

## ASX RELEASE

### Scheme update – Volpara Receives sealed Final Orders for Scheme of Arrangement

Wellington, NZ, 6 May 2024: On 3 May 2024, [Volpara Health Technologies Limited](#) (“Volpara” or “the Company”; ASX:VHT) announced that it had been granted final orders from the New Zealand High Court (“High Court”) in relation to the scheme of arrangement with Lunit Inc. A copy of the sealed final orders of the High Court is attached.

### Authorisation & Additional Information

This announcement was authorised by the CEO & MD of Volpara Health Technologies Limited.

### ENDS

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### About Volpara Health Technologies Limited (ASX: VHT)

Volpara Health Technologies makes software to save families from cancer. Volpara helps leading healthcare providers positively impact their patients and families around the world. They use Volpara solutions to better understand cancer risk, empower patients in personal care decisions, improve and maintain mammogram quality, provide objective mammogram density, and speed up and smooth the arduous reporting necessary for mammography accreditation.

Volpara’s focus on customer value means that its AI-powered image analysis enables radiologists to quantify breast tissue with precision and helps technologists produce mammograms with optimal image quality. In an industry facing increasing staff shortages, Volpara’s software helps streamline operations and provides key performance insights that support continuous quality improvement.

A Certified B Corporation, Volpara is the preferred partner of leading healthcare institutions around the world. It maintains the most rigorous security certifications and holds over 100 patents and numerous regulatory registrations, including FDA clearance and CE marking. With a strong sales base in the United States and Australia, Volpara is based in Wellington, New Zealand, with an office in Seattle. For more information, visit [www.volparahealth.com](http://www.volparahealth.com)

ORIGINAL

In the High Court of New Zealand  
Auckland Registry

I Te Kōti Matua o Aotearoa  
Tāmaki Makaurau Rohe

CIV-2024-404-459

Under Part 19 of the High Court Rules

In the matter of an application by Volpara Health Technologies Limited for approval  
of a scheme of arrangement under Part 15 of the Companies Act 1993

**Volpara Health Technologies Limited**

having its registered office at Level 14, 40 Mercer Street, Wellington Central,  
Wellington 6011, and carrying on business as a health software provider

**Applicant**

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Orders of Justice Johnstone approving scheme of arrangement  
under Part 15 of the Companies Act 1993

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Dated: 3 May 2024



**MinterEllisonRuddWatts.**

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**ORDERS OF JUSTICE JOHNSTONE APPROVING SCHEME OF  
ARRANGEMENT UNDER PART 15 OF THE COMPANIES ACT 1993**

**TO:** Volpara Health Technologies Limited, Lunit Inc, and the Takeovers Panel

The originating application made by the Applicant, Volpara Health Technologies Limited (**Volpara**), was determined by Justice Johnstone on 3 May 2024.

After reading the:

- (a) originating application for orders approving scheme of arrangement under Part 15 of the Companies Act 1993 dated 8 March 2024;
- (b) interlocutory application (without notice) for initial orders regarding an arrangement under Part 15 of the Companies Act 1993 dated 8 March 2024;
- (c) memorandum of counsel for the applicant dated 8 March 2024;
- (d) notice of appearance for Lunit Inc in relation to applications for initial and final orders dated 11 March 2024;
- (e) memorandum of counsel for Lunit Inc in support of initial orders dated 11 March 2024;
- (f) memorandum of counsel for the applicant in support of originating application for final orders dated 26 April 2024;
- (g) memorandum of counsel for Lunit Inc. in support of final orders dated 26 April 2024;
- (h) memorandum of counsel for the applicant dated 3 May 2024;

and after reading the affidavits of:

- (i) Paul Robert Thomas Reid dated 8 March 2024;
- (j) Sean Hoyoung Jeong dated 11 March 2024;
- (k) Paul Robert Thomas Reid dated 26 April 2024;
- (l) Kevin Michael Brown dated 23 April 2024;
- (m) Michael John Lorimer dated 29 April 2024;
- (n) Sean Hoyoung Jeong dated 22 April 2024;
- (o) Paul Martin Cooke dated 1 May 2024;
- (p) Flora Xinhui Xie as to service, dated 2 May 2024;

and after hearing from A Horne, counsel on behalf of the applicant, and S Ladd, counsel on behalf of Lunit Inc., this Court orders:

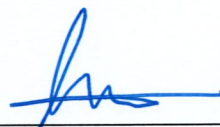




1. The scheme of arrangement (the **Scheme**) between Volpara and its shareholders, as described in the final Scheme Document annexed to this order marked "A" (the **Scheme Document**), is approved.
2. The Scheme is binding on:
  - (a) Volpara;
  - (b) Lunit Inc;
  - (c) every Scheme Shareholder (as defined in the Scheme Document);  
and
  - (d) such other persons as are necessary to give effect to the Scheme.
3. The OTM Options (as set out in the Scheme Document) are cancelled for nil consideration.
4. Leave is granted for Volpara to apply for approval of any amendment, modification, or supplement to the Scheme.

**DATE:** 3 May 2024

Gracie McLeod  
Deputy Registrar  
Auckland High Court



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**Registrar / Deputy Registrar**





"A"

## Scheme Plan

Scheme of arrangement pursuant to Part 15 of the Companies Act 1993

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Volpara Health Technologies Limited (**Company**)

Lunit Inc. (**Acquirer**)

Each person who is registered in the Register as the holder of one or more Scheme Shares as at the Record Date (**Scheme Shareholders**)

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# Scheme Plan

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# Details

Date

Parties

Name **Volpara Health Technologies Limited**  
Short form name **Company**

Name **Lunit Inc.**  
Short form name **Acquirer**

Name **Each person who is registered in the Register as the holder of one or more Scheme Shares as at the Record Date**  
Short form name **Scheme Shareholders**



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## Agreed terms

### 1. Defined terms and interpretation

#### 1.1 Definitions

In this Scheme Plan, unless the context otherwise requires:

**ASX** means ASX Limited (ABN 98 008 624 691) or the Australian Securities Exchange operated by ASX Limited, as the context requires.

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

**Boardroom** means Boardroom Pty Limited.

**Business Day** means any day other than a Saturday, Sunday, a statutory public holiday in Auckland, New Zealand or Sydney, Australia or Seoul, Republic of Korea and excluding any day between 23 December 2023 and 10 January 2024 (both dates inclusive).

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

**Companies Act** means the Companies Act 1993.

**Conditions** mean the conditions precedent set out in the second column of the table in clause 3.1 of the Scheme Implementation Agreement.



**Consideration** means AU\$1.15 in respect of each Scheme Share held by a Scheme Shareholder, payable in cash or such other amount notified to the Company by the Acquirer in accordance with clause 7.1.

**Court** means the High Court of New Zealand, Auckland Registry.

**Deed Poll** means the deed poll entered into, or to be entered into, by the Acquirer in favour of the Scheme Shareholders.

**Delisting Date** means the day after the Implementation Date.

**Encumbrance** means:

- (a) any security interest within the meaning of section 17(1)(a) of the Personal Property Securities Act 1999 or section 12(1) of the Personal Property Securities Act 2009 (Cth) 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; and
- (b) any agreement to create any of the foregoing.

**End Date** has the meaning given to that term in the Scheme Implementation Agreement.

**Escrow Agreement** means the escrow agreement that, as applicable, is to be, or has been, entered into between Boardroom, the Acquirer and the Company in respect of the holding and payment of the aggregate Consideration.

**Final Orders** means, on application of the Company, orders that the Scheme will be binding on the Company, the Acquirer, the Scheme 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.

**Funds** has the meaning given to that term in clause 3.1.

**Government Agency** means any government, any department, officer or minister of any government and any governmental, semi-governmental, regulatory, administrative, fiscal, judicial or quasi-judicial agency, authority, board, commission, tribunal or entity, in any jurisdiction, and includes (for the avoidance of doubt) the Overseas Investment Office, the Takeovers Panel and the Financial Markets Authority.

**Implementation Date** means the day on which the Scheme is to be implemented, being the date five Business Days after the Record Date or such other date agreed in writing between the Acquirer and the Company, and **Implementation** correspondingly means the time at which implementation commences with the first step under clause 4.1.

**Initial Orders** means, on application by the Company, orders by the Court for the purposes of section 236(2) of the Companies Act in respect of the Scheme Meeting and other matters relating to implementation of the Scheme.

**OIO Condition** has the meaning given to that term in the Scheme Implementation Agreement.

**Record Date** has the meaning given to that term in the Scheme Implementation Agreement.

**Register** means the Share register maintained by Boardroom on behalf of the Company.

**Registered Address** means, in relation to a Shareholder, the address shown in the Register as at the 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 the Acquirer and the Company in writing.

**Scheme Implementation Agreement** means the scheme implementation agreement dated 14 December 2023 between the Acquirer and the Company.

**Scheme Meeting** means the meeting of Shareholders which (as applicable) is to be, or has been, 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 Shares** means all of the Shares on issue on the Record Date.

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

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

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

**Trading Halt Date** means the later of:

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

or such other date as the Company and the Acquirer agree in writing.

**Trust Account** has the meaning given to that term in clause 3.1.

**Unconditional** means the satisfaction or, if capable of waiver, waiver of each of the conditions in clause 2.1.

## 1.2 Interpretation

In this Scheme Plan, unless the context otherwise requires:

- (a) headings are to be ignored in construing this Scheme Plan;
- (b) the singular includes the plural and vice versa, and a gender includes other genders;
- (c) a reference to a statute or other law includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements of any of them (whether before or after the date of this Scheme Plan);
- (d) reference to any document (including this Scheme Plan) includes reference to that document (and, where applicable, any of its provisions) as amended, novated, supplemented, or replaced from time to time;
- (e) reference to a party, person or entity includes:
  - (i) an individual, partnership, firm, company, body corporate, corporation, association, trust, estate, state, government or any agency thereof, municipal or local authority and any other entity, whether incorporated or not (in each case whether or not having a separate legal personality); and
  - (ii) an employee, sub-contractor, agent, successor, permitted assign, executor, administrator and other representative of such party, person or entity;



- (f) "written" and "in writing" include any means of reproducing words, figures or symbols in a tangible and visible form;
- (g) the words "including" or "includes" do not imply any limitation and 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;
- (h) a reference to "law" includes any statute, regulation, by-law, determination, ordinance, rule (including applicable listing rules) or other like provision, as amended from time to time, in any jurisdiction;
- (i) references to the ASX Listing Rules are taken to be subject to any waiver or exemption granted to a party with respect to compliance with those rules;
- (j) a reference to a clause is a reference to a clause of this Scheme Plan;
- (k) if a word or phrase is defined, other grammatical forms of that word have a corresponding meaning;
- (l) unless otherwise indicated, a reference to any time is a reference to that time in Australia; and
- (m) references to \$ or dollars are to Australian dollars.

### **1.3 Things required to be done other than on a Business Day**

Unless otherwise indicated, if the day on or by 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.

### **1.4 No contra proferentem**

No term or condition of this Scheme Plan will be construed adversely to a party solely because that party was responsible for the preparation of this Scheme Plan or a provision of it.

## **2. Conditions**

### **2.1 Conditions**

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

- (a) all of the Conditions having been satisfied or, if capable of waiver, 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 their respective terms before 8.00am on the Implementation Date; and
- (c) such other conditions made or required by the Court under section 236(1) and 237 of the Companies Act and agreed to in writing by the Company and the Acquirer in accordance with clause 3.2 of the Scheme Implementation Agreement having been satisfied or waived (to the extent capable of waiver) before 8.00am on the Implementation Date.

## **3. Consideration into Trust Account**

### **3.1 Obligation to pay Consideration into Trust Account**

Subject to:

- (a) the Scheme Implementation Agreement not having been terminated; and





- (b) the Scheme having become Unconditional (except for the Conditions set out in clauses 3.1(d) 3.1(e) and 3.1(g) of the Scheme Implementation Agreement),

the Acquirer must, by no later than 4.00pm 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 Consideration payable to Scheme Shareholders in an Australian dollar denominated trust account operated by Boardroom (the **Funds** and that account the **Trust Account**).

### 3.2 Trust Account

- (a) Subject to clause 4.1(d), the Trust Account will be established and operated by Boardroom on the basis that the Funds are held on trust for the Acquirer in accordance with the Escrow Agreement and to its order, such that only the Acquirer may direct how the Funds will be paid from the Trust Account.
- (b) The details of the Trust Account will be recorded in the Escrow Agreement.

### 3.3 Interest

Any interest earned on the amounts deposited by the Acquirer into the Trust Account is payable to the Acquirer, less any bank fees or other third party costs or withholdings or deductions required by law, in accordance with the Acquirer's written instructions to Boardroom.

### 3.4 Scheme not implemented

If:

- (a) the Scheme is not implemented for any reason by 5.00pm on the Implementation Date; or
- (b) the Scheme becomes void under clause 7.5,

Boardroom must, on written request by the Acquirer, immediately repay the Funds, less any bank fees or other third party costs or withholdings or deductions required by law, to the Acquirer in accordance with the Acquirer's written instructions to Boardroom.

## 4. Implementation of the Scheme

### 4.1 Implementation obligations

Subject to:

- (a) the Scheme becoming Unconditional (to be confirmed to Boardroom by notice in writing from the Acquirer and the Company in accordance with the Escrow Agreement); and
- (b) the Consideration having been deposited into the Trust Account in accordance with clause 3.1 and Boardroom confirming in writing to the Company and the Acquirer that this has occurred,

commencing at 9.00 am on the Implementation Date, the following steps will occur sequentially:

- (c) first, 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 the Acquirer, and the Company must enter, or procure that Boardroom enters, the name of the Acquirer in the Register as the holder of all of the Scheme Shares; and
- (d) second, subject to compliance in full with clause 4.1(c), the Acquirer is deemed to have irrevocably authorised and instructed Boardroom to pay, and Boardroom must pay, from the Trust Account the Consideration to each Scheme Shareholder based on the number of





Scheme Shares held by such Scheme Shareholder as set out in the Register on the Record Date in accordance with clause 5.

## 5. Payment of Consideration

### 5.1 Method of payment

The payment under clause 4.1(d) will be satisfied by:

- (a) where a Scheme Shareholder has, prior to the Record Date, provided bank account details to enable Boardroom and the Company to make payments of Australian dollars by electronic funds transfer, Boardroom must pay the Consideration in Australian dollars to the Scheme Shareholder by electronic funds transfer of the relevant amount to the bank account nominated by that Scheme Shareholder; or
- (b) where a Scheme Shareholder has not, prior to the Record Date, provided bank account details to enable Boardroom and the Company to make payments of Australian dollars by electronic funds transfer, the following provisions and clause 5.7 will apply:
  - (i) where a Scheme Shareholder has, prior to the Record Date, provided bank account details to enable Boardroom and the Company to make payments of New Zealand dollars by electronic funds transfer, Boardroom must pay the Consideration (less any applicable costs, exchange rate spread and fees) to the Scheme Shareholder by electronic funds transfer of the relevant amount in New Zealand dollars to the bank account nominated by that Scheme Shareholder; and
  - (ii) where a Scheme Shareholder with a Registered Address outside of Australia and New Zealand has, prior to the Record Date, provided sufficient written instructions (to Boardroom's satisfaction) to enable Boardroom to make payment in a currency other than Australian or New Zealand dollars (and Boardroom is able to make payment in that currency), Boardroom must pay the Consideration (less any applicable costs, exchange rate spread and fees) to the Scheme Shareholder by electronic funds transfer of the relevant amount in the applicable currency to the bank account nominated by that Scheme Shareholder; or
- (c) where a Scheme Shareholder has not provided the information and/or taken the steps contemplated by clauses 5.1(a) or 5.1(b) to enable payment to be made to such Scheme Shareholder in a manner contemplated by one of those clauses (or if an electronic payment to such Scheme Shareholder is rejected by the recipient bank) Boardroom must retain the Consideration owed to that Scheme Shareholder in the Trust Account to be claimed by the Scheme Shareholder in accordance with clause 5.5.

If a Shareholder has given more than one payment direction, then the later direction in time of receipt will be followed.

### 5.2 Joint holders

In the case of Scheme Shares held in joint names:

- (a) the Consideration is payable to the bank account nominated by the joint holders or, at the sole discretion of Boardroom, nominated by the holder whose name appears first in the Register as at the Record Date; and
- (b) any other document required to be sent under this Scheme Plan will be sent to either, at the sole discretion of the Company, the holder whose name appears first in the Register as at the Record Date or to the joint holders.





### 5.3 Surplus in Trust Account

To the extent that, following satisfaction of the obligations under clause 4.1(d), there is a surplus in the Trust Account, Boardroom must pay that surplus, less:

- (a) any amount retained under clauses 5.1(c) or 5.6(b); and
- (b) any bank fees or other third party costs or withholdings or deductions required by law,

to the Acquirer in accordance with the Acquirer's written instructions to Boardroom.

### 5.4 Holding on trust

- (a) The Company must, in respect of any monies retained by Boardroom pursuant to clauses 5.1(c) or 5.6(b), instruct Boardroom to hold, and Boardroom must hold, such monies in the Trust Account on trust for the relevant Scheme Shareholders (**Unpaid Shareholders**) for a period of 24 months and thereafter, without the requirement for any further action but subject to clause 5.5, to pay, and Boardroom must pay, any remaining money in the Trust Account to the Company (**Remaining Money**).
- (b) Once the Remaining Money (if any) has been paid to the Company under clause 5.4(a), the Company is permitted to use the Remaining Money for the benefit of the Company (and to comingle the Remaining Money with its other funds) provided, however, that:
  - (i) (subject to clause 5.4(b)(ii)) each Unpaid Shareholder retains a claim against the Company, as an unsecured creditor, for the Consideration that was payable to such Unpaid Shareholder under clause 4.1(d); and
  - (ii) nothing in this clause 5.4(b) prevents the Company from dealing with the Remaining Money (or any part of it) in accordance with the Unclaimed Money Act 1971.

### 5.5 Unclaimed monies

During the period of 24 months commencing on the Implementation Date, on request in writing from a Scheme Shareholder that has not received payment of the Consideration in accordance with clause 5.1(a) or 5.1(b), Boardroom must, if such Scheme Shareholder has taken the necessary steps required to effect payment to such Scheme Shareholder in a manner contemplated by clause 5.1(a) or 5.1(b), pay to that Scheme Shareholder the Consideration held on trust for that Scheme Shareholder in a manner contemplated by clause 5.1(a) or 5.1(b) (or in any other manner approved by Boardroom and agreed to by that Scheme Shareholder).

### 5.6 Orders of a court or Government Agency

Notwithstanding any other provision of this Scheme Plan, if written notice is given to the Company on or prior to the Record Date of an order or direction made by a court of competent jurisdiction or a Government Agency 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 in accordance with clause 4.1(d), the Company will be entitled to procure, and the Acquirer will be deemed to have instructed Boardroom to ensure, 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 4.1(d), 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 Consideration) will be retained in the Trust Account until such time as provision of the Consideration to the Scheme Shareholder in accordance with clause 4.1(d) or clause 5.5 (as applicable) is permitted by that order or direction or otherwise by law,





and such provision or retention (as the case may be) will constitute the full discharge of the Acquirer's and the Company's obligations under clause 4.1(d) with respect to the amount so provided or retained.

## 5.7 Exchange rate

If a Scheme Shareholder is to be paid in a currency other than Australian dollars (as contemplated by clause 5.1(b)), the conversion of the Consideration from Australian dollars into the relevant currency will be undertaken in a manner and at an exchange rate determined by Boardroom (in Boardroom's discretion) and neither the Acquirer or the Company will be responsible for, or have any liability of any nature, in connection with that conversion.

## 6. Dealing in shares

### 6.1 Trading Halt, Record Date and Delisting

- (a) Following the sealing of the Final Orders, the Company will advise ASX of the grant of the Final Orders and, once known, the Trading Halt Date and Record Date and use its reasonable endeavours to procure that the ASX suspend trading in the Shares from the close of trading on the Trading Halt Date, and delists the Company on the Delisting Date.
- (b) To establish the identity of the Scheme Shareholders, dealings in Shares and other alterations to the Register will only be recognised by the Company if:
  - (i) in the case of dealings of the type to be effected using CHESS, the transferee is registered in the Register as the holder of the relevant Shares on or before the Record Date; and
  - (ii) in all other cases, registrable transmission applications or transfers in respect of those dealings, or valid requests in respect of those alterations, are received on or before the Record Date at the place where the Register is kept,

and the Company must not accept for registration, nor recognise for any purpose (except a transfer to the Acquirer pursuant to this Scheme Plan and any subsequent transfer by the Acquirer or its successors in title), any Share transfer or Share transmission application or other similar request received after 7.00 pm on the Record Date or received prior to such time, but not in registrable or actionable forms.

### 6.2 Register

- (a) The Company must register registrable transmission applications or registrable transfers of Shares received prior to the close of trading on the Trading Halt Date before 7.00pm on the Record Date provided that, for the avoidance of doubt, nothing in this clause 6.2(a) requires the Company to register a transfer that relates to a transfer of Shares on which the Company has a lien or that would result in a Shareholder holding a parcel of Shares that is less than a 'marketable parcel' (as defined in the operating rules of ASX).
- (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, after close of trading on the Trading Halt Date otherwise than pursuant to this Scheme Plan, and any attempt to do so will have no effect and the Company and the Acquirer shall be entitled to disregard any such disposal.
- (c) For the purposes of determining entitlements to the Consideration, the Company must maintain the Register in accordance with the provisions of this clause 6 until the Consideration has been paid to the Scheme Shareholders. The Register in this form will solely determine entitlements to the Consideration.





- (d) From 7.00pm on the Record Date, each entry that is current on the Register (other than entries on the Register in respect of the Acquirer), will cease to have effect except as evidence of entitlement to the Consideration in respect of the Scheme Shares relating to that entry. For clarity, this clause 6.2(d) does not apply to the entry of the Acquirer on the Register under clause 4.1(c) or to any subsequent transfer by the Acquirer or its successors in title.
- (e) As soon as possible on the first Business Day after the Record Date and in any event by 7:00pm on that day, the Company must make available to the Acquirer in the form the Acquirer reasonably requires, details of the names, Registered Addresses and holdings of Shares for each Scheme Shareholder as shown in the Register on the Record Date.

## 7. General provisions

### 7.1 Amendments to Consideration

The Acquirer may increase the cash Consideration by written notice at any time to the Company prior to the payment of the aggregate Consideration into the Trust Account under clause 3.1, provided that the Scheme Implementation Agreement has not been terminated in accordance with its terms prior to the receipt of such notice by the Company.

### 7.2 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 the Acquirer will, at the time of transfer to the Acquirer, vest in the Acquirer free from all Encumbrances and free from any restrictions on transfer of any kind.
- (b) Each Scheme Shareholder is deemed to have warranted to the Acquirer on the Implementation Date that all 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 Encumbrances and restrictions on transfer of any kind, and that the Scheme Shareholder has full power and capacity to transfer the Scheme Shareholder's Shares to the Acquirer together with any rights and entitlements attaching to those Shares.

### 7.3 Authority given to Company

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

- (a) on the Final Orders Date, irrevocably appoints the Company as the Scheme Shareholder's attorney and agent for the purpose of enforcing the Deed Poll against the Acquirer (but without limiting each Scheme Shareholder's right to itself enforce the Deed Poll); and
- (b) on the Implementation Date, irrevocably appoints the Company as the Scheme Shareholder's 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 the Company accepts each such appointment. The Company, as attorney and agent, may subdelegate its functions, authorities or powers under this clause 7.3 to one or more of the Company's directors or senior managers.

### 7.4 Binding effect of Scheme

- (a) The Scheme binds:
  - (i) the Company;
  - (ii) the Acquirer; and



- (iii) all of the Scheme Shareholders (including those who did not attend the Scheme Meeting to vote on this Scheme, did not vote at the Scheme Meeting, or voted against this Scheme at the Scheme Meeting).
- (b) In the event of any inconsistency, this Scheme Plan overrides the constitution of the Company.

#### **7.5 When this Scheme becomes void**

If the Scheme has not become Unconditional on or before 5.00pm on the End Date, or if the Scheme Implementation Agreement is terminated in accordance with its terms at any time, this Scheme Plan is immediately void and of no further force or effect (other than clauses 3.3 and 3.4).

#### **7.6 No liability when acting in good faith**

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

#### **7.7 Successor obligations**

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

#### **7.8 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 each party irrevocably submits to the non-exclusive jurisdiction of the courts having jurisdiction in New Zealand.

