and to carry out the transactions contemplated by this deed poll;
- (d) this deed poll constitutes (or will when executed constitute) valid legal and binding obligations of it and is enforceable against its accordance with its terms;
- (e) it is solvent and no resolutions have been passed nor has any other step been taken or legal proceedings commenced or threatened against it for its winding up or dissolution or for the appointment of a liquidation, receiver, administrator or similar officer over any or all of its assets (or any event under any law which is analogous to, or which has a substantially similar effect to, any of the events referred to in this paragraph);
- (f) the execution, delivery and performance of this deed poll by it does not and will not result in a breach of or constitute a default under:
  - (i) any agreement to which it is a party;
  - (ii) any provision of the Bidder MOI; or
  - (iii) any law or regulation or any order, judgment or determination of any court or Government Agency by which it is bound.
- (g) as at the date of this deed poll and so far as it is aware, no regulatory action of any nature has been taken which would prevent, inhibit or otherwise have a material adverse effect on its ability to fulfil its obligations under this deed poll.

## 6. **Continuing obligations**

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

## 7. **General**

### 7.1 **How notice to be given**

Each communication (including each notice, consent or other communication under this deed poll) is only effective if it is:

- (a) in writing, signed by or on behalf of the person giving it;

- (b) addressed to the person to whom it is to be given; and
- (c) either:
  - (i) delivered or sent by pre-paid mail to that person's address; or
  - (ii) sent in electronic form (such as email).

## 7.2 When a notice is given

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

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

provided that no notice of failure of transmission or other error message is received by the sender.

## 7.3 Address for notices

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

### Target

Address: Building 33 Woodlands Office Park, 20 Woodlands Drive Woodlands, Sandton, 2080, South Africa

Email: sam.randazzo@intercept.com.au

Attention: Sam Randazzo (Chairman)

Copy to (which shall not constitute notice):

Address: Building 33 Woodlands Office Park, 20 Woodlands Drive Woodlands, Sandton, 2080, South Africa

Email: tonyb@westozcorporate.com.au

Attention: Tony Bevan (Company Secretary)

## **Bidder**

Address: 39 Rivonia Road, Commerce Square, Johannesburg, South Africa

Email: [julie@apexpartners.com](mailto:julie@apexpartners.com)

Attention: Julie Gehle

Copy to (which shall not constitute notice):

Address: Level 10, 123 St Georges Terrace, Perth, WA 6000, Australia

Email: [murray.wheater@ashurst.com](mailto:murray.wheater@ashurst.com) and [josh.walsh@ashurst.com](mailto:josh.walsh@ashurst.com)

Attention: Murray Wheeler and Josh Walsh

## **7.4 Variation**

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

- (a) if before the First Court Date, the variation is agreed to by Target and Bidder in writing (which such agreement may be given or withheld without reference to, or approval by, any Scheme Shareholder); and
- (b) if on or after the First Court Date, the variation is agreed to by Target and Bidder in writing (which such agreement may be given or withheld without reference to, or approval by, any Scheme Shareholder) and the Court indicates that the variation, alteration or amendment would not of itself preclude approval of the Scheme,

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

## **7.5 Jurisdiction**

The Bidder:

- (a) submits to the non-exclusive jurisdiction of the courts of the State of Western Australia with respect to any proceedings that may be brought at any time relating to this deed poll; and
- (b) waives any right it has to object to any legal process being brought in those courts including any claim that the process has been brought in an inconvenient forum or that those courts do not have jurisdiction.

## **7.6 Costs**

Each party is responsible for all its own costs incurred in the negotiation and performance of this deed poll including legal costs.

## **7.7 Waiver**

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

- (b) A waiver or consent given by a party under this deed poll is only effective and binding on that party if it is given or confirmed in writing by that party.
- (c) No waiver of a breach of a term of this deed poll operates as a waiver of another breach of that term or of a breach of any other term of this deed poll.

**7.8 Further acts and documents**

The Bidder must do all further acts and execute and deliver are personal and cannot be assigned, novated or otherwise transferred without the prior written consent of the Bidder.

**7.9 Assignment**

The rights of each Scheme Shareholder under this deed poll are personal and cannot be assigned, novated or otherwise transferred without the prior written consent of the Bidder.

**7.10 Stamp duties**

The Bidder must:

- (a) pay all stamp duties and any related fines and penalties in respect of this deed poll, the performance of this deed poll each transaction affected by or made under this deed poll and is authorised to apply for and retain the proceeds of any refund due in respect of the stamp duty paid under this clause; and
- (b) indemnify each Scheme Shareholder against any liability arising from a failure to comply with clause 7.10(a).

**7.11 Cumulative Rights**

The rights, powers and remedies of the Bidder and each Scheme Shareholder under this deed poll are cumulative and do not exclude any rights, powers or remedies provided by the law independent of this deed poll.

**EXECUTED AND DELIVERED** as a deed poll.

**EXECUTED** by **APEX CAPITAL PARTNERS LIMITED** in the presence of:

\_\_\_\_\_  
Witness Signature

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Authorised Signatory

\_\_\_\_\_  
Print Name

## Schedule 3

### Scheme of Arrangement



**Ashurst**

# Scheme of Arrangement

**DRA Global Limited**

ACN 622 581 935

**Scheme Shareholders**

2025

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**THIS SCHEME OF ARRANGEMENT** is made on

2025

**BETWEEN:**

- (1) DRA Global Limited ACN 622 581 935 of Level 7, 256 Adelaide Terrace, Perth, Australia (**Target**); and
- (2) Each person registered as the holder of Target Shares in the Target Register as at the Scheme Record Date (each a **Scheme Shareholder** and together, the **Scheme Shareholders**).

**THE PARTIES AGREE AS FOLLOWS:**

1. **Interpretation**

1.1 **Definitions**

The meanings of the terms used in this Scheme are set out below.

**ASIC** means the Australian Securities and Investments Commission.

**Associate** has the meaning given in Division 2 of Part 1.2 of the Corporations Act.

**ATO** means the Australian Taxation Office.

**Bidder** means Apex Capital Partners Limited of 39 Rivonia Road, Commerce Square, Sandton, Johannesburg, South Africa.

**Bidder Prospectus** means the prospectus registered with the CIPC in terms of Chapter 4 of the SA Companies Act, to be issued by Bidder in respect of the offer of the Scrip Consideration under the Scheme.

**Bidder Share** means a fully paid ordinary share of no par value in the Bidder.

**Business Day** means a day (other than a Saturday, Sunday or public holiday) on which banks are open for general banking business in Western Australia and South Africa.

**Cash Consideration** means an amount of ZAR30.00 cash per Scheme Share payable to Scheme Shareholders whose address shown in the Target Register as at the Scheme Record Date is in the Common Monetary Area and the AUD equivalent (converted at the spot rate as obtained from the Bidder's bank's Bloomberg terminal or foreign exchange trading desk on the Scheme Record Date) of such amount per Scheme Share for Scheme Shareholders whose address shown in the Target Register as at the Scheme Record Date is outside the Common Monetary Area.

**CIPC** means the South African Companies and Intellectual Property Commission established under section 185 of the SA Companies Act, or its successor body.

**Common Monetary Area** means the area comprising South Africa, the Republic of Namibia and the Kingdom of Lesotho and eSwatini.

**Competition Authorities** means the Competition Commission of South Africa and/or the Competition Tribunal and/or the Competition Appeal Court of South Africa created in terms of the Competition Act, No. 89 of 1998 (of South Africa), as amended, competition

authorities in Ethiopia, Morocco, Namibia, Saudia Arabia, Tanzania and Zimbabwe and/or competition authorities in any other relevant jurisdiction as determined by the Bidder Board.

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

**Court** means the Supreme Court of Western Australia or such other court of competent jurisdiction under the Corporations Act agreed to in writing by the parties.

**Court Order** has the meaning given in clause 5.

**Deed Poll** means the deed poll under which the Bidder covenants in favour of the Scheme Shareholders to perform the obligations attributed to the Bidder under this Scheme.

**Effective** means the coming into effect, under subsection 411(10) of the Corporations Act, of the Court Order made under paragraph 411(4)(b) of the Corporations Act in relation to this Scheme.

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

**Election** means an election by a Scheme Shareholder to receive, in respect of each Scheme Share, the relevant Scheme Consideration.

**Election Date** means 5.00 pm on the date which is at least three Business Days prior to the Scheme Record Date (unless ASIC requires an earlier date, in which case such earlier date shall apply) or such other date as agreed between Bidder and Target in writing.

**Election Form** means the form of election under which a Target Shareholder is offered the opportunity to make an Election.

**End Date** has the meaning given to it in the Scheme Implementation Deed, including any variation as permitted under that document.

**FinSurv** means the Financial Surveillance Department of the SARB.

**FIRB** means the Foreign Investment Review Board.

**Government Agency** means a government, government department or a governmental, semi-governmental, administrative, statutory or judicial entity, agency, authority, commission, department, tribunal, or person charged with the administration of a law or agency, whether in Australia, South Africa or elsewhere, including FIRB, ASIC, ATO, the Takeovers Panel, CIPC, SARB and the Competition Authorities and any self-regulatory organisation established under statute.

**Implementation Date** means the fifth Business Day after the Scheme Record Date, or such other date as ordered by the Court or agreed in writing by Target and Bidder.

**Ineligible Foreign Shareholder** means a Scheme Shareholder whose address shown in the Target Register at 7.00 pm on the Scheme Record Date is outside Australia and its external territories, New Zealand or South Africa, unless the Bidder is satisfied that, it is permitted to allot and issue Bidder Shares to that Scheme Shareholder pursuant to the Scheme by the laws of that place without having to comply with any governmental approval or other consent or registration, filing or other formality, and it is not unduly onerous or impracticable to issue that Scheme Shareholder with Bidder Shares to be issued under this Scheme when the Scheme becomes Effective.

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

**SA Companies Act** means the South African Companies Act, 71 of 2008.

**SARB** means the South African Reserve Bank governed by the South African Reserve Bank Act, 90 of 1989, as amended from time to time and includes reference to the FinSurv, as the case may be.

**Scheme** means this scheme of arrangement under Part 5.1 of the Corporations Act between Target and the Scheme Shareholders subject to any alterations or conditions made or required by the Court under subsection 411(6) of the Corporations Act and agreed to in writing by Target and Bidder (acting reasonably).

**Scheme Booklet** means the scheme booklet relating to this Scheme.

**Scheme Consideration** means for each Scheme Share held by a Scheme Shareholder:

- (a) the Cash Consideration;
- (b) the Scrip Consideration; or
- (c) a proportion of the Cash Consideration and the inverse proportion of the Scrip Consideration, provided that a Scheme Shareholder may not make this election if they would receive less than 250 Bidder Shares in aggregate, in each case depending on the Valid Elections made and the terms of the Scheme.

**Scheme Implementation Deed** means the scheme implementation deed dated 12 March 2025 between Target and Bidder relating to (among other things) the implementation of this Scheme.

**Scheme Meeting** means the meeting of the Target Shareholders ordered by the Court to be convened under subsection 411(1) of the Corporations Act to consider and vote on this Scheme and includes any meeting convened following any adjournment or postponement of that meeting.

**Scheme Record Date** means 5.00 pm on the day which is two Business Days after the Effective Date or such other date agreed to in writing by Target and Bidder.

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

**Scheme Shareholder** means a person who holds one or more Scheme Shares as at the Scheme Record Date.

**Scheme Transfer** means a duly completed and executed proper instrument of transfer in respect of the Scheme Shares for the purposes of section 1071B of the Corporations Act, in favour of Bidder as transferee, being a master transfer of all of the Scheme Shares.

**Scrip Consideration** means one (1) new Bidder Share per Scheme Share.

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

**South Africa** means the Republic of South Africa.

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

**Target** means DRA Global Limited ACN 622 581 935.

**Target Options** has the meaning given to it in the Scheme Implementation Deed.

**Target Register** means the register of members of the Target.

**Target Registry** means Computershare Investor Services Pty Ltd.

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

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

**Valid Election** for an Election to be valid:

- (a) the Target Shareholder must not be an Ineligible Foreign Shareholder;
- (b) the Target Shareholder must complete and sign the Election Form in accordance with the terms and conditions set out in the Election Form;
- (c) the Election Form must be received by the Target Registry by the Election Date at the address specified by the Target on the Election Form; and
- (d) if Scrip Consideration is elected, the Election must be for not less than 250 Bidder Shares.

## 1.2 Interpretation

In this Scheme:

- (a) headings and bold type are for convenience only and do not affect the interpretation of this Scheme;
- (b) the singular includes the plural and the plural includes the singular;
- (c) words of any gender include all genders;
- (d) other parts of speech and grammatical forms of a word or phrase defined in this Scheme have a corresponding meaning;
- (e) a reference to a person includes any company, partnership, joint venture, association, corporation or other body corporate and any Government Agency as well as an individual;
- (f) a reference to a clause, party, schedule, attachment or exhibit is a reference to a clause of, and a party, schedule, attachment or exhibit to, this Scheme;
- (g) a reference to any legislation includes all delegated legislation made under it and amendments, consolidations, replacements or re-enactments of any of them (whether passed by the same or another Government Agency with legal power to do so);
- (h) a reference to a document (including this Scheme) includes all amendments or supplements to, or replacements or novations of, that document;
- (i) a reference to **AUD, \$, A\$** or **dollar** is to Australian currency;

- (j) a reference to **ZAR, R or rand** is to South African currency;
- (k) a reference to any time is, unless otherwise indicated, a reference to that time in Western Australia;
- (l) words defined in the Corporations Act, and which are not otherwise defined in clause 1.1, have the same meaning given to them in the Corporations Act;
- (m) a reference to a party to a document includes that party's successors and permitted assignees;
- (n) no provision of this Scheme will be construed adversely to a party because that party was responsible for the preparation of this Scheme or that provision;
- (o) a reference to a body, other than a party to this Scheme (including an institute, association or authority), whether statutory or not:
  - (i) which ceases to exist; or
  - (ii) whose powers or functions are transferred to another body,
 is a reference to the body which replaces it or which substantially succeeds to its powers or functions;
- (p) if a period of time is specified and dates from a given day or the day of an act or event, it is to be calculated exclusive of that day;
- (q) a reference to a day is to be interpreted as the period of time commencing at midnight and ending 24 hours later; and
- (r) if an act prescribed under this Scheme to be done by a party on or by a given day is done after 5.00 pm on that day, it is taken to be done on the next day.

### 1.3 **Interpretation of inclusive expressions**

Specifying anything in this Scheme after the words include or for example or similar expressions does not limit what else is included.

### 1.4 **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.

### 1.5 **Scheme components**

This Scheme includes any schedule to it.

## 2. **Preliminary matters**

- (a) As at the date of the Scheme Implementation Deed, there were on issue:
  - (i) 44,882,367 Target Shares; and
  - (ii) 2,127,403 Target Options;
- (b) Bidder is a public, unlisted company incorporated in South Africa.

- (c) If this Scheme becomes Effective:
  - (i) Bidder must provide or procure the provision of the Scheme Consideration to the Scheme Shareholders in accordance with this Scheme and the Deed Poll;
  - (ii) all the Scheme Shares, and all the rights and entitlements attaching to them as at the Implementation Date, must be transferred to the Bidder; and
  - (iii) Target will enter the name and address of the Bidder in the Target Register in respect of the Scheme Shares.
- (d) Target and Bidder have agreed, by executing the Scheme Implementation Deed, to implement (among other things) this Scheme, on and subject to the terms of the Scheme Implementation Deed.
- (e) Bidder has executed the Deed Poll under which it covenants in favour of the Scheme Shareholders to perform its obligations under this Scheme, including the provision or procuring the provision of the Scheme Consideration to the Scheme Shareholders.

### 3. Conditions

#### 3.1 Conditions precedent

This Scheme is conditional on, and will not become Effective unless and until, each of the following conditions precedent is satisfied:

- (a) all the conditions in clause 4.2 of the Scheme Implementation Deed (other than the condition in item 4 of clause 4.2 (Court approval of Scheme) of the Scheme Implementation Deed) having been satisfied or waived in accordance with the terms of the Scheme Implementation Deed by 8.00 am on the Second Court Date;
- (b) neither the Scheme Implementation Deed nor the Deed Poll having been terminated in accordance with their terms before 8.00 am on the Second Court Date;
- (c) approval of this Scheme by the Court under paragraph 411(4)(b) of the Corporations Act, including with any alterations made or required by the Court under subsection 411(6) of the Corporations Act and that are agreed to by Target and Bidder (such agreement not to be unreasonably withheld or delayed);
- (d) such other conditions made or required by the Court under subsection 411(6) of the Corporations Act in relation to this Scheme and that are agreed to by Target and Bidder (such agreement not to be unreasonably withheld or delayed) having been satisfied or waived; and
- (e) the orders of the Court made under paragraph 411(4)(b) (and, if applicable, subsection 411(6)) of the Corporations Act approving this Scheme coming into effect, pursuant to subsection 411(10) of the Corporations Act on or before the End Date (or any later date Target and Bidder agree in writing).

#### 3.2 Certificate

- (a) Target and Bidder will each provide to the Court on the Second Court Date a certificate, or such other evidence as the Court requests, confirming (in respect of matters within their knowledge) whether or not all of the conditions precedent



in clauses 3.1(a) and 3.1(b) have been satisfied as at 8.00 am on the Second Court Date.

- (b) The certificate referred to in clause 3.2(a) constitutes conclusive evidence (in the absence of manifest error) that the conditions precedent in clauses 3.1(a) and 3.1(b) were satisfied, waived or taken to be waived as at 8.00 am on the Second Court Date.

### 3.3 End Date

This Scheme will lapse and be of no further force or effect if:

- (a) the Effective Date does not occur on or before the End Date; or
- (b) the Scheme Implementation Deed or the Deed Poll is terminated in accordance with its terms,

unless Target and Bidder otherwise agree in writing (and, if required, as approved by the Court).

## 4. Scheme becoming Effective

Subject to clause 3, this Scheme will take effect on and from the Effective Date.

## 5. Lodgement of Court order with ASIC

If the conditions precedent in clause 3.1 are satisfied or waived, Target must lodge with ASIC, in accordance with subsection 411(10) of the Corporations Act, an office copy of the Court order approving this Scheme under section 411(4)(b) of the Corporations Act (and, if applicable, section 411(6) of the Corporations Act) (the **Court Order**), as soon as possible after the Court approves this Scheme and in any event by 4.00 pm on the first Business Day after the day on which the Court approves this Scheme (or such later time or date as agreed in writing by Target and Bidder).

## 6. Transfer of Scheme Shares

On the Implementation Date:

- (a) subject to the provision of the Scheme Consideration in the manner contemplated by clause 7.2 and Bidder having provided Target with written confirmation of the provision of the Scheme Consideration, the Scheme Shares, together with all rights and entitlements attaching to the Scheme Shares as at the Implementation Date, will be transferred to the Bidder, without the need for any further act by any Scheme Shareholder (other than acts performed by Target, or any of its directors, officers or secretaries, as attorney and agent for Scheme Shareholders under clause 10.6), by:
  - (i) Target delivering to Bidder for execution a duly completed Scheme Transfer to transfer all of the Scheme Shares to Bidder, executed on behalf of the Scheme Shareholders by Target as their attorney and agent; and
  - (ii) Bidder duly executing the Scheme Transfer, attending to the stamping of the Scheme Transfer (if required) and delivering it to Target for registration; and
- (b) immediately following receipt of the Scheme Transfer in accordance with clause 6(a)(ii), but subject to the stamping of the Scheme Transfer (if required), Target

must enter, or procure the entering of, the name of Bidder in the Target Register as the registered holder of all the Scheme Shares.

## **7. Scheme Consideration**

### **7.1 Entitlement to Scheme Consideration**

Subject to the terms of this Scheme, each Scheme Shareholder will be entitled to the Scheme Consideration for each Scheme Share held by that Scheme Shareholder.

### **7.2 Bidder undertakings in relation to Scheme Consideration**

Bidder undertakes to Target that, if the Scheme becomes Effective, in consideration for the transfer to Bidder of Scheme Shares held by Scheme Shareholders under the terms of the Scheme, the Bidder will on the Implementation Date:

- (a) accept that transfer;
- (b) provide, or procure the provision, to each Scheme Shareholder of the Scheme Consideration for each Scheme Share held by that Scheme Shareholder on the Scheme Record Date subject to, and in accordance with:
  - (i) any election made (or deemed to have been made) by that Scheme Shareholder as contemplated by clause 7.3, 7.4 and 7.5; and
  - (ii) the terms of the Scheme;
- (c) by no later than the Business Day before the Implementation Date, pay, or procure the payment of, to a trust account operated by or on behalf of Target, to be held on trust for Scheme Shareholders, an amount in cleared funds equal to the Cash Consideration; and
- (d) on the Implementation Date, procure the allocation of the Scrip Consideration to applicable Scheme Shareholders,

in each case in accordance with the terms of the Scheme.

### **7.3 Election Mechanism**

- (a) Each Target Shareholder (other than Ineligible Foreign Shareholders) will be entitled to make an Election. All Elections take effect in accordance with the Scheme to the extent any Target Shareholder who makes an Election qualifies as a Scheme Shareholder.
- (b) Target must ensure that the Scheme Booklet is accompanied by an Election Form and the Bidder Prospectus.
- (c) The Election Form must state to the effect:
  - (i) subject to clause 7.3(c)(iv), an Election must be made in accordance with the terms and conditions stated on the Election Form for it to be valid and must be completed and returned in the manner prescribed by the Election Form before the Election Date;
  - (ii) an Election will apply to all the Target Shares of the Target Shareholder as at the Election Date and, subject to clause 7.3(c)(iv), a Target Shareholder must only make one Election in relation to a particular holding;

- (iii) once made, an Election may be varied, waived or revoked before the Election Date by notice in writing to the Target; and
  - (iv) in the manner considered appropriate by Bidder and Target (acting reasonably), a Target Shareholder who holds one or more parcels of Target Shares as trustee or nominee for, or otherwise on account of another person, may make separate Elections in relation to each of those parcels of Target Shares (subject to providing to Bidder and Target any substantiating information they reasonably required), and if it does so will be treated as a separate Target Shareholder in respect of each such parcel in respect of which a separate Election is made (and in respect of any balance of its holding), provided that if, at the Election Date, it holds fewer Target Shares than it held at the time it made the Election, then, unless it has at the of any sale of Target Shares notified the Target whether the Target Shares sold related to, it will be treated as not having made a Valid Election in respect of any of the Target Shares (or will be treated in any other manner that the Bidder and Target agrees is fair to the Target Shareholder in all the circumstances acting reasonably).
- (d) The Target must ensure that, to the extent reasonably practicable, persons who acquire Target Shares after the dispatch of the Scheme Booklet and until the Election Date are sent an Election Form accompanied by the Bidder Prospectus upon these persons requesting an Election Form from the Target.
- (e) In order to facilitate the issue of the Scrip Consideration (if applicable), the Target must provide, or procure the provision, to Bidder, details of any Election made by the Target Shareholder, on the Business Day after the Election Date, including the name and address of each Target Shareholder who has made a Valid Election and the number of new Bidder Shares that the Bidder must issue to that Target Shareholder to meet its obligation under the Scheme in accordance with that Target Shareholder's Valid Election.
- (f) The parties agree that the terms and conditions that will be stated on the Election Form will include the following:
- (i) Ineligible Foreign Shareholders may not make an Election that any purported Election by such persons will be of no effect. Clause 7.5 will apply to any Target Shareholder who makes an Election but who is an Ineligible Foreign Shareholder;
  - (ii) if a Target Shareholder does not make a Valid Election or fails to include all of its Target Shares in one or more Election Forms, that Target Shareholder will receive Cash Consideration in respect of those Scheme Shares held by that Target Shareholder which are affected by either an invalid Election or by no Election made; and
  - (iii) Target Shareholders who make a Valid Election to receive any Scrip Consideration agree to become members of Bidder from the Implementation Date and become bound by the Bidder's memorandum of incorporation, pursuant to the Scheme,

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

**7.4 Default Election**

If a Target Shareholder (other than an Ineligible Foreign Shareholder) does not make a Valid Election, that Target Shareholder will be deemed to have elected the Cash Consideration.

**7.5 Ineligible Foreign Shareholder**

- (a) If a Target Shareholder is an Ineligible Foreign Shareholder that Target Shareholder will only be entitled to receive all Cash Consideration for the Scheme Shares held by that Target Shareholder.
- (b) Bidder has no obligation to provide, and will not provide, under the Scheme any Scrip Consideration to Ineligible Foreign Shareholders, regardless of any Election made by those persons, but must pay the Cash Consideration to each Ineligible Foreign Shareholder for the Scheme Shares they hold in accordance with the Scheme.

**8. Provision of Scheme Consideration**

**8.1 Provision of Cash Consideration**

- (a) Bidder must, by no later than the Business Day before the Implementation Date, deposit in cleared funds an amount equal to the Cash Consideration payable to the Scheme Shareholders into (i) an Australian dollar denominated trust account, in respect of the Cash Consideration payable in Australian dollars; and (ii) a ZAR denominated trust account, in respect of the Cash Consideration payable in rand, in each case, as operated by Target or Target Registry as trustee for the Scheme Shareholders and notified to Bidder at least 3 Business Days prior to the Implementation Date provided that any interest on the amounts deposited (less bank fees and other charges) will be credited to Bidder's account.
- (b) On the Implementation Date subject to funds having been deposited as above, Target must pay or procure the payment, from the trust accounts referred to in 8.1(a), to each Scheme Shareholder of the cash component of the Scheme Consideration to which that Scheme Shareholder is entitled under this Scheme in accordance with that Scheme Shareholder's Election (or in the case of Ineligible Foreign Shareholders, in accordance with clause 7.5 of this Scheme).
- (c) To the extent that, following satisfaction of Target's obligations under clause 8.1(a), there is a surplus in the amount held by Target or the Target Share Registry as trustee for the Scheme Shareholders in the trust account referred to in that clause, that surplus shall be paid by Target to Bidder.
- (d) Where the calculation of the Cash Consideration would result in a Scheme Shareholder becoming entitled to a fraction of a cent:
  - (i) where the entitlement is to half a cent or more, the fractional entitlement will be rounded up to the nearest whole cent; and
  - (ii) where the entitlement is to less than half a cent, the fractional entitlement will be rounded down to the nearest whole cent.

**8.2 Provision of Scrip Consideration**

- (a) Subject to clauses 8.3, 8.4 and 8.5, Bidder must:
  - (i) on the Implementation Date, allot and issue the Scrip Consideration to a Scheme Shareholder in accordance with that Scheme Shareholder's Valid Election and procure that the name and address of each Scheme

Shareholder is entered in the Bidder's share register in respect of those new Bidder Shares; and

- (ii) procure that on or before the date that is 10 Business Days after the Implementation Date, a share certificate is sent to the Registered Address of each Scheme Shareholder who receives Scrip Consideration representing the number of new Bidder Shares issued to the Scheme Shareholder pursuant to the Scheme.

### 8.3 Joint holders

In the case of Scheme Shares held in joint names:

- (a) any Scheme Consideration required to be provided under this Scheme will be made payable to the joint holders and sent to either, at the sole discretion of Target, the holder whose name appears first in the Target Register as at the Scheme Record Date or to the joint holders; and
- (b) any other document required to be sent under this Scheme will be forwarded to either, at the sole discretion of Target, the holder whose name appears first in the Target Register as at the Scheme Record Date or to the joint holders.

### 8.4 Unclaimed monies

- (a) Target may cancel a cheque issued under this clause 8 if the cheque:
  - (i) is returned to Target or the Target Registry; or
  - (ii) has not been presented for payment within six months after the Implementation Date.
- (b) During the period of 12 months commencing on the Implementation Date, on request in writing from a Scheme Shareholder to Target (or the Target Registry) (which request may not be made until the date which is 20 Business Days after the Implementation Date), Target must reissue a cheque that was previously cancelled under this clause 8.4.
- (c) The *Unclaimed Money Act 1990* (WA) will apply in relation to any Scheme Consideration which becomes "unclaimed money" (as defined in 3 of the *Unclaimed Money Act 1990* (WA)).

### 8.5 Orders of a court or Government Agency

If Bidder or Target (or the Target Registry) is required under any applicable law including as a result of any order, direction or notice made or given by a court of competent jurisdiction or by another Government Agency that:

- (a) requires payment of a sum to a third party in respect of Scheme Shares held by a particular Scheme Shareholder, which would otherwise be payable to that Scheme Shareholder by Target in accordance with this clause 8, then Bidder or Target shall be entitled to procure that the payment is made in accordance with that law, order, direction or notice; or
- (b) prevents Bidder or Target from dispatching payment to any particular Scheme Shareholder in accordance with this clause 8, or such payment is otherwise prohibited by applicable law, Bidder or Target shall be entitled to retain an amount, in Australian dollars or South African rand (as the case may be), equal to the number of Scheme Shares held by that Scheme Shareholder multiplied by the Scheme Consideration, until such time as payment in accordance with this

clause 8 is permitted by that (or another) order, direction, notice or otherwise by law,

and the payment or retention by Bidder or Target in accordance with this clause 8.5 will constitute full discharge of Bidder's obligations under clause 7.2 with respect to such payment or retention. Notwithstanding clause 7.3, if payment of a sum is required under this clause 8.5, the Scheme Shareholder will be deemed to have elected Cash Consideration in respect of that sum.

## **9. Dealings in Target shares**

### **9.1 Determination of Scheme Shareholders**

To establish the identity of the Scheme Shareholders, dealings in Target Shares or other alterations to the Target Register will only be recognised if:

- (a) the transferee is registered in the Target Register as the holder of the relevant Target Shares on or before the Scheme Record Date; and
- (b) in all other cases, registrable transfer or transmission applications in respect of those dealings, or valid requests in respect of other alterations, are received on or before 5.00 pm on the day on which the Scheme Record Date occurs at the place where the Target Register is kept,

and Target must not accept for registration, nor recognise for any purpose (except a transfer to Bidder pursuant to this Scheme and any subsequent transfer by Bidder or their respective successors in title), any transfer or transmission application or other request received after the Scheme Record Date, or received prior to the Scheme Record Date but not in registrable or actionable form, as appropriate.

### **9.2 Register**

- (a) Target must register, or cause to be registered registrable transmission applications or transfers of Target Shares that are received in accordance with clause 9.1(b) before 5.00 pm on the day on which the Scheme Record Date occurs.
- (b) If this Scheme becomes Effective, a Scheme Shareholder (and any person claiming through that holder) must not dispose of, or purport or agree to dispose of, any Scheme Shares or any interest in them on or after the Scheme Record Date otherwise than pursuant to this Scheme, and any attempt to do so will have no effect and Target shall be entitled to disregard any such disposal.
- (c) For the purpose of determining entitlements to the Scheme Consideration, Target must maintain, or cause to be maintained, the Target Register in accordance with the provisions of this clause 9.2 until the Scheme Consideration has been paid to the Scheme Shareholders and Bidder has been entered in the Target Register as holder of all the Scheme Shares. The Target Register in this form will solely determine entitlements to the Scheme Consideration.
- (d) All statements of holding for the Target Shares (other than statements of holding in favour of Bidder) will cease to have effect after the Scheme Record Date as documents of title in respect of those securities and, as from that date, each entry current at that date on the Target Register (other than entries on the Target Register in respect of Bidder) will cease to have effect except as evidence of entitlement to the Scheme Consideration in respect of the Scheme Shares relating to that entry.

- (e) As soon as possible on or after the Scheme Record Date, and in any event by 5.00 pm on the second Business Day after the Scheme Record Date, Target will ensure that details of the names, Registered Addresses and holdings of Target Shares for each Scheme Shareholder as shown in the Target Register at the Scheme Record Date are available to Bidder in the form that Bidder reasonably requires.

## 10. General Scheme provisions

### 10.1 Further assurances

- (a) Target will do all things and execute all deeds, instruments, transfers or other documents (whether on its own behalf or on behalf of each Scheme Shareholder) as may be required by law, the Court or is otherwise reasonably necessary to give full effect to the terms of this Scheme and the transactions contemplated by it.
- (b) Without limiting Target's other powers under this Scheme, Target has power to do all things that it considers necessary or desirable to give effect to this Scheme and the transactions contemplated by it.

### 10.2 Consent to amendments to this Scheme

If the Court proposes to approve this Scheme subject to any alterations or conditions:

- (a) Target may, by its counsel, consent on behalf of all persons concerned to those alterations or conditions to which Bidder has consented (whether in writing or by its counsel); and
- (b) each Scheme Shareholder agrees to any such alterations or conditions which Target has consented to under clause 10.2(a).

### 10.3 Scheme Shareholders' agreements and warranties

- (a) Each Scheme Shareholder irrevocably:
  - (i) agrees to the transfer of their Scheme Shares together with all rights and entitlements attaching to those Scheme Shares to Bidder in accordance with this Scheme;
  - (ii) agrees to the variation, cancellation or modification of the rights attached to their Scheme Shares constituted by or resulting from this Scheme; and
  - (iii) acknowledges and agrees that this Scheme binds Target and all Scheme Shareholders (including those who do not attend the Scheme Meeting and those who do not vote, or vote against this Scheme, at the Scheme Meeting),

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

- (b) Each Scheme Shareholder is taken (by operation of this Scheme and without the need for any further act by that Scheme Shareholder) to have warranted to Target and Bidder on the Implementation Date, and appointed and authorised Target as its attorney and agent to warrant to Bidder on the Implementation Date, that:
  - (i) all of their Scheme Shares (including any rights and entitlements attaching to those shares) which are transferred under this Scheme will, at the date of transfer, be fully paid and free from all mortgages, charges, liens, encumbrances, pledges, security interests (including any security

interests within the meaning of section 12 of the *Personal Property Securities Act 2009* (Cth)) and interests of third parties of any kind, whether legal or otherwise, and restrictions on transfer of any kind;

- (ii) they have full power and capacity to transfer their Scheme Shares to Bidder together with any rights and entitlements attaching to those Scheme Shares; and
  - (iii) they have no existing right to be issued any Target Shares, options exercisable into Target Shares, performance rights, convertible notes or any other Target securities;
- (c) Target undertakes in favour of each Scheme Shareholder that it will provide the warranties in clause 10.3(b) to Bidder as agent and attorney of each Scheme Shareholder.

#### 10.4 **Title to and rights in Scheme Shares**

- (a) To the extent permitted by law, the Scheme Shares (including all rights and entitlements attaching to the Scheme Shares) transferred under this Scheme to Bidder will, at the time of transfer of them to Bidder, be fully paid and free from all mortgages, charges, liens, encumbrances, pledges, security interests (including any security interests within the meaning of section 12 of the *Personal Property Securities Act 2009* (Cth)) and interests of third parties of any kind, whether legal or otherwise and free from any restrictions on transfer of any kind.
- (b) Immediately upon the provision of the Scheme Consideration to each Scheme Shareholder in the manner contemplated by clause 8, Bidder will be beneficially entitled to the Scheme Shares to be transferred to it under this Scheme pending registration by Target of the name and address of Bidder in the Target Register as the holder of the Scheme Shares.

#### 10.5 **Appointment of sole proxy**

Immediately upon the provision of the Scheme Consideration to each Scheme Shareholder in the manner contemplated by clause 8, and until Target registers Bidder as the holder of all Scheme Shares in the Target Register, each Scheme Shareholder:

- (a) is deemed to have appointed Bidder as attorney and agent (and directed Bidder in each such capacity) to appoint any director, officer, secretary or agent nominated by Bidder as its sole proxy and, where applicable or appropriate, corporate representative to attend shareholders' meetings, exercise the votes attaching to the Scheme Shares registered in their name and sign any shareholders' resolution or document;
- (b) must not attend or vote at any of those meetings or sign any resolutions, whether in person, by proxy or by corporate representative (other than pursuant to clause 10.5(a));
- (c) must take all other actions in the capacity of a registered holder of Scheme Shares as Bidder reasonably directs; and
- (d) acknowledges and agrees that in exercising the powers referred to in clause 10.5(a), Bidder and any director, officer, secretary or agent nominated by Bidder under clause 10.5(a) may act in the best interests of Bidder as the intended registered holder of the Scheme Shares.



## 10.6 Authority given to Target

- (a) On and from the Effective Date, each Scheme Shareholder, without the need for any further act, irrevocably appoints Target and each of its directors, officers and secretaries (jointly and each of them severally) as its attorney and agent for the purpose of:
- (i) enforcing the Deed Poll against Bidder and 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 each Scheme Shareholder; and
  - (ii) executing any document or doing or taking any other act necessary, desirable or expedient to give effect to this Scheme and the transactions contemplated by it, including (without limitation) executing the Scheme Transfer,
- and Target accepts each such appointment under this clause 10.6.
- (b) Target, as attorney and agent of each Scheme Shareholder, may sub-delegate its functions, authorities or powers under this clause 10.6 to all or any of its directors, officers, secretaries or employees (jointly, severally or jointly and severally).

## 10.7 Binding effect of Scheme

This Scheme binds Target and all of the Scheme Shareholders (including those who did not attend the Scheme Meeting to vote on this Scheme, did not vote at the Scheme Meeting, or voted against this Scheme at the Scheme Meeting) and, to the extent of any inconsistency, overrides the constitution of Target.

## 11. General

### 11.1 Stamp duty

Bidder will:

- (a) pay all stamp duty and any related fines and penalties in respect of this Scheme and the Deed Poll, the performance of the Deed Poll and each transaction effected by, or made under, or in connection with, the Scheme and the Deed Poll; and
- (b) indemnify each Scheme Shareholder against any liability arising from failure to comply with clause 11.1(a).

### 11.2 Consent

Each of the Scheme Shareholders consents to Target doing all things necessary or incidental to, or to give effect to, the implementation of this Scheme and the transactions contemplated by it, whether on behalf of the Scheme Shareholders, Target or otherwise.

### 11.3 Notices

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

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

**11.4 No liability when acting in good faith**

Each Scheme Shareholder agrees (by operation of this Scheme and without the need for any further act by the Scheme Shareholder) that neither Target, Bidder nor any of their respective directors, officers, secretaries or employees shall be liable for anything done or omitted to be done in the performance of this Scheme or the Deed Poll in good faith.

**11.5 Governing law and jurisdiction**

- (a) This Scheme is governed by the laws in force in Western Australia.
- (b) The parties irrevocably submit to the exclusive jurisdiction of courts exercising jurisdiction in Western Australia and courts of appeal from them in respect of any proceedings arising out of, or in connection with, this Scheme. The parties irrevocably waive any objection to the venue of any legal process in these courts on the basis that the process has been brought in an inconvenient forum.

**EXECUTED AND DELIVERED** as a deed.

**EXECUTED** by **DRA GLOBAL LIMITED**  
in accordance with section 127 of the  
*Corporations Act 2001 (Cth)*:

[Redacted Signature]

Signature of director

[Redacted Signature]

Signature of director/secretary

[Redacted Name]

Name

Name

**EXECUTED** by **APEX CAPITAL PARTNERS LIMITED**  
in the presence of:

[Redacted Signature]

Witness Signature

[Redacted Signature]

Authorised Signatory

[Redacted Name]

Print Name

[Redacted Name]

Print Name