

ASX Announcement

ONTHEHOUSE AND CONSORTIUM ENTER INTO SCHEME IMPLEMENTATION AGREEMENT

- Consortium acquisition of all of the shares in Onthehouse not already held by a Consortium member, via a scheme of arrangement
- Cash consideration of \$0.85 per share
- Independent Board Committee unanimously recommends all shareholders vote in favour of the Consortium Offer
- Scheme is subject to various conditions

Wednesday 6 July, 2016: Onthehouse Holdings Limited (ASX:OTH) (**Onthehouse**) announces that it has entered into a scheme implementation deed (**Scheme Implementation Deed**) with a consortium of investors comprising PIQ1 Pty Ltd and Macquarie Corporate Holdings Pty Limited (both wholly-owned subsidiaries of Macquarie Group Limited) and 77 Victoria Street Trust and Sandrift Pte Limited (entities of which Michael Dempsey and Daniel Dempsey are each affiliated) (**Consortium**).

The Scheme Implementation Deed provides for the acquisition by the Consortium of all of the equity in Onthehouse not already owned by members of the Consortium through a scheme of arrangement (**Scheme**) for cash consideration of \$0.85 per Onthehouse share. This consideration represents a premium of:

- 54% over the 90 day volume-weighted average price of \$0.552 to 22nd December 2015 (two days before the Consortium's initial proposal was announced by Onthehouse on 24 December 2015 and one day after the release of the Notices of initial substantial holder by each of Corelogic Australia Holdings Pty Ltd and the Macquarie Group Entities);
- 50% over the 30 day volume-weighted average price to 22nd December 2015 of \$0.567;
- 47% over the closing price of \$0.580 on 22nd December 2015;
- 11% over the 30 day volume-weighted average price of \$0.765 to Tuesday 5 July 2016; and
- 13% over the Consortium's initial proposal of \$0.755 per Onthehouse share announced by Onthehouse on 24 December.

Unanimous Recommendation of the Independent Board Committee

As advised to the market on 11 March 2016, Onthehouse formed an independent board committee (**IBC**) which excluded Michael Dempsey and Daniel Dempsey, to consider the Consortium's proposal. Following its consideration of the proposal and negotiations with the Consortium, the IBC now unanimously recommends, in the absence of a superior proposal and subject to an independent expert concluding that the Scheme is in the best interests of Onthehouse shareholders, that shareholders vote in favour of the Scheme. Subject to those same qualifications, each independent director of the IBC intends to vote all Onthehouse shares controlled or held by, or on behalf of, that director in favour of the Scheme.

The chairman of Onthehouse and of the IBC, Mr Tony Scotton, said:

“We are pleased to have agreed to recommend a transaction that offers a significant premium to shareholders of Onthehouse. The Consortium’s proposal, if implemented, provides shareholders with an immediate and significant increase in value without the risks inherent in transitioning our Console platform to become a cloud, software-as-a-service offering – something that we believe is critical for the platform to retain its strong position in the market. The IBC has, therefore, unanimously concluded that it is in the best interests of shareholders to enter into the Scheme Implementation Deed.”

Onthehouse has appointed Lonergan Edwards as the independent expert to opine on whether the Scheme is in the best interests of shareholders and to provide the independent expert’s report.

Scheme Implementation Deed

A copy of the Scheme Implementation Deed is attached to this announcement.

The Scheme Implementation Deed contains terms which are customary for a transaction of this nature, including ‘no shop’ and ‘no talk’ provisions, a ‘matching right’ for the Consortium to match any superior proposal put forward by a third party, and a break fee of \$0.72 million payable by Onthehouse in certain circumstances where the Scheme does not proceed.

Implementation of the Scheme remains subject to customary conditions, including, in summary:

- the Court ordering that a meeting of Onthehouse shareholders be convened;
- Onthehouse shareholders approving the Scheme by the requisite majorities – being:
 - a majority in number of shareholders who are eligible to vote, present and voting (either in person or by proxy); and
 - at least 75% of the total shares voted, noting that the members of the Consortium and their affiliates (who have a relevant interest in 19.23% of Onthehouse shares) are not eligible to vote;
- Court approval of the Scheme at the second court hearing (**Second Court Hearing**);
- no material adverse change and no prescribed occurrence occurring before date of the Second Court Hearing; and
- no material legal restraint or prohibition, preventing or delaying the completion of the proposed transaction is in effect 2 hours before the Second Court Hearing,

in each case, as set out in the Scheme Implementation Deed.

Indicative Timetable and Next Steps

No action is required by Onthehouse shareholders at this time.

A scheme booklet (**Scheme Booklet**) is expected to be sent to Onthehouse shareholders in September 2016. The Scheme Booklet will contain information relating to the proposed transaction, the reasons for the IBC’s unanimous recommendation, details of the shareholder meeting and other matters relevant to Onthehouse shareholders’ vote on the Scheme.

It is anticipated that Onthehouse shareholders will have the opportunity to vote on the proposal at a meeting to be held in October 2016. Subject to Court approval and the conditions of the Scheme being satisfied, the Scheme is expected to be implemented in October 2016.

These dates are indicative and subject to change.

Advisers

Onthehouse is being advised by TMT Partners and Allier Capital as joint financial advisers and Gilbert + Tobin as legal adviser.

- ENDS -

For further information please contact:

Tony Scotton

Chairman

T: +61 419 527 592

E: tony.scotton@onthehouse.com.au

Kim Clark

Company Secretary

T: +61 448 690 364

E: kim.clark@boardroomlimited.com.au

About Onthehouse Holdings Limited

Onthehouse Holdings Limited (ASX: OTH) is an ASX-listed Australian company headquartered in Brisbane. Onthehouse provides an integrated platform for office administration, property sales and management applications, online advertising solutions and other business performance tools for real estate agents, other property professionals and financial institutions.

EXECUTION VERSION
5 July 2016

Onthehouse Holdings Limited

PIQ1 Pty Ltd

Macquarie Corporate Holdings Pty Ltd

77 Victoria Street Venture Pty Limited in its
capacity as trustee for 77 Victoria Street Trust

Sandrift Pte Limited

Scheme Implementation Deed

Contents

1	Definitions and interpretation	1
1.1	Definitions	1
1.2	Interpretation	14
1.3	Headings	15
1.4	Consents or approvals	15
1.5	Listing requirements included as law	16
1.6	Reasonable and best endeavours	16
1.7	Capacity in which Consortium Members act	16
2	Agreement to propose Scheme	16
3	Conditions precedent and pre-implementation steps	17
3.1	Conditions to Scheme	17
3.2	Benefit and waiver of Conditions	17
3.3	Reasonable endeavours	18
3.4	Notifications	18
3.5	Certificate	18
3.6	Scheme voted down	18
3.7	Conditions not capable of being fulfilled	19
3.8	Interpretation	20
4	Transaction Steps	20
4.1	Scheme	20
4.2	Scheme Consideration	20
4.3	Deed poll	20
5	Implementation	21
5.1	OTH's obligations	21
5.2	Consortium Members' obligations	23
5.3	Consortium Information	24
5.4	Explanatory Booklet – preparation principles	25
6	OTH Board recommendation	27
6.1	Recommendation	27
6.2	Explanatory Booklet to contain recommendation	27
6.3	Withdrawal or modification of recommendation	28
7	Conduct of business before the Implementation Date	28
7.1	Conduct of OTH business	28
7.2	Prohibited actions	29
7.3	OTH permitted activities	30
7.4	Access	30
7.5	OTH Options	31
8	Actions on and following Implementation Date	32
8.1	Reconstitution of the board of each member of the OTH Group	32
8.2	Sequence of actions on the Implementation Date	32

9	Representations and warranties	33
9.1	OTH representations and warranties	33
9.2	Representations and warranties by Consortium Members	34
9.3	Timing of representations and warranties	35
9.4	Survival of representations and warranties	35
10	Confidentiality and Public Announcement	36
10.1	Confidentiality	36
10.2	Public Announcements on execution	36
10.3	Further public announcements	36
10.4	Required announcement	36
10.5	Statements on termination	36
11	Termination	36
11.1	Termination by notice	36
11.2	Automatic termination	38
11.3	Effect of termination	38
12	Reimbursement Fee	38
12.1	Background to Reimbursement Fee	38
12.2	Reimbursement Fee triggers	39
12.3	Timing of payment of Reimbursement Fee	40
12.4	Basis of Reimbursement Fee	40
12.5	Compliance with law	40
12.6	Reimbursement Fee payable only once	41
12.7	Limitations of Liability	41
12.8	No Reimbursement Fee if Scheme Effective	41
13	Exclusivity	41
13.1	No existing discussions	41
13.2	No-shop	42
13.3	No-talk	42
13.4	No due diligence	42
13.5	Notification of approaches	43
13.6	OTH's response to Rival Acquirer and the Consortium Members' right to respond	43
13.7	Fiduciary out	45
14	Notices	45
15	Releases	47
15.1	OTH Persons	47
15.2	Consortium Parties	47
15.3	Directors' and officers' insurance	48
15.4	Obligations in relation to directors' and officers' insurance	48
16	General	48
16.1	Further acts	48
16.2	Timetable	49

16.3	Payments	49
16.4	GST	49
16.5	Stamp duty	50
16.6	Expenses	50
16.7	Amendments	50
16.8	Assignment	50
16.9	Waiver	50
16.10	Counterparts	50
16.11	Entire agreement	51
16.12	No representation or reliance	51
16.13	No merger	51
16.14	Governing law	51
Schedule 1 - Indicative Timetable		2
Schedule 2 - OTH Options		Error! Bookmark not defined.
Schedule 3 - Deed Poll		2
Schedule 4 - Scheme		3
Execution		2

Date 5 July 2016

Parties

Onthehouse Holdings Limited ACN 150 139 781 of Level 2, 200 Adelaide Street, Brisbane, Queensland (**OTH**)

PIQ1 Pty Ltd ACN 608 629 509 of Level 6, 50 Martin Place, Sydney, New South Wales (**PIQ1**)

Macquarie Corporate Holdings Pty Ltd ACN 096 705 109 of Level 6, 50 Martin Place, Sydney, New South Wales (**MacCap**)

77 Victoria Street Venture Pty Ltd (ACN 145 769 866) in its capacity as trustee for 77 Victoria Street Trust of 117 Fernberg Road, Paddington, Queensland (**77VSV**)

Sandrift Pte Limited UEN 201618249M of 60, Paya Lebar Road, #08-43, Paya Lebar Square, Singapore 40905 (**Sandrift**)

(each of PIQ1, MacCap, 77VSV and Sandrift a **Consortium Member**, and together the **Consortium Members**)

Background

- A OTH and the Consortium Members have agreed to implement the Proposed Transaction (as defined below) on and subject to the terms and conditions of this deed.
 - B OTH and the Consortium Members have agreed certain other matters in connection with the Proposed Transaction as set out in this deed.
 - C 77 Victoria Street Venture Pty Ltd as trustee for the 77 Victoria Street Trust (an entity associated with Mr Michael Perry Dempsey) holds 15,837,745 shares in OTH, which shares shall not be subject to the Scheme (as defined below).
-

Agreed terms

1 Definitions and interpretation

1.1 Definitions

In this deed these terms have the following meanings:

1H FY16 Accounts	means the audited consolidated statement of cash flows for OTH for the six months ended on 31 December 2015, audited consolidated statement of financial position for the
-------------------------	---

	six months ended on 31 December 2015 and audited consolidated profit and loss account for OTH for the half year ended on 31 December 2015, as filed in OTH's Half Year Report for the period ending 31 December 2015, as filed with ASX on 26 February 2016.
Acquisition Proportion	means, in relation to each Consortium Member other than 77VSV the percentage figure equal to the percentage of Scheme Shares which will be transferred to that Consortium Member pursuant to the Scheme, being: (a) in respect of PIQ1, 28.9%; (b) in respect of MacCap, 45.6%; and (c) in respect of Sandrift, 25.5%.
Adviser	means, in relation to an entity, a financial, corporate, legal, technical or other expert adviser or consultant, who provides advisory or consultancy services in a professional capacity in the ordinary course of its business and has been engaged in that capacity in connection with the Proposed Transaction by the entity.
ASIC	means the Australian Securities and Investments Commission.
ASX	means ASX Limited ABN 98 008 624 691 or, as the context requires, the financial market known as the Australian Securities Exchange operated by it.
Business	means the business of owning, supplying and developing real estate software and related solutions for the real estate industry in Australia and New Zealand.
Business Day	means a business day as defined in the ASX Listing Rules.
Claim	means, in relation to a person, a demand, claim, action or proceeding made or brought by or against the person, however arising and whether present, unascertained, immediate, future or contingent.
COD Business	means the Residex business, the onthefhouse.com.au website and associated data assets and media revenue business trading as The Ad Network.
COD Disposal	means the sale of the COD Business to RP Data Pty Ltd, as announced to the ASX on 11 May 2016.
COD Disposal Documents	means the following documents relating to the COD Disposal, each dated 11 May 2016: (a) Share Sale Agreement (relating to OTH Web & Data Group Pty Ltd) between RP Data Pty Ltd,

Onthehouse Holdings Limited and OTH Web & Data Group Pty Ltd;

- (b) Transitional Services Agreement between Onthehouse Holdings Limited and OTH Web & Data Group Pty Ltd; and
- (c) Intellectual Property Perpetual Licence Deed between RES Information Services Pty Ltd and Onethehouse.com Pty Ltd.

Competing Proposal

means any proposal, offer or transaction by a third party (other than the Consortium Members or any of their Related Bodies Corporate) that, if completed, would mean:

- (a) a person would acquire a relevant interest or voting power in 20% or more of the Shares or of the securities of any of member of the OTH Group;
- (b) a person would enter into any synthetic, economic or derivative transaction connected with or relating to 20% or more of the Shares or of the securities of any member of the OTH Group;
- (c) a person would directly or indirectly acquire or obtain an interest (including an economic interest) in all or a substantial part or material part of the business conducted by, or assets or property of, OTH or any member of the OTH Group;
- (d) a person would acquire Control of OTH or any member of the OTH Group;
- (e) a person may otherwise acquire, or merge with, OTH or any member of the OTH Group (including by way of takeover bid, scheme of arrangement, capital reduction, buy-back, sale of assets, sale of securities, strategic alliance, dual listed company structure, joint venture or partnership); or
- (f) OTH will issue, 20% or more of its capital as consideration for the assets or share capital or another person,

or any proposal by OTH to implement any reorganisation of capital or any proposal, offer or transaction that is similar in structure to, or that would be reasonably regarded as being an alternative proposal to, the Proposed Transaction. Each successive modification or variation to the fundamental commercial terms of any proposal, offer or transaction in relation to a Competing

	Proposal will constitute a new Competing Proposal.
Conditions	means the conditions set out in clause 3.1 and Condition means any one of them.
Consortium Information	means such information regarding the Consortium Members that is provided or approved by the Consortium Members or any of their Advisors to OTH or the Independent Expert: (a) to enable the Explanatory Booklet to be prepared and completed in compliance with all applicable laws; and (b) otherwise in compliance with the Consortium Members' respective obligations under clause 5.3.
Consortium Parties	means each Consortium Member, each Consortium Member's Related Entities, and their respective Representatives.
Consortium Warranties	means the representations and warranties of each Consortium Member set out in clause 9.2.
Confidentiality Deed	means the confidentiality deed between OTH, PIQ1, 77VSV, Daniel Paul Dempsey and RP Data Pty Ltd dated 27 January 2016.
Control	has the meaning given in section 50AA of the Corporations Act.
Controlled Entity	means, in respect of a party, an entity that party Controls.
Corporations Act	means the <i>Corporations Act 2001</i> (Cth).
Court	means the Federal Court of Australia or such other court of competent jurisdiction determined by OTH (after consultation, in good faith, with the Consortium Members).
Deed Poll	means the deed poll to be executed by PIQ1, MacCap and Sandrift prior to the First Court Date, in the form set out in Schedule 2 or in such other form as is agreed in writing between the parties.
Delivery Time	in relation to the Second Court Date means not later than 2 hours before the commencement of the hearing or if the commencement of the hearing is adjourned, the commencement of the adjourned hearing, of the Court to approve the Scheme in accordance with section 411(4)(b) of the Corporations Act.
Disclosure Letter	means the letter so entitled from OTH provided to the Consortium Members on or before the date of this deed.
Due Diligence	means all documents and information disclosed by or on behalf of OTH and its Subsidiaries (including

Material	management presentations) contained in the Project Inception online data room, the index for which materials have been initialled for identification by OTH's solicitors on behalf of OTH and by Consortium Members' solicitors on behalf of the Consortium Members.
Duty	means any: (a) stamp, landholder, land rich, transaction or registration duty or similar charge or impost that is assessed, levied, imposed or collected by any Government Agency; and (b) interest, penalty, charge, fine or fee or other amount of any kind assessed, charged or imposed on or in respect of any of the above.
Effective	means, when used in relation to the Scheme, 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 that Scheme.
Effective Date	with respect to the Scheme, means the date on which the Scheme becomes Effective.
End Date	means the later of: (a) 16 January 2017; and (b) such other date and time agreed in writing between OTH and the Consortium Members.
Exclusivity Period	means the period commencing on the date of this deed and ending on the earliest of: (a) the End Date; (b) the Effective Date of the Scheme; and (c) the date this deed is terminated in accordance with its terms.
Explanatory Booklet	means the explanatory booklet to be prepared by OTH in respect of the Proposed Transaction in accordance with the terms of this deed and to be despatched to OTH Shareholders.
Fairly Disclosed	has the meaning given in clause 1.2(p).
First Court Date	means the date the Court first hears the application to order the convening of the Scheme Meeting under section 411(1) of the Corporations Act or, if the application is adjourned or subject to appeal for any reason, the day on which the adjourned application is heard.
FY15 Accounts	means the audited consolidated balance sheet of OTH as

	at 30 June 2015, audited consolidated statement of cash flows for OTH for the year ended on 30 June 2015, and audited consolidated profit and loss account for OTH for the year ended on 30 June 2015, as set out in OTH's 2015 Annual Report as filed with ASX on 20 August 2015.
Government Agency	means any foreign or Australian government or governmental, semi-governmental, administrative, fiscal or judicial body, department, commission, authority, tribunal, agency or entity, or any minister of the Crown in right of the Commonwealth of Australia or any State, and any other federal, state, provincial, or local government, whether foreign or Australian.
Headcount Test	means the requirement under section 411(4)(a)(ii)(A) of the Corporations Act that the resolution to approve the Scheme at the Scheme Meeting is passed by a majority in number of OTH Shareholders present and voting, either in person or by proxy.
Identifying Details	has the meaning given in clause 13.5(b)(i).
Implementation Date	means the fifth Business Day after the Record Date or such other date after the Record Date agreed to in writing between the parties.
Independent Directors	means all of the directors of OTH, other than Michael Perry Dempsey and Daniel Paul Dempsey.
Independent Expert	means the independent expert in respect of the Scheme appointed by OTH.
Independent Expert's Report	means a report (including any updates to such report) of the Independent Expert stating whether or not in its opinion the Scheme is in the best interest of OTH Shareholders.
Insolvency Event	means in relation to a person: (a) insolvency official: the appointment of a liquidator, provisional liquidator, administrator, statutory manager, controller, receiver, receiver and manager or other insolvency official (whether under an Australian law or a foreign law) to the person or to the whole or a substantial part of the property or assets of the person and the action is not stayed, withdrawn or dismissed within 14 days; (b) arrangements: the entry by the person into a compromise or arrangement with its creditors generally;

- (c) **winding up:** the calling of a meeting to consider a resolution to wind up the person (other than where the resolution is frivolous or cannot reasonably be considered to be likely to lead to the actual winding up of the person) or the making of an application or order for the winding up or deregistration of the person other than where the application or order (as the case may be) is set aside or withdrawn within 14 days;
- (d) **suspends payments:** the person suspends or threatens to suspend payment of its debts as and when they become due;
- (e) **ceasing business:** the person ceases or threatens to cease to carry on business;
- (f) **insolvency:** the person is or becomes unable to pay its debts when they fall due within the meaning of the Corporations Act or is otherwise presumed to be insolvent under the Corporations Act;
- (g) **deregistration:** if the person is a company, the person being deregistered as a company or otherwise dissolved;
- (h) **deed of company arrangement:** the person executing a deed of company arrangement;
- (i) **person as trustee or partner:** the person incurs a liability while acting or purporting to act as trustee (or co-trustee) or general partner of a trust or partnership (including a limited partnership) and the person is not entitled to be fully indemnified against the liability out of trust or partnership assets because of one or more of the following:
 - (i) a breach of trust or obligation as partner by the person;
 - (ii) the person acting outside the scope of its powers as trustee or partner;
 - (iii) a term of the trust or partnership denying, or limiting, the person's right to be indemnified against the liability;
 - (iv) the assets of the trust or partnership being insufficient to discharge the liability; or
- (j) **analogous events:** anything analogous to those set out in any of paragraphs (a) to (i) inclusive occurs in relation to the person under the laws of a

foreign jurisdiction.

Listing Rules	means the official listing rules of ASX as amended from time to time.
Option Cancellation Letters	means the letters sent by OTH and signed by each OTH Optionholder and approved by the Consortium Members, pursuant to which the OTH Optionholder irrevocably agrees, subject to the Scheme becoming Effective, to the cancellation of all of its OTH Options in return for payment by OTH of an amount equal to the Option Consideration.
Option Consideration	means, in respect of OTH Options, the consideration payable for the cancellation of OTH Options (in aggregate), as set out in each Option Cancellation Letter.
OTH Board	means the board of directors of OTH as constituted from time to time (or any committee of the board of directors of OTH constituted from time to time to consider the Proposed Transaction on behalf of OTH).
OTH Group	means OTH and its Controlled Entities.
OTH Information	means information to be included by OTH in the Explanatory Booklet that explains the effect of the Scheme and sets out the information prescribed by the Corporations Act and the <i>Corporations Regulations 2001</i> (Cth), and any other information that is material to the making of a decision by OTH Shareholders whether or not to vote in favour of the Scheme, being information that is within the knowledge of OTH's directors and has not previously been disclosed to OTH Shareholders, but does not include the Consortium Information and the Independent Expert's Report.
OTH Material Adverse Change	means one or more changes, events, occurrences or known matters which, individually or in aggregate, have, will have or will be reasonably likely to have: (a) (Tangible Net Assets) either: (i) the effect of a diminution in the Tangible Net Assets of OTH and each other member of the OTH Group, taken as a whole (calculated in the same manner as in the 1HFY16 Accounts), of at least \$2 million; or (ii) the effect of increasing the net debt (calculated as interest bearing liabilities plus any indebtedness in relation to advisory fees (excluding GST) or other transaction costs and any management incentives which may become payable in connection with the

implementation of the Scheme or a change of control of OTH, but excluding employee liabilities and any amount payable under the Option Cancellation Letters less cash) of OTH or any other member of the OTH Group to an amount that is in aggregate greater than \$2,200,000; or

- (b) **(Revenue)** the effect of a reduction in the actual consolidated annual revenue (calculated in the same manner as in the 1HFY16 Accounts), of the OTH Group, taken as a whole, in any 12 month period, to below \$20 million; or
- (c) **(users)** the effect of a diminution in the total number of users of the OTH Group's Console Gateway product of more than 5% as compared with the total number of users of the OTH Group's Console Gateway product as at December 2015 (being 3,362 as disclosed by OTH in its filing with ASX on 26 February 2016); or
- (d) **(business and trading)** the result that OTH is unable to carry on its business in substantially the same manner as it is carried on at the date of this deed,

other than events, changes, conditions, matters, circumstances or things:

- (e) expressly agreed to in writing for this purpose by the Consortium;
- (f) required to be done by OTH pursuant to the terms of the Option Cancellation Letters (as disclosed to the Consortium Members prior to the date of this deed);
- (g) subject to paragraph (2) below, that are Fairly Disclosed:
 - (i) in the Due Diligence Materials; or
 - (ii) by OTH in an announcement made by OTH to ASX before the date of this deed,
- (h) arising:
 - (i) as a result of any generally applicable change in law, accounting standards or governmental policy; or
 - (ii) arising from changes in economic or business conditions (including interest rates) that

impact on the market generally,

that are not specific to the OTH Group and affect the OTH Group in substantially the same manner and to substantially the same extent as its customers, competitors and comparable businesses,

provided always that:

- (1) for purposes of assessing whether there has been a OTH Material Adverse Change, the actual termination of user customer contracts (including contracts in respect of which a notice of termination has been given, and not revoked, by the counterparty) will only be taken to diminish the revenue or number of users to the extent that the negative impact of all such actual user contract terminations during the period from the date of this deed, exceeds the positive impact (or expected impact) of all new user contracts entered into, renewed or extended during the period from the date of this deed, in which case the revenue and/or number of users is only diminished by the net impact of such terminations and new contracts, renewals and extensions; and
- (2) paragraph (g) shall not apply to exclude any event, change, occurrence, matter or circumstance which will or will be reasonably likely to give rise to a loss, liability or claim in connection with the COD Disposal or under the COD Disposal Documents from being an OTH Material Adverse Change pursuant to paragraphs (a) to (d) above.

OTH Options	means options issued by OTH to subscribe for OTH Shares.
OTH Options Side Letter	means the side letter provided by OTH to the Consortium Members on or about the date of this deed detailing the OTH Options.
OTH Optionholder	means a holder of OTH Options.
OTH Person	means each director, officer and employee of OTH and any other member of the OTH Group.
OTH Prescribed Occurrence	means the occurrence of any of the following on or after the date of this deed: (a) OTH converts all or any of its shares into a larger or smaller number of shares (see section 254H of the Corporations Act); (b) any member of the OTH Group resolves to reduce

its share capital in any way;

- (c) any member of the OTH Group:
 - (i) enters into a buy-back agreement; or
 - (ii) resolves to approve the terms of a buy-back agreement under subsection 257C(1) or 257D(1) of the Corporations Act;
 - (d) any member of the OTH Group issues shares, or grants a performance right or an option over its shares, or agrees to make such an issue or grant such a right or an option other than pursuant to the exercise of an option or performance right before the Record Date where that option or performance right was on issue immediately before the date of this deed;
 - (e) any member of the OTH Group issues, or agrees to issue, convertible notes or any other security or instrument that is convertible into shares;
 - (f) any member of the OTH Group disposes, or agrees to dispose, of any of its business or property;
 - (g) any member of the OTH Group creates or agrees to create, any mortgage, charge, lien or other encumbrance over any of its business or property for an amount greater than \$100,000 other than a lien which arises by operation of law or legislation securing an obligation that is not yet due;
 - (h) any member of the OTH Group resolves to be wound up;
 - (i) a liquidator or provisional liquidator of any member of the OTH Group is appointed;
 - (j) a court makes an order for the winding up of any member of the OTH Group;
 - (k) an administrator of any member of the OTH Group is appointed under section 436A, 436B or 436C of the Corporations Act;
 - (l) any member of the OTH Group executes a deed of company arrangement;
 - (m) a receiver, or a receiver and manager, is appointed in relation to the whole, or a substantial part, of the property of any member of the OTH Group; or
 - (n) OTH declares or pays a dividend,
- provided that an OTH Prescribed Occurrence will not

include any matter:

- (o) required to be done or procured by OTH pursuant to this deed or which is otherwise contemplated by this deed or the Scheme;
- (p) Fairly Disclosed in filings of OTH with the ASX prior to the date of this deed;
- (q) to the extent it is Fairly Disclosed in the Due Diligence Materials or the Disclosure Letter; or
- (r) the undertaking of which the Consortium Members have approved in writing.

OTH Shareholder	means each person who is registered in the register maintained by OTH under section 168(1) of the Corporations Act as a holder of one or more Shares.
OTH Warranties	means the representations and warranties of OTH set out in clause 9.1.
Post-Transaction Holding Proportion	means, in relation to each Consortium Member, the percentage figure equal to the percentage of Shares which that Consortium Member will hold upon implementation of the Scheme on the Implementation Date, being: (a) in respect of PIQ1, 23.4%; (b) in respect of MacCap, 36.8%; (c) in respect of 77VSV, 19.2%; and (d) in respect of Sandrift, 20.6%.
Proposed Transaction	means: (a) the proposed acquisition by the Consortium Members in accordance with the terms and conditions of this deed, of all of the Scheme Shares through the implementation of the Scheme; and (b) all associated transactions and steps contemplated by this deed.
Record Date	means 7.00pm on the fifth Business Day after the Effective Date or such other time and date agreed to in writing between the parties.
Reimbursement Fee	means \$720,000.
Related Body Corporate	of a person, means a related body corporate of that person under section 50 of the Corporations Act and includes any body corporate that would be a related body corporate if section 48(2) of the Corporations Act was

	omitted.
Related Entity or Related Entities	means, in relation to a party, any entity that is related to that party within the meaning of section 50 of the Corporations Act or that is a Controlled Entity of that party and, in the case of PIQ1 and MacCap, includes Macquarie Group Limited and each of its Controlled Entities.
Representatives	means, in relation to an entity: (a) each of the entity's Related Entities; and (b) each of its and its Related Entities' respective directors, officers, employees, contractors, Advisers and agents, but excluding the Independent Expert.
RG 60	means ASIC Regulatory Guide 60.
Scheme	means the proposed scheme of arrangement pursuant to Part 5.1 of the Corporations Act between OTH and Scheme Shareholders in respect of all Scheme Shares, substantially in the form set out in Schedule 3 or in such other form as the parties agree in writing, subject to any alterations or conditions made or required by the Court under section 411(6) of the Corporations Act and approved in writing by each party.
Scheme Consideration	means, in respect of each Scheme Share held by a Scheme Shareholder, \$0.85 per Share.
Scheme Meeting	means the meeting of OTH Shareholders ordered by the Court to be convened 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 Share on issue as at the Record Date, other than such Share as is already legally held by a Consortium Member as at the Record Date.
Scheme Shareholder	means a person who holds one or more Scheme Shares.
Second Court Date	means the first day on which an application made to the Court for an order under section 411(4)(b) of the Corporations Act approving the Scheme is heard or scheduled to be heard or, if the application is adjourned for any reason, means the date on which the adjourned application is heard or scheduled to be heard.
Share	means an issued fully paid ordinary share in the capital of OTH.

Share Splitting	means the splitting by a holder of Shares into two or more parcels of Shares whether or not it results in any change in beneficial ownership of the Shares.
Subsidiary	has the meaning given to that term in section 46 of the Corporations Act.
Superior Proposal	means a bona fide Competing Proposal which the Independent Directors unanimously determine, acting in good faith would, if completed substantially in accordance with its terms, be likely to result in a transaction more favourable to OTH Shareholders than the Proposed Transaction having regard to all relevant matters including consideration, conditionality, funding, certainty and timing.
Tax	means any: (a) tax, levy, impost, fee, charge, excise, customs, rate, compulsory loan, deduction, withholding or surcharge that is assessed, levied, imposed or collected by any Government Agency; (b) unless the context requires otherwise, Duty and GST; and (c) interest, penalty, charge, fine or fee or other amount of any kind assessed, charged or imposed on or in respect of any of the above.
Third Party	means any person or entity other than a Consortium Member or a member of the OTH Group.
Timetable	means the indicative timetable in relation to the Proposed Transaction set out in Schedule 1 with such modifications as may be agreed in writing by the parties.
Treasurer	means the Treasurer of the Commonwealth of Australia.

1.2 Interpretation

In this deed, except where the context otherwise requires:

- (a) the singular includes the plural, and the converse also applies;
- (b) gender includes other genders;
- (c) if a word or phrase is defined, its other grammatical forms have a corresponding meaning;
- (d) a reference to a clause, paragraph, schedule or annexure is to a clause or paragraph of, or schedule or annexure to, this deed, and a reference to this deed includes any schedule or annexure;
- (e) a reference to a document or instrument includes the document or instrument as novated, altered, supplemented or replaced from time to time;

- (f) a reference to **A\$, \$A, dollar** or **\$** is to Australian currency;
- (g) a reference to time is to Sydney, Australia time;
- (h) a reference to a party is to a party to this deed, and a reference to a party to a document includes the party's executors, administrators, successors and permitted assigns and substitutes;
- (i) a reference to a person includes a natural person, partnership, body corporate, association, governmental or local authority or agency or other entity;
- (j) a reference to legislation or to a provision of legislation (including a listing rule or operating rule of a financial market or of a clearing and settlement facility) includes a modification or re enactment of it, a legislative provision substituted for it and a regulation or statutory instrument issued under it;
- (k) a word or expression defined in the Corporations Act has the meaning given to it in the Corporations Act;
- (l) a reference to conduct includes an omission, statement or undertaking, whether or not in writing;
- (m) the meaning of general words is not limited by specific examples introduced by **including, for example** or similar expressions;
- (n) a rule of construction does not apply to the disadvantage of a party because the party was responsible for the preparation of this deed or any part of it;
- (o) if a day on or by which an obligation must be performed or an event must occur is not a Business Day, the obligation must be performed or the event must occur on or by the next Business Day; and
- (p) a reference to **Fairly Disclosed** means disclosed in writing to the Consortium Parties or their Representatives (or, where the context requires, to the ASX) in such a manner (including in sufficient detail and with sufficient specificity) so as to enable a reasonable person receiving the relevant information to identify and reasonably and properly assess, the nature, scope and financial or other consequences of the relevant matter.

1.3 Headings

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

1.4 Consents or approvals

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

1.5 Listing requirements included as law

A listing rule or operating rule of a financial market or of a clearing and settlement facility will be regarded as a law, and a reference to such a rule is to be taken to be subject to any waiver or exemption granted to the compliance of those rules by a party.

1.6 Reasonable and best endeavours

Any provision of this deed which requires a party to use reasonable endeavours or best endeavours to procure that something is performed or occurs or does not occur does not include any obligation:

- (a) to pay any money or provide any financial compensation, valuable consideration or any other incentive to or for the benefit of any person except for payment of any applicable fee for the lodgement or filing of any relevant application with any Government Agency; or
- (b) to commence any legal action or proceeding against any person, except where that provision expressly specifies otherwise.

1.7 Capacity in which Consortium Members act

- (a) Where this deed confers any right, power or permission on “the Consortium Members”, the Consortium Members must exercise that right, power or permission jointly.
- (b) Despite any other provision of this agreement, any obligation imposed on or liability of:
 - (i) “the Consortium Members” (rather than an individual Consortium Member) under this deed:
 - (A) in relation to the payment of the Scheme Consideration is an obligation or liability, as the case may be, of the Consortium Members severally in their respective Acquisition Proportions; and
 - (B) in all other cases is an obligation or liability, as the case may be, of the Consortium Members severally in their respective Post-Transaction Holding Proportions; and
 - (ii) an individual Consortium Member under this deed is an obligation or liability, as the case may be, of that Consortium Member alone.

2 Agreement to propose Scheme

- (a) OTH agrees to propose and implement the Scheme on and subject to the terms and conditions of this deed, and substantially in accordance with the Timetable.
- (b) The Consortium Members agree to assist OTH to propose and implement the Scheme on and subject to the terms of this deed.

3 Conditions precedent and pre-implementation steps

3.1 Conditions to Scheme

Subject to this clause 3, the Scheme will not become Effective, and the respective obligations of the parties in relation to the implementation of the Scheme will not be binding, until each of the following conditions precedent is satisfied or waived to the extent and in the manner set out in this clause 3:

- (a) **(No OTH Prescribed Occurrence)** no OTH Prescribed Occurrence occurs between the date of this deed and the Delivery Time on the Second Court Date;
- (b) **(No OTH Material Adverse Change)** no OTH Material Adverse Change occurs or becomes apparent between the date of this deed and the Delivery Time on the Second Court Date;
- (c) **(Restraints)** no temporary restraining order, preliminary or permanent injunction or other order issued by any court of competent jurisdiction or Government Agency, or other material legal restraint or prohibition, preventing or delaying the Proposed Transaction is in effect at the Delivery Time on the Second Court Date;
- (d) **(Shareholder approval)** the Scheme is approved by OTH Shareholders at the Scheme Meeting by the majorities required under section 411(4)(a)(ii) of the Corporations Act; and
- (e) **(Court approval)** the Scheme is approved by the Court in accordance with section 411(4)(b) of the Corporations Act either unconditionally or on conditions that do not impose unduly onerous obligations on any party (acting reasonably).

3.2 Benefit and waiver of Conditions

- (a) The Conditions in clauses 3.1(a) (No OTH Prescribed Occurrence) and 3.1(b) (No OTH Material Adverse Change) are for the sole benefit of the Consortium Members and any breach or non-fulfilment of them may only be waived by the Consortium Members giving written consent.
- (b) A party entitled to waive a Condition pursuant to this clause 3.2 may do so in its absolute discretion. Any waiver of a Condition by a party for whose benefit the Condition applies must take place on or prior to the Delivery Time on the Second Court Date.
- (c) The Conditions in clauses 3.1(c) (Restraints), 3.1(d) (Shareholder approval) and 3.1(e) (Court approval) cannot be waived.
- (d) If a party waives the breach or non-fulfilment of any of the Conditions in clause 3.1, that waiver will not preclude it from suing the other party for any breach of this deed including without limitation a breach that resulted in the non-fulfilment of the Condition that was waived.

3.3 Reasonable endeavours

OTH and the Consortium Members will use their respective reasonable endeavours to procure that each of the Conditions is satisfied as soon as reasonably practicable after the date of this deed and continues to be satisfied at all times until the last time they are to be satisfied (as the case may require).

3.4 Notifications

Each of the Consortium Members and OTH must:

- (a) keep the others promptly and reasonably informed of the steps it has taken and of its progress towards satisfaction of the Conditions;
- (b) promptly notify the others in writing if it becomes aware that any Condition has been satisfied; and
- (c) promptly notify the others in writing if it becomes aware that that any Condition is or has become incapable of being satisfied (having regard to the respective obligations of each party under clause 3.3).

3.5 Certificate

Before the Delivery Time on the Second Court Date:

- (a) the Consortium Members and OTH will provide a joint certificate to the Court confirming whether or not the Condition set out in clause 3.1(c) (Restraints) has been satisfied in accordance with the terms of this deed;
- (b) OTH will provide a certificate to the Court confirming whether or not the Conditions set out in clauses 3.1(a) (No OTH Prescribed Occurrence), 3.1(b) (No OTH Material Adverse Change) and 3.1(d) (Shareholder approval) have been satisfied or waived in accordance with the terms of this deed;
- (c) OTH will provide a certificate to the Consortium Members confirming whether or not it has breached any of its obligations under this deed (including a breach of a representation or warranty), and if it has, giving details of such breaches; and
- (d) each Consortium Member will provide a certificate to OTH confirming whether or not it has breached any of its obligations under this deed (including a breach of a representation or warranty), and if it has, giving details of such breaches.

3.6 Scheme voted down

If the Scheme is not approved by OTH Shareholders at the Scheme Meeting by reason only of the non-satisfaction of the Headcount Test and OTH or the Consortium Members consider, acting reasonably, that Share Splitting or some abusive or improper conduct may have caused or contributed to the Headcount Test not having been satisfied then OTH must:

- (a) apply for an order of the Court contemplated by section 411(4)(a)(ii)(A) of the Corporations Act to disregard the Headcount Test and seek Court

approval of the Scheme under section 411(4)(b) of the Corporations Act, notwithstanding that the Headcount Test has not been satisfied; and

- (b) make such submissions to the Court and file such evidence as counsel engaged by OTH to represent it in Court proceedings related to the Scheme, in consultation with the Consortium Members, considers is reasonably required to seek to persuade the Court to exercise its discretion under section 411(4)(a)(ii)(A) of the Corporations Act by making an order to disregard the Headcount Test.

3.7 Conditions not capable of being fulfilled

- (a) If:
 - (i) any Condition is not satisfied or (where capable of waiver) waived by the date specified in this deed for its satisfaction (or an event occurs which would or is likely to prevent a condition precedent being satisfied by the date specified in this deed);
 - (ii) a circumstance occurs with the result that a Condition is not capable of being fulfilled and, if the Condition is able to be waived by a party under clause 3.2, the party does not waive the Condition within seven Business Days after the occurrence of the circumstance; or
 - (iii) the Scheme does not become Effective by the End Date and a Superior Proposal has not been publicly recommended by a majority of the Independent Directors,

then OTH and the Consortium Members must consult reasonably with a view to determining whether:

- (iv) the Scheme may proceed by way of alternative means or methods;
 - (v) to extend the relevant time or date for satisfaction of the Condition;
 - (vi) to 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; or
 - (vii) to extend the End Date.
- (b) Subject to clause 3.7(c), if OTH and the Consortium Members are unable to reach agreement under clause 3.7(a) within five Business Days of the date on which they both become aware that the Condition has become incapable of being satisfied (or, if earlier, by the Delivery Time on the Second Court Date), then unless the relevant Condition (where capable of waiver) is waived:
 - (i) in relation to the Condition in clauses 3.1(c) (Restraints) or 3.1(d) (Shareholder approval) the Consortium Members or, subject to clause 3.6, OTH may terminate this deed by giving the other parties notice without any liability to any party by reason of that termination alone;

- (ii) in relation to the Conditions in clauses 3.1(a) (No OTH Prescribed Occurrence), 3.1(b) (No OTH Material Adverse Change) the Consortium Members may terminate this deed by giving OTH notice without any liability to any party by reason of that termination alone.
- (c) A party will not be entitled to terminate this deed pursuant to clause 3.7(b) if the relevant Condition has not been satisfied as a result of:
 - (i) a breach of this deed by that party; or
 - (ii) a deliberate act or omission of that party which either alone or together with other circumstances prevents that Condition being satisfied.

3.8 Interpretation

For the purposes of this clause 3, a Condition will be incapable of satisfaction, or incapable of being fulfilled if there is an act, failure to act or occurrence that will prevent the Condition being satisfied by the End Date (and the breach or non-fulfilment that would otherwise have occurred has not already been waived in accordance with this deed).

4 Transaction Steps

4.1 Scheme

OTH must, substantially in compliance with the Timetable, propose the Scheme under which, subject to the Scheme becoming Effective, all of the Scheme Shares will be transferred to PIQ1, MacCap and Sandrift in their Acquisition Proportion in accordance with the Scheme and the Scheme Shareholders will be entitled to receive, for each Scheme Share held at the Record Date, the Scheme Consideration.

4.2 Scheme Consideration

Each of PIQ1, MacCap and Sandrift covenants in favour of OTH (in OTH's own right and separately as trustee for each Scheme Shareholder) that, in consideration of the transfer to it of its Acquisition Proportion of the Scheme Shares under the terms of the Scheme, on the Implementation Date, it will:

- (a) accept that transfer; and
- (b) provide its Acquisition Proportion of the Scheme Consideration, in accordance with the Scheme.

4.3 Deed poll

Each of PIQ1, MacCap and Sandrift covenants in favour of OTH (in OTH's own right and separately as trustee for each of the Scheme Shareholders) to execute, deliver and perform its obligations under the Deed Poll prior to the First Court Date.

5 Implementation

5.1 OTH's obligations

OTH must take all steps reasonably necessary to propose and (subject to all of the Conditions being satisfied or waived in accordance with their terms) implement the Scheme substantially in accordance with the Timetable and otherwise as soon as reasonably practicable after the date of this deed, including taking each of the following steps:

- (a) **(Explanatory Booklet)** prepare the Explanatory Booklet in accordance with clause 5.4;
- (b) **(Independent Expert)** promptly appoint the Independent Expert and provide all assistance and information reasonably requested by the Independent Expert in connection with the preparation of the Independent Expert's Report for inclusion in the Explanatory Booklet;
- (c) **(approval of draft for ASIC)** as soon as reasonably practicable after the preparation of an advanced draft of the Explanatory Booklet suitable for review by ASIC, procure that a meeting of the OTH Board, or of a committee of the OTH Board appointed for the purpose, is held to consider approving that draft as being in a form appropriate for provision to ASIC for its review and approval for the purposes of section 411(2) of the Corporations Act;
- (d) **(draft to ASIC)** as soon as reasonably practicable after the date of this deed:
 - (i) provide an advanced draft of the Explanatory Booklet, in a form approved in accordance with clauses 5.1(c) and 5.2(f), to ASIC for its review and approval for the purposes of section 411(2) of the Corporations Act; and
 - (ii) liaise with ASIC during the period of its consideration of that draft of the Explanatory Booklet and keep the Consortium Members reasonably informed of any matters raised by ASIC in relation to the Explanatory Booklet and use reasonable endeavours, in consultation with the Consortium Members, to resolve any such matters;
- (e) **(approval of Explanatory Booklet)** as soon as reasonably practicable after the conclusion of the review by ASIC of the Explanatory Booklet, procure that a meeting of the OTH Board, or of a committee of the OTH Board appointed for the purpose, is held to consider approving the Explanatory Booklet for despatch to the OTH Shareholders, subject to orders of the Court under section 411(1) of the Corporations Act;
- (f) **(section 411(17)(b) statements)** apply to ASIC for the production of:
 - (i) an indication of intent letter stating that it does not intend to appear before the Court on the First Court Date; and

- (ii) a statement in writing pursuant to section 411(17)(b) of the Corporations Act stating that ASIC has no objection to the Scheme;
- (g) **(first Court hearing)** lodge all documents with the Court and take all other reasonable steps to ensure that promptly after, and provided that, the approvals in clauses 5.1(e) and 5.2(f) have been received, an application is heard by the Court for an order under section 411(1) of the Corporations Act directing OTH to convene the Scheme Meeting;
- (h) **(legal representation)** allow and not oppose any application by any one or more of the Consortium Members for leave of the Court to be represented by legal counsel representing the Consortium Members at the Court hearings convened for the purposes of sections 411(1) and 411(4)(b) of the Corporations Act;
- (i) **(registration of explanatory statement)** request ASIC to register the explanatory statement included in the Explanatory Booklet in relation to the Scheme in accordance with section 412(6) of the Corporations Act;
- (j) **(convening Scheme Meeting)** take all reasonable steps necessary to comply with the orders of the Court including, as required, despatching the Explanatory Booklet to the OTH Shareholders and convening and holding the Scheme Meeting;
- (k) **(Court approval application if parties agree that conditions are capable of being satisfied)** if the resolution submitted to the Scheme Meeting is passed by the majorities required under section 411(4)(a)(ii) of the Corporations Act, and if the parties agree on the Business Day immediately following the Scheme Meeting that it can be reasonably expected that all of the remaining Conditions will be satisfied or waived prior to the proposed Second Court Date, apply (and, to the extent necessary, re-apply) to the Court for orders approving the Scheme;
- (l) **(appeal process)** if the Court refuses to make any orders directing OTH to convene the Scheme Meeting or approving the Scheme, OTH and the Consortium Members must:
 - (i) consult with each other, each acting reasonably, as to whether to appeal the Court's decision; and
 - (ii) appeal the court decision unless the parties agree otherwise or an independent senior counsel instructed by OTH opines that, in his or her view, an appeal would have no reasonable prospect of success;
- (m) **(implementation of Scheme)** if the Scheme is approved by the Court:
 - (i) subject to the Listing Rules, promptly lodge with ASIC an office copy of the orders approving the Scheme in accordance with section 411(10) of the Corporations Act;

- (ii) determine entitlements to the Scheme Consideration as at the Record Date in accordance with the Scheme;
- (iii) execute proper instruments of transfer of and effect and register the transfer of the Scheme Shares to the Consortium Members, as contemplated by clause 4.2 and the Scheme, on the Implementation Date; and
- (iv) do all other things contemplated by or necessary to give effect to the Scheme and the orders of the Court approving the Scheme;
- (n) **(Consortium Information)** without the prior written consent of the Consortium Members, not use the Consortium Information for any purposes other than those expressly contemplated by this deed or the Scheme;
- (o) **(Documents)** consult with the Consortium Members in relation to the content of the documents required for the purpose of the Scheme (including originating process, affidavits, submissions and draft minutes of Court orders) and consider, for the purpose of amending drafts of those documents, comments from the Consortium Members on those documents;
- (p) **(Shareholder support)** promote to its Shareholders the merits of the Scheme, including soliciting proxy votes in favour of the Scheme; and
- (q) **(Compliance with laws)** comply with all laws and regulations with respect to all transactions contemplated by this deed.

5.2 Consortium Members' obligations

Each Consortium Member must take all steps reasonably necessary to assist OTH to implement the Scheme as soon as reasonably practicable and substantially in accordance with the Timetable including taking each of the following steps:

- (a) **(Consortium Information)** comply with its obligations under clause 5.3;
- (b) **(assistance)** provide any assistance or information reasonably requested by OTH or its Representatives in connection with the preparation of the Scheme Booklet (including any supplementary disclosure to OTH Shareholders) or any Court documents;
- (c) **(assist Independent Expert)** promptly provide all assistance and information reasonably requested by the Independent Expert to enable it to prepare the Independent Expert's Report for inclusion in the Explanatory Booklet;
- (d) **(review drafts of Explanatory Booklet)** as soon as reasonably practicable after delivery, review the drafts of the Explanatory Booklet prepared by OTH and provide comments on those drafts;
- (e) **(approval of draft for ASIC)** as soon as reasonably practicable after the preparation of an advanced draft of the Explanatory Booklet suitable for review by ASIC, procure that a meeting of the appropriate decision-

making organ of the relevant Consortium Member is held to consider approving those sections of that draft that relate to that Consortium Member as being in a form appropriate for provision to ASIC for review;

- (f) **(approval of Explanatory Booklet)** as soon as reasonably practicable after the conclusion of the review by ASIC of the Explanatory Booklet, procure that a meeting of the appropriate decision-making organ of the relevant Consortium Member is held to consider approving those sections of the Explanatory Booklet that relate to that Consortium Member as being in a form appropriate for despatch to OTH Shareholders, subject to approval of the Court;
- (g) **(OTH Information)** without the prior written consent of OTH, not use OTH Information for any purposes other than those expressly contemplated by this deed or the Scheme; and
- (h) **(Compliance with laws)** comply with all laws and regulations with respect to all transactions contemplated by this deed.

5.3 Consortium Information

- (a) Each Consortium Member must provide, in a form appropriate for inclusion in the Explanatory Booklet, such information regarding:
 - (i) its identity and other details about it;
 - (ii) (other than in the case of 77VSV) the arrangements that it has in place to fund its Acquisition Proportion of the Scheme Consideration; and
 - (iii) any interests it holds in OTH Shares,as is required by all applicable law, the Listing Rules and ASIC Regulatory Guides to be included in the Explanatory Booklet, which information must (without limiting the foregoing):
 - (iv) contain all information about the matters set out in paragraphs (i) to (iii) above as is necessary to enable OTH to ensure that the Explanatory Booklet complies with the requirements of RG 60;
 - (v) not be misleading or deceptive in any material respect (whether by omission or otherwise) including in the form and context in which it appears in the Explanatory Booklet; and
 - (vi) be updated by all such further or new material information which may arise after the Explanatory Booklet has been despatched until the date of the Scheme Meeting which is necessary to ensure that it is not misleading or deceptive in any material respect (whether by omission or otherwise).
- (b) The Consortium Members must provide, in a form, appropriate for inclusion in the Explanatory Booklet, such information regarding:
 - (i) the Consortium Members' rationale for entering into the Proposed Transaction;

- (ii) the Consortium Members' intentions with respect to the assets, business and employees of OTH if the Scheme is approved and implemented; and
- (iii) any other information about the Consortium Members, other than the information described in clause 5.3(a),

as is required by all applicable law, the Listing Rules and ASIC Regulatory Guides to be included in the Explanatory Booklet, which information must (without limiting the foregoing):

- (iv) contain all information about the matters set out in paragraphs (i) to (iii) above as is necessary to enable OTH to ensure that the Explanatory Booklet complies with the requirements of RG 60;
- (v) not be misleading or deceptive in any material respect (whether by omission or otherwise) including in the form and context in which it appears in the Explanatory Booklet; and
- (vi) be updated by all such further or new material information which may arise after the Explanatory Booklet has been despatched until the date of the Scheme Meeting which is necessary to ensure that it is not misleading or deceptive in any material respect (whether by omission or otherwise).

5.4 Explanatory Booklet – preparation principles

- (a) Substantially in accordance with the Timetable, OTH must prepare the Explanatory Booklet (other than the Consortium Information and the Independent Expert's Report) in compliance with:
 - (i) all applicable laws, in particular with the Corporations Act, RG 60 and the Listing Rules; and
 - (ii) this clause 5.4.
- (b) The Explanatory Booklet will include:
 - (i) the terms of the Scheme;
 - (ii) the notice of Scheme Meeting, and any other notice of meeting in respect of any resolution that is necessary, expedient or incidental to give effect to the Scheme, together with a proxy form for the Scheme Meeting and for any ancillary meeting;
 - (iii) the OTH Information;
 - (iv) the Consortium Information;
 - (v) a copy of this deed (without the schedules or annexures) or a summary of it;
 - (vi) a copy of the executed Deed Poll; and
 - (vii) a copy of the Independent Expert's Report.
- (c) The Explanatory Booklet must include a statement that:

- (i) other than the Consortium Information and the Independent Expert's Report, the Explanatory Booklet has been prepared by OTH and is the responsibility of OTH, and that the Consortium Members assume no responsibility for the accuracy or completeness of the Explanatory Booklet (other than, in the case of each Consortium Member, the Consortium Information described in clause 5.3(a) that relates to that particular Consortium Member and in the case of the Consortium Members together, the Consortium Information described in clause 5.3(b)); and
 - (ii) the Consortium Information has been provided by the Consortium Members and is the responsibility of the Consortium Members, and OTH assumes no responsibility for the accuracy or completeness of the Consortium Information.
- (d) OTH must make available to the Consortium Members drafts of the Explanatory Booklet (excluding any draft of the Independent Expert's Report), consult with the Consortium Members in relation to the content of those drafts (other than the Consortium Information), and consider, acting reasonably and in good faith, for the purpose of amending those drafts, comments from the Consortium Members on those drafts. Each Consortium Member acknowledges and agrees that OTH has ultimate discretion with respect to the preparation, form and content of the Explanatory Booklet, other than as expressly provided in this deed with respect to the Consortium Information.
- (e) OTH must seek approval from the Consortium Members for the form and context in which the Consortium Information appears in the Explanatory Booklet, which approval the Consortium Members must not unreasonably withhold or delay, and OTH must not lodge the Explanatory Booklet with ASIC until such approval is obtained from the Consortium Members.
- (f) OTH must take all reasonable steps to ensure that the Explanatory Booklet (other than the Consortium Information or Independent Expert's Report) is not misleading or deceptive in any material respect (whether by omission or otherwise) as at the date it is despatched to OTH Shareholders.
- (g) each Consortium Member must take all reasonable steps to ensure that:
 - (i) the Consortium Information that relates to that particular Consortium Member (being the information in respect of that Consortium Member described in clause 5.3(a)); and
 - (ii) the Consortium Information that relates to the Consortium Members as a group (being the information described in clause 5.3(b)),is not misleading or deceptive in any material respect (whether by omission or otherwise) as at the date on which the Explanatory Booklet is despatched to OTH Shareholders.

- (h) OTH must provide to the Consortium Members all such further or new information of which OTH becomes aware that arises after the Explanatory Booklet has been despatched until the date of the Scheme Meeting where this is or may be necessary to ensure that the Explanatory Booklet continues to comply with the Corporations Act, RG 60 and the Listing Rules.
- (i) Each Consortium Member must provide to OTH all such further or new information of which that Consortium Member becomes aware that arises after the Explanatory Booklet has been despatched until the date of the Scheme Meeting where this is or may be necessary to ensure that the Consortium Information continues to comply with the Corporations Act, RG 60 and the Listing Rules.
- (j) OTH and the Consortium Members each agree that the efficient preparation of the Explanatory Booklet and the implementation of the Scheme are in the interests of OTH Shareholders and the Consortium Members and that they will use all reasonable endeavours and utilise all necessary resources (including management resources and the resources of external advisers) to comply with their respective obligations under this clause 5.4 and to implement the Scheme substantially in accordance with the Timetable and otherwise as soon as reasonably practicable after the date of this deed.

6 OTH Board recommendation

6.1 Recommendation

Subject only to clause 6.3, OTH represents and warrants to each Consortium Member that, as at the date of this deed, it has been advised by each Independent Director that he or she will recommend that OTH Shareholders vote in favour of the Scheme, qualified only by the words:

- (a) “in the absence of a superior proposal”; and
- (b) other than in or in respect of the Explanatory Booklet or any document issued after the issue of the Explanatory Booklet, “subject to the Independent Expert concluding that the Scheme is in the best interests of OTH Shareholders”.

6.2 Explanatory Booklet to contain recommendation

Subject only to the circumstances specified in paragraphs (c) and (d) of clause 6.3, OTH must ensure that the Explanatory Booklet includes:

- (a) a unanimous recommendation by the Independent Directors that OTH Shareholders vote in favour of the Scheme qualified only by the words “in the absence of a superior proposal”; and
- (b) a statement by each Independent Director that he or she will vote in favour of the Scheme, in respect of all Shares controlled or held by, or on

behalf of, that Independent Director (as appropriate), qualified only by the words “in the absence of a superior proposal”.

6.3 Withdrawal or modification of recommendation

OTH represents and warrants to each Consortium Member that, as at the date of this deed, it has been advised by each Independent Director that he or she will not:

- (a) change, withdraw or modify his or her recommendation that OTH Shareholders vote in favour of the Scheme; or
- (b) make any public statement or take any other action that is inconsistent with his or her recommendation that OTH Shareholders vote in favour of the Scheme,

in each case except where:

- (c) OTH receives a Competing Proposal and the Independent Directors unanimously determine, after all of the Consortium Members’ rights under clause 13.6 have been exhausted, that the Competing Proposal constitutes a Superior Proposal; or
- (d) the Independent Expert concludes, either prior to the despatch of the Explanatory Booklet or prior to the Scheme Meeting, that the Scheme is not in the best interests of OTH Shareholders (other than where such conclusion is, wholly or in part, the result of the making or existence of a Superior Proposal).

The Consortium Members acknowledge that, without derogating from a party’s rights or obligations under clauses 11, 12 and 13 or otherwise under this deed, if any of the events referred to in paragraphs (c) and (d) occur, any Independent Director may withdraw, change or modify their Recommendation.

7 Conduct of business before the Implementation Date

7.1 Conduct of OTH business

Subject to clause 7.3, from the date of this deed up to and including the Implementation Date, OTH must, and must cause each of its Controlled Entities to:

- (a) carry on and operate the Business as a going concern, in the ordinary and normal course and in substantially the same manner as it was conducted in the twelve months before the date of this deed; and
- (b) use reasonable endeavours to preserve their relationships with customers, suppliers, landlords, licensors, licensees and others having material business dealings with them, and to retain the services of all key employees.

7.2 Prohibited actions

Subject to clause 7.3, from the date of this deed up to and including the Implementation Date, OTH must not, and must procure that the OTH Group does not:

- (a) pay, agree to pay or amend any agreement to pay any financial adviser any fee, cost or other form of compensation that is directly or indirectly payable as a result of, contingent on, or contingent with the Proposed Transaction;
- (b) purchase, lease, acquire or dispose of any assets, the value of which exceeds \$500,000 in aggregate;
- (c) enter into, terminate, amend or vary any lease or material agreement;
- (d) do anything that would have a material adverse effect on the goodwill of the Business, including the relationship of the Business with customers, suppliers, landlords and employees;
- (e) increase, reduce or otherwise alter its share capital or grant or issue any options or performance rights for the issue of shares or other securities in OTH;
- (f) declare or pay a dividend or make any other distribution to shareholders;
- (g) change or agree to change the terms of employment, including salaries and benefits, of employees on a salary of more than \$150,000 per year or grant any bonuses which in aggregate exceed an amount of \$382,000, severance or retention benefit to any employee or officer other than in accordance with such employee's or officer's contractual entitlements or the terms of any presently existing incentive arrangement that has been Fairly Disclosed in the Due Diligence Materials or salary increases which, for all employees, in aggregate total no more than \$371,000 (prior to on costs);
- (h) incur additional borrowing, grant any loan or advance, or enter into any off balance sheet financing or assume, guarantee or endorse the obligations of any person, other than:
 - (i) amounts drawn down under OTH's existing \$5,000,000 overdraft facility; or
 - (ii) granting a guarantee not exceeding \$50,000 in respect of OTH's premises in Melbourne;
- (i) enter into any new agreements, arrangements or understandings involving more than \$250,000 in aggregate;
- (j) increase salaries or benefits of employees which in aggregate amount to more than \$100,000 per year, other than in accordance with such employees' contractual or legal entitlements or salary increases which, for all employees, in aggregate total no more than \$371,000 (prior to on costs);

- (k) hire, or agree to hire, any employee, agent or contractor except in the ordinary course of business or for the purposes of implementation of the 'Software as a Service' project;
- (l) give or agree to give a financial benefit to a related party of OTH;
- (m) amend its constitution;
- (n) institute, settle or compromise (or agree to institute, settle or compromise) any Claim by or against it for an amount in excess of \$100,000;
- (o) institute, settle or compromise (or agree to institute, settle or compromise) any Claim by or against it in relation to, or process that relates to, any Tax matter;
- (p) incur or agree to incur expenditure of more than \$1,250,000, in aggregate, on the development of 'Software as a Service' products or solutions;
- (q) amend any Option Cancellation Letter; or
- (r) authorise, commit or agree to take any of the steps or actions set out above.

7.3 OTH permitted activities

The obligations of OTH under clauses 7.1 and 7.2 do not apply in respect of:

- (a) any action required to respond, on a reasonable and prudent basis, to an emergency or a disaster;
- (b) any action required to be taken under the terms of the COD Disposal Documents;
- (c) any matter Fairly Disclosed in:
 - (i) the Disclosure Letter; or
 - (ii) OTH's budget for the fiscal year 2016/17 in the form provided to the Consortium Members prior to the date of this deed;
- (d) any matter otherwise expressly contemplated in this deed (including clause 7.5); or
- (e) any matter which has been consented to in writing by the Consortium Parties (such consent not to be unreasonably withheld or delayed).

7.4 Access

- (a) From the date of this deed up to and including the Implementation Date, OTH must:
 - (i) procure that at least two members of its executive management team meet during business hours (either in person or by teleconference) with representatives of the Consortium Members on a fortnightly basis to assist with, among other things, keeping

the Consortium Members fully informed of the matters contemplated by this clause 7.4(a);

- (ii) provide the Consortium Members with reasonable non-disruptive access during Business Hours and on reasonable notice to the management, offices, books, records and business operations of OTH that the Consortium Members reasonably require in order to implement the Proposed Transaction or for the Consortium Members to prepare for the transition of ownership of the Business, provided that such access is at all times in the presence of a representative of OTH, if OTH so requires;
 - (iii) keep the Consortium Members fully informed of all material developments relating to the OTH Group and provide to the Consortium Members monthly management, financial and operational reports (being those provided to the OTH board); and
 - (iv) share such information as is reasonably required to implement the Proposed Transaction, provided that each Consortium Member must:
 - (B) keep all information obtained by it as a result of clause 7.4(a) confidential;
 - (C) provide OTH with reasonable notice of any request for meetings or access;
 - (D) comply with the reasonable requirements of OTH in relation to such access; and
 - (E) not interfere with the Business or the operations of the OTH Group.
- (b) The parties must use all reasonable endeavours to obtain any third party consents required in connection with, or as a result of, the Proposed Transaction.
- (c) Nothing in clause 7.4(a) gives any Consortium Member any rights as to the decision-making of any member of the OTH Group or the Business.
- (d) Nothing in this clause 7.4 obliges OTH to provide to the Consortium Members or their Representatives any information:
- (i) concerning its directors' consideration of the Proposed Transaction or any Competing Proposal (save as otherwise provided in this deed);
 - (ii) which would breach an obligation of confidentiality to any person or any applicable privacy laws; or
 - (iii) which would be reasonably likely to result in a loss of legal professional privilege.

7.5 OTH Options

OTH must:

- (a) by no later than the Delivery Time on the Second Court Date, obtain a waiver from ASX Listing Rule 6.23.2 for the cancellation of up to all of the OTH Options pursuant to the Option Cancellation Letters;
- (b) provide signed copies of all Option Cancellation Letters to the Consortium Members by no later than Tuesday 12 July 2016;
- (c) on the Effective Date:
 - (i) pay all Option Consideration to the OTH Optionholders in accordance with the terms of each Option Cancellation Letter; and
 - (ii) take all steps and perform all actions necessary to cancel all of the OTH Options.

8 Actions on and following Implementation Date

8.1 Reconstitution of the board of each member of the OTH Group

- (a) On the Implementation Date, but subject to the Scheme Consideration having been paid in by the Consortium Members in accordance with the Scheme and receipt by OTH of signed consents to act, OTH must take all actions necessary (and in accordance with the constitution of the OTH Group member, the Corporations Act and the Listing Rules) to appoint the persons nominated by the Consortium Members as new OTH Directors and new directors of each Controlled Entity of OTH.
- (b) Without limiting clause 8.1(a), on the Implementation Date, but subject to receipt by OTH of written notices of resignation to the effect that the outgoing directors have no claim outstanding against any member of the OTH Group, OTH must procure that:
 - (i) all outgoing OTH Directors resign from the OTH Board; and
 - (ii) all outgoing directors of each Controlled Entity of OTH resign from their office of director.

8.2 Sequence of actions on the Implementation Date

On the Implementation Date, the transactions which form part of the Scheme and the ancillary transactions contemplated by this deed will be implemented in the following sequence:

- (a) the Consortium Members (other than 77VSV) will provide the Scheme Consideration in accordance with the Scheme and Deed Poll;
- (b) OTH will disburse the Scheme Consideration to Scheme Shareholders in accordance with the Scheme;
- (c) the OTH Board and the board of each Controlled Entity of OTH will be reconstituted in accordance with clause 8.1; and
- (d) the Consortium Members (other than 77VSV) will acquire all of the Scheme Shares in accordance with the Scheme.

9 Representations and warranties

9.1 OTH representations and warranties

OTH represents and warrants to each Consortium Member that:

- (a) it is validly existing under the laws of its place of incorporation or registration;
- (b) it has the power to enter into and perform its obligations under this deed and to carry out the transactions contemplated by this deed;
- (c) it has taken all necessary action to authorise its entry into and performance of this deed and to carry out the transactions contemplated by this deed;
- (d) OTH's obligations under this deed are valid and binding and enforceable against it in accordance with their terms;
- (e) no Insolvency Event has occurred in relation to OTH or any member of the OTH Group;
- (f) the FY15 Accounts:
 - (i) were prepared:
 - (A) in accordance with the requirements of the Corporations Act, any other applicable laws applying at the time of their preparation, and the ASX Listing Rules;
 - (B) in the manner described in the notes to them; and
 - (C) on a consistent basis with the equivalent accounts for the previous accounting period;
 - (ii) give a true and fair view of the financial position of the members of the OTH Group as at 30 June 2015;
 - (iii) give a true and fair view of the performance of the members of the OTH Group for the financial year ended on 30 June 2015; and
 - (iv) include all liabilities (whether actual or contingent) of OTH and each member of the OTH Group as at 30 June 2015;
- (g) the 1HFY16 Accounts:
 - (i) were prepared:
 - (A) in accordance with the requirements of the Corporations Act, any other applicable laws applying at the time of their preparation, and the ASX Listing Rules;
 - (B) in the manner described in the notes to them; and
 - (C) on a consistent basis with the equivalent accounts for OTH's accounts for the half-year ended 31 December 2014 and with the FY15 Accounts;

- (ii) give a true and fair view of the financial position of the members of the OTH Group as at 31 December 2015; and
 - (iii) give a true and fair view of the performance of the members of the OTH Group for the half year ended on 31 December 2015;
- (h) the members of the OTH Group own or have rights to use all of the assets (including intangible assets) which are necessary for them to conduct the business, other than the COD Business, as carried on at the date of this deed and substantially as carried on in the 12 month period prior to the date of this deed;
- (i) as at the date of this deed, OTH is not in breach of its continuous disclosure obligations under the Listing Rules and is not relying on the exclusion in Listing Rule 3.1A to withhold any information from disclosure (other than in relation to the Proposed Transaction or as disclosed in writing to the Consortium Members on or before the date of this deed);
- (j) other than as Fairly Disclosed in the Due Diligence Materials or the Disclosure Letter, none of the steps or actions set out in clauses 7.2(a) to 7.2(r) has been taken or occurred at any time between 8 March 2016 and the date of this deed;
- (k) as at the date of this deed:
 - (i) the issued capital of OTH is 82,631,484 Shares; and
 - (ii) 3,797,180 OTH Options are on issue; andno member of the OTH Group has issued, or agreed to issue, any other securities or instruments which may convert into Shares or any other securities in OTH;
- (l) the details of the OTH Options as set out in the OTH Options Side Letter are true and correct in all respects; and
- (m) the information in the Due Diligence Material, taken as a whole:
 - (i) is materially accurate; and
 - (ii) is not materially misleading or deceptive, including by omission, and OTH has not withheld from the Due Diligence Material any information of which the OTH is aware and which, if disclosed, might reasonably be expected to affect the decision of the Consortium Members to enter into this deed and complete the transactions contemplated by it, including any liabilities or contingent liabilities relating to the OTH or its Subsidiaries or the Business.

9.2 Representations and warranties by Consortium Members

- (a) Each Consortium Member represents and warrants to OTH that:
 - (i) it is validly existing under the laws of its place of incorporation or registration;

- (ii) it has the power to enter into and perform its obligations under this deed and to carry out the transactions contemplated by this deed;
 - (iii) it has taken all necessary action to authorise its entry into and performance of this deed and to carry out the transactions contemplated by this deed; and
 - (iv) its obligations under this deed are valid and binding and enforceable against it in accordance with their terms.
- (b) Each Consortium Member that enters into this deed in its capacity as trustee of a trust represents and warrants to OTH that:
 - (i) the trust has been validly created and not terminated and, if required, registered under the Corporations Act;
 - (ii) it has been validly appointed as trustee of that trust, it is the only trustee of that trust, and no action has been taken or proposed to remove it as trustee of that trust;
 - (iii) it has power under the terms of the trust deed in respect of that trust to enter into, and comply with its obligations under, this deed;
 - (iv) it has in full force and effect all authorisations necessary for it to act as trustee of that trust and to enter into, and comply with its obligations under, this deed, and to allow such obligations to be enforced; and
 - (v) it has a right to be fully indemnified out of all the assets and property of the trust in respect of all the obligations incurred by it under this deed.

9.3 Timing of representations and warranties

Each representation and warranty made or given under clause 9.1 and clause 9.2 is given:

- (a) at the date of this deed and at all times between the date of this deed and the Delivery Time; or
- (b) where expressed, at the time at which the representation or warranty is expressed to be given.

9.4 Survival of representations and warranties

Each representation and warranty in clauses 9.1 and 9.2:

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

10 Confidentiality and Public Announcement

10.1 Confidentiality

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

10.2 Public Announcements on execution

Immediately after the execution of this deed, the parties must issue public announcements in a form previously agreed to in writing between them.

10.3 Further public announcements

Subject to clause 10.4, any further public announcements by OTH or any Consortium Member in relation to, or in connection with, the Proposed Transaction or any other transaction the subject of this deed or the Scheme may only be made in a form approved by each party in writing (acting reasonably) subject to where a party is required by law or the Listing Rules to make any announcement or to make any disclosure in relation to, or in connection with, the Proposed Transaction or any other transaction the subject of this deed or the Scheme.

10.4 Required announcement

Where a party is required by applicable law, the ASX Listing Rules or any other applicable financial market regulation to make any announcement or to make any disclosure in connection with the Proposed Transaction or any other transaction the subject of this deed or the Scheme, it may do so but must use reasonable endeavours, to the extent practicable and lawful, to consult with the other party before making the relevant disclosure and must give the other party as much notice as reasonably practical.

10.5 Statements on termination

The parties must use all reasonable endeavours to issue agreed statements in respect of any termination of this deed and, to that end but without limitation, clauses 10.3 and 10.4 apply to any such statements or disclosures.

11 Termination

11.1 Termination by notice

- (a) The Consortium Members or OTH may, by notice in writing to the other parties, terminate this deed at any time prior to the Delivery Time on the Second Court Date:
 - (i) if the Court refuses to make any order directing OTH to convene the Scheme Meeting, provided that both OTH and the Consortium Members have met and consulted for a period of at least 5 Business Days and agreed that they do not wish to proceed with the Scheme; or

- (ii) if the Effective Date for the Scheme has not occurred on or before the End Date.
- (b) OTH may, by notice in writing to the Consortium Members, terminate this deed at any time prior to the Delivery Time on the Second Court Date if, at any time before then:
 - (i) a Consortium Member is in material breach of a material obligation applicable to it under this deed (other than a breach of representation or warranty) and, if such breach is capable of remedy, the relevant Consortium Member has failed to remedy that breach within five Business Days (or 5.00 pm on the day before the date of the Second Court Date if earlier) of receipt by it of a notice in writing from OTH setting out details of the relevant circumstance and requesting the relevant Consortium Member to remedy the breach;
 - (ii) a majority of the Independent Directors change, withdraw or modify their recommendations of the Proposed Transaction in the manner described in clause 6.3; or
 - (iii) an Insolvency Event occurs in relation to a Consortium Member.
- (c) The Consortium Members may, by notice in writing to OTH, terminate this deed at any time prior to the Delivery Time on the Second Court Date if, at any time before then:
 - (i) OTH is in material breach of a material obligation applicable to it under this deed (other than a breach of a representation or warranty), and, if such breach is capable of remedy, OTH has failed to remedy that breach within five Business Days (or 5.00 pm on the day before the date of the Second Court Date if earlier) of receipt by it of a notice in writing from the Consortium Members setting out details of the relevant circumstance and requesting the other party to remedy the breach;
 - (ii) OTH materially breaches any of the representations and warranties contained in clause 9.1, and the breach:
 - (A) cannot be remedied to the reasonable satisfaction of the Consortium Members by subsequent action on the part of OTH before 10.00am on the day before the Second Court Date; and
 - (B) was of a kind that, had it been disclosed to the Consortium Members prior to their entry into this deed, could reasonably be expected to have resulted in some or all of the Consortium Members either not entering into this deed or entering into it on materially different terms;
 - (iii) any Independent Director:

- (A) fails to recommend the Proposed Transaction in the manner described in clause 6.1; or
- (B) changes, withdraws or modifies his or her recommendation of the Transaction or makes any public statement, or takes any other action that is inconsistent with his or her recommendation of the Transaction (including where a Competing Proposal is announced and is recommended by any Independent Director); or
- (iv) an Insolvency Event occurs in relation to OTH or any member of the OTH Group.

11.2 Automatic termination

Without limiting any other term of this deed, and subject to clause 3.6, this deed will terminate automatically if the Scheme is not approved by the necessary majorities at the Scheme Meeting.

11.3 Effect of termination

- (a) In the event of termination of this deed under clause 3.7, 11.1 or 11.2, this deed will become void and have no effect, except that the provisions of clauses 9.4, 10, 12 and 16.3 to 16.14 (inclusive) survive termination.
- (b) Termination of this deed does not affect any accrued rights of a party in respect of a breach of this deed prior to termination or in respect of right to payment of an amount under clause 12.

12 Reimbursement Fee

12.1 Background to Reimbursement Fee

OTH acknowledges and agrees that:

- (a) the Consortium Members have incurred and will continue to incur significant costs and expenses (including those set out in clause 12.4) in pursuing and implementing the Proposed Transaction;
- (b) the entry by the parties into this deed and the Consortium Members' agreement to continue to pursue the Proposed Transaction (and incur significant costs, expenses and losses as a result) is of substantial value to OTH and its shareholders;
- (c) in these circumstances, the Consortium Members have requested that provision be made for the payments outlined in clause 12.2, without which the Consortium Members would not have entered into this deed or otherwise agreed to proceed with the Proposed Transaction; and
- (d) OTH has received external legal and financial advice in relation to this clause 12 and represents to the Consortium Members that:
 - (i) it concluded that it was reasonable and appropriate for OTH to agree to the matters set out in this clause 12 in order to secure the

Consortium Members' participation in the Proposed Transaction;
and

- (ii) OTH will not seek to resist payment of any part of the moneys contemplated by this clause 12 on any legal basis whatsoever.

12.2 Reimbursement Fee triggers

OTH must pay the Reimbursement Fee to the Consortium Members, without set-off or withholding, if:

- (a) this deed is terminated after any of the Independent Directors:
 - (i) has failed to recommend the Proposed Transaction in the manner described in clause 6.1; or
 - (ii) has changed his or her recommendation to the Scheme Participants that they vote in favour of the resolution to approve the Scheme (including any adverse modification of his or her recommendation) or otherwise made a public statement indicating that he or she no longer supports the Proposed Transaction, other than where the change of recommendation or public statement is made following the receipt of the report of the Independent Expert where that report states that in the opinion of the Independent Expert the Scheme is not in the best interests of OTH Shareholders (other than where a Competing Proposal has been proposed or announced before the report is issued where the Independent Expert's conclusion is due wholly or partly to the existence, announcement or publication of a Competing Proposal);
- (b) a Competing Proposal of any kind is announced during the Exclusivity Period (whether or not such proposal is stated to be subject to any pre-conditions) and within 6 months of the date of such announcement the Third Party proposing the Competing Transaction or any Associate of that Third Party:
 - (i) completes a Competing Proposal; or
 - (ii) enters into an agreement, arrangement or understanding with OTH or the OTH Board requiring OTH to abandon, or otherwise fail to proceed with, the Proposed Transaction; or
- (c) a Consortium Member has validly terminated this deed pursuant to clause 11.1(c)(i) (material breach of deed by OTH) or 11.1(c)(ii) (material breach of warranty by OTH) and the Proposed Transaction does not complete;
- (d) the Condition in clause 3.1(a) (No OTH Prescribed Occurrence) is not satisfied at the Delivery Time on the Second Court Date; or
- (e) the Court fails to approve the terms of the Scheme, for which the approval of the requisite OTH Shareholders has been obtained, as a result of a material non-compliance by OTH with any of its obligations under this deed.

12.3 Timing of payment of Reimbursement Fee

- (a) A demand by the Consortium Members for payment of the Reimbursement Fee under clause 12.2 must:
 - (i) be in writing;
 - (ii) be made after the occurrence of the event in that clause giving rise to the right to payment;
 - (iii) state the circumstances which give rise to the demand; and
 - (iv) nominate an account in the name of one or more of the Consortium Members into which OTH is to pay the Reimbursement Fee.
- (b) OTH must pay the Reimbursement Fee into the account nominated by the Consortium Members without set off or withholding within five Business Days after receiving a demand for payment where the Consortium Members are entitled under clause 12.2 to the Reimbursement Fee.

12.4 Basis of Reimbursement Fee

The Reimbursement Fee has been calculated to reimburse the Consortium Members for costs including the following:

- (a) fees for legal, financial and other professional advice in planning and implementing the Proposed Transaction (excluding success fees);
- (b) reasonable opportunity costs incurred in engaging in the Proposed Transaction or in not engaging in other alternative acquisitions or strategic initiatives;
- (c) costs of management, directors' and employees' time in planning and implementing the Proposed Transaction; and
- (d) out of pocket expenses incurred by the Consortium Members and their respective employees, advisers and agents in planning and implementing the Proposed Transaction,

and the parties agree that:

- (e) the costs actually incurred by the Consortium Members will be of such a nature that they cannot all be accurately ascertained; and
- (f) the Reimbursement Fee is a genuine and reasonable pre-estimate of those costs.

12.5 Compliance with law

- (a) This clause 12 does not impose an obligation on OTH to pay the Reimbursement Fee to the extent (and only to the extent) that the obligation to pay the Reimbursement Fee:
 - (i) is declared by the Takeovers Panel to constitute 'unacceptable circumstances'; or

- (ii) is determined to be unenforceable or unlawful by a court,
 - (iii) after all proper avenues of appeal and review, judicial and otherwise, have been exhausted.
- (b) The parties must not make or cause or permit to be made, any application to the Takeovers Panel or a court for or in relation to a declaration or determination referred to in this clause 12.5(a).

12.6 Reimbursement Fee payable only once

Where the Reimbursement Fee becomes payable to the Consortium Members under clause 12.2 and is actually paid to the Consortium Members in accordance with clause 12.3, the Consortium Members cannot make any claim against OTH for payment of any subsequent Reimbursement Fee.

12.7 Limitations of Liability

- (a) Notwithstanding any other provision of this deed:
 - (i) the maximum liability of OTH to the Consortium Members under or in connection with this deed including in respect of any breach of the agreement will be an amount equal to the amount of the Reimbursement Fee; and
 - (ii) the maximum liability amount referred to in clause 12.7(a)(i) represents the maximum and absolute amount of the liability of OTH under or in connection with this deed and no further damages, fees, expenses or reimbursements of any kind will be payable by OTH in connection with this deed.
- (b) Nothing in this clause 12.7 limits the liability of OTH for fraud.

12.8 No Reimbursement Fee if Scheme Effective

Despite anything to the contrary in this deed, the Reimbursement Fee will not be payable to the Consortium Members if the Scheme becomes Effective, notwithstanding the occurrence of any event in clause 12.2 and, if the Reimbursement Fee has already been paid it must be refunded by the Consortium Members.

13 Exclusivity

13.1 No existing discussions

Other than in relation to the discussions with the Consortium Members in connection with the Proposed Transaction and this deed, OTH represents and warrants to each Consortium Member that, as at the date of this deed:

- (a) neither itself nor any of its Representatives is a party to any agreement with a third party entered into for the purpose of facilitating a Competing Proposal;
- (b) neither itself nor any of its Representatives is participating in any discussions or negotiations with a third party that concern, or that could

reasonably be expected to lead to, a Competing Proposal or to OTH abandoning the Proposed Transaction; and

- (c) it has requested that any OTH confidential information held by any party who has previously made or approached OTH in relation to a Competing Proposal be returned or destroyed in accordance with the terms of any confidentiality agreement OTH has with that person, and has taken reasonable steps to ensure that person has complied with such request..

13.2 No-shop

During the Exclusivity Period, OTH must not, and must ensure that its Representatives do not, directly or indirectly solicit, invite, initiate or encourage any Competing Proposal or any enquiries, proposals, discussions or negotiations with any third party in relation to (or that could reasonably be expected to lead to) a Competing Proposal or to OTH abandoning the Transaction, or communicate any intention to do any of these things.

13.3 No-talk

Subject to clause 13.7, during the Exclusivity Period, OTH must not, and must ensure that its Representatives do not, directly or indirectly:

- (a) negotiate or enter into or participate in negotiations or discussions with any person; or
- (b) communicate any intention to do any of these things,

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

13.4 No due diligence

During the Exclusivity Period, except with the prior written consent of the Consortium Members, OTH must not, and must ensure that its Representatives do not, directly or indirectly:

- (a) solicit, invite, initiate, or encourage, or (subject to clause 13.7) facilitate or permit, any person (other than a Consortium Member) to undertake due diligence investigations in respect of OTH, its related bodies corporate, or any of their businesses and operations, in connection with such person formulating, developing or finalising, or assisting in the formulation, development or finalisation of, a Competing Proposal; or
- (b) subject to clause 13.7, make available to any person (other than a Consortium Member) or permit any such person to receive any non-public information relating to OTH, its related bodies corporate, or any of their businesses and operations, in connection with such person formulating, developing or finalising, or assisting in the formulation, development or finalisation of, a Competing Proposal.

13.5 Notification of approaches

- (a) During the Exclusivity Period, OTH must promptly notify each Consortium Member in writing of the fact of any approach, inquiry or proposal made by any person to OTH or any of its Representatives, to initiate any discussions or negotiations that the Independent Directors consider could reasonably be expected to lead to a Competing Proposal.
- (b) Subject to clause 13.7, a notice given under clause 13.5(a) must be accompanied by all material details of the relevant event, including (as the case may be):
 - (i) subject to clause 13.6(c), the identity of the person who made the relevant approach, inquiry or proposal to initiate discussions or negotiations referred to in clause 13.5(a) (**Identifying Details**); and
 - (ii) the material terms and conditions (including price, conditions precedent, timetable and break free (if any)) of any Competing Proposal or any proposed Competing Proposal (to the extent known).
- (c) During the Exclusivity Period, OTH must promptly provide the Consortium Members with:
 - (i) in the case of written materials, a copy of; or
 - (ii) in any other case, a written statement of,
any material non-public information relating to OTH, its related bodies corporate, or any of their businesses and operations made available or received by any person in connection with such person formulating, developing or finalising, or assisting in the formulation, development or finalisation of, a Competing Proposal and which has not previously been provided to the Consortium Members.

13.6 OTH's response to Rival Acquirer and the Consortium Members' right to respond

- (a) If OTH is permitted by virtue of clause 13.7 to engage in activity that would otherwise breach any of clauses 13.3, 13.4(a), 13.4(b) and 13.5(b)(i), OTH must enter into a confidentiality agreement with the person who has made the applicable Competing Proposal (**Rival Acquirer**) on customary terms.
- (b) If OTH receives a Competing Proposal and as a result, any Independent Director proposes to either:
 - (i) change, withdraw or modify his or her recommendation of the Proposed Transaction; or
 - (ii) approve or recommend entry into any agreement, commitment, arrangement or understanding relating to the Competing Proposal (other than a confidentiality agreement contemplated by clause 13.6(a)),

OTH must not make an announcement regarding the matters in clause 13.6(b)(i) or enter into any agreement, commitment, arrangement or understanding set out in clause 13.6(b)(ii):

- (iii) unless the Competing Proposal is bona fide; and
- (iv) until each of the following has occurred:
 - A. the Independent Directors have made the determination contemplated by clause 13.7(b) in respect of that Competing Proposal;
 - B. OTH has given the Consortium Members written notice (**Relevant Notice**) of the Independent Directors' proposal to take the action referred to in clauses 13.6(b)(i) or 13.6(b)(ii) (subject to the Consortium Members' rights under clause 13.6(d));
 - C. subject to 13.6(c), OTH has given the Consortium Members all information that would be required by clause 13.5(b) as if it was not subject in any way to clause 13.7;
 - D. the Consortium Members' rights under clause 13.6(d) have been exhausted; and
 - E. the Independent Directors have made the determination contemplated by clause 13.7(b) in respect of that Competing Proposal after the Consortium Members' rights under clause 13.6(d) have been exhausted and after evaluation of any Counter Proposal.
- (c) Prior to giving the Consortium Members the Identifying Details, OTH must advise the Rival Acquirer that the Rival Acquirer's name and other details which may identify the Rival Acquirer will be provided by OTH to the Consortium Members on a confidential basis. If consent is refused, OTH may withhold the Identifying Details from the Consortium Members if the Independent Directors, acting in good faith believe that failing to do so would be likely to result in the Competing Proposal being withdrawn.
- (d) If OTH gives a Relevant Notice to the Consortium Members under clause 13.6(b)(iv)B, the Consortium Members will have the right, but not the obligation, at any time during the period of 3 Business Days following the receipt of the Relevant Notice, to amend the terms of the Proposed Transaction including increasing the amount of consideration offered under the Proposed Transaction or proposing any other form of transaction (each a **Counter Proposal**), and if they do so then the Independent Directors must review the Counter Proposal in good faith. A Counter Proposal may be made by some or all of the Consortium Members. If the Independent Directors determine that the Counter Proposal would be more favourable, or at least no less favourable, to OTH and the OTH Shareholders than the Competing Proposal (having regard to the matters noted in clause 13.7(b)), then OTH and the Consortium Members (including any Consortium Members who are not participating in the Counter Proposal) must use their best endeavours to

agree the amendments to this deed that are reasonably necessary to reflect the Counter Proposal and to enter into an amended agreement to give effect to those amendments and to implement the Counter Proposal, and OTH must recommend the Counter Proposal to the Shareholders and not recommend the applicable Competing Proposal.

13.7 Fiduciary out

The restrictions in clauses 13.3, 13.4(a) and 13.4(b) and the obligations in clauses 13.5(a) and 13.5(b)(i) do not apply to the extent they restrict OTH or any Independent Director from taking or refusing to take any action with respect to a Competing Proposal (in relation to which there has been no contravention of clauses 13.1 or 13.2) provided that:

- (a) the Competing Proposal is bona fide and is made by or on behalf of a person that the Independent Directors reasonably consider is of sufficient commercial standing to implement the Competing Proposal; and
- (b) the Independent Directors have determined in good faith after:
 - (i) consultation with OTH's financial advisers; and
 - (ii) receiving written advice from OTH's external Australian legal adviser practising in the area of corporate law,

that: (A) the Competing Proposal is or may reasonably be expected to lead to a Superior Proposal and (B) failing to take the action or refusing to take the action (as the case may be) with respect to the Competing Proposal would be likely to constitute a breach of the fiduciary or statutory obligations of the Independent Directors.

14 Notices

Any communication under or in connection with this deed:

- (a) must be in writing;
- (b) must (subject to clause 14(f)) be addressed as shown below:

OTH

Address: Level 2, 200 Adelaide St, Brisbane QLD 4000
Email: esantucci@console.com.au
For the attention of: Chief Financial Officer

PIQ1

Address: Level 6, 50 Martin Place, Sydney NSW 2000
Facsimile: +61 2 8232 3347
Email: Kirk.Kileff@macquarie.com and
Tim.Desmyth@macquarie.com

For the attention of: Kirk Kileff / Tim Desmyth

MacCap

Address: Level 4, 50 Martin Place, Sydney NSW 2000

Facsimile: +61 2 8232 3656

Email: Belinda.Cooney@macquarie.com

For the attention of: Belinda Cooney

with a copy to: Sandy Mak (sandy.mak@corrs.com.au)

77VSV

Address: 117 Fernberg Road, Paddington, Queensland 4064

Email: michael@pipecapital.com and
dan@pipecapital.com

For the attention of: Michael Dempsey / Daniel Dempsey

Sandrift

Address: 60, Paya Lebar Road, #08-43, Paya Lebar Square,
Singapore 40905

Email: michael@pipecapital.com and
dan@pipecapital.com

For the attention of: Michael Dempsey / Daniel Dempsey

(or as otherwise notified by that party to the other party from time to time);

- (c) must be signed or sent by the party making the communication or by a person duly authorised by that party;
- (d) must be delivered to the address, or sent by fax or email to the number or email address, of the addressee, in accordance with clause 14(b);
- (e) will be deemed to be received by the addressee:
 - (i) **(in the case of email)** four hours after the time sent (as recorded on the device from which the sender sent the email) unless the sender receives an automated message that the email has not been delivered;
 - (ii) **(in the case of fax)** at the local time (in the place of receipt of that fax) which then equates to the time at which that fax is sent as shown on the transmission report which is produced by the machine from which that fax is sent and which confirms transmission of that fax in its entirety, unless that local time is not a

Business Day, or is after 5.00pm on a Business Day, when that communication will be deemed to be received at 9.00am on the next Business Day; and

- (iii) **(in the case of delivery by hand)** on delivery at the address of the addressee as provided in clause 14(b), unless that delivery is not made on a Business Day, or after 5.00pm on a Business Day, when that communication will be deemed to be received at 9.00am on the next Business Day;
- (f) in the case of a notice required or purported to be given by OTH to any one or more of the Consortium Members, must be given to each of the Consortium Members (that is, each of PIQ1, MacCap, 77VSV and Sandrift) in accordance with the requirements of this clause 14; and
- (g) in the case of a notice purported to be given by the Consortium Members to OTH, must be given by or on behalf of all of the Consortium Members.

15 Releases

15.1 OTH Persons

- (a) Without limiting the Consortium Members' rights under clause 11, each Consortium Member releases all rights against and agrees with OTH that it will not make a Claim against, any OTH Person in connection with:
 - (i) OTH's execution or delivery of this deed;
 - (ii) any breach of any representation, covenant and warranty of OTH in this deed;
 - (iii) the implementation of the Scheme; or
 - (iv) any disclosure made by OTH including in the Due Diligence Material or the Disclosure Letter that contains any statement which is false or misleading whether in content or by omission,except to the extent the relevant OTH Person has not acted in good faith or has engaged in wilful misconduct or to the extent the Claim is actually covered under an insurance policy that is paid for by the OTH Group where the relevant insurer accepts liability for the Claim.
- (b) This clause is subject to any Corporations Act restriction and will (if and to the extent required) be read down accordingly. OTH receives and holds the benefit of this clause as trustee for each OTH Person.

15.2 Consortium Parties

- (a) Without limiting OTH's rights under clause 11, OTH releases its rights against, and agrees with each Consortium Member that it will not make a Claim against any Consortium Party (other than a Consortium Member) in connection with:
 - (i) the Consortium Members' execution or delivery of this deed;

- (ii) any breach of any representation, covenant and warranty of a Consortium Member in this deed;
- (iii) the implementation of the Scheme; or
- (iv) any disclosure made by any Consortium Party that contains any statement which is false or misleading whether in content or by omission,

except to the extent that the relevant Consortium Party has not acted in good faith or has engaged in wilful misconduct.

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

15.3 Directors' and officers' insurance

The Consortium Members acknowledge that OTH will:

- (a) prior to the Effective Date, arrange for the cover currently provided under its directors' and officers' insurance policy (**Policy**) to be extended for a further period of 12 months; and
- (b) by no later than the Implementation Date, to the extent practicable at normal commercial rates, arrange for the cover provided under the Policy to be amended so as to provide run off cover in accordance with the terms of the Policy for a seven year period from the end of the term of the Policy, and pay all premiums required so as to ensure that insurance cover is provided under the Policy on those terms until that date.

15.4 Obligations in relation to directors' and officers' insurance

From the Implementation Date, OTH must not:

- (a) vary or cancel the Policy; or
- (b) unless required under the Policy, commit any act or omission that may prejudice any claim by a director or officer of OTH under the Policy as extended under clause 15.3(b) above.

Nothing in clauses 15.3 or 15.4 shall require any Consortium Member or OTH to incur any additional premium after the Implementation Date or require OTH to not fulfil its contractual obligations under the Policy.

16 General

16.1 Further acts

Each party will 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.

16.2 Timetable

The parties agree that the Timetable is indicative only and is not binding on the parties.

16.3 Payments

Unless otherwise expressly provided in this deed, where an amount is required to be paid to a party (the **Receiving Party**) by another party under this deed, that amount shall be paid:

- (a) in immediately available and irrevocable funds by electronic transfer to a bank account or accounts notified by the Receiving Party in writing on or before the due date for payment, or in other such immediately payable funds as the parties may agree; and
- (b) without deduction, withholding or set-off.

16.4 GST

- (a) Any reference in this clause 16.4 to a term defined or used in the *A New Tax System (Goods and Services Tax) Act 1999* is, unless the context indicates otherwise, a reference to that term as defined or used in that Act.
- (b) Unless expressly included, the consideration for any supply under or in connection with this deed does not include GST.
- (c) To the extent that any supply made by a party (**Supplier**) to another party (**Recipient**) under or in connection with this deed is a taxable supply, the Recipient must pay to the Supplier, in addition to the consideration to be provided under this deed but for the application of this clause 16.4(c) for that supply (**GST Exclusive Consideration**), an amount equal to the amount of the GST Exclusive Consideration (or its GST exclusive market value) multiplied by the rate at which GST is imposed in respect of the supply.
- (d) This clause 16.4(d) does not apply to any taxable supply under or in connection with this deed that is expressly stated to include GST.
- (e) The amount on account of GST payable in accordance with this clause 16.4 will be paid at the same time and in the same manner as the consideration otherwise payable for the supply is provided subject to the Recipient receiving a tax invoice.
- (f) Any reference in the calculation of any consideration or of any indemnity, reimbursement or similar amount to a cost, expense or liability incurred by a person (**Relevant Expense**) is a reference to the relevant expense reduced by an amount equal to any input tax credit entitlement of that person (or of the representative member of any GST group to which the person belongs) in relation to the Relevant Expense. A party will be assumed to have an entitlement to a full input tax credit unless it demonstrates otherwise prior to the date on which the relevant payment or consideration must be provided.

16.5 Stamp duty

Each of PIQ1, MacCap and Sandrift must pay or procure the payment of its Acquisition Proportion of any stamp duty (if any) and any related fines, penalties and interest in respect of this deed or the Scheme or the steps to be taken under this deed or the Scheme (including the acquisition or transfer of Scheme Shares pursuant to the Scheme).

16.6 Expenses

Except as otherwise provided in this deed, each party will pay its own costs and expenses in connection with the negotiation, preparation, execution, and performance of this deed and the Explanatory Booklet and the proposed, attempted or actual implementation of this deed and the Scheme.

16.7 Amendments

This deed may only be varied by a document signed by or on behalf of each of the parties.

16.8 Assignment

A party cannot assign, novate or otherwise transfer any of its rights or obligations under this deed without the prior written consent of each other party, which consent that other party may give or withhold in its absolute discretion.

16.9 Waiver

- (a) Failure to exercise or enforce or a delay in exercising or enforcing or the partial exercise or enforcement of any right, power or remedy provided by law or under this deed by any party will not in any way preclude, or operate as a waiver of, any exercise or enforcement, or further exercise or enforcement of that or any other right, power or remedy provided by law or under this deed.
- (b) Any waiver or consent given by any party under this deed will only be effective and binding on that party if it is given or confirmed in writing by that party.
- (c) No waiver of a breach of any term of this deed will operate as a waiver of another breach of that term or of a breach of any other term of this deed.
- (d) Nothing in this deed obliges a party to exercise a right to waive any conditional term of this deed that may be in its power.

16.10 Counterparts

- (a) This deed may be executed in any number of counterparts and by the parties on separate counterparts. Each counterpart constitutes the agreement of each party who has executed and delivered that counterpart. Each counterpart is an original but the counterparts together are one and the same agreement.
- (b) This deed is binding on the parties on the exchange of duly executed counterparts.

- (c) The parties agree that a copy of an original executed counterpart sent by facsimile machine to the facsimile number of the other party specified in clause 13.6, instead of the original, is sufficient evidence of the execution of the original and may be produced in evidence for all purposes in place of the original.

16.11 Entire agreement

- (a) This deed:
 - (i) embodies the entire understanding of the parties and constitutes the entire terms agreed on between the parties; and
 - (ii) supersedes any prior agreement (whether or not in writing) between the parties.
- (b) Despite **clause 16.11(a)**, the Confidentiality Deed continues to apply to the parties in accordance with its terms, except to the extent of any express inconsistency, in which case this deed prevails.

16.12 No representation or reliance

- (a) Each party acknowledges that no party (nor any person acting on its behalf) has made any representation or other inducement to it to enter into this deed, except for representations or inducements expressly set out in this deed.
- (b) Each party acknowledges and confirms that it does not enter into this deed in reliance on any representation or other inducement by or on behalf of any other party, except for any representation or inducement expressly set out in this deed.

16.13 No merger

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

16.14 Governing law

- (a) This deed is governed by and will be construed according to the laws of New South Wales.
- (b) Each party irrevocably submits to the non-exclusive jurisdiction of the courts of New South Wales and of the courts competent to determine appeals from those courts.

Schedule 1

Indicative Timetable

Indicative timetable	
Event	Date
Enter into Scheme Implementation Deed	Tuesday 5 July 2016
Lodge Scheme Booklet with ASIC for review and comment	Monday 8 August 2016
First Court Date	Tuesday 30 August 2016
Explanatory Booklet registered with ASIC	Tuesday 30 August 2016
Dispatch Explanatory Booklet to OTH Shareholders	Monday 5 September 2016
Scheme Meeting	Wednesday 5 October 2016
Second Court Date	Wednesday 12 October 2016
Effective Date – lodge office copy of Court order approving the Scheme with ASIC	Thursday 13 October 2016
Record Date	7:00 pm on Thursday 20 October 2016 (5th Business Day after Effective Date)
Implementation Date – pay Scheme Consideration	Thursday 27 October 2016 (5th Business Day after Record Date)

Note: This is an indicative timetable only and is subject to change, including following any regulatory consultation and as may be required by the court.

Schedule 2

Deed Poll

PIQ1 Pty Ltd

Macquarie Corporate Holdings Pty Ltd

Sandrift Pte Limited

Deed Poll

Contents

1	Definitions and interpretation	1
1.1	Definitions	1
1.2	Terms defined in Scheme Implementation Deed	2
1.3	Incorporation by reference	2
2	Nature of this deed poll	2
3	Conditions	2
3.1	Conditions	2
3.2	Termination	2
3.3	Consequences of termination	2
4	Performance of obligations	3
4.1	Generally	3
4.2	Provision of Scheme Consideration	3
5	Warranties	3
6	Continuing Obligations	4
6.1	Deed poll irrevocable	4
6.2	Variation	4
7	Notices	4
8	General Provisions	5
8.1	Liabilities and obligations	5
8.2	Assignment	5
8.3	Cumulative rights	6
8.4	No waiver	6
8.5	Stamp duty	6
8.6	Further assurances	6
8.7	Governing law and jurisdiction	6
	Executed as a deed poll	7

Date

Parties

PIQ1 Pty Ltd ACN 608 629 509 of Level 6, 50 Martin Place, Sydney, New South Wales (**PIQ1**)

Macquarie Corporate Holdings Pty Ltd ACN 096 705 109 of Level 6, 50 Martin Place, Sydney, New South Wales (**MacCap**)

Sandrift Pte Limited UEN 201618249M of 60, Paya Lebar Road, #08-43, Paya Lebar Square, Singapore 409051 (**Sandrift**)

Background

- A On 5 July 2016, OTH and the Consortium Members entered into a Scheme Implementation Deed to provide for (among other matters) the implementation of the Scheme.
 - B The effect of the Scheme will be to transfer all Scheme Shares to PIQ1, MapCap and Sandrift in return for the Scheme Consideration.
 - C Each of PIQ1, MapCap and Sandrift enters this deed poll to covenant in favour of Scheme Shareholders to:
 - (i) perform the actions attributed to it under the Scheme; and
 - (ii) provide that part of the Scheme Consideration which it is required to provide to Scheme Shareholders under the Scheme in accordance with the Scheme.
-

Agreed terms

1 Definitions and interpretation

1.1 Definitions

In this document:

77VSV	means 77 Victoria Street Venture Pty Ltd (ACN 145 769 866) in its capacity as trustee for 77 Victoria Street Trust of 117 Fernberg Road, Paddington, Queensland.
Consortium	means PIQ1, MacCap, 77VSV and Sandrift together, and

Members	Consortium Member means any one of them.
OTH	means Onthehouse Holdings Limited ACN 150 139 781 of Level 2, 200 Adelaide Street, Brisbane, Queensland as trustee for the Scheme Shareholders
Scheme Implementation Deed	means the Scheme Implementation Deed dated 5 July 2016 between OTH and the Consortium Members.

1.2 Terms defined in Scheme Implementation Deed

Words and phrases defined in the Scheme Implementation Deed have the same meaning in this deed poll unless the context requires otherwise.

1.3 Incorporation by reference

The provisions of clauses 1.2, 1.3 and 1.4 of the Scheme Implementation Deed form part of this deed poll as if set out at length in this deed poll but with 'deed poll' substituted for 'deed' and with any reference to 'party' being taken to include the Scheme Shareholders.

2 Nature of this deed poll

Each of PIQ1, MacCap and Sandrift agrees that this deed poll may be relied on and enforced by any Scheme Shareholder in accordance with its terms even though the Scheme Shareholders are not a party to it.

3 Conditions

3.1 Conditions

The obligations of PIQ1, MacCap and Sandrift under clause 4 are subject to the Scheme becoming Effective.

3.2 Termination

Subject to clause 6, this deed poll and the obligations of PIQ1, MacCap and Sandrift will automatically terminate and this deed poll will be of no further force or effect if:

- (a) the Scheme Implementation Deed is terminated in accordance with its terms before the Scheme becomes Effective, or
- (b) the Scheme is not Effective on or before the End Date or any later date as the Court, with the consent of OTH and the Consortium Members, may order.

3.3 Consequences of termination

If this deed poll terminates under clause 3.2, in addition and without prejudice to any other rights, powers or remedies available to them:

- (a) each of PIQ1, MacCap and Sandrift is released from its obligation to further perform this deed poll; and

- (b) each Scheme Shareholder retains the rights they have against each of PIQ1, MacCap and Sandrift in respect of any breach of this deed poll which occurred before it terminated.

4 Performance of obligations

4.1 Generally

Subject to clause 3, each of PIQ1, MacCap and Sandrift undertakes in favour of Scheme Shareholders to:

- (a) perform the actions attributed to it under the Scheme and otherwise comply with the Scheme as if it was a party to the Scheme; and
- (b) comply with its obligations under the Scheme Implementation Deed, in so far as that agreement relates to the Scheme, and do all things necessary or expedient on its part to implement the Scheme.

4.2 Provision of Scheme Consideration

Subject to clause 3, each of PIQ1, MacCap and Sandrift undertakes in favour of each Scheme Shareholder to provide or procure the provision of its proportion of the Scheme Consideration, as determined under clause 5.2(a) of the Scheme, to each Scheme Shareholder in accordance with the terms of the Scheme.

5 Warranties

Each of PIQ1, MacCap and Sandrift represents and warrants to each Scheme Shareholder that:

- (a) **(status)** it is a corporation duly incorporated and validly existing under the laws of the place of its incorporation;
- (b) **(power)** it has the power to enter into and perform its obligations under this deed poll and to carry out the transactions contemplated by this deed poll;
- (c) **(corporate authorisations)** it has taken all necessary corporate action to authorise the entry into and performance of this deed poll and to carry out the transactions contemplated by this deed poll;
- (d) **(documents binding)** this deed poll is valid and binding on it and enforceable against it in accordance with its terms;
- (e) **(transactions permitted)** the execution and performance by it of this deed poll and each transaction contemplated by this deed poll did not and will not violate in any respect a provision of:
 - (i) its constitution or other constituent documents; or
 - (ii) any other document which is binding on it or its assets; and
- (f) **(solvency)** it is solvent and no resolutions have been passed nor has any other step been taken or legal action or proceedings commenced or

threatened against it for its winding up, deregistration or dissolution or for the appointment of a liquidator, receiver, administrator or similar officer over any or all of its assets.

6 Continuing Obligations

6.1 Deed poll irrevocable

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

- (a) each of PIQ1, MacCap and Sandrift having fully performed its obligation under this deed poll; and
- (b) termination of this deed poll under clause 3.2.

6.2 Variation

A provision of this deed poll may not be varied unless:

- (a) before the Second Court Date, the variation is agreed to in writing by OTH; or
- (b) on or after the Second Court Date, the variation is agreed to in writing by OTH and is approved by the Court,

in which event PIQ1, MacCap and Sandrift will enter into a further deed poll in favour of each Scheme Shareholder giving effect to the amendment.

7 Notices

Any notice, demand or other communication (a **Notice**) to PIQ1, MacCap or Sandrift in respect of this deed poll:

- (a) must be in writing and signed by the sender or a person duly authorised by it;
- (b) must be delivered to the intended recipient by prepaid post (if posted to an address in another country, by registered airmail) or by hand or fax to the address or fax number specified below:

PIQ1

Address: Level 6, 50 Martin Place, Sydney NSW 2000

Facsimile: +61 2 8232 3347

For the attention of: Kirk Kileff / Tim Desmyth

MacCap

Address: Level 4, 50 Martin Place, Sydney NSW 2000

Facsimile: +61 2 8232 3656

For the attention of: Belinda Cooney

with a copy (not
constituting notice to: Sandy Mak (sandy.mak@corrs.com.au)

Sandrift

Address: 60, Paya Lebar Road, #08-43, Paya Lebar
Square, Singapore 409051

For the attention of: Hugh Darwell, Director – Sandrift Pte.
Limited; and

- (c) will be conclusively taken to be duly given or made:
- (i) in the case of delivery in person, when delivered at the address of the addressee as provided in clause 7(b), unless that delivery is not made on a Business Day, or is made after 5.00pm on a Business Day, in which case that Notice will be deemed to be received at 9.00am on the next Business Day;
 - (ii) in the case of delivery by post, two Business Days after the date of posting (if posted to an address in the same country) or seven Business Days after the date of posting (if posted to an address in another country); and
 - (iii) in the case of fax, at the local time (in the place of receipt of that fax) which then equates to the time at which that fax is sent as shown on the transmission report which is produced by the machine from which that fax is sent and which confirms transmission of that fax in its entirety, unless that local time is not a Business Day, or is after 5.00pm on a Business Day, when that communication will be deemed to be received at 9.00am on the next Business Day.

8 General Provisions

8.1 Liabilities and obligations

Any obligation imposed on or liability of PIQ1, MacCap or Sandrift under this deed poll is an obligation or liability, of the case may be, of PIQ1, MacCap or Sandrift alone and severally, and in no case shall any party to this deed poll have any obligation to discharge, or liability in respect of, any obligation or liability of the other parties.

8.2 Assignment

- (a) The rights and obligations of PIQ1, MacCap, Sandrift and each Scheme Shareholder under this deed poll are personal. They cannot be assigned, charged, encumbered or otherwise dealt with at law or in equity without the prior written consent of OTH, PIQ1, MacCap and Sandrift.

- (b) Any purported dealing in contravention of clause 8.2(a) is invalid.

8.3 Cumulative rights

The rights, powers and remedies of PIQ1, MacCap, Sandrift and each Scheme Shareholder under this deed poll are cumulative with and do not exclude any other rights, powers or remedies provided by law independently of this deed poll.

8.4 No waiver

A provision of, or a right under, this deed poll may not be waived except in writing signed by the person granting the waiver.

8.5 Stamp duty

Each of PIQ1, MacCap and Sandrift:

- (a) must pay or procure the payment of its Acquisition Proportion of any stamp duty (if any) and any related fines, penalties and interest in respect of the Scheme and this deed poll (including the acquisition or transfer of Scheme Shares pursuant to the Scheme), the performance of this deed poll and each transaction effected by or made under or pursuant to the Scheme and this deed poll; and
- (b) indemnifies and undertakes to keep indemnified each Scheme Shareholder against any liability arising from its failure to comply with clause 8.5(a).

8.6 Further assurances

Each of PIQ1, MacCap and Sandrift will, at its own expense, do all things reasonably required of it to give full effect to this deed poll.

8.7 Governing law and jurisdiction

This deed poll is governed by the laws of New South Wales. In relation to it and related non-contractual matters each of PIQ1, MacCap and Sandrift irrevocably submits to the non-exclusive jurisdiction of courts with jurisdiction there, and waives any right to object to the venue on any ground.

Executed as a deed poll

Signed, sealed and delivered by PIQ1)
Pty Ltd ACN 608 629 509 by the)
party's attorneys pursuant to power of)
attorney 1 July 2016 who state that no)
notice of revocation of the power of)
attorney has been received in the)
presence of:)
)

.....
Witness

.....
Attorney

.....
Name of Witness (print)

.....
Name of Attorney (print)

.....
Witness

.....
Attorney

.....
Name of Witness (print)

.....
Name of Attorney (print)

Signed, sealed and delivered by)
Macquarie Corporate Holdings Pty)
Limited ACN 096 705 109 by the)
party's attorneys pursuant to power of)
attorney dated 30 June 2016 who state)
that no notice of revocation of the)
power of attorney has been received in)
the presence of:)

.....
Witness

.....
Name of Witness (print)

.....
Witness

.....
Name of Witness (print)

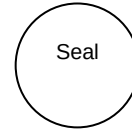
.....
Attorney

.....
Name of Attorney (print)

.....
Attorney

.....
Name of Attorney (print)

Signed sealed and delivered by)
Sandrift Pte Limited in the presence)
of:



.....
Signature of witness

.....
Signature of authorised signatory

.....
Name of witness

.....
Name of authorised signatory

Schedule 3

Scheme

Onthehouse Holdings Limited

Scheme Shareholders

Scheme of Arrangement

Contents

1	Definitions and interpretation	1
1.1	Definitions	1
1.2	Interpretation	4
1.3	Business Day	5
1.4	Listing requirements included in law	5
2	Preliminary	5
2.1	OTH	5
2.2	Consortium Members	5
2.3	General	5
2.4	Consequences of this Scheme becoming Effective	6
3	Conditions	6
3.1	Scheme conditions	6
3.2	Termination of Scheme Implementation Deed	7
3.3	End dates	7
4	Implementation	7
4.1	Lodgement of Court orders	7
4.2	Transfer of Scheme Shares	7
4.3	Rounding in relation to Additional Scheme Shares	8
5	Scheme Consideration	9
5.1	Amount of Scheme Consideration	9
5.2	Payment of Scheme Consideration	9
5.3	Joint holders	9
5.4	Fractional entitlements	10
5.5	Unclaimed monies	10
5.6	Order of a court	10
5.7	Definition of 'sending'	10
6	Dealings in Shares	11
6.1	Determination of Scheme Shareholders	11
6.2	Register	11
7	Quotation of Shares	12
8	General Scheme Provisions	12
8.1	Consent to amendments to this Scheme	12
8.2	Binding effect of Scheme	12
8.3	Scheme Shareholders' agreements and acknowledgment	13
8.4	Warranties by Scheme Shareholders	13
8.5	Title to and rights in Scheme Shares	14
8.6	Authority given to OTH	14
8.7	Appointment of sole proxy	14
8.8	Instructions and elections	15

9	General	15
9.1	Stamp duty	15
9.2	Notices	15
9.3	Further assurances	15
9.4	Governing law and jurisdiction	16

Parties

Onthehouse Holdings Limited ACN 150 139 781 of Level 2, 200 Adelaide Street, Brisbane, Queensland (**OTH**)

Each Scheme Shareholder

Background

This scheme of arrangement is made under section 411 of the *Corporations Act 2001* (Cth) between the parties.

Agreed terms

1 Definitions and interpretation

1.1 Definitions

In this Scheme, unless the context requires otherwise:

77VSV	means 77 Victoria Street Venture Pty Ltd (ACN 145 769 866) in its capacity as trustee for 77 Victoria Street Trust of 117 Fernberg Road, Paddington, Queensland.
Acquisition Proportion	means, in relation to each Consortium Member other than 77VSV, the percentage figure equal to the percentage of Scheme Shares which will be transferred to that Consortium Member pursuant to the Scheme, being: (a) in respect of PIQ1, 28.9%%; (b) in respect of MacCap, 45.6%%; and (c) in respect of Sandrift, 25.5%%.
Additional Scheme Shares	has the meaning given in clause 4.2(a)(i)(B).
ASIC	means the Australian Securities and Investments Commission.
ASX	means ASX Limited ABN 98 008 624 691 or, as the context requires, the financial market known as the Australian Securities Exchange operated by it.
Business Day	means a business day as defined in the ASX Listing

	Rules
CHESS	means the clearing house electronic subregister system of share transfers operated by ASX Settlement Pty Limited ABN 49 008 504 532.
Consortium Members	means PIQ1, MacCap, 77VSV and Sandrift together, and Consortium Member means any one of them.
Corporations Act	means the <i>Corporations Act 2001</i> (Cth).
Court	means the Federal Court of Australia or such other court of competent jurisdiction determined by OTH (after consultation, in good faith, with the Consortium Members).
Deed Poll	means the deed poll dated [insert] executed by PIQ1, MacCap and Sandrift under which each of them covenants in favour of the Scheme Shareholders to perform the actions attributed to it under this Scheme.
Delivery Time	means in relation to the Second Court Date not later than 2 hours before the commencement of the hearing or if the commencement of the hearing is adjourned, the commencement of the adjourned hearing, of the Court to approve this Scheme in accordance with section 411(4)(b) of the Corporations Act.
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 this Scheme.
Effective Date	means the date on which this Scheme becomes Effective.
End Date	means the 'End Date' determined in accordance with the Scheme Implementation Deed.
Implementation Date	means the fifth Business Day after the Record Date or such other date after the Record Date agreed to in writing between OTH and the Consortium Members.
Listing Rules	means the official listing rules of ASX as amended from time to time.
MacCap	means Macquarie Corporate Holdings Pty Ltd (ACN 096 705 109) of Level 6, 50 Martin Place, Sydney, New South Wales.
OTH Option	means options issued by OTH to subscribe for OTH Shares, the details of which are set out in the OTH Options Side Letter.
OTH Options Side Letter	means the side letter in relation to the OTH Options provided by OTH to the Consortium Members on or about the date of the Scheme Implementation Deed.

OTH Registry	means Boardroom Pty Limited or any replacement provider of share registry services to OTH.
OTH Shareholder	means each person who is registered in the register maintained by OTH under section 168(1) of the Corporations Act as a holder of one or more Shares.
PIQ1	means PIQ1 Pty Ltd ACN 608 629 509 of Level 6, 50 Martin Place, Sydney, New South Wales.
Record Date	means 7.00pm on the fifth Business Day after the Effective Date or such other time and date agreed to in writing between OTH and the Consortium Members.
Registered Address	means, in relation to an OTH Shareholder, the address shown in the Share Register as at the Record Date.
Sandrift	means Sandrift Pte Limited UEN 201618249M of 60, Paya Lebar Road, #08-43, Paya Lebar Square, Singapore 409051.
Scheme	means this scheme of arrangement under Part 5.1 of the Corporations Act between OTH and the Scheme Shareholders in respect of all Scheme Shares, subject to any alterations or conditions agreed between OTH and the Consortium Members and approved by the Court or any alterations or conditions made or required by the Court under section 411(6) of the Corporations Act and agreed to by OTH and the Consortium Members.
Scheme Consideration	means, in respect of each Scheme Share held by a Scheme Shareholder, \$0.85 per Share.
Scheme Implementation Deed	means the scheme implementation deed dated 5 July 2016 between OTH and the Consortium Members.
Scheme Meeting	means the meeting of OTH Shareholders ordered by the Court to be convened under section 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 Share	means a Share on issue as at the Record Date, other than such Share as is already legally held by a Consortium Member as at the Record Date.
Scheme Shareholder	means a person who holds one or more Scheme Shares.
Second Court Date	means the first day on which an application made to the Court for an order under section 411(4)(b) of the Corporations Act approving this Scheme is heard or scheduled to be heard or, if the application is adjourned

	for any reason, means the date on which the adjourned application is heard or scheduled to be heard.
Settlement Rules	means the ASX Settlement Operating Rules.
Share	means an issued fully paid ordinary share in the capital of OTH.
Share Register	means the register of members of OTH maintained in accordance with the Corporations Act.
Subsidiary	has the meaning given to that term in section 46 of the Corporations Act.
Trust Account	means an Australian dollar denominated trust account operated by OTH as trustee for the benefit of Scheme Shareholders.

1.2 Interpretation

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

- (a) The singular includes the plural, and the converse also applies.
- (b) A gender includes all genders.
- (c) If a word or phrase is defined, its other grammatical forms have a corresponding meaning.
- (d) A reference to a person, corporation, trust, partnership, unincorporated body or other entity includes any of them.
- (e) A reference to a clause or schedule is a reference to a clause of or schedule to this Scheme.
- (f) A reference to an agreement or document (including a reference to this Scheme) is to the agreement or document as amended, supplemented, novated or replaced, except to the extent prohibited by this Scheme or that other agreement or document, and includes the recitals, schedules and annexures to that agreement or document.
- (g) A reference to a party to this Scheme or an agreement or document includes the party's successors, permitted substitutes and permitted assigns (and, where applicable, the party's legal personal representatives).
- (h) A reference to legislation or to a provision of legislation includes a modification or re-enactment of it, a legislative provision substituted for it and a regulation or statutory instrument issued under it.
- (i) A reference to conduct includes an omission, statement or undertaking, whether or not in writing.
- (j) A reference to an agreement includes any undertaking, deed, agreement and legally enforceable arrangement, whether or not in writing, and a

reference to a document includes an agreement (as so defined) in writing and any certificate, notice, instrument and document of any kind.

- (k) A reference to **dollars** and **\$** is to Australian currency.
- (l) All references to time are to Sydney, Australia time.
- (m) Mentioning anything after *includes, including, for example*, or similar expressions, does not limit what else might be included.
- (n) A reference to, an **officer** or subsidiary is to that term as it is defined in the Corporations Act.

1.3 Business Day

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

1.4 Listing requirements included in law

A listing rule or business rule of a financial market will be regarded as a law, and a reference to such a rule is to be taken to be subject to any waiver or exemption granted to the compliance of those rules by a party.

2 Preliminary

2.1 OTH

- (a) OTH is a public company limited by shares, registered in Queensland and admitted to the official list of ASX.
- (b) The Shares are officially quoted on ASX as at [insert] and:
 - (i) 82,631,484 Shares were on issue which are officially quoted on ASX; and
 - (ii) 3,797,180 OTH Options were on issue which are not quoted on any financial market.

2.2 Consortium Members

- (a) PIQ1 is a proprietary company limited by shares registered in Victoria, Australia.
- (b) MacCap is a proprietary company limited by shares registered in Queensland, Australia.
- (c) 77VSV is a proprietary company limited by shares registered in Queensland, Australia.
- (d) Sandrift is a private company limited by shares registered in Singapore.

2.3 General

- (a) OTH and the Consortium Members have agreed by executing the Scheme Implementation Deed to implement this Scheme.

- (b) This Scheme attributes actions to PIQ1, MacCap and Sandrift but does not itself impose an obligation on it to perform those actions, as they are not parties to this Scheme. PIQ1, MacCap and Sandrift have agreed, by executing the Deed Poll, to perform the actions attributed to each of them under this Scheme, including in respect of the provision of the Scheme Consideration to the Scheme Shareholders.

2.4 Consequences of this Scheme becoming Effective

If this Scheme becomes Effective:

- (a) PIQ1, MacCap and Sandrift will provide or procure the provision of the Scheme Consideration to Scheme Shareholders in accordance with this Scheme; and
- (b) all the Scheme Shares, together with all rights and entitlements attaching to the Scheme Shares, will be transferred to PIQ1, MacCap and Sandrift, and OTH will enter PIQ1, MacCap and Sandrift in the Share Register as the holders of the Scheme Shares (in the numbers or proportions set out in clause 4.2(a)) with the result that all of the Shares will become owned by the Consortium Members (and no other person).

3 Conditions

3.1 Scheme conditions

- (a) This Scheme is conditional on, and will have no force or effect until, the satisfaction of each of the following conditions precedent:
 - (i) all the conditions precedent in clause 3.1 of the Scheme Implementation Deed (other than the condition in clause 3.1(e) of the Scheme Implementation Deed (Court approval)) having been satisfied or waived in accordance with the terms of the Scheme Implementation Deed by no later than the Delivery Time on the Second Court Date;
 - (ii) neither the Scheme Implementation Deed nor the Deed Poll having been terminated in accordance with their terms by no later than the Delivery Time on the Second Court Date;
 - (iii) approval of this Scheme by the Court under section 411(4)(b) of the Corporations Act, including with any alterations made or required by the Court under section 411(6) of the Corporations Act;
 - (iv) such other conditions imposed by the Court under section 411(6) of the Corporations Act, as are acceptable to the parties, having been satisfied; and
 - (v) the orders of the Court made under section 411(4)(b) (and if applicable section 411(6)) of the Corporations Act approving the Scheme coming into effect, pursuant to section 411(10) of the Corporations Act, on or before the End Date (or any later date OTH and the Consortium Members agree in writing).

- (b) The satisfaction of the conditions referred to in this clause 3.1 of this document is a condition precedent to the operation of clauses 4.2 and 5.

3.2 Termination of Scheme Implementation Deed

Without limiting rights under the Scheme Implementation Deed, in the event that the Scheme Implementation Deed is terminated in accordance with its terms before the Delivery Time on the Second Court Date, OTH and the Consortium Members are each released from:

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

3.3 End dates

The Scheme will lapse and be of no further force or effect if the Scheme has not become Effective on or before 16 January 2017, or such other date as OTH and the Consortium Members agree in writing.

4 Implementation

4.1 Lodgement of Court orders

OTH must lodge with ASIC office copies of any Court orders under section 411(4)(b) (and if applicable section 411(6)) of the Corporations Act approving this Scheme as soon as possible and in any event no later than by 5.00pm on the first Business Day after the Court approves this Scheme.

4.2 Transfer of Scheme Shares

On the Implementation Date:

- (a) subject to the payment by OTH of the Scheme Consideration in the manner contemplated by clause 5.2(b), the Scheme Shares, together with all rights and entitlements attaching to the Scheme Shares at the Implementation Date, will (subject only to clause 4.3) be transferred in the following numbers and proportions:
 - (i) to PIQ1:
 - (A) 19,334,342 Scheme Shares; and
 - (B) If after the date of the Scheme Implementation Deed any Shares are issued by OTH (including as a result of an exercise of OTH Options prior to the Record Date) (any such Shares being **Additional Scheme Shares**), such proportion of the Additional Scheme Shares as is equal to PIQ1's Acquisition Proportion, rounded (if necessary) in accordance with clause 4.3;
 - (ii) to MacCap:
 - (A) 30,425,009 Scheme Shares; and

- (B) if any Additional Scheme Shares are issued, such proportion of the Additional Scheme Shares as is equal to MacCap's Acquisition Proportion, rounded (if necessary) in accordance with clause 4.3; and
 - (iii) to Sandrift:
 - (A) 17,034,388 Scheme Shares; and
 - (B) if any Additional Scheme Shares are issued, such proportion of the Additional Scheme Shares as is equal to Sandrift's Acquisition Proportion, rounded (if necessary) in accordance with clause 4.3,
- with each of the transfers to be sourced in the order set out above from Scheme Shareholders in the order that they appear in the OTH Register;
- (b) the transfers of the Scheme Shares described in clause 4.2(a) shall be effected without the need for any further act by any Scheme Shareholder (other than acts performed by OTH or its officers as agent and attorney of the Scheme Shareholders under clause 8.6 or otherwise), by:
 - (i) OTH delivering to each of PIQ1, MacCap and Sandrift a duly completed and executed share transfer form to transfer to it the number Scheme Shares specified in respect of it in clause 4.2(a), executed on behalf of the relevant Scheme Shareholders by OTH; and
 - (ii) each of PIQ1, MacCap and Sandrift duly executing such transfer form and delivering it to OTH for registration; and
 - (c) immediately after receipt of the relevant transfer form in accordance with clause 4.2(b)(ii) OTH must enter, or procure the entry of, the name of PIQ1, MacCap or Sandrift (as applicable) in the Share Register in respect of the Scheme Shares transferred to it in accordance with this Scheme.

4.3 Rounding in relation to Additional Scheme Shares

- (a) If the application of clauses 4.2(a)(i)(B), 4.2(a)(ii)(B) or 4.2(a)(iii)(B) would result in PIQ1, MacCap or Sandrift (as applicable) becoming entitled to be transferred a fraction of an Additional Scheme Share, that fractional entitlement will be rounded down to the nearest whole Additional Scheme Share.
- (b) If the application of clause 4.3(a) would result in any Additional Scheme Shares not being transferred to any of PIQ1, MacCap or Sandrift:
 - (i) the first of those Additional Scheme Shares shall be transferred to PIQ1;
 - (ii) the second of those Additional Scheme Shares (if any) shall be transferred to MacCap; and

- (iii) the third of those Additional Scheme Shares (if any) shall be transferred to Sandrift,

in each case, in accordance with clause 4.2.

5 Scheme Consideration

5.1 Amount of Scheme Consideration

Each Scheme Shareholder is entitled to receive the Scheme Consideration.

5.2 Payment of Scheme Consideration

- (a) Each of PIQ1, MacCap and Sandrift must, by no later than the Business Day before the Implementation Date, deposit in cleared funds into the Trust Account an amount equal to the Scheme Consideration multiplied by the number of Scheme Shares to be transferred to it under clause 4.2(a) (and, if applicable, clause 4.3), such amounts to be held by OTH on trust for the Scheme Shareholders and for the purpose of sending the aggregate Scheme Consideration to the Scheme Shareholders (except that any interest on the amount will be for the account of PIQ1, MacCap and Sandrift, in their Acquisition Proportions).
- (b) On the Implementation Date and subject to funds having been deposited in accordance with clause 5.2(a), OTH must pay or procure the payment of the Scheme Consideration to each Scheme Shareholder from the Trust Account by doing any of the following at its election:
 - (i) sending (or procuring the OTH Registry to send) it to the Scheme Shareholder's Registered Address by cheque in Australian currency drawn out of the Trust Account; or
 - (ii) depositing (or procuring the OTH Registry to deposit) it into an account with any Australian ADI (as defined in the Corporations Act) notified to OTH (or the OTH Registry) by an appropriate authority from the Scheme Shareholders.
- (c) To the extent that, following satisfaction of OTH's obligations under clause 5.2(b), there is a surplus in the amount held in the Trust Account, that surplus may be paid by OTH to each of PIQ1, MacCap and Sandrift in their Acquisition Proportions.

5.3 Joint holders

In the case of Scheme Shares held in joint names:

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

name appears first in the Share Register as at the Record Date or to the joint holders.

5.4 Fractional entitlements

Where the calculation of the Scheme Consideration to be paid to a Scheme Shareholder would result in the Scheme Shareholder becoming entitled to a fraction of a cent, that fractional entitlement will be rounded down to the nearest whole cent.

5.5 Unclaimed monies

To the extent that a cheque properly dispatched by or on behalf of the Consortium Members pursuant to this clause 5 is returned to OTH as undelivered, or the cheque is not presented by a Scheme Shareholder earlier than six months after the Implementation Date (**Unclaimed Consideration**):

- (a) OTH must deal with the Unclaimed Consideration in accordance with any applicable unclaimed moneys legislation; and
- (b) subject to OTH complying with its obligations under clause 5.5(a), OTH is discharged from liability to any Scheme Shareholder in respect of the Unclaimed Consideration.

5.6 Order of a court

If:

- (a) written notice is given to OTH (or the Share Registry) of an order or direction made by a court of competent jurisdiction that requires payment to a third party of a sum in respect of Scheme Shares held by a particular Scheme Shareholder, which would otherwise be payable to that Scheme Shareholder by OTH in accordance with this clause 5, then OTH may procure that payment is made in accordance with that order or direction; or
- (b) written notice is given to OTH (or the Share Registry) of an order or direction made by a court of competent jurisdiction that prevents OTH from making a payment to any particular Scheme Shareholder in accordance with clause 5.2(b), or such payment is otherwise prohibited by applicable law, OTH may retain an amount 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 5 is permitted by that order or direction or otherwise by law,

and the payment or retention by OTH (or the Share Registry) will constitute the full discharge of OTH's obligations under clause 5.2(b) with respect of the amount so paid or retained until, in the case of clause 5.6(b), it is no longer required to be retained.

5.7 Definition of 'sending'

For the purposes of clause 5, the expression **sending** means, in relation to each Scheme Shareholder:

- (a) sending by ordinary pre-paid post or courier to the Registered Address of that Scheme Shareholder as at the Record Date; or
- (b) delivery to the Registered Address of that Scheme Shareholder as at the Record Date by any other means at no cost to the recipient.

6 Dealings in Shares

6.1 Determination of Scheme Shareholders

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

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

and OTH will not accept for registration, nor recognise for any purpose (except a transfer to PIQ1, MacCap or Sandrift under this Scheme and any subsequent transfer by any of the Consortium Members or their respective successors in title), any transfer or transmission application or other request received after such times, or received prior to such times but not in registrable or actionable form, as appropriate.

6.2 Register

- (a) **(Registration of transfers)** OTH must register registrable transmission applications or transfers of the kind referred to in clause 6.1(b) by or as soon as reasonably practicable after the Record Date (provided that for the avoidance of doubt nothing in this clause 6.2 requires OTH to register a transfer that would result in an OTH Shareholder holding a parcel of Shares that is less than a 'marketable parcel' (as defined in the Settlement Rules)).
- (b) **(No registration after Record Date)** OTH will not accept for registration or recognise for any purpose any transmission application or transfer in respect of Shares received after the Record Date, other than to PIQ1, MacCap or Sandrift in accordance with this Scheme and any subsequent transfer by any of the Consortium Members or their respective successors in title.
- (c) **(Maintenance of Share Register)** For the purpose of determining entitlements to the Scheme Consideration, OTH must maintain the Share Register in accordance with the provisions of this clause until the Scheme Consideration has been delivered to the Scheme Shareholders. The Share Register in this form will solely determine entitlements to the Scheme Consideration.

- (d) **(No disposal after Record Date)** From the Record Date until registration of PIQ1, MacCap and Sandrift in respect of all Scheme Shares under clause 4.2, no OTH Shareholder may dispose or otherwise deal with Shares in any way except as set out in this Scheme and any attempt to do so will have no effect and OTH shall be entitled to disregard any such disposal or dealing.
- (e) **(Statements of holding from Record Date)** All statements of holding for Shares will cease to have effect from the Record Date as documents of title in respect of those shares. As from the Record Date, each entry current at that date on the Share Register will cease to have effect except as evidence of entitlement to the Scheme Consideration in respect of the Shares relating to that entry.
- (f) **(Provision of Scheme Shareholder details)** As soon as practicable after the Record Date and in any event within one Business Day after the Record Date, OTH will ensure that details of the names, Registered Addresses and holdings of Shares for each Scheme Shareholder are available to the Consortium Members in the form they reasonably require.

7 Quotation of Shares

- (a) OTH will apply to ASX to suspend trading on the ASX in Shares with effect from the close of trading on the Effective Date.
- (b) On a date after the Implementation Date to be determined by the Consortium Members, and only after the transfer of the Scheme Shares has been registered in accordance with clause 4.2(c), OTH will apply:
 - (i) for termination of the official quotation of Shares on ASX; and
 - (ii) to have itself removed from the official list of ASX.

8 General Scheme Provisions

8.1 Consent to amendments to this Scheme

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

- (a) OTH may, by its counsel or solicitors, consent on behalf of all persons concerned to those alterations or conditions to which the Consortium Members have consented in writing; and
- (b) each Scheme Shareholder agrees to any such alterations or conditions to which counsel for OTH has consented.

8.2 Binding effect of Scheme

This Scheme binds OTH and all Scheme Shareholders (including those who did not attend the Scheme Meeting, those who did not vote at that meeting, or

voted against this Scheme at that meeting) and, to the extent of any inconsistency, overrides the constitution of OTH.

8.3 Scheme Shareholders' agreements and acknowledgment

Each Scheme Shareholder:

- (a) agrees to the transfer of their Shares together with all rights and entitlements attaching to those Shares in accordance with this Scheme;
- (b) agrees to any variation, cancellation or modification of the rights attached to their Shares constituted by or resulting from this Scheme;
- (c) agrees to, on the direction of the Consortium Members, destroy any share certificates relating to their Shares; and
- (d) acknowledges and agrees that this Scheme binds OTH and all Scheme Shareholders (including those who did not attend the Scheme Meeting or did not vote at that meeting or voted against this Scheme at that Scheme Meeting).

8.4 Warranties by Scheme Shareholders

- (a) Each Scheme Shareholder is deemed to have warranted to OTH, in its own right and for the benefit of each of PIQ1, MacCap and Sandrift, that as at the Implementation Date:
 - (i) all of its Shares which are transferred to each of PIQ1, MacCap or Sandrift under this Scheme, including any rights and entitlements attaching to those Shares, will, at the time of transfer, be 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) all of its Shares which are transferred to PIQ1, MacCap or Sandrift under this Scheme will, on the date on which they are transferred to PIQ1, MacCap or Sandrift, be fully paid;
 - (iii) it has full power and capacity to transfer its Shares to PIQ1, MacCap and Sandrift together with any rights attaching to those shares; and
 - (iv) it has no existing right to be issued any Shares, OTH options, OTH performance rights, OTH convertible notes or any other OTH securities, other than, in the case of any Scheme Shareholder who is also the holder of OTH Options, the right to be issued Shares on the exercise of those OTH Options in accordance with their terms.
- (b) OTH undertakes that it will provide the warranties in clause 8.4(a) to each of PIQ1, MacCap and Sandrift as agent and attorney of each Scheme Shareholder.

8.5 Title to and rights in Scheme Shares

- (a) To the extent permitted by law, the Scheme Shares transferred under this Scheme will be transferred 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.
- (b) On and from the Implementation Date, immediately after the payment by OTH of the Scheme Consideration in the manner contemplated in clause 5.2(b), each of PIQ1, MacCap and Sandrift will be beneficially entitled to the Scheme Shares transferred to it under this Scheme pending registration by OTH of each of them in the Share Register as the holder of the Scheme Shares.

8.6 Authority given to OTH

- (a) Scheme Shareholders will be deemed to have authorised OTH to do and execute all acts, matters, things and documents on the part of each Scheme Shareholder necessary for or incidental to the implementation of this Scheme, including executing, as agent and attorney of each Scheme Shareholder, a share transfer or transfers in relation to Scheme Shares as contemplated by clause 4.2.
- (b) Each Scheme Shareholder, without the need for any further act, irrevocably appoints OTH and all of its directors, secretaries and officers (jointly and severally) as its attorney and agent for the purpose of executing any document necessary to give effect to this Scheme including, a proper instrument of transfer of its Scheme Shares for the purposes of section 1071B of the Corporations Act which may be a master transfer of all the Scheme Shares.

8.7 Appointment of sole proxy

Immediately after the payment by OTH of the Scheme Consideration in the manner contemplated in clause 5.2(b) until OTH registers the Consortium Members as the holders of all Shares in the Share Register, each Scheme Shareholder:

- (a) is deemed to have irrevocably appointed each of PIQ1, MacCap and Sandrift as its attorney and agent (and directed each of them in such capacity) to appoint an agent nominated by them as its sole proxy and, where applicable, corporate representative to attend shareholders’ meetings of OTH, exercise the votes attaching to the Scheme Shares registered in its name and sign any Shareholders’ resolution;
- (b) undertakes not to otherwise attend shareholders’ meetings, exercise the votes attaching to Scheme Shares registered in its name or sign or vote on any resolutions (whether in person, by proxy or by corporate representative) other than as under clause 8.7(a);

- (c) must take all other actions in the capacity of a registered holder of Scheme Shares as any of PIQ1, MacCap and Sandrift reasonably directs; and
- (d) acknowledges and agrees that in exercising the powers referred to in clause 8.7(a), each of PIQ1, MacCap and Sandrift and any agent nominated by them under clause 8.7(a) may act in the best interests of PIQ1, MacCap and Sandrift as the intended registered holders of the Scheme Shares.

8.8 Instructions and elections

If not prohibited by law, all instructions, notifications or elections by a Scheme Shareholder to OTH binding or deemed binding between the Scheme Shareholder and OTH relating to OTH or Shares (including any email addresses, instructions relating to communications from OTH, whether dividends are to be paid by cheque or into a specific bank account, notices of meetings or other communications from OTH) will be deemed from the Implementation Date (except to the extent determined otherwise by the Consortium Members in their sole discretion), by reason of this Scheme, to be made by the Scheme Shareholder to the Consortium Members until that instruction, notification or election is revoked or amended in writing addressed to the Consortium Members at their registry.

9 General

9.1 Stamp duty

Each of PIQ1, MacCap and Sandrift must pay its Acquisition Proportion stamp duty payable in connection with the transfer of the Scheme Shares to under the Scheme.

9.2 Notices

- (a) If a notice, transfer, transmission application, direction or other communication referred to in this document is sent by post to OTH, 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 OTH's registered office or at the office of the OTH Registry.
- (b) The accidental omission to give notice of the Scheme Meeting or the non- receipt of such a notice by any Shareholder may not, unless so ordered by the Court, invalidate the Scheme Meeting or the proceedings of the Scheme Meeting.

9.3 Further assurances

- (a) OTH must do anything necessary (including executing agreements and documents) or incidental to give full effect to this Scheme and the transactions contemplated by it.

- (b) Each Scheme Shareholder consents to OTH doing all things necessary or incidental to give full effect to this Scheme and the transactions contemplated by it.

9.4 Governing law and jurisdiction

- (a) This Scheme is governed by the laws of New South Wales.
- (b) The parties irrevocably submit to the non-exclusive jurisdiction of courts exercising jurisdiction in New South Wales and courts of appeal from them in respect of any proceedings arising out of or in connection with this Scheme.

Execution

Executed as a deed

Executed by Onthehouse Holdings)
Limited in accordance with Section 127)
of the *Corporations Act 2001*

.....
K. Clark
Company Secretary/Director

.....
Director

.....
KIM CLARK
Name of Company Secretary/Director
(print)

.....
Name of Director (print)

Execution

Executed as a deed

Executed by Onthehouse Holdings)
Limited in accordance with Section 127)
of the *Corporations Act 2001*

.....
Company Secretary/Director

.....
Name of Company Secretary/Director
(print)

.....


Director

.....
LISA HICKSON
Name of Director (print)

NICHOLAS CHIN

Name of Witness (print)

Witness

NICHOLAS CHIN

Name of Witness (print)

Attorney

Nick Giakoumatos

Name of Attorney (print)

Attorney

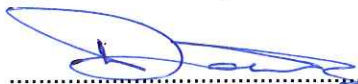
KIRK KILIFF

Name of Attorney (print)

Signed, sealed and delivered by
Macquarie Corporate Holdings Pty
Limited ACN 096 705 109 by the
party's attorneys pursuant to power of
attorney dated 30 June 2016 who state
that no notice of revocation of the
power of attorney has been received in
the presence of:


.....
Witness

DANIELLE WOOD
.....
Name of Witness (print)


.....
Witness

Liga Zalitis
.....
Name of Witness (print)

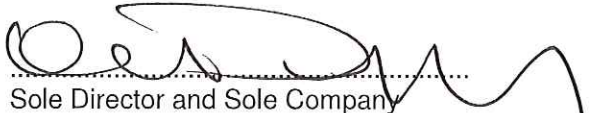

.....
Attorney

BELINDA COONEY
.....
Name of Attorney (print)


.....
Attorney

JAMES GIANNAS
.....
Name of Attorney (print)

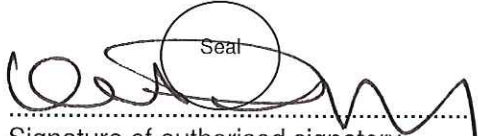
Executed by 77 Victoria Street)
Venture Limited ACN 145 769 866 in)
its capacity as trustee for the **77**
Victoria Street Trust:


.....
Sole Director and Sole Company
Secretary
MICHAEL DEMPSEY
.....
Name of Sole Director and Sole
Company Secretary (print)

Signed sealed and delivered by)
Sandrift Pte Limited in the presence)
of:


.....
Signature of witness

MARK BEASLEY POWIE
.....
Name of witness


.....
Signature of authorised signatory
MICHAEL DEMPSEY
.....
Name of authorised signatory