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ASX RELEASE

GWA accelerates water solutions growth strategy with proposed acquisition of leading New Zealand taps and showers innovator, Methven

Key highlights

- **GWA Group Limited (“GWA”) accelerates water solutions strategy with proposed acquisition of Methven Ltd (“Methven”) via scheme of arrangement for total consideration of NZ\$1.60 per share¹**
- **Combination of GWA and Methven strengthens position in bathroom and kitchen fixtures across Australia and New Zealand and accelerates growth opportunities in these core markets:**
 - **strengthens presence in the A\$780m (NZ\$818m)² Australasian taps and showers category. Complements GWA’s strength in sanitaryware**
- **Provides a platform for international growth to create a more resilient business with regionally diversified earnings:**
 - **opportunity to leverage Methven’s international operations and drive select geographic expansion of a combined product portfolio**
- **Expect annual synergies of at least NZ\$5m (A\$4.8m) by FY21 primarily from logistics, freight, product and listed company savings**
- **Acquisition expected to be mid-single digit EPS accretive in FY20 on a normalised basis including synergies, and high single digit EPS accretive in FY21³**
- **Acquisition multiple of 10.1x EV / FY18A EBITDA excluding synergies and 7.4x EV / FY18A EBITDA including synergies⁴**
- **Post-acquisition, GWA will remain in a strong financial position with pro forma FY18 Net Debt⁵ / normalised EBITDA estimated to be approximately 1.6x**

¹ The scheme allows Methven to pay an interim 1H19 dividend up to NZ\$0.05 per share out of 1H19 profits and if New Zealand Overseas Investment Office (OIO) approval is not obtained by 30 June 2019 Methven may pay a 2H19 dividend up to NZ\$0.05 per share out of 2H19 profits. These dividends do not reduce the consideration payable under the Scheme.

² All Australian / New Zealand currency conversions in this document use an AUD / NZD exchange rate of 1.0484.

³ Excluding transaction and integration costs and excluding estimated amortisation of intangibles (normalised NPATA). Assumes the sale completes in FY19.

⁴ Assumes purchase price of NZ\$1.60 per share and Methven net debt, as reported at 30 June 2018, of NZ\$22.6m, excluding transaction and integration costs, including NZ\$5m pa of synergies.

⁵ Pro-forma FY18 net debt is GWA and Methven’s FY18 reported net debt adjusted for net proceeds (after transaction costs) of the Door & Access Systems’ divestment and adjusted for the acquisition costs of Methven including estimated transaction costs.

- Transaction subject to New Zealand Overseas Investment Office (OIO) approval and customary conditions, including Methven shareholder approval
- Methven Board unanimously recommends shareholders vote in favour of the transaction subject to there being no superior proposal and the independent adviser concluding the consideration is within or above its valuation range
- Methven's major shareholder Lindsay Investment Trust, holding 19.9% of the Methven shares, has irrevocably undertaken to vote in favour of the scheme⁶
- Transaction expected to complete in approximately April 2019, subject to conditions
- Total consideration for acquisition of shares in Methven of NZ\$118 million (A\$112 million), funded from GWA's existing debt facilities

Overview

GWA has today taken a significant step towards strengthening its water solutions strategy and accelerated growth opportunities with the proposed acquisition of Methven Ltd, a company listed on the Main Board of NZX Limited, via a scheme of arrangement (the Scheme).

Methven is a designer and manufacturer of showers, taps and valves based in Auckland:

- Leadership position in the taps and showers category in New Zealand, with a strong presence in the Australian market
- Strong innovation capability and intellectual property position with three of the six shower technologies globally
- International footprint with operations in New Zealand (31% of FY18 revenue), Australia (42%), United Kingdom (25%)⁷ and other regions including China and South East Asia
- Over 80% exposure to the Renovations and Replacements segment in Australia and New Zealand
- In the financial year ended 30 June 2018, Methven generated revenue of NZ\$105m and EBITDA of NZ\$13.9m

The acquisition is consistent with GWA's strategy to focus on superior water solutions. The acquisition will strengthen GWA's core Australasian business and drive select geographic expansion of the combined product portfolio across key categories. The transaction, when implemented, will also allow for the realisation of at least NZ\$5m product, freight, logistics and public company cost synergies annually from FY21.

GWA has entered into a Scheme Implementation Agreement (SIA) under which it has agreed to acquire 100 per cent of the shares on issue in Methven on the terms and conditions set out in that agreement. The proposed acquisition is unanimously recommended by Methven's Board of Directors, subject to there being no superior proposal and the independent adviser's report to be prepared in connection with

⁶ The shareholder may terminate its voting commitment if Methven receives a Superior Proposal and the circumstances set out in clauses 12.9(a) and (b) of the Scheme Implementation Agreement apply (those clauses relating to the Bidder deciding not to match a Superior Proposal) or if the Scheme Implementation Agreement is terminated.

⁷ Includes the European Union and the Middle East.

the Scheme concluding that the consideration for the Scheme is within or above the independent adviser's valuation range for the Methven shares. Each of the directors of Methven who holds Methven shares intends to vote all of the shares in Methven that he or she holds or controls in favour of the Scheme, subject to the same qualifications.

The transaction is also supported by Methven's largest shareholder, Lindsay Investment Trust. The Lindsay Investment Trust has irrevocably undertaken to vote its 19.9% holding in Methven in favour of the Scheme subject to there being no superior proposal arising and the SIA not being terminated.

The acquisition will be made via an all cash offer of NZ\$1.60 per Methven share. Without a reduction in the offer price, Methven may also pay a dividend of not more than five cents per Methven share out of 1H19 profits for the six-month period to 31 December 2018, prior to the Scheme becoming effective (expected in approximately April 2019, subject to satisfaction of conditions).⁸

The acquisition price represents a premium of:

- 39.1% over the last close price of Methven shares on 13 December 2018 (NZ\$1.15)
- 38.0% over the 1-month volume weighted average price (VWAP) of Methven shares to 13 December 2018 (NZ\$1.16)
- 36.5% over the 3-month volume weighted average price (VWAP) of Methven shares to 13 December 2018 (NZ\$1.17)

The SIA is attached to this announcement and outlines the terms of the offer, including that the Scheme is subject to obtaining New Zealand OIO consent and customary completion conditions (including Methven shareholder approval and court approval). The SIA also includes customary no shop, no talk and no due diligence restrictions and a right to match.

A Methven shareholder meeting to consider the Scheme is expected to be held in March 2019. If all the conditions are satisfied, the Scheme is expected to be implemented in April 2019. Note that these dates are indicative and subject to change.

Strong strategic rationale for transaction

GWA Managing Director, Tim Salt said the acquisition of Methven is strategically compelling for GWA and will accelerate the company's water solutions strategy.

"Since the divestment of the Door & Access Systems' business in July 2018, we have stated that we will grow our business through a combination of organic growth initiatives and accretive acquisition opportunities.

"We continue to pursue organic growth opportunities in the renovation and replacement, commercial new build and aged care segments and through initiatives such as the recent launch of our ground-breaking Caroma Smart Command® intelligent bathroom system. We have also been assessing options to accelerate growth through accretive acquisition opportunities.

"The acquisition of Methven is consistent with that strategy.

⁸ The scheme allows Methven to pay an interim 1H19 dividend up to NZ\$0.05 per share out of 1H19 profits and if OIO approval is not obtained by 30 June 2019 (expected April 2019) Methven may pay a 2H19 dividend up to NZ\$0.05 per share out of 2H19 profits. These dividends do not reduce the consideration payable under the Scheme.

“The combination of GWA and Methven will create a stronger trans-Tasman business which will allow us to strengthen our offering in bathroom and kitchen fixtures.

“Methven is a complementary fit to GWA's business. Its presence in the taps and showers category in the Australasian market is a strong complement to GWA's existing business.

“The transaction will further enhance our existing capabilities and increase GWA's operating leverage to deliver further value for our shareholders.

“Both businesses share a strong commitment to research and innovation in water solutions. The acquisition will enable us to combine GWA's and Methven's talent, know-how and intellectual property to develop new products and solutions aligned to our strategy.

“Taps and showers is a A\$780m category across Australasia with significant potential for growth and innovation. The acquisition enables GWA to leverage Methven's IP. Methven own three of the six shower technologies globally. This IP can be further leveraged across both GWA and Methven brands.

“It will also further diversify our earnings base and increase our exposure to the more resilient Renovations and Replacements segment. Post transaction, GWA's exposure to the Renovations and Replacements segment in Australia will increase from 53 per cent currently to 57 per cent, while globally our exposure to this segment will be around 60 per cent.

“The transaction will enhance the regional diversity of our revenue and earnings through leveraging Methven's presence in international markets to accelerate growth opportunities for Methven and GWA brands aligned to our core focus on water solutions.”

GWA will continue to support the design, innovation and manufacturing base for Methven's taps and showers business in New Zealand. This support ensures that Methven's taps and showers business in Auckland, New Zealand remains an innovation and research and development centre for GWA's overall business and that, consequently, jobs relating to these functions are retained in New Zealand.

Acquisition Funding – strong balance sheet maintained

The acquisition values Methven at NZ\$118 million⁹ (A\$112 million) on an equity value basis and NZ\$140 million¹⁰ (A\$134 million) on an enterprise value basis (excluding transaction and integration costs) and will be funded from GWA's existing debt facilities.

Post-acquisition, GWA will remain in strong financial position with pro forma FY18 Net Debt / normalised EBITDA is estimated to be approximately 1.6x.¹¹

The transaction will not impact GWA's ability to declare an interim dividend with 1H19 results on 18 February 2019.

GWA is being advised by Macquarie Capital, Bell Gully, Clayton Utz and EY.

⁹ Assumes purchase price of NZ\$1.60 per share.

¹⁰ Assumes purchase price of NZ\$1.60 per share and Methven net debt, as reported at 30 June 2018, of NZ\$22.6m.

¹¹ Pro-forma FY18 net debt is GWA and Methven's FY18 reported net debt adjusted for net proceeds (after transaction costs) of the Door & Access Systems' divestment and adjusted for the acquisition costs of Methven including estimated transaction costs.

About Methven

Methven is an NZX-listed market-leading designer and manufacturer of showers, taps and valves. The business is headquartered in Auckland where it designs, develops and manufactures many award-winning products and technologies. Its products are distributed in Australia, China, UK, Middle East, USA and Europe in addition to its home market of New Zealand. In 2016, Methven celebrated 130 years of innovation.

For more company information, visit www.methven.com

About GWA

GWA is Australia's foremost designer, importer and distributor of iconic brands and products, servicing and enhancing residential and commercial bathrooms and kitchens across Australia and New Zealand. The product range is distributed under market leading brands including Caroma, Dorf, and Clark. The Group remains committed to growing shareholder value through its strategic focus on superior solutions for water within the Bathrooms & Kitchens business which has strong market positions, market-leading brands and significant growth opportunities. The Group has been operational in the New Zealand market for more than forty years.

For more company information, visit www.gwagroup.com.au

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Conference Call details

GWA Managing Director, Tim Salt and Chief Financial Officer, Patrick Gibson, will host a conference call today, Friday 14 December 2018 at 10.30am (AEDT) to discuss the proposed acquisition.

Dial in Details are:

Telephone: +61 2 8038 5221; 1800 123 296

Conference ID: 9786348

Scheme Implementation Agreement

Methven Limited

Target

and

GWA Group Limited

Bidder

Date *14 December* 2018

BELL GULLY

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This **Agreement** is made on

14 December

2018

- between** (1) **Methven Limited**, a company incorporated in New Zealand whose registered office is 41 Jomac Place, Avondale, Auckland, 1026, New Zealand (111463) (**Target**)
- and** (2) **GWA Group Limited**, a company incorporated in Australia whose registered office is 7 Eagleview Place, Eagle Farm, Queensland 4009, Australia (**Bidder**)

Introduction

- A. The Target and the Bidder have agreed that the Bidder will acquire all of the Scheme Shares by means of the Scheme.
- B. This Agreement is entered into to record and give effect to the terms and conditions on which Bidder and Target propose to implement the Scheme.

It is agreed

1. Definitions and interpretation

1.1 Defined terms

Capitalised terms have the meanings set out in clause 1 of Schedule 7, unless the context otherwise requires.

1.2 Interpretation

This Agreement will be interpreted in accordance with the interpretation provisions set out in clauses 2 to 5 of Schedule 7.

2. Proposal and implementation of scheme

2.1 Target to propose Scheme

Target must propose the Scheme on and subject to the terms of this Agreement.

2.2 Consideration

Each Scheme Shareholder is entitled to receive the Consideration in respect of each Scheme Share held by that Scheme Shareholder, subject to and in accordance with the terms of this Agreement and the Scheme.

2.3 Bidder to pay Consideration

Bidder undertakes in favour of Target (in its own right and as trustee or nominee for each of the Scheme Shareholders) to, in consideration for and simultaneously with the transfer to Bidder of each Scheme Share held by each Scheme Shareholder under the terms of the Scheme, pay (or procure the payment of) the Consideration to each Scheme Shareholder in accordance with the Scheme and the Deed Poll.

2.4 General implementation obligations

Each party must do everything reasonably necessary, including by procuring that its Representatives work in good faith and in a timely and co-operative manner with, in the case of Bidder, Target and its Representatives and, in the case of Target, Bidder and its Representatives, to implement the Scheme in accordance with this Agreement and all applicable laws and regulations applicable to the Scheme.

2.5 Timetable

Each party must use all reasonable endeavours to ensure that the Scheme is implemented in accordance with the Timetable. Failure by a party to meet any timeframe or deadline set out in the Timetable will not constitute a breach of this clause 2.5 to the extent that such failure is due to circumstances and matters outside the party's control and only if such party has used reasonable endeavours to meet the Timetable. Each party will keep the other informed about their progress against the Timetable and notify each other if it believes that any of the dates in the Timetable are not achievable. If any date in the Timetable is not able to be achieved due to matters outside of a party's control, the parties must consult in good faith with a view to amending the Timetable to the extent required to permit the Scheme to be implemented before the End Date.

2.6 No amendment to Scheme without Bidder's consent

Target must not consent to any modification of, or amendment to, the Scheme or the Final Orders, or the making or imposition by the Court or any Government Agency of any condition to the Scheme, without:

- (a) Bidder's counsel's consent, where a modification or amendment is made, imposed or requested at a Court hearing (and Bidder must procure that such consent is not unreasonably withheld or delayed); or
- (b) Bidder's prior written consent, in the case of any other modification or amendment (such consent not to be unreasonably withheld or delayed).

2.7 Bidder may elect a subsidiary to complete acquisition

- (a) Bidder may elect, under this clause 2.7, a directly or indirectly wholly-owned subsidiary of Bidder (**Bidder Nominee**) to acquire all of the Scheme Shares under the Scheme by giving written notice to Target of the relevant subsidiary at least five Business Days before the First Court Date.
- (b) If Bidder elects to nominate a Bidder Nominee to acquire all of the Scheme Shares pursuant to clause 2.7(a):
 - (i) Bidder and Bidder Nominee will both enter into the Deed Poll;
 - (ii) Bidder will continue to be bound by this Agreement; and
 - (iii) Bidder will ensure that Bidder Nominee completes the acquisition in accordance with the terms of this Agreement and the Deed Poll.

3. Conditions precedent

3.1 Conditions

The Scheme will not become Effective and the obligations of Bidder under clause 2.3 do not become binding unless and until each of the conditions set out in the first column of the following table has been satisfied or waived in accordance with this clause 3.1:

Condition	Responsibility	Waiver
(a) (OIO approval) before 5:00pm on the Business Day before the End Date, Bidder has obtained all consents required under the Overseas Investment Act 2005 and the Overseas Investment Regulations 2005 to the implementation of the Scheme on terms or conditions acceptable to Bidder acting reasonably, provided that Bidder may not withhold its acceptance of terms or conditions of any consent if the terms or conditions imposed: (i) are the standard terms or conditions set out in Schedule 6 or are consistent in all material respects with such terms and conditions; or (ii) relate to performance or fulfilment of positive undertakings, plans or intentions specified in Bidder's application;	Bidder	None
(b) (Court approval) subject to clause 3.2, the Court approves the Scheme in accordance with section 236 of the Companies Act;	Bidder and Target	None
(c) (Shareholder approval) Shareholders approve the Scheme at the Scheme Meeting by the requisite majorities in accordance with sections 236A(2)(a) and 236A(4) of the Companies Act;	Target	None
(d) (No restraint) no judgement, order, restraint or prohibition enforced or issued by any Government Agency is in effect at 8.00am on the Implementation Date, that prohibits, prevents or materially restricts the implementation of the Scheme;	Bidder and Target	Bidder and Target
(e) (No Material Adverse Change) no Material Adverse Change occurs between the date of this Agreement and 8.00am on the Implementation Date; and	None	Bidder
(f) (No Prescribed Occurrence) no Prescribed Occurrence occurs between the date of this Agreement and 8.00am on the Implementation Date.	Target	Bidder

3.2 Court approval

If the Court's approval of the Scheme in accordance with section 236(1) of the Companies Act would impose any terms or conditions other than those set out in the Scheme in the form attached as Annexure A, then each such term or condition must be approved in writing by Target and Bidder (both acting reasonably) prior to the Court granting the Final Orders.

3.3 Satisfaction of Conditions

In respect of each Condition:

- (a) each party specified in the second column of the table in clause 3.1 opposite that Condition must use its reasonable endeavours to procure that the Condition is satisfied:
 - (i) in the case of the Conditions in clauses 3.1(a) to 3.1(c), as soon as practicable and in any event before the End Date; and
 - (ii) in the case of the Conditions in clauses 3.1(d) to 3.1(f), at all times before 8.00am on the Implementation Date;
- (b) the other party must promptly provide all information and other reasonable assistance required by the party referred to in clause 3.3(a) for the purposes of procuring the satisfaction of the Condition; and
- (c) each party must not take any action that will or is likely to hinder or prevent the satisfaction of the Condition.

3.4 OIO application

Without limiting clause 3.3:

- (a) each party must consult with the other party in advance in relation to all material communications (whether written or oral, and whether direct or via a Representative) with the OIO relating to any approval or consent required to satisfy the OIO Condition, or any action taken or proposed by, or any enquiries made by, a Government Agency in relation to the Scheme and:
 - (i) provide the other party with drafts of any material written communications to be sent to the OIO in relation to the Scheme and take any reasonable comments made by the other party into account in good faith when making any amendments (provided that any commercially sensitive information may be redacted from the copy provided); and
 - (ii) provide copies of any material written communications sent to or received from the OIO, and written summaries of any material conversations with the OIO, in relation to the Scheme to the other party promptly upon despatch or receipt (as the case may be) (provided that any commercially sensitive information may be redacted from the copy provided).
- (b) The Bidder must:
 - (i) allow Target the opportunity to be present at any meetings with the OIO (except if the OIO objects to the Target being present at the relevant meeting or for any part of a meeting where any commercially sensitive information is likely to be discussed);
 - (ii) not resile from or change, with a consequence that might be adverse to its prospects of satisfying the OIO Condition, any of the assurances or other commitments provided by Bidder to the OIO in connection with its OIO Application;
 - (iii) diligently progress its OIO Application (including by responding to the OIO in a fulsome and timely manner, and where applicable in compliance with any

reasonable requested or required timeframes, in respect of all its questions and other correspondences) so as to expedite the satisfaction of the OIO Condition;

- (iv) keep Target fully informed as to progress in procuring the satisfaction of the OIO Condition; and
- (v) other than on termination of this Agreement, not withdraw or procure the withdrawal of the OIO Application once submitted.

3.5 Waiver of Conditions

Where the third column of the table in clause 3.1 opposite a Condition states “none”, that Condition may not be waived. Each other Condition is only for the benefit of, and may only be waived in writing by:

- (a) if one party is specified in the third column of the table in clause 3.1 opposite that Condition, that party; or
- (b) if both Target and Bidder are specified in the third column of the table in clause 3.1 opposite that Condition, those parties jointly.

A party entitled to waive, or to join in the waiver of, a Condition may do so in its absolute discretion provided that if Bidder is notified by Target, under clause 9.5(a), that Target has become aware that a matter will entitle the Bidder to terminate this Agreement for a Material Adverse Change but Bidder does not terminate this Agreement under clause 14.1(b) within 25 Business Days after the date of that notification, Bidder will be deemed to have waived the Condition at clause 3.1(e), in respect of that Material Adverse Change, with effect from the expiry of that 25 Business Day period. For clarity, the proviso in the previous sentence only applies if the notification expressly states that the relevant matter entitles Bidder to terminate this Agreement under clause 14.1(b).

3.6 Method of waiver

Subject to clause 3.5, where a Condition may be waived by one party, that party may only waive the Condition by giving notice in writing to the other party. Where a Condition may only be waived by both Target and Bidder jointly, those parties may only waive the Condition by agreeing in writing to do so.

3.7 Effect of waiver

If a party waives or joins in the waiver of a Condition in accordance with this clause 3, that waiver does not:

- (a) preclude that party from bringing a claim against the other party for any breach of this Agreement; or
- (b) constitute a waiver of any other Condition.

3.8 Delay in satisfaction of OIO Condition

Without limiting the generality of clause 2.5, if any event or change in circumstances occurs that prevents or is reasonably likely to prevent the OIO Condition being satisfied as at 8.00am on the End Date (as extended in accordance with paragraph (a) of the definition of End Date), and the failure to satisfy the OIO Condition which would otherwise occur has not been (or cannot be) waived, then the parties must consult in good faith to determine whether:

- (a) to change the End Date to a later date (being a date that the parties consider is as soon as reasonably practicable and not later than twelve months from the date of this Agreement); or
- (b) the Transaction may proceed by way of alternative means or methods.

3.9 Termination

Notwithstanding anything in this clause 3 or any rights of termination implied by law, this Agreement may only be terminated in accordance with clause 14.

4. Scheme Booklet

4.1 Target's obligations

Without limiting clause 2, Target must:

- (a) subject to clauses 4.1(c) and 4.2(a), prepare the Scheme Booklet so that it contains:
 - (i) all information required by the Companies Act, the NZX Listing Rules and any other applicable laws or regulations, including any requirements of the Takeovers Panel;
 - (ii) the responsibility statements referred to in clause 4.4; and
 - (iii) a statement by the Target Directors reflecting the recommendation and undertaking referred to in clause 8.1;
- (b) if not already appointed, appoint the Independent Adviser (including obtaining approval from the Takeovers Panel for that appointment), and provide all assistance and information reasonably requested by the Independent Adviser to enable it to prepare the Independent Adviser's Report (including providing the Independent Adviser with full and complete details of all contingent liabilities);
- (c) give Bidder drafts of the Scheme Booklet and any extract of the Independent Adviser's Report that contains any factual matter about Bidder (but not otherwise any part of the Independent Adviser's Report) in a timely manner, give Bidder a reasonable opportunity to review those drafts, and consider in good faith the reasonable comments of Bidder and its Representatives when preparing revised drafts of the Scheme Booklet;
- (d) as soon as practicable after preparation of an advanced draft of the Scheme Booklet suitable for review by the Takeovers Panel and NZX, give that draft to Bidder;
- (e) as soon as practicable after receipt of the confirmation from Bidder referred to in clause 4.2(e), give the Takeovers Panel and NZX the draft Scheme Booklet;
- (f) keep Bidder reasonably informed of any issues raised by any of the Takeovers Panel and NZX in relation to the Scheme Booklet and consult with Bidder to resolve any such issues;
- (g) as soon as reasonably practicable after the approval of the Scheme Booklet by the Takeovers Panel and NZX, procure that a meeting of the Board is convened to approve the Scheme Booklet for lodgement with the Court and, subject to the Initial Orders, for dispatch to Shareholders; and

- (h) advise Bidder if Target becomes so aware either:
 - (i) of new information which, had it been known at the time the Scheme Booklet was prepared, was required by applicable law to have been included in the Scheme Booklet; or
 - (ii) that any part of the Target Information in the Scheme Booklet is, has or will become misleading or deceptive in any material respect, including by omission,

and in either case, if Target becomes aware at any time, or receives advice from Bidder under clause 4.2(f):

- (iii) between the approval of the Scheme Booklet in accordance with clause 4.2(g) and the date of the Scheme Meeting, then, if considered by Target that supplementary disclosure is required by applicable law, provide supplementary disclosure to Shareholders in accordance with applicable law and after consulting with Bidder as to the content and presentation of that supplementary disclosure; and
- (iv) between the date of the Scheme Meeting and the Second Court Date, then, if considered by Target that supplementary disclosure is required by applicable law, apply to the Court for orders as to the procedure to be followed for the provision of supplementary disclosure to Shareholders and the effect on the approval of the Scheme, after consulting with Bidder.

4.2 Bidder's obligations

Without limiting clause 2, Bidder must:

- (a) prepare and promptly give to Target for inclusion in the Scheme Booklet:
 - (i) information about the Bidder Group;
 - (ii) confirmation (in a form satisfactory to Target, acting reasonably) that Bidder will have sufficient funds in place to fund the Consideration; and
 - (iii) information equivalent to the information that would meet the requirements of Schedule 1 to the Takeovers Code,

including that required to be included in Scheme Booklet by the Companies Act, the Takeovers Panel, the NZX Listing Rules and any other applicable laws or regulations;
- (b) give Target drafts of the information referred to in clause 4.2(a) in a timely manner, to give Target a reasonable opportunity to review those drafts and consider in good faith the reasonable comments of Target and its Representatives when preparing revised drafts of that information;
- (c) subject to the Independent Adviser entering into a reasonable confidentiality arrangement with Bidder, provide all assistance and information reasonably requested by the Independent Adviser to enable it to prepare the Independent Adviser's Report;
- (d) as soon as practicable after receipt of any draft of the Scheme Booklet from Target, review and provide comments on that draft in good faith;
- (e) subject to clause 4.3, before Target provides the Scheme Booklet to the Takeovers Panel and NZX in accordance with clause 4.1(e) deliver to Target written consent from Bidder to the inclusion of the Bidder Information in the Scheme Booklet in the form and context it appears;

- (f) advise Target if Bidder becomes aware at any time either:
 - (i) of new information which, had it been known at the time the Scheme Booklet was prepared, was required by applicable law to be included in the Bidder Information; or
 - (ii) that any part of the Bidder Information is, has or will become misleading or deceptive in a material respect, including by omission;
- (g) if requested by Target, procure that it is represented by counsel at the Court hearings convened for the purposes of considering the Initial Orders and the Final Orders, at which through its counsel, Bidder will undertake (if requested by the Court) to do all such things and take all such steps within its power as are necessary in order to ensure the fulfilment of its obligations under this Agreement and the Scheme. For the avoidance of doubt, Target will prepare the Court documentation for the Initial Orders and Final Orders and Bidder's Counsel will only prepare submissions to the Court, if required, in support of Target's application; and
- (h) before a draft of the Scheme Booklet is lodged with the Takeovers Panel and NZX, and again before the Scheme Booklet is despatched to Shareholders, confirm to Target the accuracy and completeness of the Bidder Information in the Scheme Booklet, including that it does not contain any material statement that is false or misleading in a material respect including because of any omission.

4.3 Bidder confirmations and approvals

If Bidder requires any change to be made to the form or content of the Bidder Information as a condition of giving its consent as referred to in clause 4.2(e) then:

- (a) if Target disagrees with the change the parties must consult in good faith about the change and the reasons for it with a view to agreeing an alternative change that satisfies both parties; and
- (b) if the parties are unable to reach agreement, Target must make such changes to the Bidder Information as Bidder reasonably requires.

4.4 Responsibility statements

The Scheme Booklet must contain responsibility statements, in a form to be agreed between the parties, to the effect that:

- (a) Target has provided, and is responsible for, the Target Information in the Scheme Booklet, and that none of Bidder or its respective officers, directors and employees assumes any responsibility for the accuracy or completeness of the Target Information; and
- (b) Bidder has provided, and is responsible for, the Bidder Information, and that none of Target or its officers, directors and employees assumes any responsibility for the accuracy or completeness of the Bidder Information; and
- (c) the Independent Adviser has provided and is responsible for the Independent Adviser's Report and none of Bidder, Target or their respective officers, directors or employees assumes any responsibility for the accuracy or completeness of the Independent Adviser's Report.

5. Scheme implementation steps

5.1 Target's obligations

Without limiting clause 2, Target must:

- (a) before the First Court Date, apply to the Takeovers Panel for a letter of intention indicating that the Takeovers Panel is minded to issue a no objection statement and that it does not intend to appear at the Court in respect of the Initial Orders;
- (b) apply to the Court for Initial Orders convening the Scheme Meeting, and if the Court makes those orders, dispatch the Scheme Booklet to Shareholders and hold the Scheme Meeting in accordance with, and otherwise complying in all respects with, the Initial Orders;
- (c) upon sending the Scheme Booklet to Scheme Shareholders, lodge a copy of that Scheme Booklet with NZX in accordance with NZX Listing Rule 10.6.2;
- (d) if the Scheme Resolution is passed by the requisite majorities of Shareholders, promptly apply to:
 - (i) the Takeovers Panel for the production of a statement under section 236A(2)(b)(ii) of the Companies Act stating that the Takeovers Panel has no objection to the Court granting Final Orders; and
 - (ii) the Court for its approval of Final Orders; and
- (e) if the Court approves the Scheme in accordance with section 236(1) of the Companies Act and once the OIO Condition has been satisfied:
 - (i) promptly deliver to the Registrar for registration a copy of the Final Order;
 - (ii) use its best endeavours to procure that NZX suspends trading in the Shares from the close of trading on the later of:
 - (A) the Final Orders Date; and
 - (B) the date on which the OIO Condition is satisfied,
 or such other date as is agreed between the parties in writing;
 - (iii) close the Register as at the Record Date to determine the identity of the Scheme Shareholders and their entitlements to the Consideration;
 - (iv) subject to Bidder satisfying its obligations under clause 5.2(b), effect the transfer of the Scheme Shares to Bidder in accordance with the Scheme on the Implementation Date; and
 - (v) do all other things contemplated of it under the Scheme and all other things (if any) within its power as may be reasonably necessary for the implementation of the Transaction on a basis consistent with this Agreement or necessary for Target to lawfully give effect to the Scheme and the orders of the Court.

5.2 Bidder's obligations

Without limiting clause 2, Bidder must:

- (a) no later than 5 Business Days before the First Court Date, deliver to Target a copy of the Deed Poll executed by Bidder and, where applicable, the Bidder Nominee; and
- (b) procure that, if the Scheme becomes Effective, Bidder or the Bidder Nominee accepts a transfer of the Scheme Shares and provides the Consideration in accordance with clause 2.3 and the Deed Poll on or before the Implementation Date.

5.3 Conditions certificate

- (a) Subject to clause 5.3(b), on the day before the Implementation Date, Target must give Bidder a certificate signed by any of its directors stating that so far as Target is aware:
 - (i) except to the extent previously waived, the Conditions in clauses 3.1(d) (No restraint), 3.1(e) (No Material Adverse Change) and 3.1(f) (No Prescribed Occurrence) would have been satisfied if 8.00am on the Implementation Date was read as the time the certificate is given to Bidder and Target is not aware of anything that would prevent those Conditions being satisfied;
 - (ii) it is not in breach of clauses 9.2 (Conduct of business) or 10.1 (Target representations, warranties and undertakings); or
 - (iii) there has not been any breach of any other provision of this Agreement which might entitle the Bidder to terminate under clause 14.1(a),

(**Target Certificate**) provided, that the certificate is not required to refer to any matters in respect of which notification has been made by Target under clause 9.5(a).
- (b) If the statements referred to in clause (a) would be inaccurate, the Target must provide a qualified Target Certificate setting out full details of the matters which cause or are likely to cause that certificate not to be accurate.
- (c) For the avoidance of doubt, a Target Certificate is signed by a Target Director in his or her capacity as an officer of the Target, and in no other capacity.

6. Target's other implementation obligations

6.1 Information about Shareholders

Target must:

- (a) comply with any reasonable request by Bidder to require disclosure of information in accordance with sections 290 and 291 of the FMCA, subject to its statutory and contractual obligations, and give Bidder the information obtained as a result of requiring such disclosure;
- (b) procure that its share registry provides to Bidder, in the form reasonably requested by Bidder, details of the Register and all other information about the Shareholders which Bidder reasonably requires in order to:
 - (i) canvas approval of the Scheme by Shareholders; or

- (ii) facilitate the provision by Bidder or the Bidder Nominee of the Consideration in accordance with this Agreement, the Scheme and the Deed Poll,

in each case subject to Target's statutory or contractual obligations. The Bidder will promptly reimburse all costs reasonably incurred by the Target in complying with this clause.

6.2 Promotion of Transaction

During the Exclusivity Period, Target will:

- (a) provide (subject to Target's statutory or contractual obligations) such information regarding Shareholders and their holdings as Bidder reasonably requests in connection with the Transaction (provided that this clause 6.2(a) will not require the Target to obtain such information that it does not already hold, unless such information is reasonable and the Bidder promptly reimburses all out-of-pocket costs reasonably incurred by the Target in obtaining such information);
- (b) procure that the Group Chief Executive Officer of the Target Group is available on reasonable notice to meet with key Shareholders in connection with the Transaction if reasonably requested to do so by Bidder;
- (c) procuring that the Group Chief Executive Officer, Regional CEO – Asia, MUK Chief Executive Officer and MAU Chief Operating Officer of the Target Group are available on reasonable notice to communicate with the key customers of the Target Group about the transition in ownership contemplated by the Transaction; and
- (d) procuring that the Group Director of Operations of the Target Group is available on reasonable notice to communicate with the key suppliers of the Target Group about the transition in ownership contemplated by the Transaction,

subject to there being no Superior Proposal and the Independent Adviser's Report concluding that the Consideration is within or above the Independent Adviser's valuation range for Target, and provided that no action will be required to be undertaken under this clause 6.2 to the extent that it will result in an unreasonable disruption to the Target Group's business or, in the case of clauses 6.2(b) to (d) only, would result in a breach of the relevant individual's duties as an employee.

6.3 Board changes

On the Implementation Date, but subject to the Consideration having been paid to the Scheme Shareholders, Target must procure that:

- (a) such persons as Bidder nominates (by notice to Target no later than five Business Days before the Implementation Date) and who have provided to Target a signed consent to act by that time are appointed as additional directors of Target on the Implementation Date; and
- (b) unless otherwise agreed by Bidder in writing, each member of the Board, other than those appointed in accordance with clause 6.3(a), resigns as a director of Target with effect from the Implementation Date and acknowledges in writing that he or she has no outstanding claim against any member of the Target Group other than for accrued directors fees and expenses as at the date of the resignation,

in each case in accordance with Target's constitution, the Companies Act and the NZX Listing Rules.

6.4 Release of Encumbrances

After the signing of this Agreement and in addition to its obligations under clause 9.1(b)(ii), Target will provide reasonable assistance to Bidder to:

- (a) identify any Encumbrances over the assets of the Target Group which are not Permitted Encumbrances; and
- (b) procure their release and removal from the PPSR with effect on the Implementation Date.

7. Court proceedings

7.1 Court documents

- (a) In relation to each Court application made in relation to the Scheme, including any appeal, Target must give Bidder drafts of all documents required to be given by Target to the Court (including the originating applications, affidavits, memoranda, submissions and draft Court orders) a reasonable time before they are due to be submitted to the Court (and in any event not less than 48 hours before submission unless it is impractical in the circumstances) and must consider in good faith the reasonable comments of Bidder and its Representatives on those documents.
- (b) Target must not provide the Court with any Court orders (whether in draft or not) or applications for Court orders, or consent to any changes to any Court orders, without Bidder having approved such documents being submitted to the Court or such changes being consented to.
- (c) Nothing in clauses 7.1(a) or 7.1(b) requires Target to disclose to Bidder anything in relation to any Competing Proposal if it would be not reasonable in the circumstances to disclose that information to the Bidder.

7.2 Representation

In relation to each Court application made in relation to the Scheme, including any appeal:

- (a) Target must, if requested by Bidder, consent to the separate representation of Bidder and/or Bidder Nominee by counsel; and
- (b) Bidder and/or Bidder Nominee may appear and be represented in relation to the Court applications.

7.3 Court proceedings and conditionality

- (a) If the Court declines to make the orders sought by Target under clause 5.1(b) or 5.1(d)(ii), due in whole or in part to the lack of satisfaction of, or the potential timing for satisfaction of (or where capable of waiver, waiver of) the Conditions, Target must promptly make a further application for Initial Orders or Final Orders (as applicable), as soon as practicable after the earlier of:
 - (i) the parties satisfying the steps or matters specified by the Court or apparent from its directions or reasons as required, or desirable, in order to grant the Initial Orders or Final Orders (as the case may be) (**Court Guidance**); or
 - (ii) the OIO Condition having been satisfied.

- (b) Target will use best endeavours to follow the Court Guidance and any guidance or requirements of the Takeovers Panel including, if indicated, providing supplementary information to Shareholders and/or convening a second Scheme Meeting.

7.4 Appeal if orders not made

If the Court does not make any order sought by Target under clause 5 (the **Decision**) to the extent clause 7.3 does not apply:

- (a) Target and Bidder must consult in good faith as to the effect of the refusal and whether to appeal the Decision;
- (b) if, within five Business Days after the Decision, either Target or Bidder wish to appeal the Decision, then it must give notice in writing to the other;
- (c) if, within two Business Days after the recipient of the notice given under clause 7.4(b) receives that notice, the parties have been unable to agree whether or not to appeal the Decision, then either party (the **Notifying Party**) may by notice in writing to the other (the **Recipient**) require that an independent Queen's Counsel, practising in the field of corporate and securities law litigation (the **QC**), determine whether or not there is a reasonable prospect of successfully appealing the Decision. The QC will be as agreed by Target or Bidder or, failing agreement within two Business Days of notice being given under the previous sentence of this clause, as appointed at the request of either Target or Bidder by the President for the time being of the New Zealand Law Society (or the President's nominee). The costs of the QC will be borne by the Notifying Party;
- (d) if:
 - (i) within 10 Business Days after the Decision, Target and Bidder agree to appeal the Decision; or
 - (ii) the QC appointed under clause 7.4(c) opines that he or she believes that there is a reasonable prospect of successfully appealing the Decision,

then the following provisions will apply:

- (iii) Target must appeal the Court's decision within the timeframe set out in rule 29 of the Court of Appeal (Civil) Rules 2005;
- (iv) the cost of any such appeal is to be borne:
 - (A) if Target and Bidder agreed to appeal the Decision, equally between the parties; or
 - (B) if Target and Bidder did not agree to appeal the Decision, by the Notifying Party; and
- (v) if the End Date would otherwise occur before the appeal is finally determined, the End Date is deferred to the date that is 10 Business Days after the appeal from the Decision is finally determined, provided that such deferred End Date cannot be later than nine months from the date of the Agreement unless otherwise agreed between the parties in writing; and
- (vi) if the appeal is successful and the relevant order is made, the End Date is further deferred to the date which is X days after the original End Date (disregarding the effect of clause 7.4(d)(v)) where X is equal to the number of days between the date of the Decision and the date on which the appeal from

the Court's decision is finally determined, or to such other date as the parties agree in writing, provided that such deferred End Date cannot be later than nine months from the date of the Agreement unless otherwise agreed between the parties in writing.

8. Recommendation and voting intentions

8.1 Recommendation and voting intentions of Target Directors

Target warrants that it has been informed by each Target Director:

- (a) that he or she will recommend that Shareholders vote in favour of the Scheme; and
- (b) who holds Shares (either directly or through a Controlled Associate) that he or she intends to vote, or procure the voting of, all Shares held or controlled by him or her or his or her Controlled Associates in favour of the Scheme,

subject to:

- (c) the Independent Adviser's Report concluding that the Consideration is within or above the Independent Adviser's valuation range for the Shares; and
- (d) there being no Superior Proposal.

8.2 Change to recommendation or voting intentions

Target warrants that it has been informed by each Director that he or she will not, and Target must use its best endeavours to ensure that each Target Director does not, change, qualify or withdraw the recommendation or the statement of intention referred to in clause 8.1, or makes any statement inconsistent with that recommendation or that statement of intention, unless:

- (a) the Independent Adviser's Report concludes that the Consideration is below the Independent Adviser's valuation range for the Shares; or
- (b) Target receives a Superior Proposal (and such Superior Proposal having not been withdrawn).

For the avoidance of doubt and notwithstanding anything else in this Agreement, for the purposes of this agreement, if Target has received a Superior Proposal, or a Competing Proposal it believes may be a Superior Proposal, a statement that "shareholders should take no action pending further advice" (or words to that effect) does not constitute a change, qualification or withdrawal of the recommendation referred to in clause 8.1, provided that at the time of making that statement they confirm they have not otherwise changed or withdrawn their recommendation.

8.3 Notification of new circumstances

Without limiting the operation of clauses 8.1, 8.2 or 12, if circumstances arise, including the receipt or expected receipt of an unfavourable report from the Independent Adviser (including the Independent Adviser's Report) but excluding where clauses 12.7, 12.8 or 12.9 apply, which may lead to any one or more of the Target Directors changing, qualifying or withdrawing his or her recommendation to vote in favour of the Scheme, the Target must:

- (a) immediately notify Bidder of this fact; and

- (b) consult with Bidder in good faith for 48 hours after the time at which the notice under clause 8.3(a) is given to consider and determine whether there are any steps that can be taken to avoid such a change, qualification or withdrawal provided that a statement that “shareholders should take no action pending further advice” (or words to that effect) does not constitute a change, qualification or withdrawal of the recommendation, if at the time of making that statement they confirm they have not otherwise changed or withdrawn their recommendation.

8.4 Customary qualifications

For the avoidance of doubt, the statement by each Director that his or her recommendation is made in the absence of a Superior Proposal and is subject to the Independent Adviser’s Report (including, for clarity, any update or supplement to the original report issued by the Independent Adviser) concluding that the Consideration is within or above the Independent Adviser’s valuation range for the Shares will not be regarded as a failure to make, or a withdrawal of, a recommendation of, or statement of intention to vote in favour of, the Scheme.

9. Access, information and conduct of business

9.1 Access and information

- (a) Subject to clause 9.1(d), until:
 - (i) and including the Implementation Date, Target must procure that one or more members of the Board meets with Bidder and its Representatives (either in person or by teleconference) at such times as Bidder reasonably requests (but no more often than monthly) for the purposes of keeping Bidder reasonably informed of any material developments in relation to the Target Group and discussing and resolving matters arising in relation to this Agreement or the Transaction;
 - (ii) clause 9.1(c) applies, Target must provide to Bidder an executive summary of all papers provided to the Board or the full audit and risk committee within one Business Day after they are provided to Board or committee members (as applicable); and
 - (iii) and including the Implementation Date, Target must provide to Bidder, in respect of each month, a profit and loss statement, balance sheet and cash flow statement as soon as practicable after month close and, in any event, within eight Business Days after month close,

provided, in each case, that Target may redact information from such papers to the extent it relates to any commercially sensitive information concerning the Australian market, any Competing Proposal (but this proviso does not limit Target’s obligations under clause 12), the Transaction or the disclosure of such information would breach competition laws.

- (b) Subject to clause 9.1(d), until and including the Implementation Date, Target agrees to:
 - (i) provide reasonable and timely assistance to Bidder to finalise the preparation of any definitive financing documentation (having regard to the Target Group’s existing transactional banking and treasury requirements); and
 - (ii) provide reasonable assistance to Bidder to prepare for the repayment of the Target Group’s existing indebtedness to The Bank of New Zealand (including the preparation for the termination and release of related security interests),

including, without limitation, by sending notices of intention to repay The Bank of New Zealand prior to the Implementation Date,

provided, in each case, that:

- (iii) neither Target nor any member of the Target Group shall be required to incur any liability in connection with any acquisition debt financing prior to implementation of the Scheme that is not reimbursable by Bidder; and
 - (iv) no member of the Target Group shall be required to execute prior to implementation of the Scheme any agreements, including any credit or other agreements, pledge or security documents, or other certificates, legal opinions or documents in connection with the debt financing.
- (c) Subject to clause 9.1(d), during the period commencing at the time both the OIO Condition and the condition set out in clause 3.1(c) have been satisfied and ending on the Implementation Date (both inclusive), Target must:
- (i) procure that Bidder and its Representatives are given reasonable access to the properties, books and records, management, suppliers and customers of the Target Group during normal business hours at mutually convenient times and on reasonable notice to Target for:
 - (A) the purposes of enabling Bidder to prepare for the transition of ownership of the Target Group to Bidder;
 - (B) the purposes of implementing the Scheme;
 - (C) the purposes of enabling Bidder and its financiers to understand and monitor (in each case, to a reasonable extent) the Target Group's business and operations, its financial position, financial performance, risks and prospects and its transactional banking requirements;
 - (D) any other purpose agreed between Target and Bidder in writing,

except to the extent that the provision of such access is prohibited by law or any confidentiality obligations owed to Third Parties and provided that:

 - (E) providing access or information pursuant to this clause 9.1(c) does not result in unreasonable disruptions to the Target Group's business, require Target to make further disclosure to any other entity or Government Agency or require the disclosure of any document that would compromise the Target Group's legal professional privilege; and
 - (F) nothing in this clause 9.1(c) will require Target to provide information concerning its director's and management's consideration of the Scheme or any Competing Proposal (but this proviso does not limit Target's obligations under clause 12);
 - (ii) give Bidder copies of papers provided to the Board or any Board committee or sub-committee (including monthly management accounts for the Target Group) within one Business Day after they are provided to Board members, however, Target may redact information from such papers to the extent it relates to any commercially sensitive information concerning the Australian market, any Competing Proposal (but this proviso does not limit Target's obligations under clause 12), the Transaction or the disclosure of such information would breach confidentiality owed to Third Parties or competition laws.

- (d) Target will not be required to comply with clauses 9.1(a) to 9.1(c) at any time if Target receives a Superior Proposal and Bidder gives notice to Target under clause 12.9(d)(ii).

9.2 Conduct of business

Subject to clause 9.3, from the date of this Agreement until and including the Implementation Date, Target must ensure that it and each other member of the Target Group:

- (a) carries on its business in the ordinary course and in substantially the same manner as conducted in the 12 months prior to the date of this Agreement;
- (b) does not make any significant change to the nature or scale of its business;
- (c) enter any business or undertake any activities in which it was not engaged as at the date of this Agreement and would have a material effect on the Target Group taken as a whole;
- (d) maintains insurance in respect of the Target Group's business and assets covering such risks and for such amounts as would be maintained in accordance with the Target Group's ordinary practice and in any event to a level no less than that in place immediately prior to the date of this Agreement;
- (e) uses all reasonable endeavours to:
 - (i) keep available the services of its directors and the leadership team of Target; and
 - (ii) preserve its relationships with all Government Agencies and all customers, suppliers, licensors, licensees, joint venturers and others with whom it has material business dealings;
- (f) does not:
 - (i) incur capital expenditure exceeding \$250,000 for any item or series of related items which is not in the Capex Plan;
 - (ii) except in the ordinary course of trading, transfer, write down or otherwise dispose of or create any Encumbrance in respect of, assets having a value exceeding \$250,000;
 - (iii) acquire or dispose of any shares or other securities in any body corporate or any units in any trust, or substantially all of the assets of any business;
 - (iv) enter into, or terminate any participation in, any partnership at law, joint venture or similar commitment;
 - (v) amend any of the terms and conditions of the Target Group's bank facilities in place as at the date of this Agreement or put in place any new debt facilities;
 - (vi) draw-down under, or repay, any of the Target Group's bank facilities in place as at the date of this Agreement other than in the ordinary course of business;
 - (vii) enter into, extend, renew or waive any material rights under any contract, commitment or arrangement relating to procurement (including for the purchases of raw materials or renewals of existing procurement arrangements for goods or services) (a **procurement contract**) which:

- (A) if the minimum term is 12 months or less, may require annual expenditure by the relevant member of the Target Group in excess of \$250,000; or
- (B) if the minimum term is more than 12 months, may require annual expenditure by the relevant member of the Target Group in excess of \$200,000,

save for entering into, extending, or renewing, or giving any waiver in respect of, a contract, commitment or arrangement relating to procurement (including for the purchases of raw materials or renewals of existing procurement arrangements for goods or services) in the ordinary course of business and on arm's length terms. For the avoidance of doubt, this clause 9.2(f)(vii) does not apply to purchases made on a purchase order basis in the ordinary course to the extent the commitment under the purchase order does not exceed 12 months;

- (viii) enter into any derivative contract which has a term that is longer than the term of the procurement contract to which it relates or which is not entered into in connection with a particular procurement contract, or vary any derivative contract in a manner that would have the same effect, other than in accordance with Target's treasury policy fairly disclosed to Bidder prior to the date of this Agreement;
- (ix) enter into, terminate, waive any material rights under or materially vary any contract, commitment or arrangement (other than a procurement contract):
 - (A) where, if the minimum term is 12 months or less, such action may require annual expenditure by, or result in a change in annual revenues to, the relevant member of the Target Group in excess of \$250,000;
 - (B) where, if the minimum term is more than 12 months, such action may require annual expenditure by, or result in a change in annual revenues to, the relevant member of the Target Group in excess of \$200,000;
 - (C) which relates to any in-housing of production (excluding Target's "fit for future" programme to the extent fairly disclosed to Bidder prior to the date of this Agreement), which relates to the distribution of products or which is otherwise of material importance to the business of the Target Group; or
 - (D) which restrains any member of the Target Group or any person that controls Target from engaging in or competing with any business in any place,

or vary any other existing contract, commitment or arrangement in a way that may increase or decrease the expenditure by or annual revenues to the relevant member of the Target Group by more than \$200,000 or has the effect referred to in clause 9.2(f)(vii)(B);

- (x) enter into new leasehold interest or renew, terminate or change any material terms of any leasehold interest of any member of the Target Group;
- (xi) give any guarantee of, or security for, or indemnity in connection with the obligations of any person other than a member of the Target Group, other than in the ordinary course of business and consistent with the past practice of Target Group in the 12 months prior to the date of this Agreement;
- (xii) increase the remuneration of, make any bonus payment, retention payment or termination payment to, or otherwise change the terms and conditions of

employment of any Target Director or any employee of any member of the Target Group whose salary exceeds \$100,000 except:

- (A) in accordance with any contractual entitlement existing as at 5 September 2018;
 - (B) for salary increases in the normal course and consistent with past practice as fairly disclosed to Bidder prior to the date of this Agreement; and
 - (C) for any payments of commission made to agents appointed by the Target Group in accordance with any contractual entitlement which exists as at the date of this Agreement or is entered into following the date of this Agreement in the ordinary course of business on arm's length terms;
- (xiii) accelerate the rights of any Target Director or any employee of any member of the Target Group to receive any benefit under any Target incentive plan or share scheme;
 - (xiv) change its constitution or pass any resolution of Shareholders or any class of Shareholders (other than the Scheme Resolution, any resolution to appoint (or reappoint) a director of Target and any resolution to authorise the Board to fix the fees and expenses of Target's auditor);
 - (xv) commence, compromise or settle any litigation, claims or similar proceedings for an amount exceeding \$250,000;
 - (xvi) make any payment of income Tax which has not been assessed or which is not a reasonable estimate of provisional tax falling due for payment on or before the Implementation Date, as calculated based on the estimated taxable income for the period;
 - (xvii) attach imputation credits to any dividend in circumstances where the imputation credit account of the Target will have a debit balance on or immediately after the Implementation Date; or
 - (xviii) agree, conditionally or otherwise, to do any of the things referred to in the preceding paragraphs of this clause 9.2(f), or announce or represent to any person that any of those things will be done; and
- (g) without limiting any other provision of this clause 9.2, keep Bidder reasonably informed and consult with Bidder regarding any proposed increase to remuneration for any Target Group personnel.

9.3 Exception

Any member of the Target Group may do anything referred to in clause 9.2(f), or not do anything required to be done under clauses 9.2(a) or 9.2(e):

- (a) with the prior written consent of Bidder (such consent not to be unreasonably withheld, conditioned or delayed, including with regard to competition laws);
- (b) necessary to comply with (i) any law or any regulatory requirement or direction of a Government Agency; or (ii) the Target's contractual obligations fairly disclosed prior to the date of this Agreement;
- (c) necessary to respond to any emergency, act of god or other disaster;

- (d) to the extent necessary to respond to a Competing Proposal as permitted by clauses 12.3 or 12.5;
- (e) to the extent fairly disclosed to Bidder in the Due Diligence Materials or to NZX prior to the date of this Agreement but on or after 1 January 2017; or
- (f) to the extent it is expressly required to do, permitted to do or is permitted not to do in accordance with this Agreement;

In the case of the situations described in (c), (d) or (f) above, that the Target must inform Bidder as soon as possible of the actions taken or proposed to be taken, and, to the extent practicable, considers any feedback or suggestions made by Bidder as to the proposed course of action. The parties note that the objective of this clause is that no action is taken or not taken, which may affect the future prospects of the Target Group, including its relationships with constituencies, without reasonable involvement of Bidder, whilst not unreasonably restricting the Target or Target Group (including its current financial position and performance).

9.4 Consents to change of control

In respect of each contract that Target and Bidder agree (acting reasonably) in writing prior to the First Court Date requires a counterparty notification or consent in relation to the change of control of Target:

- (a) Target and Bidder will agree in good faith a communications plan to notify the relevant counterparty of the change of control of Target that will occur if the Scheme becomes Effective and request that such counterparty provides any consents required in relation to that change of control; and
- (b) each party must promptly provide to the relevant counterparty all information reasonably required for the purposes of making any notification or seeking any consent referred to in clause 9.4(a).

9.5 Notifications

From the date of this Agreement until and including the Implementation Date, Target must immediately notify Bidder if:

- (a) it becomes aware of any matter that will, or the Target considers is reasonably likely to, entitle the Bidder to terminate this Agreement (including for a Material Adverse Change under clause 14.1(b), occurrence of a Prescribed Occurrence under clause 14.1(c) or a material breach of any provision of this Agreement by under clause 14.1(a)); or
- (b) any member of the Target Group or any of their Representatives is approached by any Government Agency in connection with the Transaction.

9.6 Permitted Dividends

- (a) The amount of imputation credits that may be attached to any Permitted Dividend must be restricted to the amount of income tax payable (or estimated tax payable using reasonable forecasts) for the period up to the date on which the relevant Permitted Dividend is paid plus any brought forward imputation credits.
- (b) Target must consult with Bidder in relation to the proposed amount of imputation credits that are intended to be attached to any Permitted Dividend (including providing appropriately detailed working papers).

10. Representations, warranties and undertakings

10.1 Target representations, warranties and undertakings

- (a) Target represents and warrants to Bidder on the date of this Agreement and, except where a Target Warranty is expressed to be given at the date of the Agreement only:
 - (i) at 8.00am on the date that the Scheme Booklet is despatched to Shareholders;
 - (ii) at 8.00am on Second Court Date; and
 - (iii) at 8.00am on the Implementation Date,
 that each of the Target Warranties is true, accurate and not misleading.
- (b) Target undertakes to Bidder to comply with each of the Target Undertakings.
- (c) The Target Warranties (except for the Target Warranties in clauses 1, 2, 3, 4, 8, 9, and 14 of Part 1 of Schedule 2) are given subject to and are qualified by matters and circumstances fairly disclosed in the Due Diligence Material.

10.2 Bidder representations, warranties and undertakings

- (a) Bidder represents and warrants to Target:
 - (i) on the date of this Agreement;
 - (ii) at 8.00am on the date that the Scheme Booklet is despatched to Shareholders;
 - (iii) at 8.00am on Second Court Date; and
 - (iv) at 8.00am on the Implementation Date,
 that each of the Bidder Warranties is true, accurate and not misleading.
- (b) Bidder undertakes to Target to comply with each of the Bidder Undertakings.

10.3 Indemnity by Target

Subject to clauses 13.6 and 13.9, Target indemnifies Bidder against, and must pay to Bidder on demand an amount equal to, all Losses directly incurred or suffered by the Bidder Indemnified Persons arising out of or in connection with:

- (a) any matter or circumstance that results in any of the Target Warranties being untrue, inaccurate or misleading when given; or
- (b) any breach of the Target Undertakings.

10.4 Indemnity by Bidder

Subject to clauses 13.6 and 13.10, Bidder indemnifies Target against, and must pay to Target on demand an amount equal to, all Losses directly incurred or suffered by the Target Indemnified Persons arising out of or in connection with:

- (a) any matter or circumstance that results in any of the Bidder Warranties being untrue, inaccurate or misleading when given; or
- (b) any breach of the Bidder Undertakings.

10.5 Status of representations, warranties, undertakings and indemnities

Each representation and warranty, undertaking and indemnity made or given under this clause 10 is severable and survives termination of this Agreement and each undertaking and indemnity given in this clause 10 is a continuing obligation.

10.6 Scheme becoming Effective

After the Scheme becomes Effective, any breach of the representations and warranties or the undertakings made or given under this clause 10 may only give rise to a claim for damages or under the indemnities in this clause 10 and does not entitle a party to terminate this Agreement.

10.7 Commitment to support New Zealand industry

The Bidder represents to the Target (for itself and on behalf of each Shareholder) that Bidder will continue to support the design, innovation and manufacturing base for the Target's taps and showers business in New Zealand. This support will involve ensuring that the Target's taps and showers business in Auckland, New Zealand remains an innovation and research & development centre for the Bidder's overall business and that, as a consequence, jobs relating to these functions are retained in New Zealand. The representation contained in this clause 10.7 is given for the benefit of each Shareholder and is intended to be enforceable against Bidder by each Shareholder in accordance with the provisions of Part 2, Subpart 1 of the Contract and Commercial Law Act 2017.

11. Releases

11.1 Release of Target Indemnified Persons

Bidder waives and releases, and must procure that each member of the Bidder Group waives and releases, all rights and claims (and agrees that no claim will be made) which it may have against any Target Indemnified Person (other than Target) in respect of

- (a) any misrepresentation, inaccuracy or omission in or from any information or advice given by that Target Indemnified Person in connection with any representation, warranty or undertaking given by Target in this Agreement;
- (b) the preparation of the Target Information or the Due Diligence Material; or
- (c) any other act or omission in connection with this Agreement or the Transaction,

except where the Target Indemnified Person has engaged in wilful misconduct or fraud. The parties acknowledge and agree that:

- (d) Target has sought and obtained the waiver and release in this clause 11.1 as agent for and on behalf of each Target Indemnified Person and may enforce the provisions of this clause 11.1 on behalf of any Target Indemnified Person;
- (e) any Target Indemnified Person may plead this clause 11.1 in response to any claim made by any member of the Bidder Group against them; and

- (f) the undertakings contained in this clause 11.1 are given for the benefit of each Target Indemnified Person and are intended to be enforceable against Bidder by each Target Indemnified Person in accordance with the provisions of Part 2, Subpart 1 of the Contract and Commercial Law Act 2017.

For clarity, nothing in this clause 11.1 releases any accountant, auditor, financier, financial adviser, legal adviser, technical adviser or other expert adviser or consultant from its obligations to any member of the Target Group in connection with the Transaction.

11.2 Release of Bidder Indemnified Persons

Target waives and releases, and must procure that each member of the Target Group waives and releases, all rights and claims (and agrees that no claim will be made) which it may have against any Bidder Indemnified Person (other than Bidder) in respect of:

- (a) any misrepresentation, inaccuracy or omission in or from any information or advice given by that Bidder Indemnified Person in connection with any representation, warranty or undertaking given by Bidder in this Agreement;
- (b) the preparation of the Bidder Information; or
- (c) any other act or omission in connection with this Agreement or the Transaction,

except where the Bidder Indemnified Party has engaged in wilful misconduct or fraud. The parties acknowledge and agree that:

- (d) Bidder has sought and obtained the waiver and release in this clause 11.2 as agent for and on behalf of each Bidder Indemnified Person and may enforce the provisions of this clause 11.2 on behalf of any Bidder Indemnified Person;
- (e) any Bidder Indemnified Person may plead this clause 11.2 in response to any claim made by any member of the Target Group against them; and
- (f) the undertakings contained in this clause 11.2 are given for the benefit of each Bidder Indemnified Person and are intended to be enforceable against Target by each Bidder Indemnified Person in accordance with the provisions of Part 2, Subpart 1 of the Contract and Commercial Law Act 2017.

12. Exclusivity

12.1 No shop restriction

Subject to clause 12, during the Exclusivity Period, Target must not, and must procure that each of its Representatives does not, directly or indirectly:

- (a) solicit, invite, encourage or initiate any Competing Proposal, Potential Competing Proposal or any offer, proposal, expression of interest, enquiry, negotiation or discussion with any Third Party in relation to, or for the purpose of, or that may reasonably be expected to encourage or lead to, a Competing Proposal or a Potential Competing Proposal;
- (b) assist, encourage, procure or induce any person to do any of the things referred to in clause 12.1(a) on its behalf; or
- (c) communicate to any person an intention to do any of the things referred to in clause 12.1(a).

12.2 No talk restriction

Subject to clause 12.3 and clause 12.13, during the Exclusivity Period Target must not, and must procure that none of its Representatives, directly or indirectly:

- (a) enter into, permit, continue or participate in, negotiations or discussions with any Third Party in relation to a Competing Proposal or Potential Competing Proposal, or for the purpose of or that may reasonably be expected to encourage or lead to a Competing Proposal or Potential Competing Proposal;
- (b) assist, encourage, procure or induce any person to do any of the things referred to in clause 12.2(a) on its behalf; or
- (c) communicate to any person an intention to do any of the things referred to in clause 12.2(a),

even if the Competing Proposal or Potential Competing Proposal was not directly or indirectly solicited, invited, encouraged or initiated by Target or any of its Representatives or has been publicly announced.

12.3 No talk exception

The restriction in clause 12.2 does not apply to the extent that it restricts Target or its Representatives from taking or refusing to take any action with respect to a bona fide Competing Proposal or Potential Competing Proposal (in either case, which was not encouraged, solicited, invited, facilitated or initiated in contravention of clause 12.1) if:

- (a) the Board has determined, after taking advice from its external financial adviser, that the Competing Proposal or Potential Competing Proposal (as the case may be) is, or is reasonably likely to constitute, a Superior Proposal or would be reasonably likely to constitute a Superior Proposal if it were to be proposed; and
- (b) acting in good faith and after having taken written advice from its external legal advisers, the Board has determined that taking or refusing to take such action would be likely to constitute a breach of the fiduciary or statutory duties, as a director of Target, of any member of the Board.

12.4 No due diligence restriction

Subject to clause 12.5 and clause 12.13, but without limiting clause 12.2, during the Exclusivity Period, Target must not, and must procure that each of its Representatives does not, directly or indirectly:

- (a) make available to any Third Party, or cause or permit any Third Party to receive, any non-public information relating to Target or any of its Related Entities that may reasonably be expected to assist such Third Party in formulating, developing or finalising a Competing Proposal or Potential Competing Proposal;
- (b) assist, encourage, procure or induce any person to do any of the things referred to in clause 12.4(a) on its behalf; or
- (c) communicate to any person an intention to do any of the things referred to in clause 12.4(a).

12.5 No due diligence exception

The restriction in clause 12.4 does not apply in respect of a bona fide Competing Proposal or Potential Competing Proposal (in either case which was not encouraged, solicited, invited, facilitated or initiated in contravention of clause 12.1 or 12.2) if all of the following requirements are satisfied:

- (a) the Board has determined, after taking advice from its external financial adviser, that the Competing Proposal or Potential Competing Proposal (as the case may be) is, or is reasonably likely to constitute, a Superior Proposal or would be reasonably likely to constitute a Superior Proposal if it were to be proposed;
- (b) acting in good faith and after having obtained written advice from its external legal advisers, the Board has determined that failing to respond to such Competing Proposal or Potential Competing Proposal would be likely to constitute a breach of the fiduciary or statutory duties, as a director of Target, of any member of the Board.
- (c) the Third Party has first entered into a written agreement in favour of Target restricting the use and disclosure by the Third Party and its affiliates and advisers of the information made available to the Third Party; and
- (d) to the extent that any information made available to the Third Party has not previously been provided to Bidder, Target provides that information to the Bidder at the same time as it is provided to the Third Party (unless Target is prevented from sharing such information with Bidder under applicable competition laws).

12.6 General notification obligations

During the Exclusivity Period, Target must immediately notify Bidder if:

- (a) Target or any of its Representatives receives any Competing Proposal or Potential Competing Proposal or any offer or request to do any of the things referred to in clause 12.2(a) or clause 12.4(a); or
- (b) Target proposes to take any action in reliance on the exceptions in clause 12.3 or clause 12.5.

12.7 Matching rights

- (a) If Target or any of its Representatives receives a Competing Proposal or a Potential Competing Proposal then Target must as soon as reasonably practicable:
 - (i) give Bidder a notice setting out all of the material terms of the Competing Proposal or Potential Competing Proposal, including the amount and form of consideration to be offered, the source of any cash component of the consideration, the material conditions to which it is subject, the proposed timetable and any reimbursement fee arrangements; and
 - (ii) use reasonable endeavours to obtain the consent of the person who has made the Competing Proposal or Potential Competing Proposal to disclose to Bidder on a confidential basis that person's name and other details which identify that person (the **Identifying Details**); and
 - (iii) disclose the Identifying Details to Bidder on a confidential basis, except that, if the consent referred to in clause 12.7(a)(ii) has not been obtained, then Target may withhold any part of the Identifying Details from disclosure if the Board, acting in good faith and on the basis of written advice from its external legal advisers determines that giving those details to Bidder would be likely to

constitute a breach of the fiduciary or statutory duties of any member of the Board;

- (b) Without limiting clause 12.1 and 12.2, during the Exclusivity Period, Target:
 - (i) must not enter into, or agree to enter into, any binding documentation to give effect or implement any Competing Proposal or Potential Competing Proposal;
 - (ii) must use best endeavours to ensure that no Target Director:
 - (A) adversely changes, withdraws or modifies his or her recommendation of, or stated intention to recommend or vote in favour of, the Scheme;
 - (B) makes any public statement endorsing or recommending any Competing Proposal or Potential Competing Proposal to Shareholders;

unless:

- (iii) the relevant Competing Proposal or Potential Competing Proposal is a Superior Proposal;
- (iv) Target has complied with its obligations under clauses 12.7(a) and 12.5(d);
- (v) Target has given Bidder at least five Business Days after the provision of the information referred to in clause 12.7(b)(iv) (the **Matching Period**) to provide an irrevocable offer which, if accepted, will be legally binding on Bidder, to amend the terms of the Scheme and this Agreement or make an alternative proposal to Target or Shareholders with a view to providing an equivalent or a superior outcome for Shareholders than those offered under the relevant Superior Proposal (a **Counter Proposal**); and
- (vi) Bidder has not provided Target with a Counter Proposal by the expiry of Matching Period.

12.8 Target's response to Counter Proposal

If, during the Matching Period, Bidder makes a Counter Proposal:

- (a) Target must use its best endeavours to procure that Target's Board considers the Counter Proposal in good faith; and
- (b) if Target's Board acting in good faith determines, and after having received written advice from its external financial and legal advisers, that the terms and conditions of the Counter Proposal taken as a whole are no less favourable to Shareholders than those in the relevant Superior Proposal (**Matched Counter Proposal**), then:
 - (i) the parties must use their reasonable endeavours to agree and enter into such documentation as is necessary to give effect to and implement the Counter Proposal as soon as reasonably practicable; and
 - (ii) Target must use its best endeavours to procure that each Target Director makes a public statement recommending the Counter Proposal to Shareholders.

12.9 Freedom to progress unmatched Superior Proposal

If:

- (a) Target has complied fully with its obligations under clause 12.7; and
- (b) either:
 - (i) Bidder does not provide a Counter Proposal during the Matching Period; or
 - (ii) Bidder provides a Counter Proposal during the Matching Period but the Target Board, having complied with clause 12.8, determines that the Counter Proposal is not a Matched Counter Proposal,

then:

- (c) the Exclusivity Period will cease, as applicable:
 - (i) on the expiry of the Matching Period; or
 - (ii) at the time at which Target notifies Bidder of the Target Board's determination under clause 12.8(b);
- (d) within five Business Days after the date on which the Exclusivity Period ceases under clause 12.9(c) (such period excluding that date), Bidder may:
 - (i) notify the Target in writing that Bidder terminates this Agreement (with immediate effect); or
 - (ii) notify the Target in writing that Target cannot exercise its right of Termination under clause 12.9(e); and
- (e) after the expiry of five Business Days after the date on which the Exclusivity Period ceases under clause 12.9(c), Target may terminate this Agreement by giving notice in writing to Bidder if:
 - (i) the Bidder has not given written notice to the Target under clause 12.9(d)(ii) within the timeframe required under that clause; and
 - (ii) a majority of the Target Board have publicly recommended the Superior Proposal.

12.10 Changes to Proposals

- (a) Subject to clause 12.9, any material change to a Competing Proposal, Potential Competing Proposal or Superior Proposal including:
 - (i) any material change to the terms referred to in clause 12.7(a)(i); or
 - (ii) any incomplete or non-binding proposal or expression of interest becoming complete, capable of acceptance or, subject to clause 12.9(b), binding on the Third Party bidder,

will be taken to constitute a new Competing Proposal, Potential Competing Proposal or Superior Proposal in respect of which Target must separately comply with its obligations under clause 12.6 to clause 12.8.

12.11 Standstill arrangements with other parties

During the Exclusivity Period, except with the prior written consent of Bidder, Target must not amend or waive the terms of any standstill agreement or arrangement between Target and any person other than a member of the Bidder Group.

12.12 Return of confidential information

If Target has at any time in the 12 months before the date of this Agreement provided any confidential information to a person other than a member of the Bidder Group in connection with a Competing Proposal or Potential Competing Proposal, Target must promptly request in writing the immediate return or destruction by that person of such confidential information, and must promptly exercise all rights available to it to ensure compliance with that request. Target must immediately advise Bidder if it becomes aware that any such rights have not been enforced or corresponding obligations of Third Parties have not been complied with.

12.13 Normal provision of information

Nothing in this clause 12 prevents a party from:

- (a) providing information required to be provided by law, any court of competent jurisdiction, any Government Agency or under the NZX Listing Rules or the ASX Listing Rules; or
- (b) making presentations to, and responding to bona fide enquiries from, stockbrokers, portfolio investors and equity market analysts in relation to the Scheme or in accordance with its usual practices.

13. Reimbursement Fee and Reverse Reimbursement Fee

13.1 Acknowledgement and agreement

Target (on the one hand) and Bidder (on the other hand) each acknowledges and agrees that:

- (a) the other and its Related Entities have incurred and will continue to incur significant costs and expenses in pursuing the Transaction including:
 - (i) advisory costs;
 - (ii) costs of management and directors' time;
 - (iii) in respect of Bidder, funding costs;
 - (iv) out of pocket expenses; and
 - (v) opportunity costs of pursuing the Transaction or in not pursuing alternative transactions or business opportunities;
- (b) the costs and expenses actually incurred by each party and its Related Entities are of such nature that they cannot accurately be ascertained;
- (c) the Reimbursement Fee and Reverse Reimbursement Fee are each liquidated damages and are reasonably necessary for the protection of the parties' respective legitimate interests in securing performance of the parties' obligations and completion of the Scheme and are proportionate to those interests;

- (d) the parties have negotiated the inclusion of this clause 13 in this Agreement and would not have entered into this Agreement without it; and
- (e) each party has received external legal and financial advice in relation to this Agreement and the operation of this clause 13 and has concluded that it is reasonable and appropriate for it to agree to payment of the Reimbursement Fee or Reverse Reimbursement Fee (as applicable) in the circumstances described in clause 13.2 or 13.3 (as applicable) in order to secure the other party's entry into this Agreement.

13.2 Circumstances where Reimbursement Fee payable

- (a) Subject to clause 13.5 and clause 13.7, Target must pay the Reimbursement Fee to Bidder if:
 - (i) at any time before this Agreement is terminated a Competing Proposal or Potential Competing Proposal is announced and the person making the Competing Proposal or Potential Competing Proposal (or one or more persons that Control, or are under the Control of, that person) completes, within 15 months of the date of termination, in all material respects a transaction of the kind referred to in the definition of Competing Proposal;
 - (ii) subject to clause 13.2(b), any Target Director
 - (A) fails to make the recommendation;
 - (B) fails to give the statement of intention referred to in clause 8.1;
 - (C) changes, qualifies or withdraws that recommendation or statement of intention; or
 - (D) makes any statement inconsistent with that recommendation or that statement of intention,

in each case, except where the Independent Adviser issues an Independent Adviser's Report which concludes that the Consideration is not within or above the Independent Adviser's valuation range for the Shares; or
 - (iii) Bidder terminates this Agreement pursuant to clause 14.1(a), 14.1(c) or 14.4(c); or
 - (iv) Target terminates this Agreement as permitted under clause 14.4(a).
- (b) No Reimbursement Fee will be payable under clauses 13.2(a) or (c) if Bidder gives notice in writing to Target under clause 12.9(d) that Target cannot exercise its termination right under clause 12.9(e).
- (c) If the exception to paragraph 13.2(a) applies, the Reimbursement Fee will nonetheless be payable by Target to Bidder if:
 - (i) prior to the issue of the Independent Adviser's Report concluding that the Consideration was not within or above the Independent Adviser's valuation range a Potential Competing Proposal or Competing Proposal had been received by the Target or made public; and
 - (ii) within 15 months after the date that Competing Proposal or Potential Competing Proposal is received or becomes public, the person making the Competing Proposal or Potential Competing Proposal or one or more person Associated

with that person completes in all material respects a transaction of the kind referred to in the definition of Competing Proposal.

13.3 Circumstances where Reverse Reimbursement Fee payable

Subject to clause 13.5 and clause 13.7, Bidder must pay the Reverse Reimbursement Fee to Target if:

- (a) Target terminates this Agreement pursuant to clause 14.2; or
- (b) this Agreement is terminated pursuant to clause 14.5(a).

13.4 Payment of Reimbursement Fee or Reverse Reimbursement Fee

If the Reimbursement Fee or Reverse Reimbursement Fee become payable under this Agreement, Target or Bidder (as the case requires) must pay it to or as directed by the other party without withholding or set-off (except as required by law) within 10 Business Days after receipt of a written demand for payment from the other party.

13.5 Reimbursement Fee or Reverse Reimbursement Fee not payable

Notwithstanding anything else in this Agreement:

- (a) neither the Reimbursement Fee nor Reverse Reimbursement Fee is payable if the Scheme becomes Effective;
- (b) the Reimbursement Fee and Reverse Reimbursement Fee are payable only once; and
- (c) in the event that Target pays the Reimbursement Fee under this clause 13, in no circumstances will Bidder be required to pay the Reverse Reimbursement Fee (and vice versa).

13.6 Sole and exclusive remedy

- (a) Bidder acknowledges and agrees that payment of the Reimbursement Fee is the sole and exclusive remedy available to Bidder in connection with any event or occurrence referred to in clause 13.2 (Circumstances where Reimbursement Fee payable) and Target is not liable for any loss or damage arising in connection with any such event or occurrence other than for any liability that it may have to pay Bidder the Reimbursement Fee under this clause 13.
- (b) Target acknowledges and agrees that payment of the Reverse Reimbursement Fee is the sole and exclusive remedy available to Target in connection with any event or occurrence referred to in clause 13.3 (Circumstance where Reverse Reimbursement Fee payable) and Bidder is not liable for any loss or damage arising in connection with any such event or occurrence other than for any liability that it may have to pay Target the Reverse Reimbursement Fee under this clause 13.

13.7 Amendments to Reimbursement Fee Arrangements

If any of the following occurs:

- (a) the Takeovers Panel indicates to either party in writing that it requires any modification to the amount of the Reimbursement Fee or Reverse Reimbursement Fee or the circumstances in which either is to be paid (the **Reimbursement Fee Arrangements**) as a condition of not opposing the Scheme; or

- (b) the Court requires any modification to the Reimbursement Fee Arrangements as a condition of making orders convening the Scheme Meeting,

then the parties must amend this clause 13 to the extent required to give effect to the requirements of the Court or the Takeovers Panel, as the case may be, and in the circumstances referred to in clause 13.7(b) must give the required undertakings.

13.8 Qualifications

No amount will be payable by Target under this clause 13 if the Scheme becomes Effective, notwithstanding the occurrence of any event in clause 13.2. To the extent that any amounts have already been paid under this clause 13 and the Scheme becomes Effective, such amounts will be immediately refunded to Target.

13.9 Target's maximum liability

Notwithstanding any other provision of this Agreement:

- (a) the maximum aggregate amount which Target is required to pay in relation to or in connection with this Agreement or the Transaction (including any breach of this Agreement by Target and any indemnification obligations of Target under this Agreement or any other claim arising directly or indirectly in connection with the Transaction (whether at law (including negligence), in equity, under a statute or regulation, or otherwise)), is the Reimbursement Fee; and
- (b) in no event will the aggregate liability of Target under or in connection with this Agreement or the Transaction exceed the Reimbursement Fee,

provided that these limits will not prevent the Bidder from recovering the actual costs it incurs in connection with this Agreement and the Scheme (to the extent such costs exceed the Reimbursement Fee) if Target has breached its obligations to register all transfers of Shares to the Bidder in accordance with clause 5.1(e)(iv). In addition, nothing in this clause limits the Target's liability for fraud or intentional breach of this Agreement.

13.10 Bidder's maximum liability

Notwithstanding any other provision of this Agreement except for clauses 2.3 and 5.2(b):

- (a) the maximum aggregate amount which the Bidder is required to pay in relation to or in connection with this Agreement or the Transaction (including any breach of this Agreement by the Bidder and any indemnification obligations of the Bidder under this Agreement or any other claim arising directly or indirectly in connection with the Transaction (whether at law (including negligence), in equity, under a statute or regulation, or otherwise)), is the Reverse Reimbursement Fee; and
- (b) in no event will the aggregate liability of the Bidder under or in connection with this Agreement or the Transaction exceed the Reverse Reimbursement Fee,

provided that these limits will not prevent the Target from recovering the actual costs it incurs in connection with this Agreement and the Scheme (to the extent such costs exceed the Reverse Reimbursement Fee) if the Bidder fails to comply with its obligation to pay the Consideration to Shareholders pursuant to clauses 2.3 and 5.2(b). In addition, nothing in this clause limits the Bidder's liability for fraud or intentional breach of this Agreement.

14. Termination

14.1 Events affecting the Target Group

Subject to clause 14.3, Bidder may terminate this Agreement by giving notice in writing to Target before 8.00am on the Implementation Date if:

- (a) Target is in breach of this Agreement (including a breach of a Target Warranty or clause 9.2) and that breach is material in the context of the Scheme and the Target Group taken as a whole. For the avoidance of doubt, it will be a material breach of this Agreement if any Target Director:
 - (i) fails to make the recommendation;
 - (ii) fails to give the statement of intention, referred to in clause 8.1;
 - (iii) changes, qualifies or withdraws that recommendation or statement of intention once made; or
 - (iv) makes any statement inconsistent with that recommendation or that statement of intention (including any statement recommending, supporting or endorsing another transaction (including any Competing Proposal)),

in each case except where (i) the Independent Adviser issues an Independent Adviser's Report which concludes that the Consideration is not within or above the Independent Adviser's valuation range for the Shares; or (ii) if clauses 12.9(a) and 12.9(c) apply, Bidder does not notify Target of termination of this Agreement under clause 12.9(d)(i); or

- (b) a Material Adverse Change occurs on or after the date of this Agreement; or
- (c) a Prescribed Occurrence occurs on or after the date of this Agreement,

provided that, where Bidder is notified by Target, under clause 9.5(b), that Target has become aware that a matter will entitle Bidder to terminate this agreement for a Material Adverse Change under clause 14.1(b), any notification of termination by Bidder under clause 14.1(b) for that Material Adverse Change must be given within 25 Business Days after the date on which Target gives notice to Bidder of that Material Adverse Change under clause 9.5(a). For clarity, the proviso in the previous sentence only applies if the notification expressly states that the relevant matter entitles Bidder to terminate this Agreement under clause (b).

14.2 Events affecting Bidder

Subject to clause 14.3, Target may terminate this Agreement by giving notice in writing to Bidder before 8.00am on the Implementation Date if:

- (a) Bidder is in breach of this Agreement and that breach is material in the context of the Scheme and the Bidder Group taken as a whole; or
- (b) an Insolvency Event occurs in respect of Bidder.

14.3 Notice of termination

A party may only exercise a right of termination under clause 14.1 or clause 14.2 if:

- (a) the party wishing to terminate has given notice to the other party or parties (as applicable) setting out the circumstances that it considers permit it to do so and stating its intention to do so;
- (b) the relevant circumstances have not been remedied within 10 Business Days after the time that the notice is given or any shorter period ending at 5.00pm on the day before the Implementation Date; and
- (c) the party wishing to terminate does so before the earlier to occur of 15 Business Days after the time that the notice under clause 14.3(a) is given and 8.00am on the Implementation Date.

14.4 **Recommendation, Independent Adviser's Report and Superior Proposals**

- (a) Either party may terminate this Agreement by giving notice in writing to Target at any time before 8.00am on the Second Court Date if the Independent Adviser's Report concludes that the Consideration is below the Independent Adviser's valuation range for the Shares.
- (b) Bidder may terminate this Agreement by giving notice in writing to Target at any time before 8.00am on the Implementation Date if any Target Director:
 - (i) fails to make the recommendation, or fails to give the statement of intention, referred to in clause 8.1;
 - (ii) changes, qualifies or withdraws that recommendation or undertaking once made or makes any statement inconsistent with that recommendation or that statement of intention; or
 - (iii) recommends a Competing Proposal.
- (c) Bidder must terminate this Agreement if it gives notice in writing to Target in accordance with clause 12.9(d)(i).
- (d) Target may terminate this Agreement by giving notice in writing to Bidder in accordance with clause 12.9(e).

14.5 **Regulatory conditions not satisfied**

Either Target or Bidder may terminate this Agreement by giving notice in writing to the other if:

- (a) in relation to the OIO Condition:
 - (i) the OIO Condition becomes incapable of satisfaction before the End Date; and
 - (ii) the terminating party has complied with its obligations under clause 3.4, and in all material respects with its obligations under clauses 3.3 and 3.7 in relation to the satisfaction of the OIO Condition; or
- (b) a judgement, order, restraint or prohibition enforced or issued by any Government Agency is in effect at 8.00am on the Implementation Date, that prohibits, prevents or materially restricts the implementation of the Scheme.

14.6 Scheme Resolution not passed

Either Target or Bidder may terminate this Agreement by giving notice in writing to the other if:

- (a) the Scheme Meeting is held but the Scheme Resolution is not passed by the requisite majorities in accordance with sections 236A(2)(a) and 236A(4) of the Companies Act; and
- (b) the terminating party has complied in all material respects with its obligations under this Agreement.

14.7 Court determines not to grant the Final Orders

Subject first to complying with clauses 7.3 and 7.4, either party may terminate this Agreement by giving notice in writing to the other party if the Court determines not to grant the Final Orders and the terminating party has complied in all material respects with its obligations under this Agreement.

14.8 End Date

Either Target or Bidder may terminate this Agreement by giving notice in writing to the other if the Scheme has not become Effective by the End Date, provided that the terminating party's failure to comply with its obligations under this Agreement has not directly and materially contributed to the Scheme not becoming Effective by the End Date.

14.9 Effect of termination

If this Agreement is terminated under this clause 14, then:

- (a) except as provided in clause 14.9(c), all the provisions of this Agreement cease to have effect and each party is released from its obligations to further perform this Agreement;
- (b) each party retains all rights that it has against the other party in respect of any breach of this Agreement occurring before termination; and
- (c) the provisions of, and the rights and obligations of each party under, this clause 14 and each of the Surviving Clauses survive termination of this Agreement.

15. Announcements

15.1 Initial announcements

As soon as reasonably practicable after this Agreement is executed by both parties, Target and Bidder must each issue an announcement in a form agreed with the other. In the case of the announcement to be released by Target, that announcement must include a statement that:

- (a) each Target Director recommends that Shareholders vote in favour of the Scheme; and
- (b) each Target Director intends to vote, or procure the voting of, all Shares held or controlled by him or her or his or her Controlled Associates in favour of the Scheme,

in each case in the absence of a Superior Proposal and subject to the Independent Adviser's Report concluding that the Consideration is within or above the Independent Adviser's valuation range for the Shares.

15.2 Other announcements

Each party must not make, and must procure that its Representatives do not make, any public announcement concerning the Scheme or the subject matter of this Agreement other than:

- (a) the announcements referred to in clause 15.1;
- (b) in the case of Target, any administrative information in relation to the Shareholders approving the Scheme at the Scheme Meeting by the requisite majorities in accordance with sections 236A(2)(a) and 236A(4) of the Companies Act;
- (c) with the written consent of the other party, which must not be unreasonably withheld or delayed;
- (d) where that party merely refers to the other party by name or repeats any material in relation to the other party from an announcement which has previously been released or approved by, or agreed with, the other party (in which case, where practicable, the announcing party must give the other party advance written notice); or
- (e) if required by law, any court of competent jurisdiction, any Government Agency or under the NZX Listing Rules or the ASX Listing Rules, but if either party is so required to make any announcement, it must promptly notify the other party, where practicable and lawful to do so, before the announcement is made and must co-operate with the other party regarding the timing and content of such announcement or any action which the other party may reasonably elect to take to challenge the validity of such requirement.

16. Payments

16.1 Manner of payments

Unless otherwise expressly stated (or as otherwise agreed in the case of a given payment), each payment to be made under this Agreement must be made in NZ\$ by transfer of the relevant amount into the relevant account on or before the date on which the payment is due and in immediately available funds. The relevant account for a given payment is the account that the party due to receive the payment specifies, not less than 10 Business Days before the date on which payment is due, by giving notice to the party due to make the payment.

16.2 Default interest

If a party defaults in making any payment when due of any sum payable under this Agreement, it must pay interest on that sum from (and including) the date on which payment is due until (but excluding) the date of actual payment (after as well as before judgement) at an annual rate of 5% above the Reference Rate on that sum, which interest accrues from day to day and must be compounded monthly.

17. GST

17.1 Interpretation

Words and expressions that are defined in the GST Act have the same meaning when used in this clause 17. For the purposes of this clause 17, references to GST chargeable and input tax credit entitlements of any entity include GST chargeable against, and the input tax credit entitlements of, the representative member of the GST group of which the entity is a member.

17.2 Consideration exclusive of GST

All amounts payable or consideration to be provided under or in connection with this Agreement are stated before the addition of GST, if any (**GST Exclusive Consideration**).

17.3 Payment of GST

If GST is chargeable on any supply made under or in connection with this Agreement the recipient must pay to the party that has made or will make the supply (the **Supplier**), in addition to the GST Exclusive Consideration, an additional amount equal to the GST chargeable on that supply (the **Additional Amount**). The recipient must pay the Additional Amount without set-off, demand or deduction, at the same time and in the same manner as any GST Exclusive Consideration for that supply is required to be paid, except that the recipient is not required:

- (a) to pay the Additional Amount unless and until the Supplier has issued a tax invoice under clause 17.4; or
- (b) to pay any GST Default Amounts included in the Additional Amount if those GST Default Amounts result from the Supplier failing to comply with its obligations under the GST Act.

17.4 Tax invoice

For any supply to which clause 17.3 applies, the Supplier must issue a tax invoice which complies with the GST Act.

17.5 Adjustments

If an event referred to in section 25(1) of the GST Act occurs in relation to a taxable supply made under or in connection with this Agreement, the GST payable on that supply will be recalculated to reflect that adjustment, a debit note or credit note will be issued as required by the GST Act and an appropriate payment will be made between the parties.

17.6 Input tax credits

Notwithstanding any other provision of this Agreement, if an amount payable under or in connection with this Agreement is calculated by reference to any loss, damage, cost, expense, charges or other liability incurred or suffered by a party, then the amount payable must be reduced by the amount of any input tax credit or other deduction from output tax to which that entity is entitled in respect of the acquisition of any supply to which the loss, damage, cost, expense, charge or other liability relates. For the avoidance of doubt, this clause 17.6 does not apply to adjust the Reimbursement Fee or Reverse Reimbursement Fee.

18. Notices

18.1 Manner of giving notice

Any notice or other communication to be given under this Agreement must be in writing (which includes email) and may be delivered or sent by post or email to the party to be served as follows:

(a) to Target at:

Address: 41 Jomac Place, Avondale, Auckland, 1026, New Zealand

Email: dbanfield@Methven.com

For the attention of: David Banfield

with a copy (which shall not constitute notice) to:

Address: Simpson Grierson, Level 27, 88 Shortland St, Auckland, 1010

Email: Andrew.Matthews@simpsongrierson.com

For the attention of: Andrew Matthews

(b) to Bidder at:

Address: 7 Eagleview Place, Eagle Farm Queensland 4009, Australia

Email: RThornton@gwagroup.com.au

For the attention of: Richard Thornton

with copies to:

Address: Bell Gully, Level 22, Vero Centre, 48 Shortland Street, PO Box 4199, Auckland

Email: james.cooney@bellgully.com

For the attention of: James Cooney

and

Address: Clayton Utz, Level 28, Riparian Plaza, 71 Eagle Street, Brisbane QLD 4000 Australia

Email: ahay@claytonutz.com

For the attention of: Andrew Hay

or at any such other address or email address notified for this purpose to the other parties under this clause. Any notice or other communication sent by post must be sent by prepaid ordinary post (if the country of destination is the same as the country of origin) or by airmail (if the country of destination is not the same as the country of origin).

18.2 When notice given

Any notice or other communication is deemed to have been given:

- (a) if delivered, on the date of delivery; or
- (b) if sent by post, on the third day after it was put into the post (for post within the same country) or on the fifth day after it was put into the post (for post sent from one country to another); or
- (c) if sent by email, four business hours (being the hours between 9am and 5pm on a Business Day in the jurisdiction of the recipient) 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 (excluding an "out of office" automated message),

but if the notice or other communication would otherwise be taken to be received after 5.00 pm or on a Saturday, Sunday or public holiday in the place of receipt then the notice or communication is taken to be received at 9.00 am on the next day that is not a Saturday, Sunday or public holiday in the place of receipt.

18.3 Proof of service

In proving service of a notice or other communication, it is sufficient to prove that delivery was made or that the envelope containing the communication was properly addressed and posted either by prepaid post or by prepaid airmail or that the e-mail was properly addressed and transmitted by the sender's server into the network and there was no apparent error in the operation of the sender's e-mail system, as the case may be.

18.4 Documents relating to legal proceedings

This clause 18 does not apply in relation to the service of any claim form, notice, order, judgement or other document relating to or in connection with any proceedings, suit or action arising out of or in connection with this Agreement.

19. General

19.1 Amendments

- (a) This Agreement may only be amended prior the Scheme becoming Effective.
- (b) Any amendment to this Agreement will only be effective if it is in writing and signed by all the parties.
- (c) Notwithstanding clauses 11.1(f) and 11.2(f) this Agreement may be varied by the parties to it without the approval of any Target Indemnified Person, any Bidder Indemnified Person or any director, officer or employee of Target or of any other member of the Target Group.

19.2 Assignments

None of the rights or obligations of a party under this Agreement may be assigned, transferred or novated without the prior written consent of the other party (such consent not to be unreasonably withheld).

19.3 **Costs**

Except as otherwise expressly provided in this Agreement, each party must pay the costs and expenses incurred by it in connection with entering into and performing its obligations under this Agreement, the Scheme and the Deed Poll.

19.4 **Entire agreement**

This Agreement contains the entire agreement between the parties relating to the Transaction and supersedes all previous agreements, whether oral or in writing, between the parties relating to the Transaction except for the Confidentiality Agreement.

19.5 **Execution in counterparts**

This Agreement may be executed in counterparts, which taken together must constitute one and the same agreement, and any party (including any duly authorised representative of a party) may enter into this Agreement by executing a counterpart. Scanned signatures are taken to be valid and binding to the same extent as original signatures.

19.6 **Exercise and waiver of rights**

The rights of each party under this Agreement:

- (a) may be exercised as often as necessary;
- (b) except as otherwise expressly provided by this Agreement, are cumulative and not exclusive of rights and remedies provided by law; and
- (c) may be waived only in writing and specifically,

and delay in exercising or non exercise of any such right is not a waiver of that right.

19.7 **Further assurance**

Each party undertakes, at the request, cost and expense of the other party, to sign all documents and to do all other acts, which may be necessary to give full effect to this Agreement.

19.8 **Severability**

The provisions contained in each clause of this Agreement are enforceable independently of each other clause of this Agreement and the validity and enforceability of any clause of this Agreement will not be affected by the invalidity or unenforceability of any other clause.

20. **Governing law and jurisdiction**

20.1 **Governing law**

This Agreement and any non-contractual obligations arising out of or in connection with it is governed by the law applying in New Zealand.

20.2 **Jurisdiction**

The courts having jurisdiction in New Zealand have non-exclusive jurisdiction to settle any dispute arising out of or in connection with this Agreement (including a dispute relating to any

non-contractual obligations arising out of or in connection with this Agreement) and each party irrevocably submits to the non-exclusive jurisdiction of the courts having jurisdiction in New Zealand.

Execution

Executed as an agreement.

Methven Limited by


Director

ALISON BARRASS
Print Name

BELL GULLY

GWA Group Limited by



Director

DARRYL McDONOUGH

Print Name



Director

Richard Thornton

Print Name

Schedule 1: Prescribed Occurrences

1. Target authorises, declares, pays, or makes any dividends, bonuses or other payments or distributions (within the meaning of the Companies Act) of any nature (including, without limitation, any Share buybacks, redemptions or other form of capital reduction) on or in respect of, any of the Shares other than a Permitted Dividend.
2. Any Target Group member issuing, agreeing to issue, or granting an option or right to subscribe for, shares, convertible securities, other securities or financial products of any nature (including warrants, options, phantom or cash settled rights over Shares, convertible notes, entitlements, rights or interests in any ordinary shares) other than the issuing of shares by a wholly owned subsidiary of Target to Target or another wholly owned subsidiary of Target.
3. Target or a member of the Target Group:
 - (a) altering the rights, privileges, benefits, entitlements or restrictions attaching to any securities (including the Shares) or other securities or financial products (if any) of any member of the Target Group;
 - (b) converting all or any of the Shares into a larger or smaller number;
 - (c) buying back (or agreeing to buy back) any shares.
4. Any alteration to the constitutional documents of any member of the Target Group.
5. An Insolvency Event occurs in respect of a member of the Target Group that is material to the Target Group as a whole.
6. A resolution is passed for any amalgamation of any member of the Target Group, or any of them is involved in any merger or scheme of arrangement (other than a solvent scheme of arrangement or an amalgamation, merger or scheme of arrangement involving solely Target and/or one or more wholly owned subsidiaries of Target).
7. The Shares cease to be quoted on the NZX or are suspended for trading on the NZX Main Board for a period of more than three trading days.
8. Any member of the Target Group disposes (or agrees to dispose), grants any person an option to acquire, right to acquire, first right of refusal or pre-emptive right or other adverse interest in respect of, the whole or a substantial part of the Target Group's business or property.
9. A member of the Target Group entering into a transaction with a related party (other than a related party that is also a member of the Target Group) that is material to the Target Group taken as a whole.
10. Target or another Target Group member amending (or agreeing to amend) in a material respect any agreement or arrangement with any financial advisor in relation to the Transaction or a Competing Proposal, or entering into an agreement or arrangement with a new financial advisor, in respect of the Transaction or a Competing Proposal.
11. The board or shareholders of a Target Group member pass a resolution to do or authorise the doing of any act or matter referred to in any of paragraphs 1 to 11.

Schedule 2: Target Warranties and Undertakings

PART 1

TARGET WARRANTIES

1. Target is a corporation validly existing under the laws of its place of incorporation.
2. Target has the power to execute this Agreement and to perform its obligations under this Agreement and the Scheme, and has taken all necessary corporate action to authorise such execution and the performance of such obligations.
3. Target's obligations under this Agreement are legal, valid and binding obligations enforceable subject to and in accordance with their terms.
4. The execution by Target of this Agreement and the performance of its obligations under this Agreement and the Scheme do not and will not conflict with or constitute a default under any provision of:
 - (a) its constitution; or
 - (b) any law, order, judgement, award, injunction, decree, rule or regulation by which Target is bound.
5. Target has filed with the Registrar and NZX all documents required to be filed with the Registrar or NZX including pursuant to NZX Listing Rule 10.1 (**Target Reporting Documents**) and is not in breach of its continuous and periodic disclosure obligations under the Companies Act or the NZX Listing Rules and is not relying on the carve-out in NZX Listing Rule 10.1 to withhold any information from public disclosure.
6. No Prescribed Occurrence has occurred on or after 5 September 2018.
7. Each member of the Target Group has complied in all material respects with all New Zealand and foreign laws and regulations applicable to them (save for instances of non-compliance which do not have a material adverse impact on the Target Group), has all material Authorisations for them to conduct the business of the Target Group as presently being conducted and, so far as Target is aware, no member of the Target Group is under investigation with respect to the violation of any laws or applicable Authorisations.
8. As at the date of this Agreement, Target's capital structure is as set out in Schedule 4 Part A, and the Target Group's capital structure as set out in Part B and there are no other shares, options or other securities (including equity securities, debt securities or convertible securities) or other instruments which are convertible into securities in a member of the Target Group on issue, nor has any member of the Target Group offered or agreed to issue or grant, and no person has any right to call for the issue or grant of, any such shares, options or other securities or other instruments to any Third Party.
9. As at 8.00am on the Implementation Date, there will be on issue no more than 73,482,816 Shares, and no securities, options, performance rights or instruments will be outstanding or become outstanding which give (or may give) any right to or which may become convertible into Shares.
10. Target is not in negotiations or discussions (other than with Bidder and its Representatives) with any party relating to any Competing Proposal except as permitted under clause 12.

11. The execution of this Agreement by Target will not affect any waiver or amendment of any standstill agreement or arrangement between Target and any person other than a member of the Bidder Group.
12. Target Group does not have any outstanding financing (other than, for the avoidance of doubt, foreign exchange hedging which has been fairly disclosed in the Due Diligence Material or which is entered into during the period commencing on the date of this Agreement and ending the Implementation Date in accordance with clause 9.2) that is not reflected in either its financial statements and notes thereto for the year ended 30 June 2018 or its financial statements, and since 30 June 2018 no member of Target Group has engaged in any financing of a type which is not required to be shown or reflected in its financial statements or notes thereto.
13. Other than as fairly disclosed in the Due Diligence Material, there is no current or, so far as the Target is aware on the date of this Agreement, pending or threatened claim, dispute, demand, action, litigation, prosecution, arbitration, investigation, mediation or other proceeding which could reasonably be expected to result in an award, settlement, fine, penalty, order, loss or other liability to the Target Group of more than \$250,000.
14. It has prepared the Due Diligence Material in good faith and with reasonable skill and care.
15. As far as Target is aware:
 - (a) all information in the Due Diligence Material is true and correct in all material respects and is not misleading or deceptive in any material respect, including by omission (with any omissions to be assessed when taken together with any information fairly disclosed by the Target to NZX during the period commencing on 1 January 2017 and ending the date immediately prior to the date this Agreement); and
 - (b) except as fairly disclosed in the Disclosure Letter, the Data Room Information contains all information, on an unredacted basis, regarding matters known to Target affecting or relating to the financial position, business, operations, assets, prospects or profitability of the Target Group or the value of the Shares where such information might reasonably be expected to result in a reasonable purchaser of the Shares not entering into an agreement to purchase the Shares or materially changing the terms of this Agreement.
16. As far as Target is aware, except as fairly disclosed in the Due Diligence Material, neither the execution of this Agreement, nor the implementation of the Scheme, will:
 - (a) entitle any person to cancel, terminate earlier than would otherwise have been the case, or adversely modify any material agreement to which any member of the Target Group is a party or under which any member of the Target Group is entitled to a right or benefit, or any material provision thereof;
 - (b) entitle any person to acquire, or to require any member of the Target Group to dispose of, any right, benefit or asset held by a Target Group member or to which it is entitled, or any interest therein; or
 - (c) entitle any person to any payment, or the provision of any other valuable consideration, by a member of the Target Group.
17. Target has fairly disclosed to Bidder in the Data Room Information all material existing terms of all material contracts and leases as at the date of this Agreement (including those that contain a change of control provision, unilateral termination rights or other rights which may be triggered by or exercised in response to the implementation of the Scheme).
18. As at the date of this Agreement, so far as the Target is aware, no Target Group member is in default under any material document, agreement or instrument binding on it or its assets nor has anything occurred which is or would with the giving of notice or the lapse of time constitute

an event of default, prepayment event or similar event and would be reasonably likely to give rise to a loss or liability for the Target Group of more than \$250,000.

19. As at the date of this Agreement, Target has disclosed to Bidder in the Data Room all information that has been provided or made available to the Independent Adviser for the purposes of preparing the Independent Adviser's Report.
20. As at the date of this Agreement, there is no matter, event or circumstance which would, or is likely to, constitute a Material Adverse Change.
21. As far as Target is aware:
 - (a) there is no material contamination present in, on or under any of the land or premises currently used or occupied by the Target Group (other than any contamination arising after the date of this Agreement which has been caused by a third party); and
 - (b) no member of the Target Group has sold or supplied products which are faulty or defective and which might reasonably be expected to give rise to a material claim against a member of the Target Group, and Target is not aware of any pending material claim for the sale or supply of faulty or defective products against a member of the Target Group.
22. No action, claim, litigation, prosecution or other form of proceeding has been notified or commenced, or as far as Target is aware is reasonably likely to be notified or commenced, against, or by, any member of the Target Group that is materially adverse to the Target Group, taken as a whole.
23. No action, claim, litigation, prosecution, investigation by a Government Agency or other form of proceeding is notified or commenced, or as far as Target is aware is reasonably likely to be notified or commenced, against any member of the Target Group that is material in respect of the Transaction or is materially adverse to the Target Group, taken as a whole.
24. The Data Room Information includes details of all of the Target Group's unregistered interests in land in New Zealand.
25. Other than as fairly disclosed in the Due Diligence Material:
 - (a) since 5 September 2018 no Target Group member has made (or has agreed to make) any payments outside of the ordinary course of business which are material, or could be material, to the Target Group taken as a whole; or
 - (b) no Target Group member has incurred (or agreed to incur) any commitments, outside of the ordinary course of business which remain material or could continue to be material to the Target Group taken as a whole.
26. Other than as disclosed in the Due Diligence Material, no member of the Target Group is, or will be, under any obligation to make any payment or provide any consideration to any of its employees or directors in the event of any member of the Target Group becoming a subsidiary of the Bidder or under the Bidder's control, which is material in the context of the Target Group taken as a whole (unless approved in writing by the Bidder).

PART 2**TARGET UNDERTAKINGS**

1. Target will ensure that the Target Information:
 - (a) is prepared in good faith and on the understanding that each of the Bidder Indemnified Parties will rely on that information for the purposes of considering and approving the Bidder Information in the Scheme Booklet;
 - (b) complies with the Companies Act, FMCA and all other applicable laws, the NZX Listing Rules and IFRS (to the extent applicable); and
 - (c) in the form and context in which it appears in the Scheme Booklet is true and correct in all material respects and is not misleading or deceptive, including by omission as at the date the Scheme Booklet is sent to Shareholders.
2. Target will provide to Shareholders and Bidder all new material information of which it becomes aware after the Scheme Booklet has been sent to Shareholders and before the date of the Scheme Meeting (and any other information with respect to Bidder that is required to be disclosed in the Scheme Booklet but was not include in the Scheme Booklet) which is necessary to ensure that the Target Information, in the form and context in which it appears in the version of the Scheme Booklet sent to Shareholders, is not misleading or deceptive, including by omission.
3. All information provided by or on behalf of Target to the Independent Adviser will be provided in good faith and on the understanding that the Independent Adviser will rely upon that information for the purpose of preparing the Independent Adviser's Report for inclusion in the Scheme Booklet, will be true and correct in all material respects and will not be misleading or deceptive including by omission.
4. If any information is made available to the Independent Adviser for the purpose of preparing the Independent Adviser's Report which has not previously been provided in writing to the Bidder or was not included in the Due Diligence Material, then Target must provide that information to Bidder at the same time as it is provided or made available to the Independent Adviser.

Schedule 3: Bidder Warranties and Undertakings

PART 1

BIDDER WARRANTIES

1. Bidder is a corporation validly existing under the laws of its place of incorporation and Bidder Nominee will, on execution of the Deed Poll, be a corporation validly existing under the laws of its place of incorporation.
2. Bidder has the power to execute and deliver and to perform its obligations under this Agreement and the Deed Poll and Bidder Nominee will, on execution of the Deed Poll, have the power to execute and deliver and to perform its obligations under the Deed Poll, and both will have taken all necessary corporate action to authorise such execution and delivery and the performance of such obligations.
3. The obligations of Bidder under this Agreement are, and on execution of the Deed Poll the obligations of Bidder and Bidder Nominee under the Deed Poll will be, legal, valid and binding obligations enforceable subject to and in accordance with their terms.
4. The execution and delivery by Bidder of this Agreement and the execution and, in due course, delivery by Bidder and Bidder Nominee of the Deed Poll do not and will not conflict with or constitute a default under any provision of:
 - (a) any agreement or instrument to which Bidder or Bidder Nominee is a party;
 - (b) the constitution or equivalent documents of Bidder or Bidder Nominee; or
 - (c) any law, order, judgement, award, injunction, decree, rule or regulation by which Bidder is bound.
5. Bidder's and Bidder Nominee's directors are of good character (for the purposes of section 16(c) of the Overseas Investment Act 2005) and are not individuals of a kind referred to in section 15 or 16 of the Immigration Act 2009.
6. As at 8.00am on the Second Court Date Bidder Nominee will have binding agreements in place to fund its obligation to pay the Consideration in accordance with the Scheme and the Deed Poll conditional only upon:
 - (a) the Court approving the Scheme and the Scheme becoming Effective; and
 - (b) the Conditions (to the extent they have not been satisfied or waived prior to the Second Court Date) and other customary conditions precedent to draw down.

PART 2

BIDDER UNDERTAKINGS

1. Bidder will ensure that the Bidder Information:
 - (a) is prepared in good faith and on the understanding that each of the Target Indemnified Parties will rely on that information to prepare the Scheme Booklet and to propose and implement the Scheme in accordance with the Companies Act;
 - (b) complies with the Companies Act and the FMCA and all other applicable laws; and

- (c) is in the form and context in which it appears in the Scheme Booklet is true and correct in all material respects and is not misleading or deceptive, including by omission as at the date the Scheme Booklet is sent to Shareholders.
- 2. Bidder will provide to Target all new material information of which it becomes aware after the Scheme Booklet has been sent to Shareholders and before the date of the Scheme Meeting (and any other information with respect to Bidder that is required to be disclosed in the Scheme Booklet but was not include in the Scheme Booklet) which is necessary to ensure that the Bidder Information, in the form and context in which that information appears in the version of the Scheme Booklet sent to Shareholders, is not misleading or deceptive in any material respect, including by omission.
- 3. All information provided by or on behalf of Bidder to the Independent Adviser will be provided in good faith and on the understanding that the Independent Adviser will rely upon that information for the purpose of preparing the Independent Adviser's Report for inclusion in the Scheme Booklet, will be true and correct in all material respects and will not be misleading or deceptive, including by omission.
- 4. Subject to the Companies Act and the Scheme becoming Effective, Bidder undertakes in favour of Target and each Target Indemnified Party that it will:
 - (a) subject to clause 5 below, for a period of 7 years from the Implementation Date, ensure that the constitutions of Target and each Target Group member continue to have equivalent obligations to those currently contained in their constitutions at the date of this Agreement that provide for each company to indemnify each of its current and former directors and officers against any liability (excluding for fraud or wilful misconduct) incurred by that person in his or her capacity as a director or officer of the company to any person other than a member of the Target Group member; and
 - (b) procure that Target and each Target Group member complies with any provisions in deeds of indemnity, access and insurance made by them in favour of their respective directors and officers from time to time and without limiting the foregoing, Bidder will ensure that the directors' and officers' run-off insurance cover already in place and fully paid before the date of this Agreement, for those directors and officers is maintained on no less favourable terms than Target's current directors and officers policy, subject to clause 5 below, for a period of 7 years from the retirement date of each director and officer. For the avoidance of doubt, this clause does not intend to impose any obligation on Bidder to pay for run-off insurance or any further insurance to achieve these purposes.
- 5. The undertakings contained in clause 4 above are given until the earlier of the end of the relevant period specified in that clause or the relevant Target Group member ceasing to be part of the Bidder Group.

Schedule 4: Capital Structure

PART A

Type of security	Total number on issue
Ordinary shares	73,482,816

PART B

Entity name	Total number on issue	Class	Name of shareholder(s)
Methven Limited	73,482,816	Ordinary	Publicly listed on NZX.
Plumbing Supplies (NZ) Limited	1000	Ordinary	Methven Limited
Methven Australia Pty Limited	1,335,000	Ordinary	Methven Limited
Methven Hotel Solutions Pty Limited (non-trading)	500,000	Ordinary	Methven Australia Pty Limited
Methven USA Inc. (non-trading)	1,000	Ordinary	Methven Limited
Methven UK Limited	8,865,000	Ordinary	Methven Limited
Deva Tap Company Limited (Dormant)	2	Ordinary	Methven UK Limited
Methven (Xiamen) Trading Co. Limited (non-trading)(In the process of liquidation)	Registered Capital: 3,000,000 RMB	Ordinary	Methven Limited
Heshan Methven Bathroom Fitting Co. Ltd	Registered Capital: 2,100,000 USD	Ordinary	Methven Limited

Schedule 5: Timetable

	Event	Indicative Date
1.	Execution of this Agreement by Target	14 December 2018
2.	Announcement that this Agreement has been entered into	14 December 2018
3.	Draft Scheme Booklet (excluding Independent Adviser's Report) provided to Bidder	Within 2 Business Days of item 1
4.	Draft Scheme Booklet provided to the Takeovers Panel and NZX for review	Within 3 Business Days of item 3
5.	Scheme Booklet (including Independent Adviser's Report) approved by Takeovers Panel and NZX	Within 21 Business Days of item 4
6.	First Court Date	The earliest practicable Court date in February 2019
7.	Scheme Booklet sent to Shareholders (including Independent Adviser's Report)	Within 5 Business Days of receiving the Initial Orders
8.	Time and date for determining eligibility to vote at Scheme Meeting	48 hours before the scheduled meeting time for the Scheme Meeting
9.	Scheme Meeting	20 Business Days of item 7
10.	Second Court Date	10 Business Days after the Scheme Meeting
11.	Final Orders Date	One Business Day after the Second Court Date (assuming that a hearing is held)
12.	Record Date	5 Business Days after the later of the: (a) the Final Orders Date; and (b) the date on which the OIO Condition is satisfied.
13.	Implementation Date	5 Business Days after the Record Date

Schedule 6: Standard OIO Conditions

For the purposes of clause 3.1(a)(i) of the Agreement, the terms and conditions are:

- (a) the time period after which the consent will lapse if the Shares have not been acquired by and transferred to Bidder, provided such date is not less than 12 months from the date of the consent;
- (b) the requirement for Bidder to acquire the Shares using the acquisition, ownership and control structure described in the application
- (c) the requirement for Bidder to notify the Overseas Investment Office (**OIO**) in writing confirming that settlement of the acquisition of the Shares took place, such notice to include:
 - (i) the date of settlement;
 - (ii) the final consideration paid;
 - (iii) the structure by which the acquisition was made;
 - (iv) where applicable, copies of transfer documents and settlement statements; and
 - (v) any other information that would aid the OIO in its function to monitor conditions of consent;
- (d) the requirement that Bidder, or the individuals with control of Bidder, must:
 - (i) continue to be of good character; and
 - (ii) not become an individual of the kind referred to in sections 15 or 16 of the Immigration Act 2009 (New Zealand);
- (e) the requirement that Bidder must notify the OIO within 20 business days if Bidder:
 - (i) or any person in which Bidder has, or had at the time of the offence or contravention, a 25% or more ownership or control interest, commits an offence or contravenes the law (whether convicted or not) or becomes aware of any matters that reflect adversely on their fitness to acquire the Shares;
 - (ii) ceases to be an overseas person;
 - (iii) disposes of the Shares;
 - (iv) or any person in which Bidder has, or had at the time of the offence or contravention, a 25% or more ownership or control interest, becomes bankrupt or insolvent, has an administrator, receiver liquidator, statutory manager, mortgagee's or chargee's agent appointed or becomes subject to any form of external administration; or
 - (v) the NZ service address changes;
- (f) the requirement that Bidder report in writing annually to the OIO detailing progress of its business plan during the financial year;
- (g) the requirement that Bidder must provide a written report within 20 Business Days on any matter relating to its compliance with:

- (i) the representations and plans made or submitted in support of the application and notified by the OIO as having been taken into account when the consent was granted; or
 - (ii) the conditions of consent;
- (h) the requirement that the information provided by Bidder to the OIO or the relevant Minister or Ministers in connection with the application for the consent was correct at the time it was provided;
- (i) the requirement that Bidder must comply with the representations and plans made or submitted in support of the application and notified by the OIO as having been taken into account when the consent was granted, unless compliance should reasonably be excused;
- (j) the requirement that Bidder must allow a person appointed by the OIO to conduct an inspection any land which is the subject of the application for the consent (**Inspector**) for the purpose of monitoring compliance with the OIO consent conditions (**Inspection**), provided that Bidder has been given at least two business days' notice of the Inspection.
- (k) the requirement that, for the purpose of conducting an Inspection, Bidder must allow an Inspector to:
 - (i) gather information and provide that information to the OIO;
 - (ii) enter any land which is the subject of the application for the consent;
 - (iii) remain for as long as is reasonably required to conduct the Inspection;
 - (iv) conduct surveys, inquiries, tests, and measurements;
 - (v) take photographs and video recordings; and
 - (vi) do all other things that are reasonably necessary to enable an Inspector to carry out an Inspection, including providing transport across any land which is the subject of the application for the consent if reasonably required;
- (l) the requirement that Bidder must take all reasonable steps to facilitate an Inspection, including:
 - (i) directing its employees or agents to permit an Inspector to conduct an Inspection; and
 - (ii) being available, or requiring its agents or employees to be available at all reasonable times during an Inspection to facilitate access by an Inspector onto and across the any land which is the subject of the application for the consent, including providing transport across any such land if reasonably required.

Schedule 7: Defined Terms and Interpretation

1. Defined terms

In this Agreement, unless the context requires otherwise:

Additional Amount has the meaning given in clause 17.3;

Associate has the meaning given in the Takeovers Code, and **Associated** has the corresponding meaning;

ASX Listing Rules means the official listing rules of ASX Limited (ABN 98 008 624 691);

Authorisation means any permit, licence, consent, approval, registration, accreditation, certification or other authorisation given or issued by any Government Agency;

Bidder Group means Bidder and its Related Entities (but excluding members of the Target Group);

Bidder Indemnified Persons means each member of the Bidder Group and each of their respective directors, officers, employees and other Representatives;

Bidder Information means all information given by Bidder to Target for inclusion in the Scheme Booklet, or any supplementary information for Shareholders, concerning:

- (a) Bidder, Bidder Nominee (if applicable), their Related Entities, business and interests and dealings in the Shares;
- (b) Bidder's intentions for the Target business, its employees and funding;
- (c) any other information concerning Bidder and its Related Entities (or its or their Associates) required under section 236(2)(a) of the Companies Act or by the requirements of the guidance note issued by the Takeovers Panel in relation to schemes of arrangement and amalgamations under Part 15 of the Companies Act (as amended, updated and reissued from time to time);

Bidder Nominee has the meaning given to that term in clause 2.7(a);

Bidder Undertakings means the undertakings set out in Part 2 of Schedule 3;

Bidder Warranties means the statements set out in Part 1 of Schedule 3;

Board means the board of directors of Target;

Business Day means a day (other than a Saturday, Sunday or public holiday) on which banks are open for general banking business in Auckland, New Zealand and Brisbane, Australia;

Capex Plan means the most recent capital expenditure plan and capital expenditure forecasts for the Target Group for FY19, disclosed at 7.2.11 of the Data Room Information;

Companies Act means the Companies Act 1993;

Competing Proposal means a proposal, offer, agreement, arrangement or transaction (including by way of takeover offer, scheme of arrangement, capital reduction, sale of assets, sale or issue of securities or joint venture) which, if completed, would result in a Third Party (whether alone or together with its Associates):

- (a) directly or indirectly acquiring or being entitled to acquire a Relevant Interest or any other direct or indirect interest in more than 20% of the shares of Target (other than the acquisition of legal title of custodial shares by a person as bare trustee);
- (b) directly or indirectly acquiring or being entitled to acquire the whole of the business or assets of the Target Group (including any other member or members of the Target Group) or any part of the business or assets of the Target Group, where the assets or business acquired individually or collectively contributes 20% or more of the consolidated EBITDA of the Target Group or represents 20% or more of the total consolidated assets of the Target Group; or
- (c) acquiring Control of Target or merging or amalgamating with Target or any other member or members of the Target Group that individually or collectively contribute 20% or more of the consolidated EBITDA of the Target Group or whose assets represent 20% or more of the total consolidated assets of the Target Group,

For the purposes of the definition of Competing Proposal, paragraphs (a), (b) and (c) above include any agreement (within the meaning of section 6 of the FMCA) whereby such a transaction is effected through a series of linked or related transactions which if conducted as a single transaction would constitute a Competing Proposal within the meaning of either of paragraphs (a), (b) or (c);

Conditions mean the conditions precedent set out in the first column of the table in clause 3.1;

Confidentiality Agreement means the confidentiality agreement between Bidder and Target dated 23 October 2018;

Consideration means NZ\$1.60 in respect of each Share held by a Scheme Shareholder, reduced (except for the purposes of clauses 6.3, 8.1(b), 8.2(a), 13.2(a)(ii), 14.1(a), 14.4(a), 14.4(b) and 15.1) by the per Share value of any other dividend the record date for which falls between the date of this Agreement and the Implementation Date (other than a Permitted Dividend);

Control means, in relation to a person (the “relevant person”) and one or more other persons, where those one or more persons, directly or indirectly, whether by the legal or beneficial ownership of shares, securities or other equity, the possession of voting power, by contract, trust, or otherwise:

- (a) has the power to appoint or remove the majority of the members of the governing body of the relevant person;
- (b) controls, or has the power to control, the affairs or policies of the relevant person; or
- (c) is in a position to derive more than 50% of the economic benefit of the existence or activities of the relevant person;

Counter Proposal has the meaning given in clause 12.7(b)(vi);

Court means the High Court of New Zealand, Auckland Registry;

Data Room means the electronic data room hosted by Ansarada and assembled by Target in connection with the Transaction;

Data Room Information means:

- (a) the written information and documents made available to Bidder or its Representatives before the date of this Agreement, in the Data Room, an index to which has been initialled for the purposes of identification by or on behalf of the parties; and
- (b) the written answers or written confirmations provided to Bidder or its Representatives before the date of this Agreement in response to requests for information, copies of which have been compiled and initialled for the purposes of identification by or on behalf of the parties;

Deed Poll means the deed poll to be entered into by Bidder and Bidder Nominee (if applicable) in favour of the Scheme Shareholders in the form attached as Annexure B or in such other form as the parties agree in writing;

Designated Persons means each Target Director, David Banfield, Aaron Latimer, Fraser Houghton, Lindsay Render, Andy Chen and Martin Walker;

Disclosure Letter means the disclosure letter given by Target to Bidder in a form agreed by the parties as at the date of this Agreement;

Due Diligence Material means the Data Room Information and the Disclosure Letter;

Duty means any stamp, transaction or registration duty or similar charge imposed by any Government Agency and any penalty, fine, interest or additional charge payable in relation to any such duty or charge;

EBITDA means earnings before interest, tax, depreciation and amortisation as calculated in accordance with past practice;

Effective means, when used in relation to the Scheme, the coming into effect under section 236(3) of the Companies Act of the order of the Court made under section 236(1) of the Companies Act in relation to the Scheme and all of the conditions to the implementation of the Scheme having been satisfied or waived in accordance with this Agreement and the Scheme;

Encumbrance means any security interest (within the meaning of section 17(1)(a) of the Personal Property Securities Act 1999) and any option, right to acquire, right of pre-emption, assignment by way of security, trust arrangement for the purpose of providing security, retention arrangement or other security interest of any kind (other than any reservation of title by suppliers in the ordinary course of business), and any agreement to create any of the foregoing;

End Date means:

- (a) the date that is six months from the date of this Agreement provided that if a OIO Condition has not been satisfied by the date that is six months from the date of this Agreement but a party (acting reasonably) considers that the OIO Condition is capable of satisfaction by the date that is nine months from the date of this Agreement, either party may elect, by providing written notice to the other, to extend the date for satisfaction of the Conditions to the date that is nine months from the date of this Agreement; or
- (b) any other date agreed in writing by the parties;

Excluded Event means any event or change in circumstances:

- (a) resulting from the exercise by any party of its rights, or the discharge by any party of its obligations, under this Agreement other than the Target's:
 - (i) obligations under clause 9.2(a) and 9.2(e); and
 - (ii) rights under clauses 9.2 and 9.3;
- (b) resulting from any change in interest rates, exchange rates, general economic, financial, regulatory, legal or political conditions or requirements generally affecting businesses in the industry in which the Target Group operates or the markets in which the Target Group operates or trades which do not disproportionately adversely affect the business of the Target Group compared with other businesses which operate in that industry;
- (c) fairly disclosed to NZX during the period commencing on 1 January 2017 and ending on the date immediately prior to the date of this Agreement or to Bidder in the Due Diligence Materials;
- (d) arising from an action, omission, event, change, matter, or circumstance previously approved in writing by Bidder, including any consequences reasonably foreseeable as a result of such matters;
- (e) resulting solely from the actual or anticipated change of control of Target contemplated by this Agreement provided that the relevant agreement or arrangement was fairly disclosed in the Due Diligence Material;
- (f) resulting from changes in generally accepted accounting principles;
- (g) resulting from a widespread change in the interpretation of generally accepted accounting principles(including IFRS 9 and IFRIS 15); or
- (h) resulting from the implementation of IFRS 9 and IFRIS 15;

Excluded Shares means any Shares nominated in writing by Bidder to Target not less than two Business Days prior to the Record Date which are held or controlled by Bidder or any of its Associates at 5.00pm on the Record Date;

Exclusivity Period means the period starting on the date of this Agreement and ending on the first to occur of:

- (a) termination of this Agreement;
- (b) the Implementation Date; and
- (c) the End Date;

Final Orders means orders on application of Target, that the Scheme shall be binding on Target, Bidder, Bidder Nominee (if applicable), Shareholders and such other persons or class of persons as the Court may specify, in accordance with section 236(1) (and section 237, if applicable) of the Companies Act;

Final Orders Date means the day on which the Final Orders are granted by the Court;

First Court Date means the first date on which the application is made to the Court for the Initial Orders in accordance with section 236(2) of the Companies Act;

FMCA means the Financial Markets Conduct Act 2013;

FY19 means the financial year ending 30 June 2019;

Government Agency means any government, any department, officer or minister of any government, and any governmental, semi-governmental, administrative, fiscal, judicial or quasi-judicial agency, authority, board, commission, tribunal or entity and any court;

GST means goods and services tax charged or levied under the GST Act, and includes any GST Default Amounts;

GST Act means the Goods and Services Tax Act 1985 (as amended) or the equivalent indirect tax legislation of any other country;

GST Default Amounts means any penalties, additional tax or interest payable in respect of goods and services tax;

GST Exclusive Consideration has the meaning given in clause 17.2;

IFRS means the New Zealand equivalent to the International Financial Reporting Standards as adopted by the New Zealand Accounting Standards Review Board;

Implementation Date means the day on which the Scheme is to be implemented, being 5 Business Days after the Record Date, or such other date agreed between the parties in writing;

Independent Adviser means the person appointed by Target as independent adviser to prepare the Independent Adviser's Report and approved by the Takeovers Panel;

Independent Adviser's Report means the Independent Adviser's report prepared by the Independent Adviser in relation to the Scheme as amended or updated from time to time and including any supplementary or replacement report, stating its opinion on the merits of the Transaction;

Initial Orders means, on application by Target, orders by the Court for the purposes of section 236(2) of the Companies Act;

Insolvency Event means, in relation to a person, the occurrence of any of the following:

- (a) the person ceases or threatens to cease to carry on all or substantially all of its business or operations;
- (b) an application or an order is made, or a resolution is passed or proposed, for the person's dissolution;
- (c) the person is or becomes unable to pay its debts when due (as defined in the Companies Act), or enters into dealings with any of its creditors with a view to avoiding or in expectation of insolvency, or makes a general assignment or an arrangement or composition with or for the benefit of any of its creditors, or stops or threatens to stop payments generally;
- (d) the person goes into receivership or has a receiver, receiver and manager, official manager, trustee or other similar officer appointed in respect of all or any of its property;

- (e) a distress, attachment or other execution is levied or enforced upon or commenced against any of its assets;
- (f) any resolution is passed, or any proceeding is commenced, for the dissolution of that person;
- (g) the person takes any action in furtherance of, or indicating its consent to, approval of, or acquiescence in, any of the acts referred to in this definition; and
- (h) anything analogous to anything referred to in the above paragraphs, or which has substantially similar effect, occurs with respect to it, including under any applicable foreign law;

Loss means all losses, damages, costs, expenses, charges and other liabilities provided however that the parties shall not be liable for any indirect loss, economic loss, loss of opportunity or loss of profit whatsoever and however arising, including:

- (a) consequential loss or damage; or
- (b) loss of use, production, revenue, income, profits, business and savings or business interruption (whether or not the indirect loss or damage was foreseeable);

Material Adverse Change means any matter, event, condition or change in circumstances or thing which occurs, is discovered or is announced, and which is not an Excluded Event, (each a **Specified Event**), or related series of Specified Events, and which individually or in aggregate, reduces or is reasonably likely to reduce:

- (a) the value of the consolidated net assets of the Target Group by at least \$5 million against what it would have reasonably been expected to have been but for the Specified Event or related series of Specified Events; or
- (b) the consolidated NPAT (including non-recurring items and calculated using the same accounting policies of the Target Group in place as at the date of this Agreement) of the Target Group in:
 - (i) FY19 by at least \$1.1 million; or
 - (ii) FY20 by at least \$1.3 million,

against what it reasonably would have been expected to be but for the Specified Event or related series of Specified Events, but excluding the impact of any of the following on the consolidated NPAT of the Target Group:

- (iii) Transaction Costs of an aggregate amount not exceeding the amount agreed in writing by Bidder and Target prior to the date of this Agreement;
- (iv) short term access issues with getting products of the Target Group into any market arising from port disruptions, strikes or border closures inhibiting the free passage of goods; and
- (v) any decision by a customer of the Target Group after the date of this Agreement to reduce the number of days of inventory of the Target Group's products that it will stock (provided that appropriate supporting written evidence of that decision has been provided by Target to Bidder);

NPAT means net profit after tax as calculated in accordance with IFRS;

NZX means NZX Limited and, where the context requires, the main board financial market that it operates;

NZX Listing Rules means the NZX Main Board/Debt Market Listing Rules;

OIO means the Overseas Investment Office;

OIO Application means the Bidder's application to the OIO in respect of the OIO Condition;

OIO Condition means the condition set out in clause 3.1(a);

Permitted Dividends means:

- (a) a dividend declared by Target in connection with the announcement of its FY19 half results of not more than five cents per Share payable out of profits for the six-month period to 31 December 2018; and
- (b) if the OIO Condition has not been satisfied on or before 30 June 2019, a dividend declared by Target of not more than five cents per Share in accordance with the Target's stated dividend policy as at the date of this Agreement and in respect of, and out of, the profits for the six month period to 30 June 2019, prior to the Scheme becoming Effective,

in each case where the amount of the imputation credits attached to the relevant dividend complies with clauses 9.6(a) and 9.2(f)(xvii). When calculating FY19 profits (including, for the avoidance of doubt, the profits for the six-month period to 30 June 2019) for the purposes of this definition, Transactions Costs incurred during the applicable six-month period of FY19 will be excluded from the determination of FY19 profits for the relevant six-month period;

Permitted Encumbrances means in respect of the Target Group's assets, but not the Scheme Shares:

- (a) a reservation of ownership or other purchase money security interest entered into in respect of supplies to a member of the Target Group in the ordinary course of business;
- (b) a right or set-off or combination of arising by operation of law or practice over money deposited with a bank or financial institution in the ordinary course of business;
- (c) a security interest arising by operation of law and in the ordinary course of business provided that the debt it secures is paid when due or contested in good faith by appropriate proceedings; and
- (d) a security interest arising under section 17(1)(b) of the Personal Property Securities Act 1999 that does not secure payment or performance of an obligation;

Potential Competing Proposal means any offer, proposal or expression of interest (whether or not conditional, complete or binding) which is not, but could reasonably be expected to become, a Competing Proposal;

PPSR means the Personal Property Securities Register established under section 139 of the Personal Property Securities Act 1999;

Prescribed Occurrence means the occurrence of any of the events listed in Schedule 1 other than an event agreed to by Bidder in writing;

Record Date means 5.00 pm on the date which is 5 Business Days after the later of:

- (a) the Final Orders Date; and
 - (b) the date on which the OIO Condition is satisfied,
- or such other date agreed between the parties in writing;

Reference Rate means in relation to interest payable on any payment due under this Agreement, the mid or “FRA” rate for 90 day bank accepted bills (expressed as a percentage) as quoted on Reuters page BKBM (or any successor page) at or about 10.45 am on the first Business Day of the period in respect of which such rate of interest is to be calculated, and thereafter on each succeeding Business Day of the period;

Register means the register of Shares maintained by Computershare Investor Services Limited on behalf of Target;

Registrar has the meaning given in the Companies Act;

Reimbursement Fee means NZ\$1.2 million plus GST, if any;

Related Entity means:

- (a) in respect of Bidder, an entity that:
 - (i) Controls Bidder; or
 - (ii) is under the Control of Bidder;
- (b) in respect of Target, each entity that is under the Control of Target;

Relevant Interest has the meaning given in section 235(1) of the FMCA;

Representative means in relation to a person:

- (a) any director, officer or employee or agent of, and any accountant, auditor, financier, financial adviser, legal adviser, technical adviser or other expert adviser or consultant to, that person; and
- (b) when used in clauses 2.4, 12.1, 12.2, 12.4, 12.6, 12.7 and 15.2 only, also includes any Related Entity and any director, officer or employee or agent of, and any accountant, auditor, financier, financial adviser, legal adviser, technical adviser or other expert adviser or consultant to, any Related Entity;

Reverse Reimbursement Fee means NZ\$1.2 million plus GST, if any;

Scheme means a scheme of arrangement under Part 15 of the Companies Act under which all of the Shares held by Scheme Shareholders will be transferred to Bidder or Bidder Nominee (as applicable) and the Scheme Shareholders will be entitled to receive the Consideration, in the form attached as Annexure A or in such other form as Target and Bidder agree in writing and the Court approves under section 236(1) of the Companies Act;

Scheme Booklet means the explanatory memorandum (including the notice of meeting and proxy form), the despatch of which is to be approved by the Court and which is to be sent to Shareholders in advance of the Scheme Meeting;

Scheme Meeting means the meeting of Shareholders ordered by the Court to be convened pursuant to the Initial Orders in respect of the Scheme and includes any adjournment of that meeting;

Scheme Resolution means the resolution to be put to Shareholders at the Scheme Meeting to approve the Scheme;

Scheme Shareholder means a person who is registered in the Register as the holder of one or more Scheme Shares as at the Record Date;

Scheme Shares means all of the Shares on issue at 5.00pm on the Record Date other than Excluded Shares;

Second Court Date means the later of:

- (a) the last date Target files affidavit(s) verifying the results of the Scheme Meeting and such other information as prescribed in the Initial Orders so as to obtain the Final Orders; and
- (b) if there is a hearing in respect of the Final Orders, the first date of such hearing, provided that if such hearing is adjourned, it means the first date on which the adjourned application is heard;

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

Shareholder means a person who is registered in the Register as the holder of one or more Shares from time to time;

Superior Proposal means a written bona fide Competing Proposal received after the date of this Agreement that:

- (a) does not result from a breach by Target of any of its obligations under clause 12, or from any act by a member of the Target Group or its Representatives which, if done by Target, would constitute a breach of clause 12 by Target; and
- (b) the Board determines, acting in good faith and after having received written advice from its external financial and legal advisers:
 - (i) is reasonably capable of being completed, taking into account all aspects of the Competing Proposal (including its conditions, the identity, reputation and financial condition of the person making such proposal, legal, regulatory and financial matters, and any other matters the Board considers relevant);
 - (ii) is more favourable to Shareholders than the Scheme, taking into account all the terms and conditions of the Competing Proposal and the Scheme, together with and any other matters the Board considers relevant; and
 - (iii) failing to attempt to advance such Competing Proposal would constitute a breach of the fiduciary or statutory duties, as a director of Target, of any member of the Board;

Supplier has the meaning given in clause 17.3;

Surviving Clauses means clause 1 (interpretation), clause 13 (Reimbursement Fee), clause 14.9 (effect of termination), clause 15 (announcements), clause 17 (GST), clause 18 (notices), clause 19 (general) (other than clause 19.7 (further assurance)) and clause 20 (governing law and jurisdiction);

Takeovers Code means the takeovers code approved in the Takeovers Code Approval Order 2000 (SR 2000/210) as amended, including by any applicable exemption granted by the Takeovers Panel under the Takeovers Act 1993;

Takeovers Panel means the Takeovers Panel established by section 5(1) of the Takeovers Act 1993;

Target Director means each director of Target from time to time;

Target Group means Target and its Related Entities;

Target Indemnified Persons means each member of the Target Group and each of their respective directors, officers, employees and other Representatives;

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

Target Undertakings means the undertakings set out in Part 2 of Schedule 2;

Target Warranties means the statements set out in Part 1 of Schedule 2;

Tax means a tax, levy, charge, impost, fee, deduction, withholding or Duty of any nature, including stamp and transaction Duty or any goods and services tax, value added tax or consumption tax, which is imposed or collected by a Government Agency and includes any interest, fine, penalty, charge, fee or other amount imposed in addition to those amounts;

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

Timetable means the timetable set out in Schedule 5, or such other timetable as Target and Bidder agree in writing;

Transaction means the acquisition by a member of the Bidder Group of all the Scheme Shares through implementation of the Scheme in accordance with the terms of this Agreement; and

Transaction Costs means all costs and expenses incurred by Target in connection with the Transaction as referred to in the document at 07.02.22 of the Data Room Information.

2. Target awareness

Where any Target Warranty is qualified by the expression so far as Target is aware or any similar expression, Target will be deemed to know or be aware of all matters or circumstances of which any Designated Person (or any person who replaces a Designated Person) is actually aware as at the date the statement is made or given or would have been aware as at that date had they made reasonable enquiries in the circumstances. For avoidance of doubt, and without limiting clause 11.1, none of the individuals referred to in this clause 2 has any personal liability in respect of the Target Warranties (except in the case of wilful misconduct or fraud).

3. Things required to be done other than on a Business Day

Unless otherwise indicated, if the day on which any act, matter or thing is to be done is a day other than a Business Day, that act, matter or thing must be done on or by the next Business Day.

4. Other rules of interpretation

In this Agreement:

- (a) any reference, express or implied, to any legislation in any jurisdiction includes:
 - (i) that legislation as amended, extended or applied by or under any other legislation made before or after execution of this Agreement;
 - (ii) any legislation which that legislation re-enacts with or without modification; and
 - (iii) any subordinate legislation made before or after execution of this Agreement under that legislation, including (where applicable) that legislation as amended, extended or applied as described in clause 4(a)(i), or under any legislation which it re-enacts as described in clause 4(a)(ii);
 - (iv) a reference to the NZX Listing Rules or the ASX Listing Rules includes any variation, consolidation or replacement of these rules and is to be taken to be subject to any waiver or exemption granted to the compliance of those rules by a party;
 - (v) references to persons or entities include natural persons, bodies corporate, partnerships, trusts and unincorporated associations of persons;
 - (vi) references to an individual or a natural person include his estate and personal representatives;
 - (vii) a reference to a clause, schedule or annexure is a reference to a clause, schedule or annexure of or to this Agreement (and the schedules and annexures form part of this Agreement);
 - (viii) subject to clause 19.2, references to a party to this Agreement include the successors or assigns (immediate or otherwise) of that party;
 - (ix) a reference to any instrument or document includes any variation or replacement of it;
 - (x) unless otherwise indicated, a reference to any time is, a reference to that time in New Zealand;
 - (xi) a reference to \$, NZ\$ or dollars is to New Zealand currency;
 - (xii) singular words include the plural and vice versa;
 - (xiii) a word of any gender includes the corresponding words of any other gender;
 - (xiv) if a word or phrase is defined, other grammatical forms of that word have a corresponding meaning;
 - (xv) general words must not be given a restrictive meaning just because they are followed by particular examples intended to be embraced by the general words;
 - (xvi) nothing is to be construed adversely to a party just because that party put forward this Agreement or the relevant part of this Agreement;
 - (xvii) the headings do not affect interpretation; and

- (xviii) a reference to 'fairly disclosed' means disclosed via the Due Diligence Materials in sufficient details such that the matter, information or circumstance (and its nature, scope and commercial and financial impact) might reasonably be expected to come to the knowledge of a reasonable bidder in the ordinary course of carrying out a due diligence exercise in respect of Target.

5. Consents and approvals

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

Annexure A: Scheme Plan

SCHEME PLAN

for a **scheme of arrangement** under Part 15 of the Companies Act 1993

between

Methven Limited (Company No. 1111463) a duly incorporated company having its registered office at 41 Jomac Place, Avondale, Auckland, 1026, New Zealand (**Target**)

and

Scheme Shareholders (as defined below)

and

[*wholly-owned subsidiary of GWA Group Limited*] (**BidCo**)

and

GWA Group Limited, a company incorporated in Australia whose registered office is 7 Eagleview Place, Eagle Farm, Queensland 4009, Australia (**Guarantor**)

1. Conditions

The implementation of the Scheme is conditional in all respects on:

- (a) all of the Conditions having been satisfied or waived in accordance with the terms of the Scheme Implementation Agreement by 8.00am on the Implementation Date;
- (b) neither the Scheme Implementation Agreement nor the Deed Poll having been terminated in accordance with its terms before 8.00am on the Implementation Date;
- (c) such other conditions made or required by the Court under section 236(1) and 237 of the Companies Act and agreed to by Target and Guarantor having been satisfied or waived; and
- (d) the orders of the Court made under subsection 236(1) of the Companies Act approving this Scheme Plan coming into effect, pursuant to subsection 236(3) of the Companies Act, on or before the End Date.

2. Scheme Consideration into trust account

2.1 Obligation to pay into trust account

Subject to the Scheme Implementation Agreement not being terminated and the Scheme having become Unconditional (save for the Conditions set out in clause 3.1(d) to (f) (inclusive) of the Scheme Implementation Agreement), BidCo must, by no later than 5.00pm on the Business Day before the Implementation Date, deposit (or procure the deposit of) in immediately available cleared funds an amount equal to the aggregate amount of the Scheme Consideration payable to Scheme Shareholders in a New Zealand dollar denominated trust account operated by Link Market Services (**Funds**).

2.2 Details of trust account

- (a) Subject to clause 2.2(b), the trust account will be held and operated by Link Market Services on the basis that the Funds are held on trust for BidCo and to its order, such that only BidCo may direct how the Funds will be paid from the trust account.
- (b) Clause 2.2(a) is subject to a standing direction from BidCo to Target and Link Market Services to make payment of the Scheme Consideration to the Scheme Shareholders upon transfer of the Scheme Shares to BidCo under clause 3.1(a).
- (c) The details of the trust account will be provided to BidCo by Link Market Services not less than 6 Business Days before the Implementation Date.

2.3 Interest

Any interest earned on the amount deposited will be payable to BidCo by Link Market Services as directed by BidCo.

2.4 Scheme not implemented

Should the implementation of the Scheme not occur by 5.00pm on the Implementation Date for any reason, Link Market Services will immediately repay such monies to BidCo to such New Zealand dollar denominated account(s) instructed to Link Market Services by BidCo.

3. Implementation

3.1 Subject to the conditions set out in clause 1 being satisfied and the Scheme Consideration having been deposited in accordance with clause 2.1, commencing at 9.00am on the Implementation Date and in the following order:

- (a) without any further act or formality, all the Scheme Shares, together with all rights and entitlements attaching to them as at the Implementation Date, will be transferred to BidCo and Target must enter, or procure the entry of, the name of BidCo in the Register in respect of all of the Scheme Shares; and then
- (b) in accordance with the instructions in clause 2.2(b) and subject to compliance in full with clauses 2.1 and 3.1(a), Target must instruct Link Market Services to pay or procure the payment from the trust account referred to in clause 2 of the Scheme Consideration to each Scheme Shareholder based on the number of Scheme Shares held by such Scheme Shareholder as set out in the Register as at 5.00 pm on the Scheme Record Date.

4. Payment of the Scheme Consideration

4.1 Method of payment

The payment obligations of Target under clause 3.1(b) will be satisfied by:

- (a) where a Scheme Shareholder has, not less than 5 Business Days before the Scheme Record Date, made a valid election in accordance with the requirements of Link Market Services to receive payments from Target by electronic funds transfer to a bank account nominated by that Scheme Shareholder, paying the relevant amount by electronic transfer in accordance with that election (unless Target in its absolute discretion elects to make the payment in accordance with clause 4.1(b)); or

- (b) otherwise dispatching, or procuring the dispatch of, a cheque for the relevant amount to the Scheme Shareholder by prepaid post to their Registered Address (as at 5.00 pm on the Scheme Record Date), such cheque being drawn in the name of the Scheme Shareholder (or in the case of joint holders, in accordance with the procedures set out in clause 4.2).

4.2 Joint holders

In the case of Scheme Shares held in joint names:

- (a) subject to clause 4.1, the Scheme Consideration is payable to the joint holders and any cheque required to be sent under this Scheme Plan will be made payable to the joint holders and sent to either, at the sole discretion of BidCo, the holder whose name appears first in the Register as at 5.00 pm on the Scheme Record Date or to the joint holders; and
- (b) any other document required to be sent under this Scheme Plan, will be forwarded to either, at the sole discretion of Target, the holder whose name appears first in the Register as at 5.00 pm on the Scheme Record Date or to the joint holders.

4.3 Surplus in trust account

To the extent that, following satisfaction of the obligations under clause 4.1, there is a surplus in the trust account referred to in clause 2, that surplus (less any amount retained under clause 4.5(b)) shall be immediately paid to BidCo.

4.4 Unclaimed monies

- (a) Target may cancel a cheque issued under clause 4.1(b) if the cheque is returned to Target or has not been presented for payment within six months after the Implementation Date.
- (b) During the period of six months commencing on the Implementation Date, on request in writing from a Scheme Shareholder to Target, Target must reissue, or procure the reissue of, a cheque that was previously cancelled under clause 4.4(a).

4.5 Orders of a court or Government Authority

Notwithstanding any other provision of this Scheme Plan, if written notice is given to Target prior to the Scheme Record Date of an order or direction made by a court of competent jurisdiction or a Government Authority that:

- (a) requires consideration to be provided to a third party in respect of Scheme Shares held by a particular Scheme Shareholder, which would otherwise be payable to that Scheme Shareholder by Target in accordance with clause 3.1(b), Target will be entitled to procure that provision of that consideration is made in accordance with that order or direction; or
- (b) prevents the consideration from being provided to any particular Scheme Shareholder in accordance with clause 3.1(b), or the payment of such consideration is otherwise prohibited by applicable law, the payment (equal to the number of Scheme Shares held by that Scheme Shareholder multiplied by the Scheme Consideration) will be retained in the trust account referred to in clause 2 until such time as provision of the consideration to the Scheme Shareholder in accordance with clause 3.1(b) is permitted by that order or direction or otherwise by law. Any amount so retained under this clause 4.5(b) may be held by Target or any of Target's related companies, provided that BidCo procures that such company complies with the obligations under this clause to pay such consideration to any applicable Scheme Shareholders,

and such provision or retention (as the case may be) will constitute the full discharge of BidCo's and Target's obligations under clause 3.1(b) with respect to the amount so provided or retained.

5. Dealing in Target Shares

5.1 Recognition of dealings

To establish the identity of the Scheme Shareholders:

- (a) dealings in Target Shares will only be recognised if:
 - (i) in the case of dealings of the type to be effected through NZX's clearing and settlement system, the transferee is registered in the Register as the holder of the relevant Target Shares as at 5.00 pm on the Scheme Record Date; and
 - (ii) in all other cases, registrable transmission applications or transfers in respect of those dealings, or valid requests in respect of other alterations, are received on or before 5.00pm on the Scheme Record Date at the place where the Register is kept; and
- (b) Target must not accept for registration, nor recognise for any purpose (except a transfer to BidCo pursuant to this Scheme Plan and any subsequent transfer by BidCo or its successors in title), any transfer or transmission application or other request received after such times, or received prior to such times but not in registrable or actionable forms.

5.2 Register

- (a) Target must register registrable transmission applications or transfers of Target Shares in accordance with clause 5.1(a)(ii) on or before 5.00 pm on the Scheme Record Date provided that, for the avoidance of doubt, nothing in this clause 5.2(a) requires Target to register a transfer that:
 - (i) relates to a transfer of Target Shares on which Target has a lien; or
 - (ii) would result in a Target Shareholder holding a parcel of Target Shares that is less than a 'minimum holding' (for the purposes of this clause 5.2(a) 'minimum holding' has the meaning given in the NZX Listing Rules).
- (b) A holder of Scheme Shares (and any person claiming through that holder) must not dispose of, or purport or agree to dispose of, any Scheme Shares, or any interest in them, on or after 5.00 pm on the Scheme Record Date otherwise than pursuant to this Scheme Plan, and any attempt to do so will have no effect and Target and BidCo shall be entitled to disregard any such disposal.
- (c) For the purpose of determining entitlements to the Scheme Consideration, Target must maintain the Register in accordance with the provisions of this clause 5.2 until the Scheme Consideration has been paid to the Scheme Shareholders. The Register in this form will solely determine entitlements to the Scheme Consideration.
- (d) From 5.00 pm on the Scheme Record Date, each entry that is current on the Register (other than entries on the Register in respect of BidCo), all statements of holding for Shares (other than statements in favour of BidCo) and all other documents of title in respect of the Shares (other than documents in favour of the BidCo) will cease to have effect except as evidence of entitlement to the Scheme Consideration in respect of Target Shares relating to that entry.

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

6. General provisions

6.1 Amendments to Scheme Consideration

BidCo may increase the Scheme Consideration by written notice at any time to Target prior to the Scheme Meeting, provided that the Scheme Implementation Agreement has not been terminated in accordance with its terms prior to the receipt of such notice by Target.

6.2 Title to and rights in Scheme Shares

- (a) To the extent permitted by law, the Scheme Shares (including all rights and entitlements attaching to the Scheme Shares) transferred under this Scheme Plan to BidCo will, at the time of transfer of them to BidCo, vest in BidCo free from all mortgages, charges, liens, encumbrances, pledges, security interests (including any 'security interests' within the meaning of section 17(1)(a) of the Personal Property Securities Act 1999) and interests of third parties of any kind, whether legal or otherwise and free from any restrictions on transfer of any kind.
- (b) Each Scheme Shareholder is taken to have warranted to BidCo on the Implementation Date that all of their Scheme Shares, (including any rights and entitlements attaching to those shares) which are transferred under this Scheme Plan will, at the time of transfer, be fully paid and free from all mortgages, charges, liens, encumbrances, pledges, security interests (including any 'security interests' within the meaning of section 17(1)(a) of the Personal Property Securities Act 1999) and interests of third parties of any kind, whether legal or otherwise, and restrictions on transfer of any kind, and that they have full power and capacity to transfer their Target Shares to BidCo together with any rights and entitlements attaching to those shares.

6.3 Authority given to Target

Each Scheme Shareholder, without the need for any further act:

- (a) on the date which is the later of:
 - (i) the Final Orders Date; and
 - (ii) the date on which Target announces to NZX that the OIO Condition has been satisfied,irrevocably appoints Target and each of its directors (jointly and each of them severally) as its attorney and agent for the purpose of enforcing the Deed Poll against Guarantor and BidCo (but without limiting each Scheme Shareholder's right to itself enforce the Deed Poll); and
- (b) on the Implementation Date, irrevocably appoints Target and each of its directors (jointly and each of them severally) as its attorney and agent for the purpose of executing any document or doing or taking any other act necessary, desirable or expedient to give effect to the Scheme and the transactions contemplated by it,

and Target, for itself and on behalf of each of its directors, accepts each such appointment. Each such attorney and agent, may sub-delegate its functions, authorities or powers under this clause 6.3 to one or more of Target's officers.

6.4 Binding effect of Scheme

(a) The Scheme binds:

- (i) Target;
- (ii) Guarantor;
- (iii) BidCo; and
- (iv) all of the Scheme Shareholders (including those who did not attend the Scheme Meeting to vote on the Scheme, did not vote at the Scheme Meeting, or voted against the Scheme at the Scheme Meeting).

(b) In the event of any inconsistency, this Scheme Plan overrides the constitution of Target.

6.5 End Date

The Scheme will become void and be of no further force or effect if it does not become Unconditional on or before the End Date (other than any provision of the Scheme or this Scheme Plan relating to the repayment to BidCo of any Funds deposited in accordance with clause 2 and the interest thereon (less bank fees and other third party charges directly in connection with the account)).

6.6 Target Obligations

To the extent that any provision of the Scheme or this Scheme Plan imposes any obligation on Target that continues or arises after the implementation of the Scheme, such obligation may instead be performed by any successor or related company of Target, in which case the obligation will be satisfied as if performed by Target.

6.7 Guarantee

- (a) Guarantor guarantees, as primary obligor and not merely as surety, the due and punctual performance by BidCo of all its obligations under this Scheme Plan.
- (b) Guarantor is not to be discharged, nor are the Guarantor's obligations to be affected, by any matter or thing which, but for this clause 6.7(b), would or might have discharged the Guarantor or affected its obligations, including:
 - (i) the giving of time, credit or other indulgence or concession to BidCo, the Guarantor or any other person; or
 - (ii) anything done, or omitted to be done, by a Scheme Shareholder or Target in the exercise or non-exercise of its right and powers; or
 - (iii) BidCo or the Guarantor or any other person being incompetent to be bound by this Scheme Plan or failing to be legally bound in whole or in part by it or the validity, regularity and enforceability of any provision of this Scheme Plan; or
 - (iv) any release, discharge, compromise, or other arrangement given to or made with BidCo, the Guarantor or any other person; or

- (v) the dissolution of BidCo, any change in the status, function, control or ownership of BidCo, or any consolidation, merger or conveyance of BidCo; or
- (vi) any other circumstances which might otherwise constitute a legal or equitable discharge of or defence to a surety and the Guarantor remains liable irrespective of whether any present or other obligations would be enforceable against BidCo,

it being the intention of the parties that the guarantee and obligations of the Guarantor are to be absolute and unconditional in all circumstances, and neither the Scheme Shareholders nor Target are under any liability to the Guarantor in respect of the items listed in this clause 6.7(b) even though the Guarantor's rights in subrogation may be prejudiced as a result.

- (c) If any payment made by or on behalf of BidCo to Target or Scheme Shareholders is avoided by law, that payment is not to be deemed to have discharged the liability of BidCo or the Guarantor in respect of it.
- (d) The rights of Target and Scheme Shareholders under this clause 6.7 are cumulative and not exclusive of any rights provided by law and are to remain in full force until the discharge by BidCo of all of its obligations under this Scheme Plan.

6.8 Governing law

- (a) This Scheme Plan and any non-contractual obligations arising out of or in connection with it is governed by the law applying in New Zealand.
- (b) The courts having jurisdiction in New Zealand have non-exclusive jurisdiction to settle any dispute arising out of or in connection with this Scheme Plan (including a dispute relating to any non-contractual obligations arising out of or in connection with this Scheme Plan) and the parties irrevocably submit to the non-exclusive jurisdiction of the courts having jurisdiction in New Zealand.

6.9 No liability when acting in good faith

Each Scheme Shareholder agrees that none of the directors, officers or employees of Target, BidCo or the Guarantor, will be liable for anything done or omitted to be done in the performance of the Scheme in good faith.

7. Definitions and interpretation

7.1 Definitions

In this Scheme Plan:

Business Day means a day (other than a Saturday, Sunday or public holiday) on which banks are open for general banking business in Auckland;

Companies Act means the Companies Act 1993;

Conditions means:

- (a) the conditions set out in clause 3.1 of the Scheme Implementation Agreement; and
- (b) such other conditions made or required by the Court under section 236(1) of the Companies Act and approved in writing by Target and Guarantor in accordance with clause 3.2 of the Scheme Implementation Agreement;

Court means the High Court of New Zealand, Auckland Registry;

Deed Poll means the deed poll to be entered into by Bidco and the Guarantor in favour of the Scheme Shareholders;

End Date means:

- (a) the date that is six months from the date of the Scheme Implementation Agreement or, if extended by the Target or the Guarantor in accordance with paragraph (a) of the definition of "End Date" in the Scheme Implementation Agreement, the date that is nine months from the date of the Scheme Implementation Agreement; or
- (b) any other date agreed in writing by the Guarantor and Target;

Excluded Shares means any Target Shares nominated in writing by Guarantor to Target not less than two Business Days prior to the Scheme Record Date which are held or controlled by Guarantor or any of its associates (as that term is defined in the Takeovers Code) at 5.00pm on the Scheme Record Date;

Final Orders Date means the date on which final orders of the Court made under section 236(1) (and section 237, if applicable) of the Companies Act are granted;

FY19 means the financial year ending 30 June 2019;

Government Authority means any government, any department, officer or minister of any government and any governmental, semi-governmental, administrative, fiscal, judicial or quasi-judicial agency, authority, board, commission, tribunal or entity and any court;

Implementation Date means the day on which the Scheme is to be implemented, being the date five Business Days after the Scheme Record Date, or such other date as Guarantor and Target agree in writing;

Link Market Services means Link Market Services Limited

NZX means NZX Limited or the main board financial market that it operates, as the context requires;

NZX Listing Rules means the listing rules made by NZX from time to time which apply to issuers listed on the main board financial market that NZX operates and which apply to Target at the relevant time;**OIO Condition** means the Condition set out in clause 3.1(a) of the Scheme Implementation Agreement;

Permitted Dividends means:

- (a) a dividend declared by Target in connection with the announcement of its FY19 half results of not more than five cents per Target Share payable out of profits for the six-month period to 31 December 2018; and
- (b) if the OIO Condition has not been satisfied on or before 30 June 2019, a dividend declared by Target of not more than five cents per Target Share in accordance with the Target's stated dividend policy as at the date of the Scheme Implementation Agreement and in respect of, and out of, the profits for the six-month period to 30 June 2019, prior to implementation of the Scheme having occurred,

in each case where the amount of the imputation credits attached to the relevant dividend complies with clauses 9.6(a) and 9.2(f)(xvii) of the Scheme Implementation Agreement. When calculating FY19 profits (including, for the avoidance of doubt, the profits for the six-month period to 30 June 2019) for the purposes of this definition, certain transactions costs incurred

during the applicable six-month period of FY19 will be excluded from the determination of FY19 profits for the relevant six-month period;

Register means the register of Target Shares maintained by Link Market Services on behalf of Target;

Registered Address means, in relation to a Target Shareholder, the address shown in the Register as at 5.00 pm on the Scheme Record Date;

Scheme means this scheme of arrangement, subject to any alterations or conditions made or required by the Court under Part 15 of the Companies Act and approved by Guarantor and Target in writing;

Scheme Booklet means the notice of meeting (including proxy form) and scheme booklet dated [x] 2019 prepared by Target in relation to the Scheme;

Scheme Consideration means NZ\$1.60 in cash in respect of each Target Share held by a Scheme Shareholder as at 5.00 pm on the Scheme Record Date, as reduced by the per Target Share value of any other dividend the record date for which falls between the date of the Scheme Implementation Agreement and the Implementation Date other than a Permitted Dividend;

Scheme Implementation Agreement means the scheme implementation agreement dated [x] 2018 between Guarantor and Target;

Scheme Meeting means the special meeting of Target Shareholders ordered by the Court to be convened pursuant to section 236(2)(b) of the Companies Act in respect of the Scheme and including any meeting convened following any adjournment or postponement of that meeting;

Scheme Record Date means the date which is 5 Business Days after the later of:

- (a) the Final Orders Date; and
- (b) the date on which the OIO Condition is satisfied,

or such other date agreed between Guarantor and Target in writing;

Scheme Shareholder means a person who is registered in the Register as the holder of one or more Scheme Shares as at 5.00 pm on the Scheme Record Date;

Scheme Shares means all of the Target Shares on issue as at 5:00pm on the Scheme Record Date, other than any Excluded Shares;

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

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

Unconditional means the coming into effect pursuant to section 236(3) of the Companies Act of the order of the Court made under section 236(1) of the Companies Act in relation to the Scheme and the satisfaction or waiver (as the case may be) of all conditions of the Scheme.

7.2 Interpretation

In this Scheme Plan:

- (a) headings are for convenience only and do not affect the interpretation of this Scheme Plan;
- (b) the singular includes the plural and the plural includes the singular;
- (c) words of any gender include all genders;
- (d) a reference to a person includes any company, partnership, joint venture, association, corporation or other body corporate and any Government Authority, as well as an individual;
- (e) a reference to a clause, is a reference to a clause of this Scheme Plan;
- (f) a reference to any legislation includes all delegated legislation made under it and amendments, consolidations, replacements or re-enactments of any of them (whether passed by the same or another Government Authority with legal power to do so);
- (g) a reference to a document (including this Scheme Plan) includes all amendments or supplements to, or replacements or novations of, that document;
- (h) the word includes in any form is not a word of limitation;
- (i) a reference to \$, NZ\$ or dollar is to New Zealand currency, unless denominated otherwise;
- (j) a reference to any time is, unless otherwise indicated, a reference to that time in Auckland, New Zealand;
- (k) a reference to a party to a document includes that party's successors and permitted assignees; and
- (l) no provision of this Scheme Plan will be construed adversely to a party because that party was responsible for the preparation of this Scheme Plan or that provision.

7.3 Business Day

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

Annexure B: Deed Poll

Deed Poll

relating to

a scheme of arrangement pursuant to Part 15 of the Companies Act 1993 involving Methven Limited

[wholly-owned subsidiary of GWA Group Limited]

Bidco

and

GWA Group Limited

Guarantor

and

Each registered holder of Scheme Shares as at 5.00pm on the Scheme Record Date

Scheme Shareholders

[Date]

BELL GULLY

AUCKLAND VERO CENTRE, 48 SHORTLAND STREET
PO BOX 4199, AUCKLAND 1140, DX CP20509, NEW ZEALAND
TEL 64 9 916 8800 FAX 64 9 916 8801

This **Deed Poll** is made on

2018

- between** (1) [*wholly-owned subsidiary of GWA Group Limited*] (**Bidco**)
- and** (2) **GWA Group Limited (Guarantor)**
- and** (3) **Each registered holder of Scheme Shares as at 5.00pm on the Scheme Record Date (Scheme Shareholders)**

Introduction

- A. Methven Limited (**Target**) and Guarantor are parties to the Scheme Implementation Agreement.
- B. Target has agreed to propose a scheme of arrangement between Target, BidCo, Guarantor, and the Scheme Shareholders, the effect of which will be that all Scheme Shares will be transferred to BidCo and BidCo will provide or procure the provision of the Scheme Consideration to the Scheme Shareholders.
- C. BidCo is entering into this Deed Poll for the purpose of undertaking in favour of Scheme Shareholders to pay the Scheme Consideration to Scheme Shareholders in accordance with the terms of the Scheme Plan.
- D. Guarantor is entering into this Deed Poll for the purposes of undertaking in favour of Scheme Shareholders to guarantee BidCo's obligation to pay the Scheme Consideration to the Scheme Shareholders.

It is agreed

1. Defined terms and interpretation

1.1 Defined terms

In this Deed, unless the context requires otherwise:

Final Orders means orders under section 236(1) (and section 237, if applicable) of the Companies Act in respect of the Scheme;

Scheme Implementation Agreement means the scheme implementation agreement between Target and Guarantor, dated [x] 2018 whereby Target has agreed to propose a scheme of arrangement;

Scheme Plan means the scheme plan attached as Annexure A to the Scheme Implementation Agreement, subject to any alterations or conditions approved by Guarantor and Target in writing and which are disclosed to the Court prior to the Court making the Final Orders; and

words defined in the Scheme Plan which are not separately defined in this Deed Poll have the same meaning when used in this Deed Poll.

1.2 Interpretation

Clauses 7.2 and 7.3 of the Scheme Plan apply to the interpretation of this Deed Poll, except that references to “this Scheme Plan” are to be read as reference to “this Deed Poll”.

2. Nature of this Deed Poll

2.1 Third party rights and appointment of attorney

BidCo and Guarantor each acknowledge that:

- (a) this Deed Poll is intended to confer a benefit upon, and therefore be relied upon and enforced by, any Scheme Shareholder in accordance with its terms under Part 2, Subpart 1 of the Contract and Commercial Law Act 2017 (but not otherwise), even though the Scheme Shareholders are not party to it; and
- (b) under the Scheme Plan each Scheme Shareholder appoints Target and each of its directors (jointly and each of them severally) as its agent and attorney to enforce this Deed Poll against BidCo and Guarantor on the date prescribed for such appointment in the Scheme Plan (but without limiting each Scheme Shareholder's right to itself enforce this Deed Poll).

Notwithstanding the foregoing, this Deed Poll may be varied by the parties to it in accordance with clause 8.2 without the approval of any Scheme Shareholder.

2.2 Continuing obligations

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

- (a) BidCo and Guarantor have fully performed their obligations under it; or
- (b) it is terminated under clause 3.2.

3. Conditions

3.1 Conditions

This Deed Poll, and the obligations of BidCo and Guarantor under it, are conditional in all respects upon the Scheme becoming Unconditional.

3.2 Termination

The obligations of BidCo and Guarantor under this Deed Poll will automatically terminate, and the terms of this Deed Poll will be of no force or effect, if:

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

unless Guarantor and Target otherwise agree in writing.

3.3 Consequences of termination

If this Deed Poll is terminated under clause 3.2, then BidCo and Guarantor are released from their obligations to further perform this Deed Poll.

4. Scheme Consideration

- 4.1 Subject to the Scheme Implementation Agreement not being terminated and the Scheme having become Unconditional (save for the Conditions set out in clause 3.1(d) to (f) (inclusive) of the Scheme Implementation Agreement), BidCo undertakes in favour of each Scheme Shareholder to deposit, or procure the deposit of, in immediately available cleared funds, by no later than 5.00pm on the Business Day before the Implementation Date an amount equal to the aggregate amount of the Scheme Consideration payable to all Scheme Shareholders as set out in the Scheme Plan, such deposit to be made into the trust account to be held and dealt with in accordance with clauses 3 and 4 of the Scheme Plan.
- 4.2 Subject to clause 3, BidCo irrevocably acknowledges and agrees that, subject to compliance in full by Target with its obligations under clauses 4.1 and 4.2 of the Scheme Plan, the Scheme Consideration deposited into the trust account referred to in clause 4.1 must be applied to Scheme Shareholders in satisfaction of their respective entitlements to receive the Scheme Consideration under the Scheme in accordance with the Scheme Plan.

5. Warranties

BidCo and Guarantor each warrants in favour of each Scheme Shareholder that:

- (a) it is a company or other body corporate validly existing under the laws of its place of registration;
- (b) it has the corporate power to enter into, and perform its obligations under, this Deed Poll and to carry out the transactions contemplated by this Deed Poll;
- (c) it has taken all necessary corporate action to authorise its entry into this Deed Poll and has taken, or will take, all necessary corporate action to authorise the performance of this Deed Poll and to carry out the transactions contemplated by this Deed Poll;
- (d) this Deed Poll is valid and binding on it and enforceable against it in accordance with its terms; and
- (e) this Deed Poll does not conflict with, or result in the breach of or default under, any provision of its constitution, or any writ, order or injunction, judgment, law, rule or regulation to which it is a party or subject or by which it is bound.

6. Guarantee

6.1 Guarantee

Guarantor guarantees, as primary obligor and not merely as surety, the due and punctual performance by BidCo of all of its obligations under clauses 4 and 5.

6.2 No discharge

Guarantor is not to be discharged, nor are the Guarantor's obligations to be affected, by any matter or thing which, but for this clause 6.2, would or might have discharged the Guarantor or affected its obligations, including:

- (a) the giving of time, credit or other indulgence or concession to BidCo, the Guarantor or any other person; or
- (b) anything done, or omitted to be done, by a Scheme Shareholder or Target in the exercise or non-exercise of its right and powers; or
- (c) BidCo or the Guarantor or any other person being incompetent to be bound by this Deed Poll or failing to be legally bound in whole or in part by it or the validity, regularity and enforceability of any provision of this Deed Poll; or
- (d) any release, discharge, compromise, or other arrangement given to or made with BidCo, the Guarantor or any other person; or
- (e) the dissolution of BidCo, any change in the status, function, control or ownership of BidCo, or any consolidation, merger or conveyance of BidCo; or
- (f) any other circumstances which might otherwise constitute a legal or equitable discharge of or defence to a surety and the Guarantor remains liable irrespective of whether any present or other obligations would be enforceable against BidCo,

it being the intention of the parties that the guarantee and obligations of the Guarantor are to be absolute and unconditional in all circumstances, and neither the Scheme Shareholders nor Target are under any liability to the Guarantor in respect of the items listed in this clause 6.2 even though the Guarantor's rights in subrogation may be prejudiced as a result.

6.3 Payments avoided by law

If any payment made by or on behalf of BidCo to Target or Scheme Shareholders is avoided by law, that payment is not to be deemed to have discharged the liability of BidCo or the Guarantor in respect of it.

6.4 Cumulative rights

The rights of Target and Scheme Shareholders under this clause 6 are cumulative and not exclusive of any rights provided by law and are to remain in full force until the discharge by BidCo of all of its obligations under this Deed Poll.

7. Notices

7.1 Manner of giving notice

Any notice or other communication to be given under this Deed Poll must be in writing (which includes email) and may be delivered or sent by post or email to BidCo and Guarantor at:

Address: 7 Eagleview Place, Eagle Farm Queensland 4009,
Australia

Email: RThornton@gwagroup.com.au

For the attention of: Richard Thornton

with copies(which do not constitute notice) to:

Address: Bell Gully, Level 22, Vero Centre, 48 Shortland Street,
PO Box 4199, Auckland

Email: james.cooney@bellgully.com

For the attention of: James Cooney

and

Address: Clayton Utz,Level 28, Riparian Plaza, 71 Eagle Street,
Brisbane QLD 4000 Australia

Email: ahay@claytonutz.com

For the attention of: Andrew Hay

or at any such other address or email address notified for this purpose to the other parties under this clause. Any notice or other communication sent by post must be sent by prepaid ordinary post (if the country of destination is the same as the country of origin) or by airmail (if the country of destination is not the same as the country of origin).

7.2 When notice given

In the absence of earlier receipt, any notice or other communication is deemed to have been given:

- (a) if delivered, on the date of delivery; or
- (b) if sent by post, on the third day after it was put into the post (for post within the same country) or on the fifth day after it was put into the post (for post sent from one country to another); or
- (c) if sent by email, four business hours (being the hours between 9am and 5pm on a Business Day in the jurisdiction of the recipient) 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 (excluding an "out of office" automated message),

but if the notice or other communication would otherwise be taken to be received after 5.00 pm or on a Saturday, Sunday or public holiday in the place of receipt then the notice or communication is taken to be received at 9.00 am on the next day that is not a Saturday, Sunday or public holiday in the place of receipt.

7.3 Proof of service

In proving service of a notice or other communication, it is sufficient to prove that delivery was made or that the envelope containing the communication was properly addressed and posted either by prepaid post or by prepaid airmail or that the e-mail was properly addressed and transmitted by the sender's server into the network and there was no apparent error in the operation of the sender's e-mail system, as the case may be.

8. General

8.1 Waiver

- (a) BidCo and Guarantor may not rely on the words or conduct of any Scheme Shareholder as a waiver of any right in respect of the Scheme unless the waiver is in writing and signed by the Scheme Shareholder granting the waiver.
- (b) For the purposes of clause 8.1(a):
 - (i) conduct includes a delay in exercising a right;
 - (ii) right means any right arising under or in connection with this Deed Poll and includes the right to rely on this clause; and
 - (iii) waiver includes an election between rights and remedies, and conduct which might otherwise give rise to an estoppel.

8.2 Variation

- (a) Subject to clauses 8.2(b) and 8.2(c), this Deed Poll may not be varied.
- (b) Before the date on which the Final Orders are made, this Deed Poll may be varied by agreement in writing between BidCo, Guarantor and Target, in which event BidCo and Guarantor will enter into a further deed poll in favour of the Scheme Shareholders giving effect to the variation.
- (c) If the Court orders that it is a condition of the Scheme that BidCo and Guarantor enter into a new deed poll which has the effect of reversing any variation under clause 8.2(b), then, if BidCo and Guarantor so agree, BidCo and Guarantor must promptly enter into a further deed poll in favour of the Scheme Shareholders to give effect to the reversal of that variation.

8.3 Cumulative rights

The rights, powers and remedies of BidCo, Guarantor and Scheme Shareholders under this Deed Poll are cumulative and do not exclude any other rights, power or remedies provided by law independently of this Deed Poll.

8.4 Assignment

The rights and obligations of BidCo, Guarantor and each Scheme Shareholder under this Deed Poll are personal. They cannot be assigned, charged or otherwise dealt with at law or in equity. Any purported dealing in contravention of this clause 8.4 is invalid.

8.5 Further assurance

Each of BidCo and Guarantor must, at its own expense, do all things reasonably required of it to give full force and effect to this Deed Poll and the transactions contemplated by it.

8.6 Governing law and jurisdiction

- (a) This Deed Poll and any non-contractual obligations arising out of or in connection with it is governed by the law applying in New Zealand.
- (b) The courts having jurisdiction in New Zealand have non-exclusive jurisdiction to settle any dispute arising out of or in connection with this Deed Poll (including a dispute relating to any non-contractual obligations arising out of or in connection with this Deed Poll) and Bidco and Guarantor each irrevocably submit to the non-exclusive jurisdiction of the courts having jurisdiction in New Zealand.

Execution

Executed as a deed poll.

**[wholly-owned subsidiary of
Guarantor]** by

Director

Director

Print Name

Print Name

GWA Group Limited by

Director

Director

Print Name

Print Name