
Scheme implementation deed

**QMS Media Limited
Shelley Bidco Pty Ltd**

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Parties

- 1 **QMS Media Limited** ACN 603 037 341 of 214-220 Park Street, South Melbourne, Victoria 3205 (**QMS**); and
- 2 **Shelley Bidco Pty Ltd** ACN 634 292 881 of Level 30, 126-130 Phillip Street, Sydney, NSW 2000 (**Bidder**).

The parties agree

Background

- A The parties have agreed that Bidder will acquire all of the QMS Shares by way of a scheme of arrangement pursuant to Part 5.1 of the Corporations Act between QMS and the QMS Shareholders.
 - B The parties have agreed to implement the Scheme on the terms of this deed.
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1 Defined terms and interpretation

1.1 Definitions in the Dictionary

A term or expression starting with a capital letter:

- (a) which is defined in the Dictionary in Schedule 1 (**Dictionary**), has the meaning given to it in the Dictionary;
- (b) which is defined in the Corporations Act, but is not defined in the Dictionary, has the meaning given to it in the Corporations Act; and
- (c) which is defined in the GST Law, but is not defined in the Dictionary or the Corporations Act, has the meaning given to it in the GST Law.

1.2 Interpretation

The interpretation clause in Schedule 1 (**Dictionary**) sets out rules of interpretation for this deed.

2 Agreement to propose Scheme

2.1 Proposal of Scheme

- (a) QMS will propose and implement the Scheme on and subject to the terms and conditions of this deed.
- (b) Bidder agrees to assist QMS to propose the Scheme on and subject to the terms and conditions of this deed.
- (c) The parties agree to implement the Scheme on and subject to the terms of the deed.

2.2 Timetable

The parties acknowledge the Timetable is an indicative timetable and will consult with each other regularly in relation to:

- (a) performing their respective obligations within the framework established by the Timetable; and
- (b) any need to modify the Timetable.

3 Conditions precedent and pre-implementation steps

3.1 Conditions to Scheme

Subject to this clause 3, the Scheme will not become Effective, and the obligations of Bidder in relation to the implementation of the Scheme (including under clause 4) are not binding, until each of the following conditions precedent is satisfied or waived (to the extent and in the manner set out in this clause 3:

- (a) **NZ OIO approval:** before 5.00pm on the Business Day before the Second Court Date, the Bidder has received in writing all consents required under the *Overseas Investment Act 2005* (New Zealand) and the *Overseas Investment Regulations 2005* (New Zealand) for the implementation of the Scheme either unconditionally or on terms acceptable to the Bidder (acting reasonably);
- (b) **FIRB approval:** before 5.00pm on the Business Day before the Second Court Date either:
 - (i) the Treasurer (or the Treasurer's delegate) has provided a written no objection notification to the Scheme either without conditions or with conditions acceptable to Bidder (acting reasonably); or
 - (ii) following notice of the proposed Scheme having been given under the FATA, the Treasurer has ceased to be empowered to make any order under Division 2 of Part 3 of the FATA because the applicable time limit on making orders and decisions under the FATA has expired;
- (c) **No restraints:** by 8.00am on the Second Court Date, there is not in effect any temporary or final order, decision or decree issued by any court of competent jurisdiction or Government Agency which restrains, prohibits, or otherwise materially adversely impacts upon, the Scheme;
- (d) **QMS Shareholder approval:** subject to clause 3.6, the Scheme is approved by QMS Shareholders at the Scheme Meetings by the requisite majorities under section 411(4)(a)(ii) of the Corporations Act;
- (e) **Independent Expert:** the Independent Expert issues an Independent Expert's Report which concludes that the Scheme is in the best interests of QMS Shareholders before the time when the Scheme Booklet is registered with ASIC and the Independent Expert does not publicly withdraw, qualify or change that opinion at any time prior to 8.00am on the Second Court Date;
- (f) **Court approval:** the Scheme is approved by the Court in accordance with section 411(4)(b) of the Corporations Act either unconditionally or on conditions that do not impose unduly onerous obligations upon either Scheme Party (acting reasonably);

- (g) **No QMS Prescribed Occurrence:** no QMS Prescribed Occurrence occurs between (and including) the date of this deed and 8.00am on the Second Court Date;
- (h) **No QMS Regulated Event:** no QMS Regulated Event occurs between (and including) the date of this deed and 8.00am on the Second Court Date;
- (i) **No Material Adverse Change:** no Material Adverse Change occurs between the date of this deed and 8.00am on the Second Court Date;
- (j) **Bidder Warranties:** the Bidder Warranties being true and correct in all material respects on the date of this deed and at 8.00am on the Second Court Date;
- (k) **QMS Warranties:** the QMS Warranties being true and correct in all material respects on the date of this deed and at 8.00am on the Second Court Date; and
- (l) **COC Contracts:** Before 8.00am on the Second Court Date, in respect of the COC Contracts, counterparties have provided and not withdrawn, cancelled or revoked:
 - (i) written consent to the change of control or ownership of QMS, or a subsidiary of QMS, that will result from the implementation of the Scheme; or
 - (ii) written confirmation that they will not terminate the relevant COC Contract to which they are a party as a result of the fact that a change of control or ownership of QMS, or a subsidiary of QMS, will arise from implementation of the Scheme and, where the relevant COC Contract provides for termination for convenience or on notice, that they will not terminate the relevant COC Contract to which they are a party for convenience or with notice prior to, or on, implementation of the Scheme.

3.2 Benefit and waiver of conditions precedent

- (a) The Conditions in clauses 3.1(a), 3.1(b), 3.1(c), 3.1(d) and 3.1(f) are for the benefit of the Scheme Parties and any breach or non-satisfaction of any of them may only be waived in accordance with applicable law and with the written agreement of the Scheme Parties.
- (b) The Conditions in clauses 3.1(e) and 3.1(j) are for the sole benefit of QMS and any breach or non-satisfaction of any of them may only be waived by QMS in writing.
- (c) The Conditions in clauses 3.1(g), 3.1(h), 3.1(i), 3.1(k) and 3.1(l) are for the sole benefit of Bidder and any breach or non-satisfaction of any of them may only be waived by Bidder in writing.
- (d) A party entitled to waive the breach or non-satisfaction of a Condition pursuant to clause 3.2(a) (either individually or jointly) may do so in its absolute discretion.
- (e) Any waiver of the breach or non-satisfaction of a Condition by a party who is entitled to do so pursuant to clause 3.2(a) is only effective if such waiver is given on or prior to 8.00am on the Second Court Date.
- (f) If a party waives the breach or non-satisfaction of any Condition, that waiver will not preclude it from suing another party for any breach of this deed including a breach that resulted in the non-satisfaction of the Condition that was waived.
- (g) Waiver of a breach or non-satisfaction in respect of one Condition does not constitute:

- (i) a waiver of breach or non-satisfaction of any other Condition resulting from the same event; or
- (ii) a waiver of breach or non-satisfaction of that Condition arising from any other event.

3.3 Reasonable endeavours

- (a) QMS must use its reasonable endeavours to procure that the Conditions in clauses 3.1(d), 3.1(e), 3.1(f), 3.1(g), 3.1(h), 3.1(k) and 3.1(l) are satisfied as soon as possible after the date of this deed.
- (b) Bidder must use reasonable endeavours to procure that the Conditions in clauses 3.1(a) and 3.1(b) are satisfied as soon as possible after the date of this deed.
- (c) The parties will use their respective reasonable endeavours to ensure that:
 - (i) the Condition in clause 3.1(c) is satisfied as soon as reasonably practicable after the date of this deed or continues to be satisfied at all times until the last time it is to be satisfied (as the case may require); and
 - (ii) there is no occurrence within their control (as the context requires) that would prevent the Condition being satisfied.
- (d) Without limiting clauses 3.4 and 3.5:
 - (i) Bidder must promptly apply for all approvals necessary in order to satisfy the Conditions in clauses 3.1(a) and 3.1(b) and provide QMS with copies of all such applications; and
 - (ii) the Scheme Parties must:
 - (A) take all the steps for which they are responsible as part of the process to obtain the approvals necessary in order to satisfy the Conditions in clauses 3.1(a) and 3.1(b);
 - (B) respond, at the earliest practicable time, to all requests for information in respect of the applications for approvals necessary in order to satisfy the Conditions in clauses 3.1(a) and 3.1(b);
 - (C) provide the other with all information and assistance reasonably requested by the other and FIRB or NZ OIO (as applicable) in connection with the applications necessary in order to satisfy the Conditions in clause 3.1(a) and 3.1(b); and
 - (D) so far as they are able, allow the other and that other's Authorised Persons the opportunity to be present and make submissions at any meetings with FIRB or NZ OIO (as applicable) relating to the applications necessary in order to satisfy the Conditions in clauses 3.1(a) and 3.1(b).
- (e) Before providing any document or other information to the other Scheme Party (in this clause 3.3(e), the **Recipient**) pursuant to clauses 3.3(d), 7.3, 7.3(e), 7.3(f) or 7.4, a Scheme Party (in this clause 3.3(e), the **Discloser**) may redact any part of that document, or not disclose any part of that information, which contains or is confidential, non-public information (**Sensitive Commercial Information**) if the Discloser reasonably believes that:

- (i) the Sensitive Commercial Information is of a commercially sensitive nature; or
- (ii) the disclosure of the Sensitive Commercial Information to the Recipient would be damaging to the commercial or legal interests of the Discloser or any of its related bodies corporate,

and may provide the document or disclose the information to the Recipient with any Sensitive Commercial Information redacted or excluded, provided that, where Sensitive Commercial Information is so redacted or excluded, the Discloser must provide the Recipient with as much detail about the relevant communication, submission or correspondence (and any other relevant circumstances) as is reasonably possible without disclosing the Sensitive Commercial Information, and provide to the Recipient's external legal counsel a complete and unredacted version of the document or information, on the basis that the Recipient's external legal counsel will not share any information that is marked as Sensitive Commercial Information.

3.4 Notifications

Each of the Scheme Parties must:

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

3.5 Certificate

On the Second Court Date, QMS and Bidder will provide a joint certificate to the Court confirming whether or not the Conditions (other than the Condition set out in clause 3.1(f)) have been satisfied or waived in accordance with the terms of this deed.

3.6 Scheme voted down because of Headcount Test

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

- (a) apply for an order of the Court contemplated by section 411(4)(a)(ii)(A) of the Corporations Act to disregard the Headcount Test and seek Court approval of the Scheme under section 411(4)(b) of the Corporations Act, notwithstanding that the Headcount Test has not been satisfied; and
- (b) make such submissions to the Court and file such evidence as counsel engaged by QMS to represent it in Court proceedings related to the Scheme, in consultation with Bidder, considers is reasonably required to seek to persuade the Court to exercise its discretion under section 411(4)(a)(ii)(A) of the Act by making an order to disregard the Headcount Test.

3.7 Conditions not capable of being satisfied

- (a) If:
- (i) there is a breach or non-satisfaction of a Condition that has not been waived in accordance with clause 3.2;
 - (ii) a Condition becomes incapable of satisfaction and the breach or non-satisfaction of that Condition that has occurred, or would otherwise occur, has not been waived in accordance with clause 3.2; or
 - (iii) the Scheme has not become Effective by the End Date,

then either party may give the other written notice (**Consultation Notice**) within 5 Business Days after the relevant event (**Termination Event**). Bidder and QMS must then consult in good faith to determine whether they can reach agreement with respect to:

- (iv) extending the time for satisfaction of the relevant Condition or the End Date (as the case may be), or both;
 - (v) changing the date on which an application is made to the Court for an order under section 411(4)(b) of the Corporations Act approving the Scheme or adjourning that application to a date agreed between Bidder and QMS (as applicable); or
 - (vi) the Transaction proceeding by way of alternative means or methods.
- (b) If Bidder and QMS are unable to reach such agreement within 10 Business Days after a Consultation Notice is given, or if a Consultation Notice is not given within 10 Business Days after a Termination Event, either Bidder or QMS (in this clause 3.7, the **Terminating Party**) may terminate this document by giving written notice (**Termination Notice**) to the other, provided that:
- (i) if the basis upon which the Terminating Party is seeking to terminate this document is the occurrence of an event described in clause 3.7(a)(i) or 3.7(a)(ii), the Terminating Party had the benefit of the relevant condition precedent; and
 - (ii) there has been no failure by the Terminating Party to comply with its obligations under this document, where that failure directly relates and materially contributed to the occurrence of the Termination Event.
- (c) Where a Termination Notice is given under this clause 3.7, this document will terminate with immediate effect and clause 13.4 will apply.

3.8 Interpretation

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

4 Scheme and Scheme Consideration

4.1 Scheme

- (a) QMS must propose the Scheme to the QMS Shareholders on and subject to the terms of this deed and use reasonable endeavours to do so substantially in accordance with the Timetable.
- (b) The parties acknowledge and agree that, subject to the Scheme becoming Effective, on the Implementation Date the general effect of the Scheme will be that all of the Scheme Shares will be transferred to Bidder and the Scheme Shareholders will be entitled to receive, for each Scheme Share held at the Scheme Record Date, the Scheme Consideration.

4.2 Timing

- (a) Subject to clause 4.2(b), the parties must use reasonable endeavours to:
 - (i) comply with their respective obligations under clause 5; and
 - (ii) take all necessary steps and exercise all rights necessary to implement the Transaction,in accordance with the Timetable.
- (b) Failure by a party to meet any timeframe or deadline set out in the Timetable will not constitute a breach of clause 4.2(a) to the extent that such failure is due to circumstances or matters outside the party's control, or constitutes a reasonable response by that party to circumstances or matters outside that party's control.
- (c) To the extent that any of the dates or timeframes set out in the Timetable become unachievable due to matters outside of a party's control, the parties will consult in good faith to agree any necessary extension to ensure such matters are completed within the shortest possible timeframe.
- (d) The parties acknowledge and agree that:
 - (i) unless Bidder agrees otherwise, the Scheme Booklet will be dispatched to QMS Shareholders prior to satisfaction (or waiver, if applicable) of the conditions set out in clauses 3.1(a), 3.1(b) and 3.1(l); and
 - (ii) unless QMS agrees otherwise, the date the Scheme Meetings are held shall be on or after the date that the conditions set out in clauses 3.1(a), 3.1(b) and 3.1(l) are satisfied or waived (if applicable) (and Bidder agrees that if required it will consent to adjourn the Scheme Meetings to give effect to this clause).

4.3 Scheme Consideration

- (a) Subject to the terms of this deed and the Scheme, on the Implementation Date, each Scheme Shareholder is entitled to receive the Scheme Consideration in respect of each Scheme Share held by that Scheme Shareholder in accordance with the terms of this deed and the Scheme.
- (b) Bidder undertakes and warrants to QMS that, if the Scheme becomes Effective, in consideration for the transfer to Bidder of the Scheme Shares held by each Scheme Shareholder under the terms of the Scheme, Bidder will accept that transfer and will provide to each Scheme Shareholder the Scheme Consideration for each Scheme Share held by them in accordance with the terms of the Scheme.

4.4 Election procedure

- (a) QMS must provide or procure the provision of an Election Form to each Relevant Shareholder, with the Scheme Booklet that is sent to them.
- (b) Subject to clauses 4.4(c), 4.4(d) and 4.4(e), each of the Relevant Shareholders will be entitled to make an Election. All Elections will take effect in accordance with the Scheme (provided that any Relevant Shareholder who makes an Election is also a Scheme Shareholder).
- (c) For an Election to be valid:
 - (i) the Relevant Shareholder must complete and sign the Election Form in accordance with the terms and conditions of the Election Form, the instructions in the Scheme Booklet, the Scheme and this clause 4.4; and
 - (ii) the Election Form must be received by the Share Registry at the address specified on the Election Form before the Election Time,unless Bidder and QMS agree otherwise, in their absolute discretion.
- (d) If a Relevant Shareholder makes an Election, that Election will apply in respect of that percentage (as specified in the Election Form) of the Relevant Shareholder's entire registered holding of QMS Shares at the Scheme Record Date, regardless of whether the Relevant Shareholder's holding at the Scheme Record Date is greater or less than the Relevant Shareholder's holding at the time it made its Election, unless Bidder and QMS agree otherwise, in their absolute discretion.
- (e) A Relevant Shareholder who makes a valid Election may vary, withdraw or revoke that Election by lodging a replacement Election Form so that it is received by the Share Registry at the address specified on the Election Form before the Election Time. After the Election Time, a valid Election made by a Relevant Shareholder will be irrevocable unless Bidder and QMS agree, in their absolute discretion, to the revocation of the Election.
- (f) The Election Form must include the relevant matters set out in the Scheme and must otherwise be in a form agreed by Bidder and QMS in writing.

4.5 Determination of Scheme Consideration

- (a) If a Scheme Shareholder:
 - (i) is not a Relevant Shareholder; or
 - (ii) is a Relevant Shareholder who has not made a valid Election before the Election Time,then the Scheme Consideration applicable for that Scheme Shareholder is the Cash Consideration for each Scheme Share held by the Scheme Shareholder.
- (b) If the Scheme Shareholder is a Relevant Shareholder who has made a valid Election before the Election Time, then the Scheme Consideration applicable for that Scheme Shareholder for each Scheme Share held by the Scheme Shareholder is:

- (i) the Scrip Consideration per Scheme Share in respect of the Scheme Shares held by the Relevant Shareholder for which the Relevant Shareholder has elected (in the Election Form) to receive the Scrip Consideration; plus
- (ii) the Cash Consideration per Scheme Share in respect of the Scheme Shares held by the Relevant Shareholder for which the Relevant Shareholder has elected (in the Election Form) to receive the Cash Consideration.

4.6 HoldCo Securities

Bidder undertakes in favour of QMS (in its own right and on behalf of each Relevant Shareholder) that:

- (a) the HoldCo Securities issued as Scrip Consideration will, on their issue, rank equally in all respects with all other HoldCo Securities in the same class; and
- (b) on issue, each HoldCo Securities will be fully paid and, to the extent within the control of Bidder, free from any Encumbrance.

4.7 Fractional entitlements

Where the calculation of the Scheme Consideration to be issued to a particular Scheme Shareholder would result in the Scheme Shareholder becoming entitled to a fraction of a cent or a fractional entitlement to a HoldCo Security, the fractional entitlement will:

- (a) in the case of HoldCo Security, be rounded down to the nearest whole number of HoldCo Security; and
- (b) in the case of Cash Consideration, be rounded up to the nearest whole cent.

4.8 No amendment to Scheme without consent

QMS must not consent to any modification of, or amendment to, or the making or imposition by the Court of any condition in respect of, the Scheme without the prior written consent of Bidder (or the consent of Bidder's legal counsel if such a request is made at a Court hearing).

4.9 Deed Poll

Bidder covenants in favour of QMS (in its own right and separately as trustee for each of the Scheme Shareholders) to execute, deliver and perform and to procure HoldCo to execute, deliver and perform, the Deed Poll prior to the First Court Date.

4.10 QMS Performance Rights

- (a) The Scheme Parties acknowledge that the QMS Board is yet to determine how the QMS Performance Rights will be treated in the context of the Scheme.
- (b) QMS agrees to procure that the QMS Board will exercise its discretion under the terms of the QMS Incentive Plan to ensure that:
 - (i) no more than 11,394,435 QMS Shares will be issued on or before the Effective Date as a result of the exercise of QMS Performance Rights; and
 - (ii) the balance of the QMS Performance Rights not dealt with in accordance with 4.10(b)(i) above will be lapsed in accordance with their terms,

on or before the Effective Date, subject only to the fulfilment of the Conditions in clause 3.1(d) and 3.1(f).

5 Implementation of the Scheme

5.1 QMS's obligations

QMS must, acting at all times in good faith, take all steps within its control and reasonably necessary to propose and implement the Scheme as soon as reasonably practicable and, without limiting the foregoing, use reasonable endeavours to ensure that each step in the Timetable is met by the relevant date set out beside that step, including taking each of the following steps:

- (a) **director's voting:** procure that each QMS Director votes any QMS Shares in which that QMS Director has a Relevant Interest in favour of the Scheme (subject to no Superior Proposal emerging and the Independent Expert concluding and continuing to conclude in the Independent Expert's Report that the Scheme is in the best interests of QMS Shareholders);
- (b) **promote the Transaction:** participate in efforts reasonably requested by Bidder to promote the merits of the Transaction, including meeting with key QMS Shareholders at the reasonable request of Bidder and providing Bidder with such information and assistance that Bidder reasonably requests to enable it to promote the merits of the Transaction;
- (c) **Scheme Booklet:** prepare and despatch the Scheme Booklet in compliance with all applicable laws (in particular with the Corporations Act, RG 60 and the Listing Rules);
- (d) **drafts of Scheme Booklet:** make available to Bidder drafts of the Scheme Booklet including:
 - (i) providing to Bidder drafts of the Scheme Booklet and the Independent Expert's Report for the purpose of enabling Bidder to review and comment on those draft documents. In relation to the Independent Expert's Report, Bidder's review is to be limited to a factual accuracy review and QMS makes no representation as to the extent to which the Independent Expert will receive or consider those comments;
 - (ii) taking into account in good faith all comments made by Bidder when producing a revised draft of the Scheme Booklet;
 - (iii) providing Bidder with a final draft of the Scheme Booklet within a reasonable time before the Scheme Booklet is finalised, to enable Bidder to review that draft before the date of its submission to ASIC for approval pursuant to section 411(2) of the Corporations Act; and
 - (iv) obtaining written consent from Bidder for the form and content in which the Bidder Information appears in the Scheme Booklet.
- (e) **Independent Expert's Report:** promptly after the date of this deed (if the Independent Expert has not been appointed prior to the date of this deed) appoint an Independent Expert to provide the Independent Expert's Report (and request that the Independent Expert opines on whether or not the Scheme is in the best interests of QMS Shareholders), and provide any assistance and information

reasonably requested by the Independent Expert to enable it to prepare the Independent Expert's Report (including any updates to such report);

- (f) **liaison with ASIC:** as soon as reasonably practicable after the date of this deed:
 - (i) provide an advanced draft of the Scheme Booklet to ASIC for its review and approval for the purposes of section 411(2) of the Corporations Act; and
 - (ii) liaise with ASIC during the period of its consideration of that draft of the Scheme Booklet and keep Bidder reasonably informed of any matters raised by ASIC in relation to the Scheme Booklet and use reasonable endeavours, in consultation with Bidder, to resolve any such matters;
- (g) **approval of Scheme Booklet:** as soon as reasonably practicable after the conclusion of the review by ASIC of the Scheme Booklet, procure that a meeting of the QMS Board, or of a committee of the QMS Board appointed for the purpose, is held to consider approving the Scheme Booklet for despatch to the QMS Shareholders, subject to orders of the Court under section 411(1) of the Corporations Act;
- (h) **section 411(17)(b) statements:** apply to ASIC for the production of:
 - (i) an indication of intent letter stating that ASIC does not intend to appear before the Court on the First Court Date; and
 - (ii) a statement under paragraph 411(17)(b) of the Corporations Act stating that ASIC has no objection to the Scheme;
- (i) **Court documents:** prepare the Court documents, provide a draft of those documents to Bidder and, acting reasonably and in good faith, take into account all reasonable comments from Bidder on those drafts, provided that such comments are provided in a timely manner;
- (j) **Bidder representation at Court hearings:** allow, and not oppose, any application by Bidder for leave of the Court to be represented by counsel at a Court hearing;
- (k) **first Court hearing:** lodge all documents with the Court and take all other reasonable steps to ensure that promptly after, and provided that, the approval in clause 5.1(g) has been received, an application is heard by the Court for an order under section 411(1) of the Corporations Act directing QMS to convene the Scheme Meetings, and consult with Bidder as to the content of all relevant originating process, affidavits, submissions and draft minutes of Court orders. Such consultation must include providing Bidder with a reasonable opportunity to review and comment on the relevant Court documents before they are lodged, and QMS must consider in good faith any comments provided by or on behalf of Bidder provided the comments are given in a timely manner;
- (l) **registration of Scheme Booklet:** if the Court directs QMS to convene the Scheme Meetings, as soon as possible after such orders are made, request ASIC to register the explanatory statement included in the Scheme Booklet in relation to the Scheme in accordance with section 412(6) of the Corporations Act;
- (m) **despatch Scheme Booklet:** as soon as reasonably practicable following registration of the Scheme Booklet by ASIC, despatch the Scheme Booklet to QMS Shareholders following Bidder's written consent to the inclusion of the Bidder Information in the form and context in which the Bidder Information appears in such version of the Scheme Booklet;

- (n) **update Scheme Booklet:** until the date of the Scheme Meetings, promptly update the Scheme Booklet with any information that arises after the Scheme Booklet has been despatched that is necessary to ensure that the Scheme Booklet does not contain any material statement that is false or misleading in a material respect (including because of any material omission from that statement);
- (o) **supplementary disclosure:** if, after despatch of the Scheme Booklet, QMS becomes aware:
- (i) that information included in the Scheme Booklet is or has become misleading or deceptive in any material respect (whether by omission or otherwise); or
 - (ii) of information that is required to be disclosed to QMS Shareholders under any applicable law or RG 60 but was not included in the Scheme Booklet,
- promptly consult with Bidder in good faith as to the need for, and form of, any supplementary disclosure to QMS Shareholders, and make any such disclosure that it considers reasonably necessary in the circumstances, having regard to applicable laws and RG 60. Such consultation with Bidder includes, to the extent reasonably practicable, providing Bidder with a reasonable opportunity to review and comment on such disclosure before it is made and must consider in good faith any comments provided by or on behalf of Bidder, provided the comments are given in a timely manner. To the extent that the supplementary disclosure relates to (or constitutes) Bidder Information, it may only be made with Bidder's prior written consent (not to be unreasonably withheld or delayed);
- (p) **convening Scheme Meetings:** convene the Scheme Meetings to seek QMS Shareholders' agreement to the scheme in accordance with the orders made by the Court pursuant to section 411(1) of the Corporations Act;
- (q) **Court approval application if parties agree that conditions are capable of being satisfied:** if the resolutions submitted to the Scheme Meetings are passed by the requisite majorities under section 411(4)(a)(ii) of the Corporations Act (or, where clause 3.6 applies, the majority required under section 411(4)(a)(ii)(B) of the Corporations Act) and, if necessary, the parties agree on the Business Day immediately following the Scheme Meetings that it can be reasonably expected that all of the Conditions will be satisfied or waived prior to 8.00am on the proposed Second Court Date, apply (and, to the extent necessary, re-apply) to the Court for orders approving the Scheme;
- (r) **Second Court Hearing:** subject to the Conditions (other than the Condition in clause 3.1(f)) being satisfied or waived in accordance with clause 3, apply to the Court for orders under section 411(4)(b) of the Corporations Act approving the Scheme and consult with Bidder as to the content of all relevant affidavits, submissions and draft minutes of Court orders. Such consultation must include providing Bidder with a reasonable opportunity to review and comment on the relevant Court documents before they are lodged, and QMS must consider in good faith any comments provided by or on behalf of Bidder, provided the comments are given in a timely manner;
- (s) **lodge copy of Court order:** lodge with ASIC an office copy of the Court order in accordance with section 411(1) of the Corporations Act approving the Scheme by no later than the Business Day after the date on which the Court order was made (or such later date as agreed in writing by Bidder);

- (t) **appeal process:** if the Court refuses to make any orders directing QMS to convene the Scheme Meetings or approving the Scheme:
 - (i) QMS and Bidder must consult with each other in good faith as to whether to appeal the Court's decision; and
 - (ii) QMS must appeal the court decision unless the parties agree otherwise or an independent senior counsel opined that, in his or her view an appeal would have no reasonable prospect of success;
- (u) **implementation:** if the Scheme becomes Effective:
 - (i) apply to the ASX to suspend trading in QMS Shares from the close of trading on the Effective Date;
 - (ii) finalise and close the QMS Share Register as at the Scheme Record Date and determine the identity of the Scheme Shareholders and their entitlements to the Scheme Consideration in accordance with the Scheme and the Deed Poll;
 - (iii) subject to Bidder having delivered the Scheme Consideration, execute, on behalf of Scheme Shareholders, proper instruments of transfer of and effect and register the transfer of the Scheme Shares to Bidder on the Implementation Date; and
 - (iv) do all other things contemplated by or necessary to give effect to the Scheme and the orders of the Court approving the Scheme;
- (v) **Bidder Information:** without the prior written consent of Bidder, not use the Bidder Information for any purpose other than those expressly contemplated by this deed or the Scheme;
- (w) **information:** provide Bidder with all necessary information, and procure that the Share Registry provides all necessary information, in each case in a form reasonably requested by Bidder, about the Scheme, the Scheme Shareholders and QMS Shareholders to Bidder, and its Authorised Persons, which Bidder reasonably requires in order to:
 - (i) understand the legal and beneficial ownership of QMS Shares (including the results of directions by QMS to QMS Shareholders under Part 6C.2 of the Corporations Act), proxy appointments, directions received by QMS prior to the Scheme Meetings and soliciting votes in favour of the Scheme; and
 - (ii) facilitate the payment by, or on behalf of, Bidder of the Scheme Consideration;
- (x) **representation:** procure that it is represented by counsel at the Court hearings convened for the purposes of section 411(1) and paragraph 411(4)(b) of the Corporations Act;
- (y) **listing:** subject to clause 5.1(u)(i), not do anything to cause the QMS Shares to cease being quoted on ASX or to become permanently suspended from quotation prior to implementation of the Transaction unless Bidder has agreed in writing; and
- (z) **compliance with laws:** do everything reasonably within its power to ensure that all transactions contemplated by this deed are effected in accordance with all applicable laws, regulations and policies.

5.2 Bidder's obligations

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

- (a) **Bidder Information:** as soon as reasonably practicable after the date of this deed, prepare and promptly provide to QMS all information regarding Bidder, the Scheme Consideration, and Bidder's intentions with respect to the assets, business and employees of QMS if the Scheme is approved and implemented that is required by all applicable laws (in particular with the Corporations Act, RG 60 and the Listing Rules) for inclusion in the Scheme Booklet;
- (b) **drafts of Scheme Booklet:** review the drafts of the Scheme Booklet prepared by QMS and provide comments promptly on those drafts in good faith;
- (c) **confirmation of Bidder Information:** subject to clause 5.5, promptly after QMS requests that it does so, confirm in writing to QMS that it consents to the inclusion of the Bidder Information in the Scheme Booklet (and QMS must not lodge the Scheme Booklet with ASIC until such approval is obtained from Bidder), in the form and context in which the Bidder Information appears;
- (d) **Independent Expert:** promptly provide all assistance and information reasonably requested by the Independent Expert to enable it to prepare the Independent Expert's Report (including any updates to such report);
- (e) **due diligence and verification:** undertake appropriate due diligence and verification processes in relation to Bidder Information
- (f) **assistance with Scheme Booklet and Court documents:** promptly provide any assistance or information reasonably requested by QMS or its Advisers in connection with the preparation of the Scheme Booklet (including any supplementary disclosure to QMS Shareholders) and any documents required to be filed with the Court in respect of the Scheme;
- (g) **representation:** procure that, if requested by QMS, Bidder is represented by counsel at the Court hearings convened for the purposes of section 411(4)(b) of the Corporations Act;
- (h) **Deed Poll:** by no later than the Business Day prior to the First Court Date, execute and deliver to QMS the Deed Poll;
- (i) **accuracy of the Bidder Information:** confirm in writing to QMS the accuracy 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, whether because of any material omission from that statement or otherwise;
- (j) **share transfer:** if the Scheme becomes Effective:
 - (i) accept a transfer of the Scheme Shares as contemplated by clause 4.3(b);
and
 - (ii) execute instruments of transfer in respect of the Scheme Shares;

- (k) **Scheme Consideration:** if the Scheme becomes Effective, procure the payment of the Scheme Consideration in the manner and amount contemplated by clause 4 and the terms of the Scheme and the Deed Poll;
- (l) **update Bidder Information:** until the date of the Scheme Meetings, promptly provide to QMS any information that arises after the Scheme Booklet has been despatched that is necessary to ensure the Bidder Information contained in the Scheme Booklet does not contain any material statement that is false or misleading in a material respect including because of any material omission from that statement;
- (m) **promote merits of Transaction:** participate in efforts reasonably requested by Target to promote the merits of the Transaction and the Scheme Consideration, including meeting with key Target Shareholders at the reasonable request of Target;
- (n) **no denigration:** from the date of this deed until the date the Independent Expert's Report is received, ensure that it nor its Authorised Persons publicly (or otherwise to third parties) denigrate the Transaction or QMS in any way (whether expressly or implied);
- (o) **financing:** do everything necessary to ensure that all finance (both debt and equity) agreements and arrangements to which Bidder is party relating to the availability of funds for the purposes of paying the Scheme Consideration remain on foot, that all conditions precedent to draw down of funds have been satisfied or waived under those agreements or arrangements and to hold the proceeds of financing to the extent required to pay the Scheme Consideration to the Scheme Shareholders on the Implementation Date;
- (p) **compliance with laws:** do everything reasonably within its power to ensure that all transactions contemplated by this deed are effected in accordance with all applicable laws and regulations; and
- (q) **other things necessary:** promptly do all other things contemplated by or necessary to give effect to the Scheme and the orders of the Court approving the Scheme in accordance with all applicable laws and regulations.

5.3 Court process

- (a) The Scheme Parties are entitled to separate representation at all Court proceedings affecting the Transaction.
- (b) This deed does not give a Scheme Party any right or power to give undertakings to the Court for or on behalf of the other Scheme Party without that Scheme Party's written consent.
- (c) Subject to clause 5.3(d), the Scheme Parties must give all undertakings to the Court in all Court proceedings which are reasonably required to obtain Court approval and confirmation of the Transaction as contemplated by this deed.
- (d) If the Court requests a Scheme Party to give an undertaking to the Court which the Scheme Party does not believe is reasonable or usual in the circumstances:
 - (i) the Scheme Parties must consult with each other in good faith as to whether to appeal the Court's decision; and

- (ii) QMS must appeal the Court's decision unless the Scheme Parties agree otherwise or an independent senior counsel opines that, in his or her view, an appeal would have no reasonable prospect of success.
- (e) If the Court refuses to make any orders directing QMS to convene the Scheme Meetings or approving the Scheme, the Scheme Parties must:
 - (i) consult with each other in good faith as to whether to appeal the Court's decision; and
 - (ii) appeal the Court decision unless the Scheme Parties agree otherwise or an independent senior counsel opines that, in his or her view, an appeal would have no reasonable prospect of success.

5.4 Responsibility statements

The Scheme Booklet will include a responsibility statement, in a form to be agreed by the Scheme Parties, which will contain words to the following effect:

- (a) Bidder will be responsible for the Bidder Information contained in the Scheme Booklet and, to the maximum extent possible at law, QMS will not be responsible for any Bidder Information and will disclaim any liability for Bidder Information appearing in the Scheme Booklet; and
- (b) QMS will be responsible for the QMS Information contained in the Scheme Booklet and, to the maximum extent possible at law, Bidder will not be responsible for the QMS Information appearing in the Scheme Booklet and will disclaim any liability for the QMS Information appearing in the Scheme Booklet.

5.5 Disagreement on content

If Bidder and QMS disagree on the form or content of the Scheme Booklet, they must consult in good faith to try to settle an agreed form of the Scheme Booklet. If after two (2) Business Days complete agreement is not reached after reasonable consultation, then:

- (a) where the determination relates to Bidder Information, Bidder will make the final determination, acting reasonably, as to the form and content of the Bidder Information; and
- (b) in any other case, QMS, acting reasonably, will make the final determination as to the form and content of the Scheme Booklet.

5.6 Payment of Agreed Dividend and internal payments

- (a) Despite any other provision of this deed, QMS may declare and pay the Agreed Dividend to QMS Shareholders, provided that the Agreed Dividend:
 - (i) is to be declared and paid at any time prior to the Implementation Date
 - (ii) does not breach the Benchmark Rule of section 203-25 of the *Income Tax Assessment Act 1997* (Cth);
 - (iii) must be in compliance with Part 2H.5 of the Corporations Act;
 - (iv) will be franked to the maximum extent possible, subject to the franking account of QMS not being in deficit after the payment of the Agreed Dividend or prior to the declaration of or resolution to pay the Agreed Dividend; and

- (v) is to be paid from accumulated profits, retained earnings or distributable reserves (or a combination of all or some of them) of the QMS Group existing immediately prior to the declaration of the Agreed Dividend.
 - (b) QMS must provide Bidder with supporting documents evidencing (to Bidder's reasonable satisfaction) that:
 - (i) the franking account of QMS will not be in deficit after the payment of the Agreed Dividend; and
 - (ii) the Agreed Dividend does not breach the Benchmark Rule of section 203-25 of the Income Tax Assessment Act 1997 (Cth)
 - (c) Despite any other provision of this deed, QMS may make any intra group distributions and payments between members of the QMS Group, in order to be able to declare and pay the Agreed Dividend in accordance with clause 5.6(a).
 - (d) The parties acknowledge and agree that if the Agreed Dividend is declared or paid in accordance with clause 5.6(a), the Scheme Consideration will not be adjusted.
-

6 Board recommendation

6.1 Recommendation

QMS must procure that, subject to:

- (a) clause 6.2; and
- (b) there being no requirement or request of the Court or a Government Agency that the QMS Director abstain or withdraw from making a recommendation that QMS Shareholders vote in favour of the Scheme,

each QMS Director will recommend that QMS Shareholders vote in favour of the Scheme at the Scheme Meetings, qualified only by the words to the effect of "*in the absence of a superior proposal and subject to the independent expert concluding and continuing to conclude that the Scheme is in the best interests of QMS shareholders*".

6.2 Confirmation

QMS represents and warrants to Bidder that, as at the date this document, each QMS Director has confirmed that:

- (a) his or her recommendation in respect of the Scheme is that QMS Shareholders vote in favour of the Scheme (**Recommendation**); and
- (b) he or she intends to vote, or cause to be voted, all QMS Shares that he or she holds or controls in favour of the Scheme (**Voting Intention**),

in each case subject to:

- (c) no Superior Proposal emerging; and
- (d) the Independent Expert concluding in the Independent Expert's Report (and continuing to conclude) that the Scheme is in the best interests of QMS Shareholders.

6.3 Withdrawal or modification of Recommendation and Voting Intention

QMS must procure that each QMS Director does not change, withdraw, modify his or her Recommendation or Voting Intention unless:

- (a) QMS receives a Competing Proposal and the relevant QMS Director determines that the Competing Proposal constitutes a Superior Proposal; or
- (b) the Independent Expert concludes in the Independent Expert's Report that the Scheme is not in the best interests of QMS Shareholders, or the Independent Expert concludes in the Independent Expert's Report that the Scheme is in the best interests of QMS Shareholders but then changes, qualifies or publicly withdraws this conclusion prior to 8.00am on the Second Court Date; or
- (c) the change, withdrawal or modification of his or her Recommendation occurs because of a requirement or request of a court or Government Agency that the QMS Director abstain or withdraw from making a recommendation that QMS Shareholders vote in favour of the Scheme.

6.4 Notification

Subject to the Listing Rules and all applicable laws and regulations, if any fact, matter or circumstance arises (including receipt or the expected receipt of an unfavourable report) from the Independent Expert's Report, (including any supplementary or replacement report) which may lead to a QMS Director changing, withdrawing or modifying his or her Recommendation or Voting Intentions, QMS must immediately notify Bidder of this fact.

6.5 Further assurances

QMS must ensure that each QMS Director Recommendation and Voting Intention, which has not been changed, withdrawn or modified, is included in each ASX announcement referencing the Scheme made by QMS from the date of this deed until the date of the Scheme Meetings.

6.6 Scrip Consideration

Notwithstanding anything else in this clause 6 or elsewhere in this deed, the parties acknowledge and agree that:

- (a) Each QMS Independent Director may, in their sole and absolute discretion:
 - (i) make the Director Recommendation only in respect of the Cash Consideration and make no recommendation in respect of the Scrip Consideration (as it applies to the Relevant Shareholders);
 - (ii) make no recommendation at all in relation to whether the Relevant Shareholders should make an Election to receive the Scrip Consideration under the Scheme; and
- (b) No QMS Independent Director will have failed to comply with this clause 6 (or any other provision of this document) where he or she does anything contemplated by clause 6.6(a) above.

7 Conduct of business

7.1 Conduct of QMS business

Subject to clause 7.2, from the date of this deed up to and including the Implementation Date, QMS must conduct its business, must cause each of its Subsidiaries to conduct their businesses, in the ordinary and usual course of business and:

- (a) consistent with past practice, in generally the same manner as conducted in the 12 months prior to the date of this deed;
- (b) in accordance with all applicable laws and regulations;
- (c) use reasonable endeavours to preserve their relationships with customers, suppliers, landlords, licensors, licensees and others having material business dealings with them, and to retain the services of all key employees;
- (d) use reasonable endeavours to ensure that all assets are maintained in the normal course consistent with past practice;
- (e) use reasonable endeavours to comply in all material respects with all material contracts to which a member of the QMS Group is a party, and with laws, authorisations and licenses applicable to each member of the QMS Group;
- (f) ensure no QMS Regulated Event or QMS Prescribed Occurrence occurs;
- (g) not take or fail to take any action that would, or would be likely to, prevent a Condition being satisfied or result in a Condition not being satisfied;
- (h) maintain existing policies of insurance as disclosed in the QMS Due Diligence Materials; and
- (i) ensure that no member of the QMS Group, settles, compromises or otherwise deals with any Tax or Duty audits, reviews or investigations or Tax Demands without the prior written consent of Bidder (not to be unreasonably withheld or delayed).

7.2 QMS permitted activities

The obligations of QMS under clause 7.1 do not apply in respect of any matter:

- (a) Fairly Disclosed in an announcement by QMS to ASX within 5 years prior to the date of this deed;
- (b) required to be done or procured by QMS pursuant to this deed or the Scheme;
- (c) to the extent it is Fairly Disclosed in the QMS Disclosure Letter;
- (d) required by law or by an order of a court or Government Agency; or
- (e) the undertaking of which Bidder has previously approved in writing.

7.3 Access to QMS

- (a) Between the date of this deed and the Implementation Date, QMS must:

- (i) procure that Bidder is provided with reasonable access to information, documents, records, premises, senior executives, customers, agents and partners, of any member of the QMS Group, reasonably requested by Bidder solely for the purposes of:
 - (A) implementation of the Transaction;
 - (B) obtaining an understanding, or furthering its understanding, of the QMS Group or its business, financial position, prospects or assets in order to allow Bidder to develop, finalise and implement its plans for the QMS Group following implementation of the Transaction;
 - (C) finalisation of Bidder's structuring arrangements for the Transaction;
 - (D) keeping Bidder informed of material developments relating to the QMS Group (including any material correspondence received from or provided to a Government Agency); or
 - (E) any other purpose agreed between Bidder and QMS,

and reasonably consider Bidder views about material developments in the business of the QMS Group, provided that compliance with any such request would not, in the reasonable opinion of QMS (acting in good faith), result in undue disruption to the QMS Group's business; and
 - (ii) procure that Bidder is provided with such information in relation to the business and operations of the MediaWorks Group as is received by the QMS Group as a minority investor in MediaWorks.
- (b) During the period from the date of this deed up to and including the Implementation Date, QMS must promptly notify Bidder in writing of any of the following matters of which QMS becomes aware, and such written notification must include a reasonable summary of the relevant matter to the extent the details are known to QMS:
- (i) events, facts, matters or circumstances which:
 - (A) would or would be likely to constitute a Material Adverse Change; or
 - (B) would or would be likely to have a material adverse effect on: (x) the financial or operational performance, or the reputation, of the QMS Group or the MediaWorks Group; or (y) the QMS Group's or the MediaWorks Group's relationships with Government Agencies or key customers, suppliers, licensors, licensees, or other persons with whom the QMS Group has material business dealings;
 - (ii) changes to the composition of QMS's senior management team;
 - (iii) any breach of, or default under, any law, contract, arrangement, permit, licence or authorisation that is binding upon any member of the QMS Group or the MediaWorks Group and which is reasonably likely to result in a material liability on the part of any member of the QMS Group or the MediaWorks Group (to the extent known to QMS); and
 - (iv) any breach of this deed by QMS (including any QMS Warranty being or becoming untrue or incorrect).

- (c) Subject to any obligations of confidentiality, QMS agrees to consult with Bidder in respect of any new leases, lease renegotiations or renewals in respect of any lease which has a total expected lease payment of \$250,000 per annum or more, including promptly providing Bidder with copies of all material correspondence reasonably requested by Bidder and take into consideration Bidder's reasonable comments on the proposed lease terms.
- (d) QMS will not be required to provide any access or take any action or omit to take any action contemplated by clause 7.1 or 7.3 to the extent that to do so would breach any applicable law or regulation or any obligations of confidentiality owed to third parties, or result in the loss of legal privilege, breach any directors' duty or would otherwise cause undue disruption to the QMS Group's business.
- (e) From the date of this deed until the Implementation Date, unless Bidder agrees otherwise in writing, QMS will promptly notify Bidder of anything of which it becomes aware:
 - (i) that makes any material information publicly filed by QMS (either on its own account or in respect of any other member of the QMS Group or MediaWorks Group) to be, or reasonably likely to be, incomplete, incorrect, untrue or misleading in any material respect;
 - (ii) that makes any information provided in the QMS Disclosure Materials incomplete, incorrect, untrue or misleading in any material respect; or
 - (iii) in relation to:
 - (A) a public statement that has been made by a third party; or
 - (B) any matter that it determines it will need to disclose to the ASX,

in each case, relating to the termination or non-renewal of a material contract to which a member of the QMS Group is a party (including if QMS receives any notice of termination or non-renewal of such contracts).
- (f) QMS will provide reasonable assistance to Bidder for the purpose of satisfying QMS's obligations under this clause 7.3 but nothing in this clause 7.3 requires QMS to take any action which would involve refreshing or updating the QMS Due Diligence Materials.

7.4 Implementation Planning Committee

- (a) As soon as reasonably practicable after the date of this deed, the Scheme Parties must establish an Implementation Planning Committee as set out in this clause 7.4.
- (b) Without limiting clause 7.3, between (and including) the date of this deed and the Implementation Date, the Implementation Planning Committee will act as a forum for consultation and planning by the Scheme Parties to implement the Scheme. For the avoidance of doubt, the Implementation Planning Committee will be a consultative body only that will make recommendations to the Scheme Parties and to the extent any document or other information is to be provided to the Implementation Planning Committee, the arrangements set out in clause 3.3(e) with respect to Sensitive Commercial Information shall apply.
- (c) The Scheme Parties will use reasonable endeavours to procure that the Implementation Planning Committee meets fortnightly, commencing on the one month anniversary of the date of this deed.

- (d) A representative nominated by Bidder will act as Chair of meetings of the Implementation Planning Committee and Bidder will establish an agenda for each meeting.
- (e) Subject to this deed, nothing in this clause 7.4 requires either Scheme Party to act at the direction of the other. The business of each party will continue to operate independently from the other until the Implementation Date. The Scheme Parties agree that nothing in this deed constitutes the relationship of a partnership or joint venture between the Scheme Parties.

7.5 Change of control

- (a) As soon as practicable after the date of this deed, QMS must:
 - (i) seek to identify any change of control or unilateral termination rights in any material contract (including any lease) to which a member of the QMS Group is party which may be triggered by the implementation of the Transaction (**Change of Control Requirements**); and
 - (ii) use all reasonable endeavours to agree a proposed strategy to obtain any consents required in accordance with the terms of any identified Change of Control Requirements, and to then expeditiously seek those consents in accordance with the agreed strategy.
- (b) A failure to obtain any counterparty consent will not constitute a breach of this deed by QMS, and together with any consequences which arise, will be disregarded when assessing the operation of any other provision of this deed, except clauses 3.1(i) and 3.1(l).
- (c) Bidder must cooperate with, and provide all reasonable assistance to, QMS to obtain such consents or confirmations in relation any identified Change of Control Requirements, including by promptly providing any information reasonably required by counterparties.

7.6 Existing financing and security

- (a) QMS must cooperate with, and undertake all steps reasonably required or requested by Bidder in connection with any repayment of existing debt of the QMS Group as may be required in connection with the Scheme, including:
 - (i) liaising with Bidder in good faith in relation to the use of the existing cash reserves of QMS for this purpose;
 - (ii) issuing prepayment notices in relation to existing QMS Group debt facilities; and
 - (iii) using all reasonable endeavours to procure deeds of release, discharges of real property mortgages and registrations on the PPSR from secured parties in relation to any security interest granted by a member of the QMS Group in favour of that party and procuring the return of any title documents held by a secured party,

subject always to QMS not being required to actually effect such repayment until the Implementation Date.

- (b) Bidder agrees to reimburse QMS for reasonable fees, costs and expenses reasonably incurred in complying with this clause 7.6 on provision of written evidence of the payment of such fees, costs and expenses.

7.7 Bidder financing arrangements

- (a) Between the date of this deed and the Implementation Date, QMS agrees to provide reasonable assistance requested by Bidder in connection with the arrangement or syndication of any debt financing by the Bidder Group (**Transaction Financing**), including furnishing Bidder and the financing sources of the Bidder Group within a reasonable timeframe with financial and other pertinent information regarding the QMS Group, as may be reasonably requested by Bidder, provided, in each case, that no member of the QMS Group will be required to incur any liability in connection with any Transaction Financing prior to implementation of the Scheme that is not reimbursable by Bidder.
- (b) Bidder agrees to reimburse QMS for reasonable fees, costs and expenses reasonably incurred in complying with this clause 7.7 on provision of written evidence of the payment of such fees, costs and expenses provided written notice is provided to Bidder of such fees, costs and expenses prior to QMS incurring them.

8 Reconstitution of the QMS Board and sequence of actions

8.1 Reconstitution of the QMS Board

Subject to the Scheme Consideration having been delivered to Scheme Shareholders in accordance with the Scheme, QMS must as soon as practicable take all reasonable steps to:

- (a) cause the appointment of the nominees of Bidder to the QMS Board; and
- (b) procure that each QMS Independent Director resigns from their office as a director of QMS by providing to the QMS Board their resignation in writing (such resignation, to the extent reasonable, to include a statement to the effect that the outgoing director has no claim outstanding against any member of the QMS Group or MediaWorks Group).

8.2 Sequence of actions

The transactions which form part of the Scheme will be implemented in the following sequence:

- (a) Bidder will provide the Cash Consideration to QMS in accordance with the Scheme;
- (b) QMS will disburse the Cash Consideration to the Scheme Shareholders in accordance with the Scheme and Holdco will issue the Scrip Consideration in accordance with the Scheme; and
- (c) Bidder will acquire all of the Scheme Shares in accordance with the Scheme; and
- (d) the QMS Board will be reconstituted in accordance with clause 8.1.

9 Representations and warranties

9.1 Bidder representations and warranties

Bidder represents and warrants that:

- (a) **validly existing:** Bidder is a validly existing corporation registered under the laws of its place of incorporation;
- (b) **authority and power:** the execution and delivery of this deed has been properly authorised by all necessary corporate action and Bidder has full corporate power and lawful authority to execute and deliver this deed and to perform or cause to be performed its obligations under this deed;
- (c) **no default:** this deed constitutes legal, valid and binding obligations on it and this deed does not result in a breach of or default under any provision of Bidder's constitution or any deed or any writ, order or injunction, rule or regulation to which Bidder is a party or is bound and Bidder is not otherwise bound by any agreement that would prevent or restrict it from entering into or performing this deed;
- (d) **deed binding:** this deed is a valid and binding obligation of Bidder, enforceable in accordance with its terms;
- (e) **Bidder Information:** the Bidder Information provided to QMS in accordance with clause 5.2(a) for inclusion in the Scheme Booklet will:
 - (i) be provided in good faith;
 - (ii) comply in all material respects with the requirements of the Corporations Act, Corporations Regulations, the Listing Rules and RG 60; and
 - (iii) be provided on the understanding that QMS will rely on that information for the purposes of preparing the Scheme Booklet and proposing and implementing the Scheme in accordance with the requirements of the Corporations Act;
- (f) **not misleading or deceptive:** as at the date the Scheme Booklet is despatched to QMS Shareholders, the Bidder Information, in the form and context in which that information appears in the version of the Scheme Booklet registered by ASIC under section 412(6) of the Corporations Act will not be misleading or deceptive in any material respect (whether by omission or otherwise and with any statement of belief or opinion having been formed on a reasonable basis);
- (g) **new information:** Bidder will, as a continuing obligation, provide to QMS all further or new information which arises after the Scheme Booklet has been despatched to QMS Shareholders until the date of the Scheme Meetings which is necessary to ensure that the Bidder Information is not misleading or deceptive (including by way of omission);
- (h) **sufficient cash amounts – reasonable expectation at the date of this deed:** as at the date of this deed, Bidder has a reasonable basis to expect that it will, by the Implementation Date, have available to it sufficient cash amounts (whether from internal cash resources or external funding arrangements (including debt and equity financing) or a combination of both) to satisfy Bidder's obligation to pay the aggregate Cash Consideration in accordance with its obligations under this deed, the Scheme and the Deed Poll;

- (i) **sufficient cash amounts – unconditional at Second Court Date:** at 8.00am on the Second Court Date, Bidder will have available to it on an unconditional basis (other than conditions relating to the approval of the Court and other conditions within the control of Bidder) sufficient cash amounts (whether from internal cash resources or external funding arrangements (including debt and equity financing) or a combination of both) to satisfy Bidder's obligation to pay the aggregate Cash Consideration in accordance with its obligations under this deed, the Scheme and the Deed Poll;
- (j) **sufficient cash amounts – available on Implementation Date:** Bidder will have available to it on the Implementation Date sufficient cash amounts (whether from internal cash resources or external funding arrangements (including debt and equity financing) or a combination of both) to satisfy Bidder's obligation to pay the aggregate Cash Consideration in accordance with its obligations under this deed, the Scheme and the Deed Poll;
- (k) **Independent Expert:** all information provided by or on behalf of Bidder to the Independent Expert to enable the Independent Expert's Report to be included in the Scheme Booklet to be prepared and completed will not be misleading or deceptive in any material respect (whether by omission or otherwise) and will be provided in good faith and on the understanding that the Independent Expert will rely upon that information for the purposes of preparing the Independent Expert's Report for inclusion in the Scheme Booklet; and
- (l) **Insolvency Event or regulatory action:** no Insolvency Event has occurred in relation to Bidder or any other member of the Bidder Group, nor has any regulatory action of any nature been taken that would prevent or restrict its ability to fulfil its obligations under this deed,

(the **Bidder Warranties**).

9.2 QMS representations and warranties

QMS represents and warrants that:

- (a) **validly existing:** QMS is a validly existing corporation registered under the laws of its place of incorporation;
- (b) **authority and power:** the execution and delivery of this deed by QMS has been properly authorised by all necessary corporate action and QMS has full corporate power and lawful authority to execute and deliver this deed and to perform or cause to be performed its obligations under this deed;
- (c) **no default:** this deed constitutes legal, valid and binding obligations on it and this deed does not result in a breach of or default under any provision of QMS's constitution or any deed or any writ, order or injunction, rule or regulation to which QMS is a party or is bound and QMS is not otherwise bound by any agreement that would prevent or restrict it from entering into or performing this deed;
- (d) **deed binding:** this deed is a valid and binding obligation of QMS, enforceable in accordance with its terms;
- (e) **QMS Prescribed Occurrence:** no QMS Prescribed Occurrence has occurred;
- (f) **QMS Information:** as at the date the Scheme Booklet is despatched to QMS Shareholders, the QMS Information contained in the Scheme Booklet will comply in

all material respects with the requirements of the Corporations Act, Corporations Regulations, Listing Rules and RG 60;

- (g) **not misleading or deceptive:** as at the date the Scheme Booklet is despatched to QMS Shareholders, the Scheme Booklet registered by ASIC under section 412(6) of the Corporations Act (excluding the Bidder Information and the Independent Expert's Report) will not be misleading or deceptive in any material respect (whether by omission or otherwise);
- (h) **continuous disclosure:** as at the date of this deed, QMS is not in breach of its continuous disclosure obligations under the Listing Rules and is not relying on the exclusion in Listing Rule 3.1A to withhold any information from disclosure (other than in relation to the Transaction or as disclosed in writing to Bidder on or before the date of this deed);
- (i) **issued capital:** the issued capital of QMS as of the date of this deed is set out in Schedule 5 and there are no other QMS options, performance rights, shares, warrants, convertible notes, instruments or other securities (or offers or agreements to issue any of the foregoing) that may convert into QMS Shares;
- (j) **financial statements:** QMS's financial statements as disclosed to the ASX have been prepared in accordance with the Accounting Standards on a basis consistent with past practice financial statements and, so far as QMS is aware, there has not been any event, change, effect or development which would require QMS to restate its financial statements as disclosed to the ASX;
- (k) **issue of securities:** no member of the QMS Group has issued, or agreed to issue, any other securities or instruments which may convert into QMS Shares or any other securities in QMS except as disclosed in writing to Bidder on or before the date of this deed;
- (l) **due diligence information:** the QMS Disclosure Materials were provided or made available to Bidder in good faith and QMS is not aware of any material misleading or deceptive factual statement in, any of the QMS Disclosure Materials on the date they were provided or made available to the Bidder; and
- (m) **Insolvency Event or regulatory action:** no Insolvency Event has occurred in relation to QMS or any other member of the QMS Group, or as far as QMS is actually aware, MediaWorks or any other member of the MediaWorks Group, nor has any regulatory action of any nature been taken that would prevent or restrict its ability to fulfil its obligations under this deed,

(the **QMS Warranties**).

9.3 Qualifications on the QMS Warranties

Each of the QMS Warranties in clause 9.2 are each subject to matters:

- (a) Fairly Disclosed:
 - (i) in the QMS Disclosure Materials prior to the date of this deed; and
 - (ii) Fairly Disclosed in any announcement by QMS to the ASX within 5 years prior to the date of this deed; and
- (b) which would be disclosed in a search of ASIC records in relation to QMS prior to the date of this deed;

- (c) which would be disclosed in a search of NZ Companies Office records in relation to MediaWorks Group prior to the date of this deed.

9.4 Survival of representations

Each representation and warranty in clauses 9.1 and 9.2:

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

9.5 Survival of indemnities

Each indemnity in this deed will:

- (a) be severable;
- (b) be a continuing obligation;
- (c) constitute a separate and independent obligation of the party giving the indemnity from any other obligations of that party under this deed; and
- (d) survive the termination of this deed.

9.6 Timing of representations and warranties

Each representation and warranty made or given under clauses 9.1 or 9.2 is given at the date of this deed, at the date the Scheme Booklet is despatched to QMS Shareholders and as at 8.00am on the Second Court Date unless that representation or warranty is expressed to be given only at a particular time, in which case it is given only at that time.

9.7 No representation or reliance

- (a) Each party acknowledges that no party (nor any person acting on its behalf) has made any representation or other inducement to it to enter into this deed, except for representations or inducements expressly set out in this deed and (to the maximum extent permitted by law) all other representations, warranties and conditions implied by statute or otherwise in relation to any matter relating to this deed, the circumstances surrounding the parties' entry into it and the transactions contemplated by it are expressly excluded.
- (b) Each party acknowledges and confirms that it does not enter into this deed in reliance on any representation or other inducement by or on behalf of any other party, except for any representations or inducement expressly set out in this deed.

10 Public Announcements

10.1 Public Announcements on execution

Immediately after the date of this deed, the Scheme Parties must issue a public announcement in a form previously agreed to in writing between them.

10.2 Public announcements

Subject to clause 10.3, no public announcement or public disclosure of the Transaction or any other transaction the subject of this deed or the Scheme may be made other than in a form approved by each party in writing (acting reasonably), but each party must use all reasonable endeavours to provide such approval as soon as practicable, provided that neither party will be required to consult with the other in relation to any public announcement relating to termination of this deed or any Competing Proposal.

10.3 Required disclosure

Where a party is required by applicable law or the Listing Rules to make any announcement or to make any disclosure in connection with the Transaction or any other transaction the subject of this deed or the Scheme, it must use all reasonable endeavours, to the extent practicable in the circumstances, to consult with the other parties prior to making the relevant disclosure and take account of any reasonable comments received from the other parties in relation to the form and content of the announcement or disclosure.

11 Exclusivity

11.1 Termination of existing discussions

- (a) QMS represents and warrants to Bidder that, as at the date of this deed, QMS Group and any of its Authorised Persons:
 - (i) is not a party to any agreement or arrangement with a third party entered into for the purpose of facilitating a Competing Proposal;
 - (ii) has ceased any existing discussions or negotiations with any third party in relation to a potential Competing Proposal; and
 - (iii) has ceased the provision of any non-public information in relation to the QMS Group (**Non-Public Information**) to any third party, where the provision of Non-public Information was for the purposes of, a potential Competing Proposal and has enforced all rights it has to call for the return and/or destruction of any Non-Public Information previously provided to any such third party.
- (b) As far as QMS is aware, as at the date of this deed:
 - (i) no MediaWorks shareholder has commenced the process to, or intends to commence the process to, sell its shares in MediaWorks (either to an existing shareholder or to a third party buyer); and
 - (ii) there are no discussions or negotiations with any third party in relation to, or that could reasonably be expected to lead to, the acquisition of the MediaWorks Group,

except as previously disclosed to the ASX.

11.2 No-shop

During the Exclusivity Period, QMS must not, and must ensure that its Related Bodies Corporate and their respective Authorised Persons do not:

- (a) directly or indirectly solicit, invite, initiate or encourage any Competing Proposal;
- (b) solicit, invite, initiate or encourage any enquiries, proposals, discussions or negotiations in relation to, or which may reasonably be expected to lead to, a Competing Proposal; or
- (c) communicate to any person any intention to do any of the things referred to in clauses 11.2(a) or 11.2(b),

and for the avoidance of doubt, this obligation does not extend to the MediaWorks Group.

11.3 No-talk

Subject to clause 11.6, during the Exclusivity Period, QMS must not, and must ensure that its Related Bodies Corporate and their respective Authorised Persons do not, directly or indirectly:

- (a) participate in or continue any negotiations or discussions with respect to any inquiry, expression of interest, offer, proposal or discussion by any person to make, or which would reasonably be expected to encourage or lead to the making of, an actual, proposed or potential Competing Proposal or participate in or continue any negotiations or discussions with respect to any actual, proposed or potential Competing Proposal;
- (b) negotiate, accept or enter into, or offer or agree to negotiate, accept or enter into, any agreement, arrangement or understanding regarding an actual, proposed or potential Competing Proposal;
- (c) disclose or otherwise provide any Non-Public Information about the business or affairs of the QMS Group or the MediaWorks Group to a third party (other than a Government Agency) with a view to obtaining, or which would reasonably be expected to encourage or lead to receipt of, an actual, proposed or potential Competing Proposal (including, without limitation, providing such information for the purposes of the conduct of due diligence investigations in respect of the QMS Group); or
- (d) communicate to any person an intention to do anything referred to in the preceding paragraphs of this clause 11.3,

but nothing in this clause 11.3 prevents QMS from making normal presentations to brokers, portfolio investors and analysts in the ordinary course of business or promoting the merits of the Transaction and for the avoidance of doubt, this obligation does not extend to the MediaWorks Group.

11.4 No due diligence restriction

- (a) Subject to clause 11.6, during the Exclusivity Period, QMS must not directly or indirectly:
 - (i) solicit, initiate, facilitate, encourage or invite any person (other than Bidder, its affiliates or its Authorised Persons) to undertake due diligence investigations in respect of QMS or any member of the QMS Group or MediaWorks or any member of the MediaWorks Group, or any of their respective businesses and operations, in connection with such person formulating, developing or finalising, or assisting in the formulation, development or finalisation of, a Competing Proposal; or

- (ii) make available to any person (other than Bidder, its affiliates or its Authorised Persons) or permit any such person to receive, other than in the ordinary course of business or as required by law or the rules of any prescribed financial market, any Non-Public Information relating to QMS or any member of the QMS Group or MediaWorks or any member of the MediaWorks Group, or any of their respective businesses and operations with a view to obtaining or which may reasonably be expected to lead to a Competing Proposal.
- (b) During the Exclusivity Period, QMS must promptly provide the Bidder with any material Non-Public Information relating to the QMS Group or the MediaWorks Group, or any of their respective businesses and operations made available to any person by QMS, in connection with such person formulating, developing or finalising, or assisting in the formulation, development or finalisation of, a Competing Proposal and the substance of which has not previously been provided to Bidder.

11.5 Notification of approaches

- (a) During the Exclusivity Period, QMS must notify Bidder in writing as soon as practicable but in any event within 24 hours:
- (i) if QMS Group or any of QMS's Authorised Persons is approached by any person in relation to an actual or potential Competing Proposal, with such notice to set out reasonable details of the approach; or
 - (ii) of any request made by a third party for any information in relation to QMS Group or any of its respective businesses or operations, that the QMS Board has reasonable grounds to suspect may be in connection with such third party formulating, developing or finalising, or assisting in the formulation of a Competing Proposal,

(each, a **Notifiable Proposal**).

- (b) The notice referred to above must set out the material terms of the Notifiable Proposal, including (as the case may be):
- (i) the identity of the third party that made the Notifiable Proposal; and
 - (ii) the material terms and conditions (including price, conditions precedent, timetable and any break fee) of any Competing Proposal or any proposed Competing Proposal,

and Bidder agrees that:

- (iii) any such information received shall be Confidential Information and subject to clause 15(a); and
- (iv) it shall not, and it shall ensure that its Authorised Persons shall not, contact the third party that made the Notifiable Proposal for any purpose relating to the Scheme, the Competing Proposal or any similar transaction.

11.6 Fiduciary out

Clauses 11.3 and 11.4 do not apply to the extent that they restrict QMS or any QMS Director from taking or refusing to take any action with respect to a Competing Proposal (in relation to which there has been no contravention of this clause 11) provided that:

- (a) the Competing Proposal, approach, inquiry, proposal or request for information (as the case may be) is bona fide and is made by or on behalf of a person that the QMS Board considers is of sufficient commercial standing as to be able to complete the transaction that it contemplates; and
- (b) the QMS Board has determined in good faith after:
 - (i) consultation with QMS's financial and legal advisers, that the Competing Proposal, approach, inquiry, proposal or request for information (as the case may be) is or may be reasonably expected to lead to a Superior Proposal; or
 - (ii) receiving advice from QMS's external legal advisers practicing in the area of corporate law, that failing to take the action or refusing to take the action (as the case may be) with respect to the Competing Proposal would be reasonably likely to constitute, a breach of any of the fiduciary or statutory duties of the directors of QMS,

and for the avoidance of doubt, the evaluation of a Competing Proposal for the purposes of this clause 11.6 is not a breach of this clause 11.

11.7 Matching right

- (a) QMS must:
 - (i) not, and must procure that its Authorised Persons do not enter into any agreement, arrangement or understanding (whether or not in writing) in relation to a Competing Proposal; and
 - (ii) direct each QMS Independent Director not to withdraw, change or modify his or her recommendation or voting intention (as set out in clause 6) in response to a Competing Proposal, or publicly recommend, support or endorse a Competing Proposal,

unless:

- (iii) the Competing Proposal is a Superior Proposal;
 - (iv) QMS has provided Bidder with the material terms and conditions of the Competing Proposal, including the identity of any person(s) making the Competing Proposal, the price, conditions and proposed timing of the proposal;
 - (v) QMS has given Bidder at least 3 Business Days after provision of all of the information referred to in clause 11.7(a)(iv) to provide a proposal that is no less favourable to QMS Shareholders or is superior to the Competing Proposal (**Updated Bidder Proposal**); and
 - (vi) Bidder has not provided a Updated Bidder Proposal which the QMS Directors determine (acting reasonably and in good faith) would be reasonably likely to provide an outcome for QMS Shareholders that is no less favourable or more favourable to QMS Shareholders as a whole than the relevant Competing Proposal (having regard to matters including, but not limited to, consideration, conditionality, funding, certainty and timing) by the expiry of the period referred to in clause 11.7(a)(v).
- (b) QMS's obligations under this clause 11.7 apply in respect of each new Competing Proposal and any material variation or amendment to a Competing Proposal.

- (c) The QMS Directors must consider the Updated Bidder Proposal and if they determine, acting in good faith, that the Updated Bidder Proposal would provide an outcome that is no less favourable or more favourable to QMS Shareholders as a whole than the relevant Competing Proposal (having regard to matters including, but not limited to, consideration, conditionality, funding, certainty and timing), then Bidder and QMS must use their best endeavours to agree any amendments to this deed and the contents of the Scheme Booklet which are reasonably necessary to reflect the Bidder Proposal, and once agreed:
- (i) the parties must enter into an appropriate amending deed to this deed to give effect to those agreed amendments;
 - (ii) QMS must direct that each QMS Director recommends the Updated Bidder Proposal to QMS Shareholders and does not recommend the applicable Competing Proposal; and
 - (iii) QMS must implement the Updated Bidder Proposal in accordance with the terms of the amended scheme implementation deed,

in each case as soon as reasonably practicable.

12 QMS Break Fee

12.1 Background to QMS Break Fee

- (a) The Scheme Parties each acknowledge that, if they enter into this deed and the Scheme is subsequently not implemented, Bidder will incur significant costs, including those set out in clause 12.4.
- (b) In these circumstances, QMS has agreed that provision be made for the payment outlined in clause 12.2, without which Bidder would not have entered into this deed or otherwise agreed to implement the Scheme.
- (c) QMS and the QMS Board believe, having taken advice from their Advisers, that the implementation of the Scheme will provide benefits to QMS Shareholders and that it is appropriate for QMS to agree to the payment referred to in clause 12.2 in order to secure Bidder's participation in the Transaction.

12.2 QMS Break Fee

- (a) QMS must pay the QMS Break Fee to Bidder if:
 - (i) during the Exclusivity Period, any QMS Director withdraws or adversely revises their recommendation that QMS Shareholders vote in favour of the Scheme unless:
 - (A) the Independent Expert concludes in the Independent Expert's Report (or any update of, revision or amendment or addendum to, that report) that the Scheme is not in the best interests of QMS Shareholders (except where that conclusion is due (in whole or in part) to the existence, announcement or publication of a Competing Proposal);
 - (B) the QMS Director is permitted to do so under clause 6.3(c); or
 - (C) QMS is entitled to terminate this deed pursuant to clause 13.1(a)(i) or clause 13.2(a)(ii) and has given the appropriate termination notice to Bidder;

- (ii) a Competing Proposal is announced prior to the date of the Scheme Meetings (whether or not such proposal is stated to be subject to any pre-conditions) and, within 12 months of the date of such announcement, the party that proposed the Competing Proposal:
 - (A) completes a Superior Proposal; or
 - (B) acquires a Relevant Interest in more than 50% of the QMS Shares under a transaction that is or has become wholly unconditional or otherwise comes to Control QMS or acquires substantially all of the assets of QMS; or
 - (iii) subject to clause 12.2(b), Bidder has terminated this deed under clauses 13.1(a)(i) or 13.3(a) and the Scheme has not become Effective prior to the date of termination.
- (b) The QMS Break Fee is not payable to Bidder in respect of a termination by Bidder of this deed under clause 13.3(a) in circumstances where:
- (i) the Independent Expert does not conclude that the Transaction is in the best interests of QMS Shareholders, except where that conclusion is due (in whole or in part) to the existence, announcement or publication of a Competing Proposal); or
 - (ii) Bidder has terminated this deed under clause 13.3(a)(iv) on the basis that a QMS Regulated Event has occurred.
- (c) For the avoidance of doubt, no QMS Break Fee is payable under this clause 12.2 if the QMS Shareholders do not approve the Scheme at the Scheme Meetings.

12.3 Demand for Payment of QMS Break Fee

- (a) A demand by Bidder for payment of the QMS Break Fee under clause must:
- (i) be in writing;
 - (ii) be made after the occurrence of the event in that clause giving rise to the right to payment;
 - (iii) state the circumstances which give rise to the demand; and
 - (iv) nominate an account into which QMS is to pay the QMS Break Fee.
- (b) QMS must pay the QMS Break Fee into the account nominated by Bidder, without set-off or withholding, within 5 Business Days after receiving a demand for payment where Bidder is entitled under clause 12.2 to the QMS Break Fee.

12.4 Basis of QMS Break Fee

The QMS Break Fee has been calculated to reimburse Bidder for costs, including the following:

- (a) fees for legal, financial and other professional advice in planning and implementing the Transaction (excluding success fees);
- (b) reasonable opportunity costs incurred in engaging in the Transaction or in not engaging in other alternative transactions or strategic initiatives;

- (c) costs of management and directors' time in planning and implementing the Transaction;
- (d) out of pocket expenses incurred by directly or by employees, advisors and agents in planning and implementing the Transaction;
- (e) in the case of Bidder, costs associated with the financing arrangements in respect of the Transaction; and
- (f) any damage to reputation associated with a failed transaction,

and the Scheme Parties agree that:

- (g) the costs actually incurred by Bidder will be of such a nature that they cannot all be accurately ascertained;
- (h) the QMS Break Fee is a genuine and reasonable pre-estimate of those costs to Bidder; and
- (i) QMS has received advice from its legal advisors on the operation of this clause 12.

12.5 No payment if Scheme becomes Effective

No QMS Break Fee is payable if the Scheme becomes Effective or the Bidder or a Related Body Corporate of the Bidder takes control of QMS. To the extent that any amount has already been paid under this clause 12 and the Scheme becomes Effective, such amount must be immediately refunded to QMS.

12.6 QMS Break Fee payable once

Where the QMS Break Fee becomes payable to Bidder under clause 12.2 and is actually paid to Bidder, Bidder cannot make any claim against QMS for payment of any subsequent QMS Break Fee.

12.7 Other Claims by Bidder

- (a) Where an amount becomes payable to Bidder under clause 12.2 and is actually paid to Bidder (or is payable, but no demand is made under clause 12.3), the Bidder may not make any Claim (other than a Claim under this clause 12) against QMS which relates to the event that gave rise to the right to make a demand under clause 12.3.
- (b) The maximum aggregate amount which QMS is required to pay in relation to a breach or breaches of this deed by QMS or its failure to perform its obligations under this deed, is the QMS Break Fee and in no event will the aggregate liability of QMS under or in connection with a breach of this deed exceed the QMS Break Fee which will be the sole remedy in respect of any damages claim by QMS.

12.8 Compliance with law

If it is finally determined following the exhaustion of all reasonable avenues of appeal to the Takeovers Panel or a court that all or any part of the QMS Break Fee required to be paid under clause 12.2 (**Break Fee Impugned Amount**):

- (a) is unlawful;
- (b) involves a breach of directors' duties; or

- (c) constitutes unacceptable circumstances or breaches an order of the Takeovers Panel,

then,

- (d) the requirement to pay the QMS Break Fee does not apply to the extent of the Break Fee Impugned Amount; and
- (e) if Bidder has received the Break Fee Impugned Amount, it must refund it within five Business Days of the final determination being made.

12.9 Regulatory Intervention

If any regulatory body (including ASIC or the Takeovers Panel) or a court requires any modification (including requiring such a modification as a condition of consenting to or approving the Scheme or as a condition of not opposing the Scheme) to the QMS Break Fee, including as to the amount or circumstances in which it is to be paid, then:

- (a) the Scheme Parties will accept this determination and amend this deed to that extent; and
- (b) it will not result in a breach of this deed or termination of the transactions contemplated by it.

13 Termination

13.1 Termination by notice

- (a) A Scheme Party may terminate this deed by written notice to the other parties:
 - (i) other than in respect of a breach of either a QMS Warranty or a Bidder Warranty, (which are dealt with in clauses 13.2(a)(ii) and 13.3(a)(iii)), at any time before 8.00am on the Second Court Date if a Scheme Party has materially breached this deed (including in relation to a QMS Prescribed Occurrence or a QMS Regulated Event), if the party entitled to terminate has given written notice to the party in breach of this deed setting out the relevant circumstances and stating an intention to terminate this deed, and the party in breach has failed to remedy the breach within 5 Business Days (or any shorter period ending at 5.00pm on the Business Day before the Second Court Date) after the date on which the notice is given;
 - (ii) at any time before 8.00am on the Second Court Date if the Court or another Government Agency (including any other court) has taken any action permanently restraining or otherwise prohibiting or preventing the Transaction, or has refused to do anything necessary to permit the Transaction, and the action or refusal has become final and cannot be appealed or reviewed or the party, acting reasonably, believes that there is no realistic prospect of a successful appeal or review succeeding by the End Date;
 - (iii) in the circumstances set out in, and in accordance with, clause 3.7; or
 - (iv) if the Effective Date for the Scheme has not occurred, or will not occur, on or before the End Date.

13.2 Termination by QMS

- (a) Without limiting QMS's obligations under clause 6.1 and clause 11.7, QMS may, by notice in writing to Bidder, terminate this deed at any time prior to 8.00am on the Second Court Date if at any time before then:
 - (i) a majority of the QMS Directors change, withdraw or modify their Recommendation as permitted under clause 6.3; or
 - (ii) Bidder materially breaches a Bidder Warranty set out in clause 9.1, and:
 - (A) QMS has given written notice to Bidder setting out the relevant circumstances and stating an intention to terminate or to allow the Scheme to lapse;
 - (B) the relevant breach continues to exist, or the effects of which are not otherwise mitigated, 5 Business Days (or any shorter period ending at 5.00pm on the Business Day before the Second Court Date) after the date on which the notice is given under clause 13.2(a)(ii)(A); and
 - (C) the breach is material in the context of the Scheme taken as a whole.

13.3 Termination by Bidder

- (a) Bidder may, by notice in writing to QMS, terminate this deed at any time prior to 8.00am on the Second Court Date if, at any time before then:
 - (i) a QMS Director (other than a QMS Director who has withdrawn a recommendation that QMS Shareholders vote in favour of the Scheme solely because of a requirement or request of a court or Government Agency):
 - (A) withdraws or adversely revises his or her Recommendation or Voting Intention;
 - (B) makes any public statement that is inconsistent with the Recommendation or Voting Intention; or
 - (C) recommends, endorses or supports any Competing Proposal;
 - (ii) a Competing Proposal in respect of QMS is announced or made and is publicly recommended, supported or endorsed by a majority of the QMS Board;
 - (iii) QMS materially breaches a QMS Warranty set out in clause 9.2, and:
 - (A) Bidder has given written notice to QMS setting out the relevant circumstances and stating an intention to terminate or to allow the Scheme to lapse;
 - (B) the relevant breach continues to exist, or the effects of which are not otherwise mitigated, 5 Business Days (or any shorter period ending at 5.00pm on the Business Day before the Second Court Date) after the date on which the notice is given under clause 13.3(a)(iii)(A); and
 - (C) the breach is material in the context of the Scheme taken as a whole; or

- (iv) a QMS Regulated Event or QMS Prescribed Occurrence occurs.

13.4 Effect of termination

In the event of termination of this deed in accordance with clauses 3.7 or 13.1, this deed will cease to have force and effect without any liability or obligation on the part of any party, except that:

- (a) this deed will become void and have no effect, except that the provisions of this clause 13.4 and clauses 1, 9.4, 9.5, 9.6, 12, 15, 16 and 17 and Schedule 1 survive termination; and
- (b) each party will retain the rights it has or may have against the other parties in respect of any part breach of this deed; and
- (c) in all other respects, all future obligations of the parties under this deed will immediately terminate and be of no further force and effect including any further obligations in respect of the Scheme.

14 Releases

14.1 QMS and QMS directors and officers

- (a) Bidder releases its rights, and agrees with QMS that neither it nor any of its Subsidiaries as at the date of this deed and from time to time will make a claim, against any QMS Indemnified Party other than QMS and its Related Bodies Corporate as at the date of this deed and from time to time in connection with:
 - (1) any breach of any representations and warranties of QMS or any other member of the QMS Group in this deed; or
 - (2) any disclosures containing any statement which is false or misleading whether in content or by omission,whether current or future, known or unknown, arising at common law, in equity, under statute or otherwise, except where the QMS Indemnified Party has engaged in wilful misconduct or fraud. For the avoidance of doubt, nothing in this clause 14.1 limits Bidder's rights to terminate this deed under clause 13.3(a)(iii).
- (b) QMS receives and holds the benefit of this clause 14 to the extent it relates to each QMS Indemnified Party as trustee for each of them.

14.2 Bidder and Bidder directors and officers

- (a) QMS releases its rights, and agrees with Bidder that it will not make a claim, against any Bidder Indemnified Party other than Bidder and its related bodies corporate as at the date of this deed and from time to time in connection with:
 - (i) any breach of any representations and warranties of Bidder or any other member of the Bidder Group in this deed; or
 - (ii) any disclosure containing any statement which is false or misleading whether in content or by omission,whether current or future, known or unknown, arising at common law, in equity, under statute or otherwise, except where the Bidder Indemnified Party has

engaged in wilful misconduct or fraud. For the avoidance of doubt, nothing in this clause 14.2 limits QMS's rights to terminate this deed under clause 13.2(a)(ii).

- (b) Bidder receives and holds the benefit of this clause to the extent it relates to each Bidder Indemnified Party as trustee for each of them.

14.3 Deeds of indemnity

- (a) Subject to the Scheme becoming Effective, Bidder undertakes in favour of QMS and each other person who is a QMS Party that it will:
 - (i) subject to clause 14.3(d), for 7 years from the Implementation Date, ensure that the constitutions of QMS and each other member of the QMS Group continue to contain such rules as are contained in those constitutions at the date of this deed that provide for each company to indemnify each of its directors and officers against any liability incurred by that person in his or her capacity as a director or officer of the company to any person other than a member of the QMS Group; and
 - (ii) procure that QMS and each other member of the QMS Group complies with any deeds of indemnity, access and insurance made by them in favour of their respective directors and officers from time to time.
- (b) The undertakings contained in clause 14.3(a) are subject to any Corporations Act restriction, or any restriction in the law of a jurisdiction in which an entity is incorporated, and will be read down accordingly.
- (c) QMS receives and holds for the benefit of clause 14.3(a), to the extent it relates to the other QMS Parties, as trustee for them.
- (d) The undertakings contained in clause 14.3(a) are given:
 - (i) in the case of clause 14.3(a)(i), until the earlier of 7 years from the Implementation Date and the relevant member of the QMS Group ceasing to be part of Bidder Group; or
 - (ii) in the case of clause 14.3(a)(ii), until the earlier of 7 years from the retirement of each director and officer and the relevant member of the QMS Group ceasing to be part of Bidder Group.

14.4 Directors' and officers' insurance

Bidder acknowledges that QMS will in respect of QMS and all other members of the QMS Group:

- (a) prior to the Effective Date, if required by QMS, arrange for the cover currently provided under the directors' and officers' insurance policy for QMS and all other members of the QMS Group (**Policy**) to be extended for a further 12 months; and
- (b) by no later than the Implementation Date, to the extent practicable at normal commercial rates, arrange for the cover provided under the Policy to be amended so as to provide run off cover in accordance with the terms of the Policy for 7 years from the end of the term of the Policy, and pay all premiums required so as to ensure that insurance cover is provided under the Policy on those terms until that date.

14.5 Obligations in relation to directors' and officers' insurance

- (a) From the Implementation Date, QMS must not:
 - (i) vary or cancel the Policy; or
 - (ii) unless required under the Policy, commit any act or omission that may prejudice any claim by a director or officer of QMS under the Policy as extended under clause 14.4(b) above.
 - (b) Nothing in clause 14.4 or 14.5 shall require Bidder or QMS to incur any additional premium after the Implementation Date or require QMS to not fulfil its contractual obligations under the Policy.
-

15 Confidentiality

- (a) Subject to 15(b) below, QMS and Bidder acknowledge that they continue to be bound by the Confidentiality Agreement after the date of this deed on the terms of that Confidentiality Agreement, provided that this deed prevails to the extent of any inconsistency. For the avoidance of doubt, the rights and obligations of QMS and Bidder under the Confidentiality Agreement survive termination of this deed.
 - (b) QMS agrees to release Bidder and its Associates from the standstill restrictions in clause 10 of the Confidentiality Agreement to the extent required to enable Bidder and its Associates to do anything necessary in connection with exercising their rights and fulfilling their obligations in relation to the Transaction, including anything required to be done pursuant to the terms of this deed, the Scheme, the Deed Poll, an order of the Court or any document ancillary to them.
-

16 Notices

16.1 Service of notices

- (a) A notice, consent or other communication under this deed (**Notice**) is only effective if:
 - (i) it is in writing, signed by or on behalf of the party giving it; and
 - (ii) it is directed to the recipient's address for notices as follows:

QMS

Address: 214-220 Park Street, South Melbourne, Victoria 3205
E-mail: david.edmonds@qmsmedia.com
Attn: David Edmonds

with a copy to Lander & Rogers:

Address: Level 12, 600 Bourke Street
E-mail: pmonk@landers.com.au
Attn: Peter Monk

Bidder

Address: Level 30, 126-130 Phillip Street, Sydney, NSW 2000
E-mail: pearce@quadrantpe.com.au
Attn: Jonathon Pearce

with a copy to Gilbert + Tobin:

Address: Level 35, Tower Two, International Towers Sydney, 200
Barangaroo Avenue, Barangaroo, NSW 2000

E-mail: rbassil@gtlaw.com.au
Attn: Rachael Bassil

- (b) If a party changes address and fails to notify the other parties of this change and the new address, delivery of Notices to a new address, or otherwise brought to the attention of the addressee, are deemed compliance with the notice obligations under this clause 16.1.

16.2 Effective on receipt

A Notice given in accordance with clause 16.1 takes effect when received (or at a later time specified in it), and is taken to be received:

- (a) if hand delivered, on delivery;
- (b) if sent by prepaid post, the second Business Day after the date of posting; or
- (c) if sent by email, when the email (including the attachment) comes to the attention of the recipient party or a person acting on its behalf,

but if the delivery or transmission under clause 16.2(a) or 16.2(b) is not on a Business Day or after 5.00pm on a Business Day, the Notice is taken to be received at 9.00am on the Business Day after that delivery, receipt or transmission.

17 General

17.1 Further acts

Each party will promptly do all things necessary to give full effect to this deed and the matters contemplated by it.

17.2 Payments

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

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

17.3 Consents or approvals

- (a) Unless expressly required by the terms of this deed, a party is not required to act reasonably in giving or withholding any consent or approval or exercising any other right, power, authority, discretion or remedy, under or in connection with this deed.
- (b) A party may (without any requirement to act reasonably) impose conditions on the grant by it of any consent or approval, or any waiver of any right, power, authority, discretion or remedy, under or in connection with this deed. Any conditions must be complied with by the party relying on the consent, approval or waiver.

17.4 GST

- (a) Any reference in this clause 17.4 to a term defined or used in the *A New Tax System (Goods and Services Tax) Act 1999* (Cth) is, unless the context indicates otherwise, a reference to that term as defined or used in that Act.
- (b) Unless expressly included, the consideration for any supply under or in connection with this deed does not include GST.
- (c) To the extent that any supply made by a party (**Supplier**) to another party (**Recipient**) under or in connection with this deed is a taxable supply, the Recipient must pay to the Supplier, in addition to the consideration to be provided under this deed but for the application of this clause 17.4(c) for that supply (**GST Exclusive Consideration**), an amount equal to the amount of the GST Exclusive Consideration (or its GST exclusive market value) multiplied by the rate at which GST is imposed in respect of the supply. This clause 17.4(c) does not apply to any taxable supply under or in connection with this deed that is expressly stated to include GST.
- (d) The amount on account of GST payable in accordance with this clause 17.4 will be paid at the same time and in the same manner as the consideration otherwise payable for the supply is provided and the Supplier must provide the Recipient with a Tax Invoice as a pre-condition to payment of the GST payable.
- (e) Any reference in the calculation of any consideration or of any indemnity, reimbursement or similar amount to a cost, expense or liability incurred by a person (**Relevant Expense**) is a reference to the relevant expense reduced by an amount equal to any input tax credit entitlement of that person (or of the representative member of any GST group to which the person belongs) in relation to the Relevant Expense. A party will be assumed to have an entitlement to a full input tax credit unless it demonstrates otherwise prior to the date on which the relevant payment or consideration must be provided.
- (f) Unless expressly included, any monetary thresholds specified in this deed are exclusive of GST.

17.5 Stamp duty

Bidder must pay all stamp duties (if any) and any fines and penalties with respect to stamp duty in respect of this deed or the Scheme or the steps to be taken under this deed or the Scheme (including the acquisition or transfer of Scheme Shares pursuant to the Scheme).

17.6 Expenses

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

17.7 Amendments

No variation of this deed is effective unless made in writing and signed by each party.

17.8 Assignment

- (a) Subject to clause 17.8(b), a party must not assign or novate this deed or otherwise deal with the benefit of it or a right under it, or purport to do so, without the prior written consent of the other parties, which consent may be withheld at the absolute discretion of the party or parties from whom consent is sought.
- (b) Bidder may assign, grant a security interest over, novate or otherwise transfer by way of security, any of its rights under this deed to a financier or financiers (or a security agent or security trustee thereof) without the prior consent of QMS solely for the purpose of obtaining finance or providing security in connection with the Transaction provided that no assignment to any such financier or financiers shall affect Bidder's obligations under this deed or increase QMS's obligations under this deed.

17.9 Waiver

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

17.10 Entire agreement

This deed:

- (a) This deed is the entire agreement between the parties about its subject matter and replaces all previous agreements, understandings, representations and warranties about that subject matter (other than the Confidentiality Agreement).
- (b) Each party represents and warrants that it has not relied on any representations or warranties about the subject matter of this deed except as expressly provided in this deed.

17.11 Relationship of the parties

Except as expressly provided in this deed:

- (a) nothing in this deed is intended to constitute a fiduciary relationship, employment relationship or an agency, partnership or trust; and
- (b) no party has authority to bind any other party.

17.12 No merger

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

17.13 Invalidity and enforceability

- (a) If any provision of this deed is invalid under the law of any jurisdiction the provision is enforceable in that jurisdiction to the extent that it is not invalid, whether it is in severable terms or not.
- (b) Clause 17.13(a) does not apply where enforcement of the provision of this deed in accordance with clause 17.13(a) would materially affect the nature or effect of the parties' obligations under this deed.

17.14 Remedies cumulative

Except as provided in this deed and permitted by law, the rights, powers and remedies provided in this deed are cumulative with, and not exclusive of, the rights, powers and remedies provided by law independently of this deed.

17.15 Severability

Any term of this deed which is wholly or partially void or unenforceable is severed to the extent that it is void or unenforceable. The validity or enforceability of the remainder of this deed is not affected.

17.16 Governing law

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

17.17 Counterparts

- (a) This deed may be executed in any number of counterparts and by the parties on separate counterparts. Each counterpart constitutes the agreement of each party who has executed and delivered that counterpart. Each counterpart is an original but the counterparts together are one and the same agreement.
- (b) This deed is binding on the parties on the exchange of duly executed counterparts.
- (c) The parties agree that a copy of an original executed counterpart sent by email to the email address of the other parties specified in clause 16, instead of the original,

is sufficient evidence of the execution of the original and may be produced in evidence for all purposes in place of the original.

1 Dictionary

1.1 Defined terms

In this deed, unless the context otherwise requires, the following words and expressions have meanings as follows:

Accounting Standards means:

- (a) the accounting standards made by the Australian Accounting Standards Board in accordance with the Corporations Act, and the requirements of that Act relating to the preparation and content of accounts; and
- (b) generally accepted accounting principles that are consistently applied in Australia, except those inconsistent with the standards or requirements referred to in paragraph (a).

Adviser means any person who is engaged to provide professional advice of any type (including legal, accounting, consulting or financial advice) to QMS or Bidder.

Agreed Dividend means a dividend to be declared and paid by QMS of up to 1.3c per Share.

ASIC means the Australian Securities and Investments Commission.

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

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

Authorised Person means, in respect of a person:

- (a) a director, officer, contractor, agent or employee of the person;
- (b) an Adviser of the person; and
- (c) a director, officer or employee of an Adviser of the person.

Bidder Group means Bidder and its Subsidiaries.

Bidder Indemnified Parties means Bidder, its Subsidiaries and their respective directors, officers, employees and Advisers.

Bidder Information means such information regarding Bidder that is provided by or on behalf of Bidder to QMS or the Independent Expert:

- (a) to enable the Scheme Booklet to be prepared and completed in compliance with all applicable laws;
- (b) to enable applications for Regulatory Approvals to be made; and
- (c) otherwise in compliance with Bidder's obligations under clause 5.2(a).

Bidder Warranties means the representations and warranties of Bidder set out in clause 9.1.

Business Day means a day that is not a Saturday, Sunday or a public holiday or bank holiday in Melbourne, Victoria.

Cash Consideration means A\$1.22 per Scheme Share.

Change of Control Requirements has the meaning given to that term in clause 7.5.

Claim means a claim, notice, demand, action, proceeding, litigation, prosecution, arbitration, investigation, judgment, award, damage, loss, cost, expense or liability however arising, whether present, unascertained, immediate, future or contingent, whether based in contract, tort or statute.

COC Contract means those contracts each of which individually are reasonably expected to contribute at least \$10,000,000 of the QMS Group's revenue for the financial year ended 31 December 2019.

Competing Proposal means any inquiry, proposal, offer or transaction (including, without limitation, by way of takeover bid or scheme of arrangement) by a third party (other than Bidder or its Related Bodies Corporate) that, if completed, would mean:

- (a) a person would acquire all or substantially all of the assets or business of the QMS Group or otherwise acquire, become the holder of or have a right to acquire or an economic interest in all or a substantial part of the business, of the QMS Group;
- (b) a person would acquire a relevant interest or voting power in 10% or more of the QMS Shares or 50% or more of the securities of any of member of the QMS Group;
- (c) a person would enter into, buy, dispose of, terminate or otherwise deal with any cash settled equity swap or other synthetic, economic or derivative transaction connected with or relating to 10% or more of the QMS Shares or 50% or more of the securities of any member of the QMS Group;
- (d) a person would acquire Control of QMS or any member of the QMS Group;
- (e) a person may otherwise acquire, or merge with, QMS or any member of the QMS Group (including by way of takeover bid, scheme of arrangement, capital reduction, sale of assets, sale of securities, strategic alliance, dual listed company structure, joint venture or partnership); or
- (f) QMS will issue, on a fully diluted basis, 20% or more of its capital as consideration for the assets or share capital or another person,

or any proposal by QMS to implement any reorganisation of capital. Each successive material modification or variation of any proposal, offer or transaction in relation to a Competing Proposal will constitute a new Competing Proposal.

Conditions means the conditions set out in clause 3.1 and **Condition** means any one of them.

Confidentiality Agreement means the confidentiality agreement between QMS and an Associate of Bidder dated 11 September 2019.

Control has the meaning given under section 50AA of the Corporations Act. **Controlled** has the equivalent meaning.

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

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

Court means the Federal Court of Australia (Victorian registry) or any other court of competent jurisdiction under the Corporations Act as the parties may agree in writing.

Debt Commitment Letter means each of the executed binding commitment letters and accompanying binding term sheets from Bidder's debt financiers addressed to Bidder and provided to Bidder on or before the date of this deed.

Deed Poll means the deed poll to be executed by Bidder prior to the First Court Date, substantially in the form set out in Schedule 4 or in such other form as is acceptable to QMS acting reasonably.

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

Effective Date, with respect to the Scheme, means the date on which the Scheme becomes Effective.

Election means an election by a Relevant Shareholder to receive their Scheme Consideration partly in the form of Scrip Consideration and partly in the form of Cash Consideration, made in accordance with clause 4.4.

Election Form means a form issued by or on behalf of QMS for the purposes of a Relevant Shareholder making an Election in a form agreed to by QMS and Bidder.

Election Time means 5.00pm on the third Business Day before the date of the Scheme Meetings, or such other date as is agreed in writing between Bidder and QMS.

Encumbrance means a mortgage charge, pledge, lien, encumbrance, security interest, title retention, preferential right, trust arrangement, contractual right of set-off or any other security agreement or arrangement in favour of any person, whether registered or unregistered, including any Security Interest.

End Date means the later of:

- (a) 30 April 2020; and
- (b) such other date and time agreed in writing between Bidder and QMS.

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

- (a) the End Date;
- (b) the Effective Date; and
- (c) the date this deed is terminated in accordance with its terms.

Fairly Disclosed means, in reference to a party, disclosed to any of that party or any of its Authorised Persons in good faith and in sufficient detail so as to enable a reasonable

and sophisticated buyer (or one of its Authorised Persons) experienced in transactions similar to the Transaction and experienced in a business similar to any business conducted by the QMS Group (if disclosed to Bidder) or the Bidder Group (if disclosed to QMS), to identify the nature and scope of the relevant matter, event or circumstance.

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

FIRB means the Foreign Investment Review Board.

First Court Date means the date the Court first hears the application to order the convening of the Scheme Meetings under section 411(1) of the Corporations Act.

Government Agency means any government or representative of a government or any governmental, semi-governmental, administrative, fiscal, regulatory or judicial body, department, commission, authority, tribunal, agency, competition authority or entity and includes any minister, ASIC, ASX, the Takeovers Panel and any regulatory organisation established under statute or any stock exchange.

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

HoldCo means Shelley Topco Pty Ltd ACN 634 291 375, the ultimate holding company of Bidder.

HoldCo Securities means securities (including ordinary shares and preference shares) in the capital of HoldCo and **HoldCo Security** means any one of them.

Implementation Date means, with respect to the Scheme, the fifth Business Day, or such other Business Day as the parties agree, following the Scheme Record Date for the Scheme.

Implementation Planning Committee has the meaning given to that term in clause 7.3(e) of this deed.

Independent Expert means an expert, independent of the parties, engaged by QMS in good faith to opine on whether the Scheme is in the best interests of QMS Shareholders.

Independent Expert's Report means the report from the Independent Expert commissioned by QMS for inclusion in the Scheme Booklet, which includes a statement by the Independent Expert on whether, in its opinion, the Scheme is in the best interests of QMS Shareholders, and includes any update of that report by the Independent Expert.

Insolvency Event means in relation to a person:

- (a) **insolvency official:** the appointment of a liquidator, provisional liquidator, administrator, statutory manager, controller, receiver, receiver and manager or other insolvency official (whether under an Australian law or a foreign law) to the person or to the whole or a substantial part of the property or assets of the person and the action is not stayed, withdrawn or dismissed within 14 days;
- (b) **arrangements:** the entry by the person into a compromise or arrangement with its creditors generally;
- (c) **winding up:** the calling of a meeting to consider a resolution to wind up the person (other than where the resolution is frivolous or cannot reasonably be

considered to be likely to lead to the actual winding up of the person) or the making of an application or order for the winding up or deregistration of the person other than where the application or order (as the case may be) is set aside or withdrawn within 14 days;

- (d) **suspends payments:** the person suspends or threatens to suspend payment of its debts as and when they become due;
- (e) **ceasing business:** the person ceases or threatens to cease to carry on business;
- (f) **insolvency:** the person is or becomes unable to pay its debts when they fall due within the meaning of the Corporations Act or is otherwise presumed to be insolvent under the Corporations Act;
- (g) **deregistration:** the person being deregistered as a company or otherwise dissolved;
- (h) **deed of company arrangement:** the person executing a deed of company arrangement;
- (i) **person as trustee or partner:** the person incurs a liability while acting or purporting to act as trustee (or co-trustee) or general partner of a trust or partnership (including a limited partnership) and the person is not entitled to be fully indemnified against the liability out of trust or partnership assets because of one or more of the following:
 - (i) a breach of trust or obligation as partner by the person;
 - (ii) the person acting outside the scope of its powers as trustee or partner;
 - (iii) a term of the trust or partnership denying, or limiting, the person's right to be indemnified against the liability;
 - (iv) the assets of the trust or partnership being insufficient to discharge the liability; or
- (j) **analogous events:** anything analogous to those set out in any of paragraphs (a) to (g) inclusive occurs in relation to the person under the laws of a foreign jurisdiction,

and a person shall be **Insolvent** if any event specified in paragraphs (a) to (j) inclusive occurs in respect of that person.

Listing Rules means the official listing rules of ASX as amended from time to time.

Material Adverse Change means a change, event, circumstance, occurrence or matter that occurs, is announced, is disclosed or otherwise becomes known to Bidder or the QMS Board in each case after the date of this deed (whether it becomes public or not) which (whether individually or when aggregated with all such changes, events, circumstances, occurrences or matters) has had or is reasonably likely to have:

- (a) the effect of a diminution in the value of the consolidated net assets (but not including any diminution in intangible assets) of the QMS Group as at 31 December 2019, taken as a whole, of at least \$17,500,000 against what it would reasonably be expected to have been but for that change, event, circumstance, occurrence or matter; or

- (b) the effect of a diminution in the consolidated earnings before interest, tax, depreciation and amortisation of the QMS Group, taken as a whole, of at least \$8,000,000 for the financial year ending 31 December 2019 or 31 December 2020 against what it would reasonably be expected to have been but for that change, event, circumstance, occurrence or matter,

in each case other than changes, events, occurrences or matters:

- (c) expressly required or permitted by this deed or the Scheme;
- (d) Fairly Disclosed to Bidder in the QMS Disclosure Materials;
- (e) Fairly Disclosed in any announcement by QMS to ASX within 5 years prior to the date of this deed, or Fairly Disclosed in a document lodged with ASIC by or on behalf of QMS within 3 years prior to the date of this deed;
- (f) consented to in writing by Bidder; or
- (g) which arise from:
 - (i) changes in exchange rates or interest rates;
 - (ii) general economic, political or business conditions, including material adverse changes or major disruptions to, or fluctuations in, domestic or international financial markets, and acts of terrorism, war or natural disaster; or
 - (iii) any actual or proposed changes to accounting standards, laws, regulations or policies of a Government Agency in Australia or the interpretation of any of the foregoing.

MediaWorks means MediaWorks Investments Limited NZCN 4568880, in which the QMS Group holds 40% of the shares on issue.

MediaWorks Group means MediaWorks and its Subsidiaries.

Non-Public Information has the meaning given in clause 11.1(a)(iii).

NZ OIO means the New Zealand Overseas Investment Office.

PPSR means the register of security interests maintained in accordance with the *Personal Property Securities Act 2009* (Cth).

QMS Board means the board of QMS Directors as constituted from time to time (or any committee of the board of directors of QMS constituted from time to time to consider the Transaction on behalf of QMS).

QMS Break Fee means \$4,200,000.

QMS Director means a director of QMS.

QMS Disclosure Letter means the letter so entitled from QMS provided to Bidder on or prior to the date of this deed and countersigned by Bidder.

QMS Disclosure Materials means the QMS Due Diligence Materials and the QMS Disclosure Letter.

QMS Due Diligence Materials means the information disclosed by or on behalf of the QMS Group (including management presentations and in response to requests for information and information in relation to the MediaWorks Group) to Bidder or any of its Authorised Persons prior to the date of this deed.

QMS Group means QMS and its Subsidiaries.

QMS Incentive Plan means QMS's long term incentive plan adopted in May 2015.

QMS Indemnified Parties means QMS, its Subsidiaries and their respective directors, officers and employees.

QMS Independent Director means a QMS Director other than Barclay Nettlefold.

QMS Party means each member of the QMS Group and its Related Bodies Corporate and Authorised Persons.

QMS Performance Right means a right to be issued a QMS Share under the QMS Incentive Plan.

QMS Performance Right Holder means a holder of a QMS Performance Right.

QMS Prescribed Occurrence means the occurrence of any of the following on or after the date of this deed and before 8.00am on the Second Court Date:

- (a) QMS converts all or any of its shares into a larger or smaller number of shares (see section 254H of the Corporations Act);
- (b) any member of the QMS Group resolves to reduce its share capital in any way;
- (c) any member of the QMS Group:
 - (i) enters into a buy-back agreement; or
 - (ii) resolves to approve the terms of a buy-back agreement under subsections 257C(1) or 257D(1) of the Corporations Act;
- (d) any member of the QMS Group issues shares, or grants a performance right, a phantom performance right, or an option over its shares, or agrees to make such an issue or grant such a performance right, phantom performance right or an option (other than to a directly or indirectly wholly owned Subsidiary of QMS);
- (e) any member of the QMS Group issues, or agrees to issue, securities convertible into shares or debt securities;
- (f) any member of the QMS Group or MediaWorks Group becomes Insolvent,

provided that a QMS Prescribed Occurrence will not include any matter:

- (g) required to be done or procured by QMS pursuant to this deed or the Scheme;
- (h) to the extent it is Fairly Disclosed in filings of QMS with the ASX prior to the date of this deed;
- (i) to the extent it is Fairly Disclosed in the QMS Disclosure Letter or the QMS Due Diligence Materials;

- (j) required by law or by an order of a court or Government Agency;
- (k) expressly permitted pursuant to this deed; or
- (l) the undertaking of which Bidder has been approved in writing (which approval must not be unreasonably withheld or delayed).

QMS Regulated Event means the occurrence of any of the following:

- (a) a member of the QMS Group reclassifying, combining, splitting or redeeming or repurchasing directly or indirectly any of its shares;
- (b) any member of the QMS Group declaring, paying, distributing or incurring any liability to make or pay any dividend, bonus or other share of its profits or assets or returning or agreeing to return any capital to its members other than the Agreed Dividend;
- (c) QMS amending the terms of the QMS Incentive Plan;
- (d) a member of the QMS Group making any change to its constitution;
- (e) any member of the QMS Group ceasing or threatening to cease, the whole or a material part of its business;
- (f) any member of the QMS Group:
 - (i) acquiring or disposing of;
 - (ii) agreeing to acquire or dispose of; or
 - (iii) offering to, proposing to, announcing a bid to, or tendering for, the acquisition or disposal of,

any business or property (excluding in respect of any lease) of any business, assets or entity (whether by way of a single transaction or series of related transactions) the value of which exceeds \$2,500,000 individually, or in related transactions that are entered into contemporaneously, and \$10,000,000 in aggregate;

- (g) any member of the QMS Group creating, granting or agreeing to any Encumbrance over any of the assets of any member of the QMS Group, other than a lien which arises by operation of law, legislation or arises in the ordinary course of the QMS Group's business, except to existing financiers as at the date of this deed;
- (h) any member of the QMS Group resolving that it be wound up or the making of an application or order for the insolvent winding up or dissolution of a member of the QMS Group, other than where the application or order (as the case may be) is set aside within 14 days;
- (i) a liquidator or provisional liquidator of a member of the QMS Group being appointed;
- (j) a court making an order for the winding up of a member of the QMS Group;
- (k) an administrator of a member of the QMS Group being appointed under the Corporations Act;

- (l) any member of the QMS Group executing a deed of company arrangement;
- (m) a receiver, or a receiver and manager, being appointed in relation to the whole, or a substantial part, of the property of a member of the QMS Group;
- (n) any member of the QMS Group being deregistered as a company or otherwise dissolved other than on a solvent basis;
- (o) a member of the QMS Group entering into any contract or commitment (including in respect of any new financial indebtedness) requiring payments by the QMS Group in excess of \$2,500,000 per annum individually or \$5,000,000 per annum in aggregate, other than any payment required by law;
- (p) a member of the QMS Group providing financial accommodation other than to members of the QMS Group or the MediaWorks Group or trade debtors in the ordinary course (irrespective of what form that accommodation takes) in excess of \$2,500,000 per annum individually or \$5,000,000 per annum in aggregate;
- (q) a member of the QMS Group entering into any agreement, arrangement or transaction with respect to derivative instruments (including, but not limited to, swaps, futures contracts, forward commitments, commodity derivatives or options) or similar instruments which is materially different in terms of quantum or scope to agreements, arrangements or transactions with respect to derivative or similar instruments entered into by any of the members of the QMS Group in the 12 months prior to the date of this deed;
- (r) a member of the QMS Group entering into, or resolving to enter into, a transaction with any related party of QMS (other than a related party which is a member of the QMS Group), as defined in section 228 of the Corporations Act;
- (s) a member of the QMS Group entering into or materially altering, varying or amending any employment, consulting, severance or similar agreement or arrangement with one or more of its officers, directors, other executives or employees with a base salary of greater than \$250,000, or accelerating or otherwise materially increasing compensation or benefits for any of the above, in each case other than:
 - (i) pursuant to contractual arrangements in effect on the date of this deed which are Fairly Disclosed in the QMS Disclosure Materials; or
 - (ii) pursuant to QMS's policies and guidelines in effect on the date of this deed which are Fairly Disclosed in the QMS Disclosure Materials;
- (t) a member of the QMS Group entering into an employment agreement with a new employee with a base salary of greater than \$250,000;
- (u) a member of the QMS Group paying any of its directors or employees a termination or retention payment, other than in accordance with contractual arrangements in effect on the date of this deed and which are Fairly Disclosed in the QMS Disclosure Materials and provided that the aggregate of all payments is no greater than \$500,000;
- (v) a member of the QMS Group entering into any enterprise bargaining agreement other than in the ordinary course of business or pursuant to contractual arrangements in effect on the date of this deed and which are Fairly Disclosed in the QMS Disclosure Materials;

- (w) a member of the QMS Group changing any accounting policy applied by them to report their financial position other than any change in policy required by a change in accounting standards;
- (x) a member of the QMS Group settling any legal proceedings, disputed claim, investigation, arbitration or other like proceeding where the settlement amount payable by any member of the QMS Group exceeds \$750,000;
- (y) QMS Shares cease to be quoted on ASX;
- (z) any member of the QMS Group authorises, agrees, offers, commits or resolves to do any of the matters set out in the above definition, whether conditionally or otherwise,

other than events, occurrences or matters:

- (aa) required to be done or procured by QMS pursuant to this deed or the Scheme;
- (bb) to the extent that it was Fairly Disclosed in the QMS Disclosure Letter or the QMS Due Diligence Materials;
- (cc) to the extent it was Fairly Disclosed to the ASX within five years prior to the date of this deed or which may arise from an event, occurrence or matter which was so disclosed; or
- (dd) which the Bidder has previously approved in writing.

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

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

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

QMS Warranties means the representations and warranties of QMS set out in clause 9.2.

Recommendation has the meaning given to that term in clause 6.2.

Regulatory Approval means:

- (a) any approval, consent, authorisation, registration, filing, lodgement, permit, franchise, agreement, notarisation, certificate, permission, licence, direction, declaration, authority, waiver, modification or exemption from, by or with a Government Agency; or
- (b) in relation to anything that would be fully or partly prohibited or restricted by law if a Government Agency intervened or acted in any way within a specified period after lodgement, filing, registration or notification, the expiry of that period without intervention or action.

Related Body Corporate of a person, means a related body corporate of that person under section 50 of the Corporations Act and includes any body corporate that would be a related body corporate if section 48(2) of the Corporations Act was omitted.

Relevant Interest has the meaning given to that term in sections 608 and 609 of the Corporations Act.

Relevant Shareholder means:

- (a) Barctin Superannuation Pty Ltd as trustee of Barctin Superannuation Fund;
- (b) Wenvale Pty Ltd as trustee for the Barclay Nettlefold Family Trust; and
- (c) Mr John O'Neill.

RG 60 means Regulatory Guide 60 issued by ASIC.

Scheme means the proposed scheme of arrangement pursuant to Part 5.1 of the Corporations Act between QMS and Scheme Shareholders in respect of all Scheme Shares, substantially in the form set out in Schedule 3 or in such other form as the Scheme Parties agree in writing, subject to any alterations or conditions made or required by the Court under section 411(6) of the Corporations Act and approved in writing by each party.

Scheme Booklet means the explanatory booklet to be prepared by QMS in respect of the Transaction in accordance with the terms of this deed and to be despatched to QMS Shareholders.

Scheme Consideration means the Cash Consideration or Scrip Consideration payable per Scheme Share held by a Scheme Shareholder determined in accordance with clause 4.5.

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

Scheme Parties means Bidder and QMS.

Scheme Record Date means, in respect of the Scheme, 5.00pm on the third Business Day (or such other Business Day as the parties agree in writing) following the Effective Date.

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

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

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

Scrip Consideration means such number of HoldCo Securities per Scheme Share as determined by Bidder, to be determined on or prior to the First Court Date.

Security Interest has the meaning given in section 12 of the *Personal Property Securities Act 2009* (Cth).

Share Registry means Computershare Investor Services Pty Ltd ACN 078 279 277.

Share Splitting means the splitting by a holder of QMS Shares into two or more parcels of QMS Shares whether or not it results in any change in beneficial ownership of the QMS Shares.

Subsidiary has the meaning given to that term in Division 6 of Part 1.2 of the Corporations Act.

Superior Proposal means a bona fide Competing Proposal which the QMS Board determines, acting in good faith and in order to satisfy what the QMS Board reasonably considers to be its fiduciary or statutory duties, would, if completed substantially in accordance with its terms, be likely to result in a transaction more favourable to QMS Shareholders as a whole than the Transaction having regard to matters including, but not limited to, type of consideration offered, the actual or implied premium of the purchase price, conditionality, funding, certainty and timing.

Timetable means the indicative timetable in relation to the Transaction set out in Schedule 2 with such modifications as may be agreed in writing by the parties.

Transaction means the proposed acquisition by Bidder, in accordance with the terms and conditions of this deed, of all of the QMS Shares through the implementation of the Scheme.

Transaction Financing has the meaning given to that term in clause 7.7.

Voting Intention has the meaning given to that term in clause 6.2.

1.2 Interpretation

In this deed the following rules of interpretation apply unless the contrary intention appears:

- (a) headings are for convenience only and do not affect the interpretation of this deed;
- (b) the singular includes the plural and vice versa;
- (c) words that are gender neutral or gender specific include each gender;
- (d) where a word or phrase is given a particular meaning, other parts of speech and grammatical forms of that word or phrase have corresponding meanings;
- (e) the words 'such as', 'including', 'particularly' and similar expressions are not used as, nor are intended to be, interpreted as words of limitation;
- (f) a reference to:
 - (i) a person includes a natural person, partnership, joint venture, government agency, association, corporation, trust or other body corporate;
 - (ii) a thing (including, but not limited to, a chose in action or other right) includes a part of that thing;
 - (iii) a party includes its agents, successors and permitted assigns;
 - (iv) a document includes all amendments or supplements to that document;
 - (v) a clause, term, party, schedule or attachment is a reference to a clause or term of, or party, schedule or attachment to this deed;

- (vi) this deed includes all schedules and attachments to it;
 - (vii) a law includes a constitutional provision, treaty, decree, convention, statute, regulation, ordinance, by-law, judgment, rule of common law or equity and is a reference to that law as amended, consolidated or replaced;
 - (viii) a statute includes any regulation, ordinance, by-law or other subordinate legislation made under it;
 - (ix) an agreement other than this deed includes an undertaking, or legally enforceable arrangement or understanding, whether or not in writing; and
 - (x) a monetary amount is in Australian dollars;
- (g) an agreement on the part of two or more persons binds them jointly and each of them severally;
 - (h) when the day on which something must be done is not a Business Day, that thing must be done on the following Business Day;
 - (i) a reference to time is to Melbourne, Australia time; and
 - (j) no rule of construction applies to the disadvantage of a party because that party was responsible for the preparation of this deed or any part of it.

1.3 Interpretation of inclusive expressions

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

1.4 Business Day

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

1.5 Deed components

This deed includes any schedule.

1.6 Awareness

Where a representation or warranty is given so far as a party is “aware” or with a similar qualification as to awareness or knowledge, the awareness or knowledge of a party is limited to and deemed only to comprise those facts, matters or circumstances of which:

- (a) in the case of QMS:
 - (i) Wayne Stevenson;
 - (ii) Barclay Nettlefold;
 - (iii) Robert Alexander;
 - (iv) Anne Parsons;
 - (v) David Edmonds;

- (vi) Ian Rowden;
 - (vii) John O'Neill; and
 - (viii) Kate Solomon; and
- (b) in the case of Bidder, Jonathon Pearce and Michael Hruby,
is aware or ought reasonably to be aware, as at the date of this deed.

Schedule 2 Indicative Timetable

Event	Date
Enter into Scheme Implementation Deed	Tuesday, 29 October 2019
Lodge the Scheme Booklet with ASIC for review and comment	Thursday, 21 November 2019
First Court Date	Thursday, 12 December 2019
Scheme Booklet registered with ASIC	Friday, 13 December 2019
Despatch Scheme Booklet to QMS Shareholders	Monday, 16 December 2019
Election Time	Friday, 30 January 2020
Scheme Meetings	Wednesday, 5 February 2020
Second Court Date	Monday, 10 February 2020
Effective Date – lodge office copy of Court order approving the Scheme with ASIC	Tuesday, 11 February 2020
Scheme Record Date	Tuesday, 18 February 2020
Implementation Date	Tuesday, 25 February 2020
Date of delisting of QMS	Wednesday, 26 February 2020

Schedule 3 Scheme of arrangement

Scheme of arrangement

QMS Media Limited

Each person registered as a holder of fully paid ordinary shares in QMS as at the Scheme Record Date

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Parties

- 1 **QMS Media Limited** ACN 603 037 341 of 214-220 Park Street, South Melbourne, Victoria 3205 (**QMS**)
- 2 Each person registered as a holder of fully paid ordinary shares in QMS as at the Scheme Record Date (**Scheme Shareholders**)

The parties agree

1 Defined terms and interpretation

1.1 Defined terms

A term or expression starting with a capital letter which is defined in the dictionary in Schedule 1 has the meaning given to it in the dictionary.

1.2 Interpretation

The interpretation clause in Schedule 1 sets out rules of interpretation for this Scheme.

2 Preliminary matters

- (a) QMS is an Australian public company limited by shares, and has been admitted to the official list of ASX. QMS Shares are quoted for trading on the ASX.
- (b) As at 29 October 2019, there were 344,737,836 QMS Shares that are quoted for trading on the ASX.
- (c) Bidder is an Australian proprietary company limited by shares and incorporated in New South Wales.
- (d) If this Scheme becomes Effective:
 - (i) Bidder must provide or procure the provision of the Scheme Consideration to Scheme Shareholders in accordance with this Scheme and the Deed Poll; and
 - (ii) all the Scheme Shares, and all the rights and entitlements attaching to them as at the Implementation Date, will be transferred to Bidder and QMS will enter the name of Bidder in the Share Register in respect of all the Scheme Shares.
- (e) Bidder and QMS have entered into the Scheme Implementation Deed in respect of (among other things) the implementation of this Scheme.
- (f) This Scheme attributes actions to Bidder and Holdco but does not itself impose any obligations on it to perform those actions. By executing the Deed Poll, Bidder and Holdco have agreed to perform the actions attributed to them under this Scheme. By executing the Deed Poll, Bidder and Holdco agree to perform their obligations under the Deed Poll, including delivery of the Scheme Consideration in accordance with the terms of this Scheme.

3 Conditions

3.1 Conditions precedent

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

- (a) all the conditions in clause 3.1 of the Scheme Implementation Deed (other than the condition in clause 3.1(f) of the Scheme Implementation Deed relating to Court approval of this Scheme) are satisfied or waived in accordance with the terms of the Scheme Implementation Deed by the Delivery Time;
- (b) neither the Scheme Implementation Deed nor the Deed Poll is terminated in accordance with its terms by the Delivery Time;
- (c) this Scheme is approved by the Court at the Second Court Hearing under section 411(4)(b) of the Corporations Act, including with any alterations made or required by the Court under section 411(6) of the Corporations Act as are acceptable to QMS and Bidder;
- (d) such other conditions made or required by the Court under section 411(6) of the Corporations Act in relation to this Scheme as are acceptable to QMS and Bidder are satisfied or waived (each acting reasonably); and
- (e) the order of the Court made under section 411(4)(b) of the Corporations Act approving this Scheme comes into effect pursuant to section 411(10) of the Corporations Act on or before the End Date.

3.2 Conditions precedent and operation of clause 4

The satisfaction of each condition of clause 3.1 of this Scheme is a condition precedent to the operation of clause 4 of this Scheme.

3.3 Certificates

- (a) Each of QMS and Bidder will provide a certificate to the Court at the Second Court Hearing confirming (in respect of matters within their respective knowledge) whether or not the conditions precedent in clauses 3.1(a) and 3.1(b) above have been satisfied or waived as at the Delivery Time.
- (b) The certificates given by QMS and Bidder constitute conclusive evidence that the conditions precedent in clauses 3.1(a) and 3.1(b) above have been satisfied or waived as at the Delivery Time.

3.4 Termination and End Date

Without limiting any rights under the Scheme Implementation Deed, if:

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

then the Scheme will lapse and each of Bidder and QMS are released from any further obligation to take steps to implement the Scheme.

4 Implementation of this Scheme

4.1 Lodgement of Court orders with ASIC

For the purposes of section 411(10) of the Corporations Act, QMS must lodge with ASIC an office copy of the order made by the Court under section 411(4)(b) of the Corporations Act approving this Scheme before 5:00pm on the Business Day following the day on which such office copy is received by QMS or such later date as QMS and Bidder agree in writing.

4.2 Transfer of Scheme Shares

Subject to the Scheme becoming Effective, the following will occur on the Implementation Date in the order set out below:

- (a) Bidder confirming in writing to QMS that:
 - (i) the Cash Consideration has been provided in accordance with clause 5.4(a); and
 - (ii) the Scrip Consideration has been provided in accordance with clause 5.5(a);
- (b) payment by QMS of the Cash Consideration in the manner contemplated by clause 5.4(b); and
- (c) subject to Bidder providing or procuring the provision of the Scheme Consideration in accordance with this Scheme and the Deed Poll, all of the Scheme Shares, together with all rights and entitlements attaching to the Scheme Shares as at the Implementation Date, must be transferred to Bidder without the need for any further act by any Scheme Shareholder (other than acts performed by QMS as attorney and agent for Scheme Shareholders under clause 8 of this Scheme) by:
 - (i) QMS delivering to Bidder a duly completed and executed Scheme Transfer, executed on behalf of the Scheme Shareholders by QMS as their attorney and agent; and
 - (ii) Bidder duly executing the Scheme Transfer and delivering the executed and, if necessary, stamped Scheme Transfer to QMS for registration; and
 - (iii) immediately following receipt of the duly executed Scheme Transfer in accordance with clause 4.2(c)(ii), QMS entering, or procuring the entry of, the name of Bidder in the Share Register in respect of all of the Scheme Shares transferred to Bidder in accordance with this Scheme.

5 Scheme Consideration

5.1 Entitlement to Scheme Consideration

Subject to the terms of this Scheme, on the Implementation Date, in consideration for the transfer to Bidder of the Scheme Shares, each Scheme Shareholder will be entitled to receive the Scheme Consideration in respect of each of their Scheme Shares in accordance with clauses 5.2 to 5.5 and the Deed Poll.

5.2 Election procedure

- (a) QMS must provide or procure the provision of an Election Form to each Relevant Shareholder, with the Scheme Booklet that is sent to them.
- (b) Subject to clauses 5.2(c), 5.2(d) and 5.2(e), each of the Relevant Shareholders will be entitled to make an Election. All Elections will take effect in accordance with this Scheme (provided that any Relevant Shareholder who makes an Election also qualifies as a Scheme Shareholder).
- (c) For an Election to be valid:
 - (i) the Relevant Shareholder must complete and sign the Election Form in accordance with the terms and conditions of the Election Form, the instructions in the Scheme Booklet and this clause 5.2; and
 - (ii) the Election Form must be received by the Share Registry at the address specified on the Election Form before the Election Time,unless Bidder and QMS agree otherwise, in their absolute discretion.
- (d) If a Relevant Shareholder makes an Election, that Election will apply in respect of that percentage (as specified in the Election Form) of the Relevant Shareholder's entire registered holding of QMS Shares at the Scheme Record Date, regardless of whether the Relevant Shareholder's holding at the Scheme Record Date is greater or less than the Relevant Shareholder's holding at the time it made its Election, unless Bidder and QMS agree otherwise, in their absolute discretion.
- (e) A Relevant Shareholder who makes a valid Election may vary, withdraw or revoke that Election by lodging a replacement Election Form so that it is received by the Share Registry at the address specified on the Election Form before the Election Time. After the Election Time, a valid Election made by a Relevant Shareholder will be irrevocable unless Bidder and QMS agree, in their absolute discretion, to the revocation of the Election.
- (f) The Election Form must include the relevant matters set out in the Scheme and must otherwise be in a form agreed by Bidder and QMS in writing.

5.3 Determination of Scheme Consideration

- (a) If a Scheme Shareholder:
 - (i) is not a Relevant Shareholder; or
 - (ii) is a Relevant Shareholder who has not made a valid Election before the Election Time,then the Scheme Consideration applicable for that Scheme Shareholder is the Cash Consideration for each Scheme Share held by the Scheme Shareholder.
- (b) If the Scheme Shareholder is a Relevant Shareholder who has made a valid Election before the Election Time, then the Scheme Consideration applicable for that Scheme Shareholder for each Scheme Share held by the Scheme Shareholder is:
 - (i) the Scrip Consideration per Scheme Share in respect of the proportion of the total number of Scheme Shares held by the Relevant Shareholder for which

the Relevant Shareholder has elected (in the Election Form) to receive the Scrip Consideration; plus

- (ii) the Cash Consideration per Scheme Share in respect of the proportion of the total number of Scheme Shares held by the Relevant Shareholder for which the Relevant Shareholder has elected (in the Election Form) to receive the Cash Consideration.

5.4 Provision of Cash Consideration

- (a) The obligation of Bidder to provide the Cash Consideration under this Scheme and the Deed Poll will be satisfied by Bidder, no later than the Business Day before the Implementation Date, depositing (or procuring the deposit), in Immediately Available Funds, the aggregate amount of the Cash Consideration payable to all Scheme Shareholders into the Trust Account (except that the amount of any interest on the amount deposited, less bank fees and other charges, will be credited to Bidder's account), such amount to be held by QMS on trust for the purpose of paying the Cash Consideration to Scheme Shareholders who are entitled to receive it pursuant to clause 5.4(b).
- (b) On the Implementation Date, and subject to receipt of the Cash Consideration from Bidder in accordance with clause 5.4(a), QMS must pay (or procure payment) from the Trust Account to each Scheme Shareholder an amount equal to the applicable amount of Cash Consideration that the Scheme Shareholder is entitled to pursuant to clause 5.3 for each Scheme Share transferred to Bidder on the Implementation Date by that Scheme Shareholder.
- (c) QMS's obligation under clause 5.4(b) will be satisfied by QMS:
 - (i) where a Scheme Shareholder has, before the Scheme Record Date, made an election in accordance with the requirements of the Share Registry to receive dividend payments from QMS by electronic funds transfer to a bank account nominated by the Scheme Shareholder, paying, or procuring the payment of, the relevant amount in Australian currency by electronic means in accordance with that election; or
 - (ii) whether or not a Scheme Shareholder has made an election referred to in clause 5.4(c)(i), dispatching, or procuring the dispatch of, a cheque in Australian currency for the relevant amount to the Scheme Shareholder by prepaid post to their Registered Address, such cheque being drawn in the name of the Scheme Shareholder (or in the case of joint holders, in accordance with clause 5.6).
- (d) In the event that:
 - (i) a Scheme Shareholder does not have a Registered Address and no account has been notified in accordance with clause 5.4(c)(i) or a deposit into such an account is rejected or refunded; or
 - (ii) a cheque issued under this clause 5 has been cancelled in accordance with clause 5.7(a),

QMS as the trustee for the Scheme Shareholders may credit the amount payable to the relevant Scheme Shareholder to a separate bank account of QMS (**Separate Account**) to be held until the Scheme Shareholder claims the amount or the amount is dealt with in accordance with the Unclaimed Money Act. To avoid doubt, if the amount is not credited to a Separate Account, the amount will continue to be

held in the Trust Account until the Scheme Shareholder claims the amount or the amount is dealt with in accordance with the Unclaimed Money Act.

- (e) Until such time as the amount is dealt with in accordance with the Unclaimed Money Act, QMS must hold the amount on trust for the relevant Scheme Shareholder, but any interest or other benefit accruing from the amount will be to the benefit of Bidder. An amount credited to the Separate Account or Trust Account (as applicable) is to be treated as having been paid to the Scheme Shareholder when credited to the Separate Account or Trust Account (as applicable). QMS must maintain records of the amounts paid, the people who are entitled to the amounts and any transfers of the amounts.
- (f) To the extent that there is a surplus in the amount held by QMS as the trustee for the Scheme Shareholders in the Trust Account, that surplus may be paid by QMS as the trustee for the Scheme Shareholders to Bidder following the satisfaction of QMS's obligations as the trustee for the Scheme Shareholders under this clause 5.4.

5.5 Provision of Scrip Consideration

- (a) HoldCo must, before no later than 12:00 noon (or such later time as Bidder and QMS may agree in writing) on the Implementation Date, procure that the name of each Scheme Shareholder entitled to be issued HoldCo Securities under this Scheme is entered in HoldCo's register of members as the holder of those HoldCo Securities (and in relation to HoldCo Securities issued to a Scheme Shareholder, having the same holding name and address and other details as the holding of the relevant QMS Shares). A Scheme Shareholder entitled to be issued HoldCo Securities under this Scheme may, in the Election Form, direct that the HoldCo Securities to which they are entitled be issued to a related body corporate (as defined in the Corporations Act) of the Scheme Shareholder (in which case such related body corporate's name and details will be entered into HoldCo's register of members).
- (b) On the Implementation Date, HoldCo must send or procure the sending of a certificate to each Scheme Shareholder to whom HoldCo Securities are issued under this Scheme, reflecting the issue of such HoldCo Securities.

5.6 Joint holders

In the case of Scheme Shares held in joint names:

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

5.7 Cancellation and re-issue of cheques

- (a) QMS may cancel a cheque issued under this clause 5 if the cheque:
 - (i) is returned to QMS; or
 - (ii) has not been presented for payment within six months after the date on which the cheque was sent.

- (b) During the period of one year commencing on the Implementation Date, on request in writing from a Scheme Shareholder to QMS (or the Share Registry) (which request may not be made until the date which is 5 Business Days after the Implementation Date), a cheque that was previously cancelled under clause 5.7(a) must be reissued.

5.8 HoldCo Securities

Bidder undertakes in favour of QMS (in its own right and on behalf of each Relevant Shareholder) that:

- (a) the HoldCo Securities issued as Scrip Consideration will, on their issue, rank equally in all respects with all other HoldCo Securities in the same class; and
- (b) on issue, each HoldCo Security will be fully paid and, to the extent within the control of Bidder, free from any Encumbrance.

5.9 Unclaimed monies

- (a) The Unclaimed Money Act will apply in relation to any Scheme Consideration which becomes 'unclaimed money' (as defined in section 3 of the Unclaimed Money Act).
- (b) Any interest or other benefit accruing from unclaimed Scheme Consideration will be to the benefit of Bidder.

5.10 Orders of a court

If written notice is given to QMS (or the Share Registry) of an order or direction made by a court of competent jurisdiction or by another Government Agency that:

- (a) requires payment to a third party of a sum in respect of Scheme Shares held by a particular Scheme Shareholder, which sum would otherwise be payable to that Scheme Shareholder by QMS in accordance with this clause 5, then QMS will be entitled to make that payment (or procure that it is made) in accordance with that order or direction; or
- (b) prevents QMS from making a payment to a particular Scheme Shareholder in accordance with clause 5.4(a), or such payment is otherwise prohibited by applicable law, QMS will be entitled to retain an amount, in Australian dollars, equal to the amount of the relevant payment until such time as payment in accordance with this clause 5.10(b) is permitted by that order or otherwise by law.

5.11 Fractional entitlements and share splitting or division

- (a) If the number of Scheme Shares held by a Scheme Shareholder at the Scheme Record Date is such that the aggregate entitlement of the Scheme Shareholder to Scheme Consideration:
 - (i) comprising the HoldCo Securities is such that a fractional entitlement to a HoldCo Share arises; or
 - (ii) comprising cash is such that a fractional entitlement to a cent arises,then the fractional entitlement will be rounded:

- (iii) in the case of HoldCo Securities, down to the nearest whole number of HoldCo Securities; and
 - (iv) in the case of cash, up to the nearest cent.
- (b) If Bidder is of the opinion (acting reasonably) that two or more Scheme Shareholders (each of whom holds a number of Scheme Shares which results in rounding in accordance with clause 5.11(a)) have, before the Scheme Record Date for the Scheme, been party to shareholding splitting or division in an attempt to obtain unfair advantage by reference to such rounding, then:
- (i) Bidder may give notice of that opinion and relevant details to QMS; and
 - (ii) within 2 Business Days of receipt of such notice, QMS must give notice to those Scheme Shareholders:
 - (A) setting out their names and registered addresses as shown in the QMS share register;
 - (B) stating that opinion;
 - (C) attributing to one of them specifically identified in the notice of the Scheme Shares held by all of them; and
 - (D) attributing to one of them specifically identified in the notice which Election made by or on behalf of them applies to all of them,

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

6 Dealings in QMS Shares

6.1 Determination of Scheme Shareholders

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

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

and QMS must not accept for registration, nor recognise for any purpose (except a transfer to Bidder pursuant to this Scheme and any subsequent transfer by Bidder or its

successors in title), any transfer or transmission application or other request received on or after the Scheme Record Date, or received prior to the Scheme Record Date but not in registrable or actionable form.

6.2 Share Register

- (a) QMS must register registrable transmission applications or transfers of QMS Shares in accordance with clause 6.1(b) at or before the Scheme Record Date, provided that nothing in this clause 6.2(a) requires QMS to register a transfer that would result in a QMS Shareholder holding a parcel of QMS Shares that is less than a 'marketable parcel' (as defined in the operating rules of ASX).
- (b) If this Scheme becomes Effective, a Scheme Shareholder (and any person claiming through that holder) must not dispose of, or purport or agree to dispose of, any Scheme Shares or any interest in them after the Scheme Record Date otherwise than pursuant to this Scheme, and any attempt to do so will have no effect and QMS will be entitled to disregard any such disposal, purported disposal or agreement.
- (c) For the purpose of determining entitlements to the Scheme Consideration, QMS must maintain the Share Register in accordance with the provisions of this clause 6.2 until the Scheme Consideration has been paid to the Scheme Shareholders. The Share Register in this form will solely determine entitlements to the Scheme Consideration.
- (d) All statements of holding for QMS Shares (other than statements of holding in favour of Bidder) will cease to have effect after the Scheme Record Date as documents of title in respect of those shares and, as from that date, each entry current at that date on the Share Register (other than entries in respect of Bidder) will cease to have effect except as evidence of entitlement to the Scheme Consideration in respect of the QMS Shares relating to that entry.
- (e) As soon as possible after the Scheme Record Date, and in any event within one Business Day after the Scheme Record Date, QMS will ensure that details of the names, Registered Addresses and holdings of QMS Shares for each Scheme Shareholder as shown in the Share Register as at the Scheme Record Date are available to Bidder in the form Bidder reasonably requires.

7 Quotation of QMS Shares

- (a) Provided that the Scheme has been fully implemented in accordance with its terms, QMS will apply to ASX to suspend trading in QMS Shares with effect from the close of trading on the Effective Date.
- (b) QMS will apply:
 - (i) for termination of the official quotation of QMS Shares on the ASX; and
 - (ii) to have itself removed from the official list of ASX,in each case with effect on and from the close of trading on the trading day immediately following, or shortly after, the Implementation Date.
- (a) QMS must use its best endeavours to ensure that such termination of official quotation and removal from the official list of ASX does not occur before the Implementation Date.

8 General Scheme provisions

8.1 Consent to amendments to this Scheme

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

- (a) QMS may by its counsel consent on behalf of all persons concerned to those alterations or conditions to which Bidder has consented; and
- (b) each Scheme Shareholder agrees to any such alterations or conditions which counsel for QMS has consented to.

8.2 Scheme Shareholders' agreements and warranties

- (a) Each Scheme Shareholder:
 - (i) agrees to the transfer of their Scheme Shares to Bidder together with all rights and entitlements attaching to those shares in accordance with this Scheme;
 - (ii) agrees to the variation, cancellation or modification of the rights attached to their Scheme Shares constituted by or resulting from this Scheme;
 - (iii) agrees:
 - (A) that after the transfer of the Scheme Shares to Bidder, any share certificate relating to the Scheme Shares will not constitute evidence of title to those Scheme Shares; and
 - (B) at the direction of Bidder, to destroy any share certificates relating to the Scheme Shares; and
 - (iv) acknowledges that this Scheme binds QMS and all Scheme Shareholders (including those who did not attend the Scheme Meeting and those who did not vote, or voted against this Scheme, at the Scheme Meeting).
- (b) Each Relevant Shareholder who is issued HoldCo Securities under this Scheme agrees to become a shareholder of HoldCo in respect of those HoldCo Securities and to be bound by the Holdco constitution and the Holdco shareholders agreement entered into by HoldCo and the shareholders of HoldCo each being substantially in the form provided to each Relevant Shareholder with the Election Form or such later time as agreed by the Relevant Shareholders.
- (c) Each Scheme Shareholder is taken to have warranted to Bidder, and appointed and authorised QMS as its attorney and agent to warrant to Bidder, that:
 - (i) all their Scheme Shares (including any rights and entitlements attaching to their Scheme Shares) which are transferred under this Scheme will, at the time of transfer of them to Bidder, be fully paid and free from all:
 - (A) mortgages, charges, liens, encumbrances, pledges, security interests (including any 'security interests' within the meaning of section 12 of the *Personal Properties Securities Act 2009* (Cth)) and interests of third parties of any kind, whether legal or otherwise; and
 - (B) restrictions on transfer of any kind; and

- (ii) they have full power and capacity to transfer their Scheme Shares to Bidder together with any rights attaching to those Scheme Shares; and
 - (iii) except as otherwise provided for or contemplated in the Scheme Implementation Deed, they have no existing right to be issued any QMS Shares, or any other QMS securities.
- (d) QMS undertakes that it will provide the warranties in clause 8.2(b) to Bidder as agent and attorney for each Scheme Participant.

8.3 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 will, at the time of transfer of them to Bidder, vest in Bidder free from all:
- (i) mortgages, charges, liens, encumbrances, pledges, security interests (including any 'security interests' within the meaning of section 12 of the *Personal Properties Securities Act 2009 (Cth)*) and interests of third parties of any kind, whether legal or otherwise; and
 - (ii) restrictions on transfer of any kind.
- (b) Upon the Scheme becoming Effective, Bidder will be beneficially entitled to the Scheme Shares to be transferred to it under this Scheme pending registration by QMS of Bidder in the Share Register as the holder of the Scheme Shares. Bidder's entitlement to be registered in the Share Register as the holder of the Scheme Shares arises on the Implementation Date in accordance with clause 4.2.

8.4 Appointment of sole proxy

Upon the Scheme becoming Effective and until QMS registers Bidder as the holder of all Scheme Shares in the Share Register:

- (a) each Scheme Shareholder is deemed to have irrevocably appointed Bidder as attorney and agent (and directed Bidder in each such capacity) to appoint any director, officer, secretary or agent nominated by Bidder as its sole proxy and, where applicable or appropriate, corporate representative to attend shareholders' meetings, exercise the votes attaching to the Scheme Shares registered in their name and sign any shareholders' resolution whether in person, by proxy or by corporate representative;
- (b) no Scheme Shareholder may itself attend or vote at any shareholders' meetings or sign any shareholders' resolutions, whether in person, by proxy or by corporate representative (other than pursuant to clause 8.4(a));
- (c) each Scheme Shareholder must take all other actions in the capacity of a registered holder of Scheme Shares as Bidder reasonably directs; and
- (d) each Scheme Shareholder acknowledges and agrees that in exercising the powers conferred by clause 8.4(a), Bidder and any director, officer, secretary or agent nominated by Bidder under that clause may act in the best interests of Bidder as the intended registered holder of the Scheme Shares.

8.5 Authority given to QMS

On the Effective Date, each Scheme Shareholder, without the need for any further act, irrevocably appoints QMS and each of its directors, officers and secretaries (jointly and each of them severally) as its attorney and agent for the purpose of:

- (a) enforcing the Deed Poll against Bidder; and
- (b) executing any document, or doing or taking any other act, necessary, desirable or expedient to give full effect to this Scheme and the transactions contemplated by it, including executing and delivering the Scheme Transfer,

and QMS accepts such appointment. QMS, as attorney and agent of each Scheme Shareholder, may sub-delegate its functions, authorities or powers under this clause 8.5 to all or any of its directors, officers or employees (jointly, severally or jointly and severally).

8.6 Binding effect of this Scheme

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

9 General

9.1 Stamp duty

Bidder will:

- (a) pay all stamp duty (if any) and any related fines and penalties payable on or in respect of the transfer by the Scheme Shareholders of the Scheme Shares to Bidder pursuant to this Scheme or the Deed Poll; and
- (b) indemnify each Scheme Shareholder against any liability incurred by the Scheme Shareholder arising from failure to comply with clause 9.1(a).

9.2 Consent

Each Scheme Shareholder consents to QMS and Bidder doing all things necessary or incidental to give full effect to the implementation of this Scheme and the transactions contemplated by it.

9.3 Enforcement of Deed Poll

QMS undertakes in favour of each Scheme Shareholder to enforce the Deed Poll against Bidder on behalf of and as agent and attorney for the Scheme Shareholder.

9.4 Notices

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

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

9.5 Governing law and jurisdiction

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

9.6 Further action

QMS must do all things and execute all documents necessary to give full effect to this Scheme and the transactions contemplated by it.

9.7 No liability when acting in good faith

None of QMS, Bidder, or any of their respective Representatives, will be liable for anything done or omitted to be done in the performance of this Scheme or the Deed Poll in good faith.

1 Dictionary

ASIC means the Australian Securities and Investments Commission.

ASX means ASX Limited ABN 98 008 624 691 or, as the context requires, the financial market operated by it known as the “Australian Securities Exchange”.

Bidder means Shelley Bidco Pty Ltd ACN 634 292 881.

Business Day means a day that is not a Saturday, Sunday, a Public Holiday or bank holiday in Melbourne, Victoria.

Cash Consideration means A\$1.22 per Scheme Share.

CHES means the Clearing House Electronic Subregister System operated by ASX Settlement Pty Limited and ASX Clear Pty Limited.

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

Court means the Federal Court of Australia (Victorian Registry) or such other court of competent jurisdiction under the Corporations Act agreed to in writing by QMS and Bidder.

Deed Poll means the deed poll dated 29 October 2019 under which Bidder and Holdco covenants in favour of Scheme Shareholders to provide the Scheme Consideration in accordance with the terms of this Scheme.

Delivery Time means, in relation to the Second Court Date, 2 hours before the commencement of the hearing or if the commencement of the hearing is adjourned, the commencement of the adjourned hearing, of the court to approve the Scheme in accordance with section 411(4)(b) of the Corporations Act.

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

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

Election means an election by a Relevant Shareholder to receive their Scheme Consideration partly in the form of Scrip Consideration and partly in the form of Cash Consideration, made in accordance with clause 5.2.

Election Form means a form issued by or on behalf of QMS for the purposes of a Relevant Shareholder making an Election in a form agreed to by QMS and Bidder.

Election Time means 5.00pm on the third Business Day before the date of the Scheme Meetings, or such other date as is agreed in writing between Bidder and QMS.

End Date means the later of:

- (a) 30 April 2020; and
- (b) such other date and time agreed in writing between Bidder and QMS.

First Court Date means the date the Court first hears the application to order the convening of the Scheme Meetings under section 411(1) of the Corporations Act.

Government Agency means any government or representative of a government or any governmental, non-governmental, administrative, fiscal, regulatory or judicial body, department, commission, authority, tribunal, agency, competition authority or entity and includes any minister, ASIC, ASX, the Takeovers Panel and any regulatory organisation established under statute or any stock exchange.

HoldCo means Shelley Topco Pty Ltd ACN 634 291 375, the ultimate holding company of Bidder.

HoldCo Securities means securities (including ordinary shares and preference shares) in the capital of HoldCo and **HoldCo Security** means any one of them.

Immediately Available Funds means a bank cheque or other form of cleared funds acceptable to QMS (acting reasonably).

Implementation Date means, with respect to the Scheme, the fifth Business Day, or such other Business Day as the parties agree, following the Scheme Record Date for the Scheme.

Listing Rules means the official listing rules of ASX.

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

QMS Shareholder means a holder of one or more QMS Shares, as shown in the Share Register.

QMS Share Register means the register of QMS Shareholders maintained in accordance with section 168(1) of the Corporations Act.

Registered Address means, in relation to a QMS Shareholder, the address shown in the Share Register as at the Record Date.

Relevant Shareholder means:

- (a) Barctin Superannuation Pty Ltd as trustee of Barctin Superannuation Fund;
- (b) Wenvale Pty Ltd as trustee for the Barclay Nettlefold Family Trust; and
- (c) Mr John O'Neill.

Scheme means this scheme of arrangement subject to any alterations or conditions made or required by the Court under section 411(6) of the Corporations Act and agreed to by Bidder and QMS.

Scheme Booklet means the explanatory booklet to be prepared by QMS in respect of the Transaction in accordance with the terms of the Scheme Implementation Deed and to be despatched to QMS Shareholders.

Scheme Implementation Deed means the scheme implementation deed dated 29 October 2019 between Bidder and QMS relating to (among other things) the implementation of this Scheme.

Scheme Consideration means the Cash Consideration or Scrip Consideration payable per Scheme Share held by a Scheme Shareholder determined in accordance with clause 5.3.

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

Scheme Record Date means, in respect of the Scheme, 5.00pm on the third Business Day (or such other Business Day as the parties agree in writing) following the Effective Date.

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

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

Scrip Consideration means such number of HoldCo Securities per Scheme Share as determined by Bidder, to be determined on or prior to the First Court Date.

Scheme Transfer means one or more proper instruments of transfer in respect of the Scheme Shares for the purposes of section 1071B of the Corporations Act, which may be or include a master transfer of all or part of the Scheme Shares.

Second Court Date means the first day on which an application made to the Court for an order under section 411(4)(b) of the Corporations Act approving this Scheme is heard or scheduled to be heard, or, if the application is adjourned or subject to appeal for any reason, the day on which the adjourned application is heard, with such hearing being the **Second Court Hearing**.

Share Registry means Computershare Investor Services Pty Ltd ACN 078 279 277.

Trust Account means an Australian dollar denominated trust account which attracts interest at a commercial rate and is operated by QMS as trustee for the Scheme Shareholders, details of which QMS must notify to Bidder no later than 5 Business Days before the Implementation Date.

Unclaimed Money Act means the *Unclaimed Money Act 2008 (Vic)*.

2 Interpretation

In this Scheme, the following rules of interpretation apply unless the contrary intention appears.

- (a) Headings are for convenience only and do not affect the interpretation of this Scheme.
- (b) The singular includes the plural and vice versa.
- (c) Words that are gender neutral or gender specific include each gender.
- (d) Where a word or phrase is given a particular meaning, other parts of speech and grammatical forms of that word or phrase have corresponding meanings.
- (e) The words “include”, “including” and similar expressions are not words of limitation and do not limit what else might be included.

- (f) A reference to:
- (i) a person includes a natural person, estate of a natural person, partnership, joint venture, government agency, association, corporation or other body corporate or entity (as that term is defined in section 64A of the Corporations Act);
 - (ii) a thing (including a chose in action or other right) includes a part of that thing;
 - (iii) a party includes its successors and permitted assigns;
 - (iv) a document includes all amendments or supplements to that document;
 - (v) a clause, term, party, schedule or attachment is a reference to a clause or term of, or a party, schedule or attachment to, this Scheme (as applicable);
 - (vi) this Scheme includes all schedules to it;
 - (vii) a law includes a constitutional provision, treaty, decree, convention, statute, regulation, ordinance, by-law, judgment, rule of common law or equity or a Listing Rule and is a reference to that law as amended, consolidated or replaced;
 - (viii) an agreement (other than this Scheme) includes an undertaking or legally enforceable arrangement or understanding (whether or not in writing);
 - (ix) a time period includes the date referred to as that on which the period begins and the date referred to as that on which the period ends;
 - (x) a monetary amount is in Australian dollars; and
 - (xi) time is to Melbourne, Australia time.

Schedule 4 Deed Poll

Deed poll

Shelley Topco Pty Ltd ACN 634 291 375

Shelley Bidco Pty Ltd ACN 634 292 881

In favour of each person registered as a holder of fully paid ordinary shares in **QMS Media Limited** as at the Record Date

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Parties

- 1 **Shelley Bidco Pty Ltd** ACN 634 292 881 of Level 30, 126-130 Phillip Street, Sydney, NSW 2000 (**Bidder**)
 - 2 **Shelley Topco Pty Ltd** ACN 634 291 375 of Level 30, 126-130 Phillip Street, Sydney, NSW 2000 (**Holdco**)
 - 3 In favour of each person registered as a holder of fully paid ordinary shares in **QMS Media Limited** ACN 603 037 341 of 214-220 Park Street, South Melbourne, Victoria 3205 (**QMS**) as at the Record Date (**Scheme Shareholders**)
-

Background

- A Bidder and QMS have entered into the Scheme Implementation Deed, under which Bidder is to pay the Scheme Consideration and acquire all Scheme Shares held by Scheme Shareholders under the Scheme, and also under which Bidder has agreed to enter into this deed poll.
- B Bidder and Holdco are each entering into this deed poll for the purpose of covenanting in favour of the Scheme Shareholders to procure and undertake the actions attributed to Bidder and Holdco under the Scheme.

This deed poll provides

1 Defined terms and interpretation

1.1 Defined terms

Unless the context otherwise requires, terms defined in the Scheme have the same meaning when used in this deed poll.

1.2 Interpretation

Clause 2 of Schedule 1 to the Scheme applies to the interpretation of this deed poll, except that references to 'Scheme' are to be read as references to 'deed poll'.

1.3 Nature of deed poll

Bidder and Holdco acknowledge and agree that:

- (a) this deed poll may be relied on and enforced by any Scheme Shareholder in accordance with its terms even though the Scheme Shareholders are not party to it; and
- (b) under the Scheme, each Scheme Shareholder irrevocably appoints QMS and each of its directors, officers and secretaries (jointly and each of them severally) as its agent and attorney to enforce this deed poll against Bidder and Holdco.

2 Conditions

2.1 Conditions

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

2.2 Termination

The obligations of Bidder and Holdco under this deed poll will automatically terminate and the terms of this deed poll will be of no further force or effect if:

- (a) the Scheme Implementation Deed is terminated in accordance with its terms; or
- (b) the Scheme does not become Effective by the End Date.

2.3 Consequences of termination

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

- (a) Bidder and Holdco are released from their obligations to further perform this deed poll; and
- (b) each Scheme Shareholder retains the rights they have against Bidder and Holdco in respect of any breach of this deed poll which occurs before it was terminated.

3 Scheme obligations

- (a) Subject to clause 2, Bidder and Holdco undertakes in favour of each Scheme Shareholder to:
 - (i) provide or procure the provision of the Scheme Consideration for all Scheme Shares in accordance with the terms of the Scheme; and
 - (ii) undertake all other actions attributed to it under the Scheme,in each case subject to and in accordance with the terms of the Scheme.

4 Warranties

Bidder and Holdco each represent and warrant that:

- (a) it is a corporation validly existing under the laws of its place of incorporation;
- (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 by it of this deed poll;
- (d) this deed poll is valid and binding on it and is 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.

5 Continuing obligations

This deed poll is irrevocable and, subject to clause 2, remains in full force and effect until:

- (a) Bidder and Holdco have fully performed their respective obligations under this deed poll; or
- (b) the earlier termination of this deed poll under clause 2.2.

6 Further assurances

Each of Bidder and Holdco will, at its own expense, do all things reasonably required of it and execute all documents reasonably necessary to give full effect to this deed poll, the Scheme and the transactions contemplated by them.

7 General

7.1 Stamp duty

Bidder and Holdco must:

- (a) pay or procure the payment of all stamp duty (if any) and any related fines and penalties payable on or in respect of the transfer by the Scheme Shareholders of the Scheme Shares to Bidder pursuant to the Scheme or this deed poll; and
- (b) indemnify each Scheme Shareholder against any liability arising from failure to comply with clause 7.1(a).

7.2 Notices

- (a) Any notice or other communication to Bidder or Holdco in connection with this deed poll must be:
 - (i) in legible writing in English;
 - (ii) signed by the person making the communication or that person's duly authorised agent; and
 - (iii) given by hand delivery, pre-paid post or email in accordance with the details set out below:

Bidder and Holdco

Attention: Jonathon Pearce

Address: Level 30, 126-130 Phillip Street, Sydney, NSW 2000

Email: pearce@quadrantpe.com.au

with a copy (for information purposes only) to:

- (b) Subject to clause 7.2(c), any notice or other communication given in accordance with clause 7.2(a) will be deemed to have been duly given as follows:
 - (i) if delivered by hand, on delivery;
 - (ii) if sent by pre-paid post, on receipt; and
 - (iii) if sent by email:
 - (A) when the sender receives an email from the recipient confirming receipt of the email; or
 - (B) when the sender receives an automated message from the intended recipient's information system confirming delivery of the email,
- whichever happens first.
- (c) Any notice or other communication that, pursuant to clause 7.2(b), would be deemed to be given:
 - (i) other than on a Business Day or after 5:00pm on a Business Day is regarded as given at 9:00am on the following Business Day; and
 - (ii) before 9:00am on a Business Day is regarded as given at 9:00am on that Business Day,

where references to time are to time in the place the recipient is located.

7.3 Cumulative rights

The rights, powers and remedies of Bidder, Holdco and the Scheme Shareholders under this deed poll are cumulative with and do not exclude the rights, powers or remedies provided by law independently of this deed poll.

7.4 Waiver and variation

- (a) A party waives a right under this deed poll only by written notice that it waives that right. A waiver is limited to the specific instance to which it relates and to the specific purpose for which it is given.
- (b) Failure to exercise or enforce, a delay in exercising or enforcing or the partial exercise or enforcement of any right, power or remedy provided by law or under this deed poll by any party will not in any way preclude, or operate as a waiver of, any exercise or enforcement, or further exercise or enforcement, of that or any other right, power or remedy provided by law or under this deed poll.
- (c) A provision of this deed poll may not be varied unless:
 - (i) if before the First Court Date (as defined in the Scheme Implementation Deed), the variation is agreed to by QMS in writing; or
 - (ii) if on or after the First Court Date (as defined in the Scheme Implementation Deed), the variation is agreed to by QMS in writing and the Court indicates

that the variation would not of itself preclude approval by the Court of the Scheme,

in which event Bidder and Holdco must enter into a further deed poll in favour of the Scheme Shareholders giving effect to the variation.

7.5 Governing law and jurisdiction

- (a) This deed poll is governed by the laws in force in Victoria.
- (b) The parties irrevocably submit to the non-exclusive jurisdiction of courts exercising jurisdiction in Victoria and courts competent to determine appeals from those courts in respect of any proceedings arising out of or in connection with this deed poll. The parties irrevocably waive any objection to the venue of any legal process in these courts on the basis that the process has been brought in an inconvenient forum.

7.6 Assignment

- (a) The rights created by this deed poll are personal to Bidder, Holdco and each Scheme Shareholder and must not be dealt with at law or in equity without the prior written consent of Bidder and Holdco.
- (b) Any purported dealing in contravention of clause 7.6(a) is invalid.

7.7 Counterparts

This deed poll may be executed in counterparts, all of which taken together constitute one document.

7.8 Further action

Bidder and Holdco must, at its own expense, do all things and execute all documents necessary to give full effect to this deed poll and the transactions contemplated by it.

Execution page

Executed as a deed poll.

Signed and delivered by **Shelley Bidco Pty Ltd**
in accordance with section 127 of the
Corporations Act 2001 (Cth) by:

Signature of director

Signature of director/secretary

Name of director (print)

Name of director/secretary (print)

Signed and delivered by **Shelley Topco Pty Ltd**
in accordance with section 127 of the
Corporations Act 2001 (Cth) by:

Signature of director

Signature of director/secretary

Name of director (print)

Name of director/secretary (print)

Schedule 5 QMS Issued Capital

Part A – QMS Ordinary Shares

344,737,836 QMS Shares

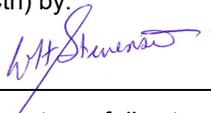
Part B – QMS Performance Rights

11,394,435 QMS Performance Rights

Execution page

Executed as a deed.

Signed by **QMS Media Limited** in accordance
with section 127 of the *Corporations Act 2001*
(Cth) by:



Signature of director

Wayne Stevenson

Name of director (print)



Signature of director/secretary

David Edmonds

Name of director/secretary (print)

Signed by **Shelley Bidco Pty Ltd** in accordance
with section 127 of the *Corporations Act 2001*
(Cth) by:

Signature of director

Name of director (print)

Signature of director/secretary

Name of director/secretary (print)

Execution page

Executed as a deed.

Signed by **QMS Media Limited** in accordance
with section 127 of the *Corporations Act 2001*
(Cth) by:

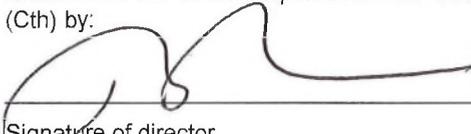
Signature of director

Signature of director/secretary

Name of director (print)

Name of director/secretary (print)

Signed by **Shelley Bidco Pty Ltd** in accordance
with section 127 of the *Corporations Act 2001*
(Cth) by:



Signature of director



Signature of director/secretary

JONATHAN PEARCE

MICHAEL HRUBY

Name of director (print)

Name of director/secretary (print)