

24 June 2025

to Virgin Australia Holdings Limited
Level 11, 275 Grey Street
South Brisbane QLD 4101

cc Australia Stock Exchange
Exchange Centre,
20 Bridge Street,
Sydney, NSW, 2000

Dear Sir / Madam

Substantial Holding Disclosure – Virgin Australia Holdings Limited ("Virgin")

As disclosed in the replacement prospectus dated 13 June 2025, as part of the initial public offering of Virgin ordinary shares, UBS Securities Australia Limited ("**UBS**") is underwriting a sell-down of ordinary shares in Virgin by Virgin Australia SaleCo Limited ("**IPO**").

UBS entered into an agreement with respect to the IPO on 6 June 2025 ("**Underwriting Agreement**"). Through the operation of section 608(8) of the Corporations Act 2001 (Cth), UBS has obtained a technical relevant interest in approximately **12.75%** of Virgin's ordinary shares (through its 42.5% relevant proportion in the Underwriting Agreement).

Attached to this letter is UBS's substantial holder notice that has been lodged with the ASX containing details of this relevant interest.

Upon settlement of the IPO at 4.00pm (Sydney time) on 25 June 2025, UBS in its capacity as underwriter of the IPO will cease to have a relevant interest in the Virgin ordinary shares offered under the IPO.

Yours sincerely

UBS Securities Australia Limited

Form 603

Corporations Law
Section 671B

Notice of initial substantial holder

To: Company Name/Scheme **VIRGIN AUSTRALIA HOLDINGS LIMITED**

ACN/ARSN **100 686 226**

1. Details of substantial holder (1)

Name: **UBS Group AG and its related bodies corporate**

ACN/ARSN (if applicable)

The holder became a substantial holder on: **24 Jun 2025**

2. Details of voting power

The total number of votes attached to all the voting shares in the company or voting interests in the scheme that the substantial holder or an associate (2) had a relevant interest (3) in on the date the substantial holder became a substantial holder are as follows:

Class of securities (4)	Number of securities	Persons' votes (5)	Voting power (6)
Ordinary	100,387,931	100,387,931	12.75%

3. Details of relevant interests

The nature of the relevant interest the substantial holder or an associate had in the following voting securities on the date the substantial holder became a substantial holder are as follows:

Holder of relevant interest	Nature of relevant interest (7)	Class and number of securities
UBS Securities Australia Ltd	A relevant interest in Virgin Australia Holdings Limited shares under section 608(8) of the Corporations Act 2001 (Cth) pursuant to the terms of the underwriting agreement with respect to the IPO dated 6 June 2025 (See Appendix A)	100,387,931 Ordinary

4. Details of present registered holders

The persons registered as holders of the securities referred to in paragraph 3 above are as follows:

Holder of relevant interest	Registered holder of Securities	Person entitled to be registered as holder (8)	Class and number of securities
UBS Securities Australia Ltd	UBS Securities Australia Ltd	UBS Securities Australia Ltd	100,387,931 Ordinary

5. Consideration

The consideration paid for each relevant interest referred to in paragraph 3 above, and acquired in the four months prior to the day that the substantial holder became a substantial holder is as follows:

Holder of relevant interest	Date of acquisition	Consideration (9)		Class and number of securities
		Cash	Non-cash	
Please see Appendix B.				

6. Associates

The reasons the persons named in paragraph 3 above are associates of the substantial holder are as follows:

Name and ACN/ ARSN (if applicable)	Nature of association
UBS Securities Australia Ltd	Related body corporate

7. Addresses

The addresses of persons named in this form are as follows:

Name and ACN/ ARSN (if applicable)	Nature of association
UBS Securities Australia Ltd	Level 16, Chifley Tower, 2 Chifley Square, Sydney, Australia

SIGNATURE

Print Name: Ruby Ko

Capacity: Authorised signatory

Sign Here:



Date: 24 Jun 2025

Print Name: Dominic Eichrodt

Capacity: Authorised signatory

Sign Here:



Date: 24 Jun 2025

Contact details for this notice:

Ruby Ko
Group Compliance, Regulatory & Governance
(T) +852 3712 2802

Barrenjoey Markets Pty Limited
Goldman Sachs Australia Pty Ltd
UBS Securities Australia Limited
Virgin Australia Holdings Limited
Virgin Australia SaleCo Limited

Underwriting Agreement

Execution Version

Deutsche Bank Place
Corner Hunter and Phillip Streets
Sydney NSW 2000 Australia
T +61 2 9230 4000
F +61 2 9230 5333
www.allens.com.au

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This Agreement is made on 6 June 2025

Parties

- 1 **Barrenjoey Markets Pty Limited** (ABN 66 636 976 059) of Quay Quarter Tower, Level 19, 50 Bridge Street Sydney NSW 2000, Australia (**Barrenjoey**).
- 2 **Goldman Sachs Australia Pty Ltd** (ABN 21 006 797 897) of Level 46, Governor Phillip Tower, 1 Farrer Place, Sydney NSW 2000, Australia (**GS**).
- 3 **UBS Securities Australia Limited** (ABN 62 008 586 481) of Level 16, Chifley Tower, 2 Chifley Square, Sydney NSW 2000, Australia (**UBS**).
- 4 **Virgin Australia Holdings Limited** (ABN 54 100 686 226) of Level 11, 275 Grey Street, South Brisbane QLD 4101, Australia (the **Company**).
- 5 **Virgin Australia SaleCo Limited** (ACN 687 595 366) of Level 11, 275 Grey Street, South Brisbane QLD 4101 (**SaleCo**).

Recitals

- A The Offerors propose to undertake the Offer to raise a total amount of approximately \$685 million by offering the Offer Shares to investors for subscription or purchase in the manner described in the Pathfinder and the Offer Documents.
- B It is contemplated that SaleCo will sell Sale Shares to raise approximately \$685 million. In addition, the Company will make a nominal primary offer of 1 New Share which will be offered under the Bookbuild.
- C The Offer will consist of the Institutional Offer, the Broker Firm Offer and the Priority Offer.
- D The Company proposes to apply, or has applied, to be admitted to the Official List of ASX and for quotation of the Offer Shares by ASX.
- E SaleCo and the Selling Shareholder have entered into the Call Option Deed prior to entry into this Agreement.
- F The Pathfinder has been distributed to, and the Company has conducted roadshow presentations with certain Institutional Investors in connection with the Institutional Offer.
- G The Bookbuild was completed prior to entry into this Agreement to determine the demand for Offer Shares at various possible subscription prices that determined the Offer Price.
- H The Joint Lead Managers have severally agreed to manage and underwrite the Offer, subject to the terms and conditions of this Agreement.

It is agreed as follows.

1 Definitions and Interpretation

1.1 Definitions

The following definitions apply unless the context requires otherwise.

Accounts means the:

- (a) financial statements of the Company as at, and for the periods ended 30 June 2023 and 30 June 2024 and the six months ended 31 December 2023 and 31 December 2024; and
- (b) pro forma statement of financial position of the Company as at 31 December 2024, as set out in the Prospectus and the notes to that statement.

Affiliate has the meaning given to that term in Rule 501(b) under the U.S. Securities Act and means, in respect of any person, any other person that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, such person; and **control** (including the terms **controlled by** and **under common control with**) means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of securities, by contract or agency or otherwise.

Allocation Interests has the meaning given to that term in the ASX Settlement Operating Rules.

Applicable Time means the time specified by the Joint Lead Managers on the Allocation Date at which final, non-revocable contracts of sale of Offer Shares in the U.S. Offer are made.

Application Form means an application form attached to or accompanying the Prospectus.

ASIC means the Australian Securities and Investments Commission.

ASIC Act means the *Australian Securities and Investments Commission Act 2001* (Cth).

ASX means ASX Limited (ABN 98 008 624 691) and, as the context requires, the market it operates or its Related Bodies Corporate.

ASX Settlement means ASX Settlement Pty Ltd (ABN 49 008 504 532).

ASX Settlement Operating Rules means the ASX Settlement Operating Rules and any other rules of ASX Settlement which apply while the Offer Shares are CHES Approved Securities, each as amended from time to time.

Authorisation means:

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

including any renewal or amendment of any of the above.

Base Fee is defined in clause 9.1(a).

BCH means BC Hart Investments, L.P.

Bookbuild means the bookbuild sale process undertaken prior to entry into this Agreement that determined the Institutional Offer demand for Offer Shares.

Broker means a participating organisation of ASX.

Broker Firm Offer means the offer of Offer Shares to Brokers appointed by the Joint Lead Managers for allocation to their private clients resident in Australia that are either Retail Investors or sophisticated non-institutional clients of the Broker, or resident in New Zealand that are sophisticated non-institutional clients of the Broker who meet the conditions in section 9.15.9 of the Prospectus, provided that the offer and sale of Offer Shares under the Broker Firm Offer may not be made to any person that is in the United States.

Business Day has the meaning given to that expression in the Listing Rules.

Call Option Deed means the call option deed entered into by the Selling Shareholder under which the Selling Shareholder irrevocably offers to sell 236,206,896 Shares to SaleCo as described in section 9.4 of the Prospectus.

CARD Form means a confirmation of allocation and registration form.

CHES means the Clearing House Electronic Subregister System.

CHES Approved Securities means securities in respect of which approval has been given by the securities clearing house (being the body corporate approved or licensed under the Corporations Act, namely, ASX Settlement) in accordance with the ASX Settlement Operating Rules.

CHES Rules means the ASX Settlement Operating Rules and the provisions of the Corporations Act and the Listing Rules concerning the electronic share registration and transfer system as and to the extent that they apply to the Company.

Claim means any allegation, debt, cause of action, liability, claim, investigation or proceeding, suit or demand of any nature made against the person howsoever arising and whether present or future, fixed or unascertained, actual or contingent whether at law, in equity, under statute or otherwise.

Closing Certificate is defined in clause 14.1.

Completion occurs when all the Sale Shares have been transferred by SaleCo in accordance with the Offer.

Conditions Precedent means the conditions precedent in clauses 3.1 and 3.2.

Constitution means the constitution of the Company.

Corporations Act means the *Corporations Act 2001* (Cth), as amended or relieved by any applicable ASIC class order, legislative instrument or any other instrument.

DDC means the Due Diligence Committee formed by the Offerors in connection with the Offer, as described in the Due Diligence Planning Memorandum.

DDC Report means the report of the DDC to the Directors, including all annexures and schedules to the report and all supporting documents and other work papers to which the Joint Lead Managers are given access for the purpose of the Due Diligence Investigations.

Debt Commitment Letter means the commitment letter from Australia and New Zealand Banking Group Limited, BNP Paribas, National Australia Bank Limited, Westpac Banking Corporation and UBS AG, Australia Branch (as lenders) for the provision of a \$500 million revolving cash advance facility for the Group.

Debt Facility Agreements means the agreements for the financing arrangements summarised in section 9.6 of the Prospectus.

Directors means the directors of an Offeror.

Discretionary Fee is defined in clause 9.2(a).

Due Diligence Investigations is defined in clause 10.1 (and, for the avoidance of doubt, includes all matters within clause 10.1 that are undertaken prior to the date of this Agreement).

Due Diligence Planning Memorandum means the due diligence planning memorandum in relation to the Offer, adopted by the DDC and the Directors.

Due Diligence Results means the results of the Due Diligence Investigations, including all materials provided to the DDC, the minutes of the meetings of the DDC signed by the chairman of the DDC, all reports produced by the DDC and all reports and sign-offs produced for the benefit of the members of the DDC, the Offerors or the Directors, or on which the members of the DDC, the Offerors or the Directors are entitled to rely, in connection with the Offer.

DvP means a delivery versus payment basis of settlement according to the CHES Rules.

Eligible U.S. Fund Manager means a dealer or other professional fiduciary organised or incorporated in the United States that is acting for a discretionary or similar account (other than an estate or trust) held for the benefit or account of persons that are not "U.S. Persons" (as defined in Rule 902(k) under the U.S. Securities Act), for which it has and is exercising investment discretion, within the meaning of Rule 902(k)(2)(i) of Regulation S..

Encumbrance means any mortgage, lien, charge, pledge, assignment by way of security, security interest, title retention, preferential right or trust arrangement, Claim, covenant, profit a prendre, easement or any other security arrangement or any other arrangement having the same effect.

Engagement Letter means the engagement or mandate letter dated 15 May 2025 between the Offerors and the Joint Lead Managers, which deals with the initial appointment or mandating of the Joint Lead Managers by the Offerors in connection with the Offer.

Environmental Laws means all applicable laws and regulations relating to the protection of human health and safety, the environment or hazardous or toxic substances or wastes, pollutants or contaminants.

Escrowed Persons means each of:

- (a) BCH; and
- (b) certain persons who hold shares under the Company's management equity plans as determined by BCH and described in the Prospectus,

whose shares must be held in escrow in accordance with the applicable Restriction Agreements

Event is defined in clause 15.3(b).

Government Agency includes:

- (a) ASIC;
- (b) any government in any jurisdiction, whether federal, state, territorial or local;
- (c) any governmental, semi-governmental, administrative, judicial or quasi-judicial body, minister, department, office, commission, delegate, instrumentality, agency, board, authority, tribunal, agency or other organisation or entity; and
- (d) any non-government regulatory or self-regulatory authority, including ASX.

Gross Proceeds means the amount calculated by multiplying:

- (a) the Offer Price, by
- (b) the number of Offer Shares equal to:

- (i) the number of Offer Shares that are actually issued by the Company or transferred by SaleCo under the Offer, minus
- (ii) any Shares issued or transferred to employees or directors of the Company under the Offer.

Group means the Company and its Related Bodies Corporate, and each of them is a **Group Member**.

Indemnified Claim means any Claim made against an Indemnified Party in respect of which that Indemnified Party has a right to be indemnified by the Offerors under the indemnity in clause 16.

Indemnified Party is defined in clause 16.1.

Insolvent means, in respect of any person:

- (a) it is (or states that it is) an insolvent under administration or insolvent (each as defined in the Corporations Act);
- (b) it has had a controller (as defined in the Corporations Act) appointed or is in liquidation or provisional liquidation, under administration or wound up or has had a receiver or receiver and manager appointed to any part of its property;
- (c) it is subject to any arrangement, assignment, moratorium or composition, or is protected from creditors under any statute or is dissolved (in each case, other than to carry out a reconstruction or amalgamation while solvent on terms approved by the other parties to this Agreement);
- (d) an application or order has been made (and, in the case of an application, it is not stayed, withdrawn or dismissed within 30 days), resolution passed, proposal put forward, or any other action taken, in each case in connection with that person, which is preparatory to or likely to result in any event or circumstance referred to in paragraph (a), (b) or (c) above occurring;
- (e) it is taken (under section 459F(1) of the Corporations Act) to have failed to comply with a statutory demand;
- (f) it is the subject of an event described in section 459C(2)(b) or 585 of the Corporations Act (or it makes a statement from which another party to this Agreement reasonably deduces it is so subject);
- (g) it is unable to or states that it is unable to pay its debts as they fall due or stops or threatens to stop paying its debts as they fall due; or
- (h) it has otherwise become, or is otherwise taken to be, insolvent in any jurisdiction or an event occurs in any jurisdiction in relation to the person which is analogous to, or which has a substantially similar effect to, any of the events referred to in paragraphs (a) to (g) (inclusive) above.

Institutional Investor means an investor to whom, in the absolute discretion of the Joint Lead Managers, Offer Shares are able to be offered under applicable laws without the need for any prospectus, registration or other formality (other than a registration or formality which the Offerors are willing to comply with) including, in Australia, Professional Investors and Sophisticated Investors, in each case, provided that if such person is in the United States, it must either be an Eligible U.S. Fund Manager or reasonably believed by the Joint Lead Managers to be a QIB .

Institutional Offer means the offer of Offer Shares to Institutional Investors in Australia, Bermuda, Canada (British Columbia, Ontario and Quebec provinces only), Cayman Islands, China, European Union (excluding Austria), Hong Kong, Japan, Kuwait, New Zealand, Norway, Qatar, Saudi Arabia, Singapore, Switzerland, United Arab Emirates (excluding financial zones),

the United Kingdom and the United States (as part of the U.S. Offer only), as described in the Pathfinder and the Offer Documents, and other jurisdictions as agreed between the Joint Lead Managers and the Offerors.

Institutional Offering Memorandum means the “latest draft or final Prospectus and ‘wrap’, including any amendments, supplements, annexures or appendices thereto, used for the purposes of the U.S. Offer, as may be amended or supplemented; provided that the term “Institutional Offering Memorandum” includes the preliminary Institutional Offering Memorandum dated 5 June 2025 (including any ‘wrap’, including any amendments, supplements, annexures or appendices thereto, and the Pathfinder to the extent provided to investors participating in the U.S. Offer) and the final Institutional Offering Memorandum and means, with respect to any time or date referred to in this Agreement, the most recent Institutional Offering Memorandum as so amended or supplemented at that time or date.

Intellectual Property means patents, patent rights, licenses, inventions, copyrights, know how (including trade secrets and other unpatented and/or unpatentable proprietary or confidential information, systems or procedures), trademarks, service marks, trade names or other intellectual property.

International Offering Documents means the Institutional Offering Memorandum and the Pricing Disclosure Package.

Joint Lead Managers means Barrenjoey, GS and UBS.

Listing Rules means the official listing rules of ASX, as waived or modified in respect of the Company.

Losses means any costs, charges, expenses, Claims, damages, liabilities or other losses or expenses of any kind (including actions or proceedings in respect thereof) and reasonable legal costs and expenses however arising, including penalties, Claims, fines and interest and including those which are prospective or contingent and those the amount of which for the time being is not ascertained or ascertainable..

Material Adverse Effect means, in the opinion of the Joint Lead Managers (acting reasonably), a material adverse change or effect, or any development involving a prospective material adverse change or effect, in or affecting:

- (a) the general affairs, business, operations, assets, liabilities, financial position or performance, profits, losses, earnings position, shareholder's equity, or results of operations of the Group or otherwise (taken as a whole); or
- (b) the Company's ability to consummate the Offer; or
- (c) the power or ability of the Company to perform its obligations under this Agreement.

Material Contracts means the contracts summarised in sections 9.5.1 and 9.5.2 of the Prospectus and the Debt Facility Agreements, and all other agreements necessary to conduct the business of the Company (as currently conducted, or otherwise as contemplated and described in the Prospectus).

New Shares means the Share or Shares offered to be issued by the Company under the Offer.

Offer means:

- (a) the Institutional Offer;
- (b) the Broker Firm Offer; and
- (c) the Priority Offer.

Offer Documents means any documents issued or published by or on behalf of the Offerors (with the Company's prior written consent) in respect of the Offer, including:

- (a) the Prospectus;
- (b) the Application Forms;
- (c) any Supplementary Prospectus;
- (d) the cover email, including the appropriate cautionary legend, sent to eligible Institutional Investors with a link to, or attaching, the draft Prospectus in connection with the Institutional Offer and Bookbuild;
- (e) any written materials that are presented or provided to prospective investors (excluding any non-deal roadshow, but including any other roadshow presentations and/or ASX announcement(s) used by or on behalf of the Company to conduct the Offer (whether before, on or after the date of this Agreement));
- (f) the Pathfinder;
- (g) any Offeror Written Communication; and
- (h) the International Offering Documents.

Offer Price means \$2.90 per Offer Share

Offer Shares means:

- (a) the New Shares; and
- (b) the Sale Shares.

Offerors means the Company and SaleCo.

Offeror Written Communication has the meaning given in clause 13.

Official List means the official list of ASX.

Official Quotation means official quotation on ASX.

Pathfinder means the draft of the Prospectus dated 5 June 2025 which was provided to Institutional Investors, Brokers and co-lead managers in connection with the Institutional Offer (and, where the context permits, includes any document which supplements or replaces the Pathfinder (including any addendum to the Pathfinder)).

Prescribed Occurrence means, in relation to a person, the events set out in section 652C but substituting that person for "target" provided that the issue of the Offer Shares will not constitute a prescribed occurrence.

Pricing Disclosure Package means the Institutional Offering Memorandum, as amended or supplemented immediately prior to the Applicable Time, as of the Applicable Time, and the final pricing information relating to the Offer Shares, which information consists of the Offer Price, as included in the confirmation advice or CARD form or as conveyed to the initial purchasers of the Offer Shares by any other means, including orally, at or about the Applicable Time, in each case, taken together as a whole at or about the Applicable Time.

Priority Offer means the offer to selected investors in Australia nominated by the Company who have received an invitation to participate in the priority offer of up to 250,000 Offer Shares as described in the Prospectus and provided that the offer and sale of Offer Shares under the Priority Offer may not be made to any person that is in the United States.

Professional Investors means investors to whom an offer of securities does not need disclosure under Part 6D.2 pursuant to section 708(11).

Prospectus means the prospectus relating to the Offer to be lodged with ASIC by the Offerors under section 718 of the Corporations Act in accordance with clauses 3.1(a) and 4.1(a), and includes, from the date any Supplementary Prospectus is lodged with ASIC, that Supplementary Prospectus (including any document deemed by the Corporations Act to be incorporated by reference in the prospectus).

Publication means public and any media statements, announcements, advertisements, publicity or other materials made by, or on behalf of, an Offeror or Group Member (with the Company's prior written consent) in relation to the Offer or the affairs of SaleCo or the Group.

QIB means a "qualified institutional buyer" as defined in Rule 144A under the U.S. Securities Act.

Reassumed Claim is defined in clause 16.10.

Register means the official register of Shares maintained by the Registry on the Company's behalf and any subregister established and maintained under the ASX Settlement Operating Rules.

Registry means Computershare Investor Services Pty Limited or any other registry that the Company appoints to maintain the Register.

Regulation S means Regulation S under the U.S. Securities Act.

Related Body Corporate has the meaning given in section 9 of the Corporations Act.

Released Parties is defined in clause 16.3(b).

Relevant Limitation is defined in clause 16.14(a).

Relevant Loss is defined in clause 16.11.

Relevant Proportion means:

[REDACTED]

[REDACTED]

(c) in respect of UBS – 42.5%;

as amended in accordance with clause 15.4.

Remaining Joint Lead Manager is defined in clause 15.4(c).

Restriction Agreements means each agreement to be entered into by an Escrowed Person under which they agree not to dispose of the Shares the subject of the Restriction Agreement for the period from no later than the Allotment Date until their respective Restriction End Date.

Restriction End Date means the respective dates disclosed in section 9.7 of the Prospectus on which each Escrowed Person is permitted to dispose of Shares which are the subject of a Restriction Agreement.

Retail Investor means any person who is not an Institutional Investor.

Retail Offer means the Broker Firm Offer and the Priority Offer.

Retention Date is defined in clause 10.2.

Rule 144A means Rule 144A under the U.S. Securities Act.

Sale Shares means the Shares that may be sold by SaleCo under the Offer.

Selling Shareholder means BCH.

Senior Management means the persons named in section 6.5 of the Prospectus.

Settlement Agent has the meaning given in clause 7.1(a).

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

Shortfall Certificate is defined in clause 14.1.

Sophisticated Investors means investors to whom an offer of securities does not need disclosure under Part 6D.2 pursuant to section 708(8).

Shortfall Shares means 236,206,897 Offer Shares less the number of Offer Shares in respect of which Valid Applications have been lodged by 5.00pm on the Retail Offer Closing Date (subject to clause 7.2) provided that if that number is less than zero, it will be deemed to be zero.

Supplementary Prospectus means any supplementary or replacement prospectus lodged with ASIC under section 719 in connection with the Offer.

Terminating Joint Lead Manager is defined in clause 15.4(c).

Timetable means the timetable set out in Schedule 1 (as varied in accordance with this Agreement).

United States has the meaning in Rule 902(l) under the U.S. Securities Act.

U.S. Exchange Act means the U.S. Securities Exchange Act of 1934, as amended.

U.S. Investment Company Act means the U.S. Investment Company Act of 1940, as amended.

U.S. Offer the offer of Offer Shares under the Institutional Offer to:

- (a) persons in the United States that the Joint Lead Managers reasonably believe are QIBs in transactions exempt from registration under the U.S. Securities Act pursuant to Rule 144A; and
- (b) Eligible U.S. Fund Managers in reliance on, and in accordance with, Regulation S.

U.S. Offer Documents means the Institutional Offering Memorandum, the Pricing Disclosure Package and any Offeror Written Communications used to conduct the U.S. Offer.

U.S. Person has the meaning given to that term in Rule 902(k) under the U.S. Securities Act.

U.S. Securities Act means the U.S. Securities Act of 1933, as amended.

A **Valid Application** is received by the Company:

- (a) **(Institutional Offer)** if made pursuant to the Institutional Offer – a duly signed, valid, binding, bona fide and completed CARD Form or confirmation acceptance advice in respect of the relevant Offer Shares from an Institutional Investor is submitted to a Joint Lead Manager in accordance with the requirements of the Joint Lead Managers on or before 5.00pm on the Closing Date or a later time as the Joint Lead Managers may determine, which confirms that the Institutional Investor or its nominee will make payment, and such payment is made, of the Offer Price for the relevant Offer Shares in cleared funds via DvP on or before the Settlement Date;
- (b) **(Broker Firm Offer)** if made pursuant to the Broker Firm Offer – in respect of the Offer Shares allocated by a Joint Lead Manager to a Broker, a duly completed CARD Form or confirmation advice (in a form approved in advance by the Joint Lead Managers) is delivered to that Joint Lead Manager in accordance with the terms of the Broker Firm Offer as notified to the Broker by the Joint Lead Managers; and
- (c) **(Priority Offer)** if made pursuant to the Priority Offer – a duly completed Application Form is lodged by an eligible applicant with the Company or its Registry, with payment of the Offer Price in full and in immediately available funds for each of the Offer Shares in respect of which the application is made, on or before 5.00pm on the Closing Date or a later time as the parties agree.

Verification Materials means the contents of the file maintained by the Offerors in accordance with the Due Diligence Planning Memorandum, being the documents and information provided by the Offerors in verification of statements made in the Prospectus as required by the Due Diligence Planning Memorandum to be made available.

1.2 Interpretation

- (a) The following rules apply.
 - (i) Headings are for convenience only and do not affect the interpretation of this Agreement.
 - (ii) The singular includes the plural and the converse also applies.
 - (iii) A gender includes all genders.
- (b) The following rules apply unless the context requires otherwise.
 - (i) Where a word or phrase is defined, its other grammatical forms have a corresponding meaning.
 - (ii) A reference to a *person* includes a corporation, trust, partnership, unincorporated body or other entity, whether or not it comprises a separate legal entity.
 - (iii) A reference to a *clause* or *Schedule* is a reference to a clause of or Schedule to this Agreement.
 - (iv) A reference to an *agreement* or *document* (including a reference to this Agreement) is to the agreement or document as amended, supplemented, novated or replaced, except to the extent prohibited by this Agreement or that other agreement or document.
 - (v) A reference to an *agreement* includes any undertaking, deed, agreement and legally enforceable arrangement, whether or not in writing, and a reference to a *document* includes an agreement (as so defined) in writing and any certificate, notice, instrument and document of any kind.
 - (vi) A reference to a *party* to this Agreement or another agreement or document includes the party's successors, permitted substitutes and permitted assigns (and, where applicable, the party's legal personal representatives).
 - (vii) A reference to legislation or to a provision of legislation includes a modification or re-enactment of it, a legislative provision substituted for it and a regulation or statutory instrument issued under it.
 - (viii) A reference to a section, Part, Division or Chapter is a reference to a section, Part, Division or Chapter of the Corporations Act.
 - (ix) A reference to *conduct* includes an omission, statement and undertaking, whether or not in writing.
 - (x) A reference to *writing* includes any method of representing or reproducing words, figures, drawings or symbols in a visible and tangible form.
 - (xi) A reference to *dollars* and \$ is to Australian currency.
 - (xii) Mentioning anything after *includes*, *including*, *for example* or other similar expressions does not limit what else might be included.
 - (xiii) References to *applicable law* include all laws of jurisdictions applicable to the Offer within or outside Australia, including the Listing Rules and policies,

guidelines, official directives or requests of or by any Government Agency, whether or not having the force of law.

- (xiv) All references to time are references to the official time in Sydney, Australia.
- (xv) Nothing in this Agreement is to be interpreted against a party solely on the ground that the party put forward this Agreement or a relevant part of it.
- (xvi) For the purposes of this Agreement, an Indemnified Party is associated with a Joint Lead Manager if that Indemnified Party is:
 - (A) a Related Body Corporate or Affiliate of that Joint Lead Manager; or
 - (B) an officer, director, partner, contractor, employee or adviser of that Joint Lead Manager or a Related Body Corporate or Affiliate of that Joint Lead Manager.
- (xvii) All dates specified in the Timetable have the same meaning when used in the body of this Agreement.
- (xviii) For the purposes of this Agreement, the effect of any matter on the success of the Offer is to be determined by assessing the likely effect of that matter on a decision of an investor to invest in the Offer Shares as if that decision were made after the occurrence of that matter and not by considering the number and extent of applications received before the occurrence of that matter.

2 Appointment of the Joint Lead Managers

2.1 Appointment

- (a) The Company appoints the Joint Lead Managers severally on an exclusive basis to manage and underwrite the Offer on the terms and conditions of this Agreement.
- (b) Each Joint Lead Manager accepts its appointment under clause 2.1(a) and, subject to the terms and conditions of this Agreement, severally agrees to manage and underwrite the application for Offer Shares under Offer at the Offer Price on the terms and conditions of this Agreement.

2.2 Sub-underwriters, co-lead managers, co-managers and Brokers

- (a) The Joint Lead Managers may, at any time after prior consultation with the Company and the Company's financial adviser, appoint, or have already appointed, sub-underwriters to sub-underwrite all or part of the Offer at the Joint Lead Managers' sole cost.
- (b) Subject to the prior approval of the Company and after consultation with the Company and the Company's financial adviser, the Joint Lead Managers may appoint co-lead managers, co-managers and Brokers to the Offer and the costs of such appointment will be dealt with in accordance with clause 9.8.
- (c) Any such co-lead managers, co-managers or Brokers to the Offer will not be permitted to offer or sell Offer Shares to any person in the United States or outside of any Offering Jurisdiction.

2.3 Subscription for Offer Shares

The Joint Lead Managers and their respective Affiliates may bid and subscribe for (or have already bid and subscribed for) Offer Shares under the Offer (including the Bookbuild). This may include, for the avoidance of doubt, bidding for, acquiring or subscribing for Offer Shares in connection with a total return swap or other derivative transaction entered into with any investor (or any of its associates) who received an allocation in the Offer.

2.4 Relationship of the Joint Lead Managers

- (a) The obligations of the Joint Lead Managers under this Agreement are several, and not joint or joint and several.
- (b) The rights of a Joint Lead Manager under this Agreement are held by that Joint Lead Manager severally, and not jointly or jointly and severally, and each Joint Lead Manager may exercise its rights, powers and benefits under this Agreement individually.
- (c) Where the consent or approval of the Joint Lead Managers is required under this Agreement, that consent or approval must be obtained from each Joint Lead Manager (other than a Terminating Joint Lead Manager).
- (d) Nothing contained or implied in this Agreement constitutes a Joint Lead Manager as the partner, agent or representative of any other Joint Lead Manager for any purpose or creates any partnership, agency or trust between the Joint Lead Managers, and none of the Joint Lead Managers have any authority to bind the other Joint Lead Managers in any way.
- (e) A Joint Lead Manager is not liable for the acts or omissions of, or advice given by, the other Joint Lead Managers.
- (f) Any reference to a Joint Lead Manager in this Agreement is a reference to each Joint Lead Manager separately, so that (for example) a representation, warranty or undertaking is given by each of them separately.
- (g) A Joint Lead Manager will not be liable for any Losses arising out of the actions taken or advice given by another Joint Lead Manager. In addition, the rights of a Joint Lead Manager and the Indemnified Parties associated with that Joint Lead Manager under the indemnity in clause 16 will in no way be affected by the actions taken or alleged to have been taken, or advice given by, the other Joint Lead Managers or their associated Indemnified Parties.

2.5 Joint Activities

Notwithstanding any other provision of this Agreement:

- (a) the Offerors consider that the nature and scope of services sought under this Agreement requires three joint lead managers;
- (b) the Offerors acknowledge that the Joint Lead Managers are not in competition with each other in supplying services to the Offerors under this Agreement;
- (c) the Joint Lead Managers and the Offerors acknowledge amongst themselves that the Joint Lead Managers intend to carry on jointly the activity of supplying services to the Offerors for the implementation and execution of the Offer;
- (d) the Joint Lead Managers will act jointly when performing their several obligations under this Agreement, and pursuant to any arrangements or understandings that are ancillary to this Agreement, and the Joint Lead Managers and the Offerors acknowledge that doing so is for the purposes of, and reasonably necessary for, undertaking the activity of supplying services to the Offerors; and
- (e) without limiting the foregoing, the Joint Lead Managers and the Offerors agree and acknowledge that the Bookbuild, the restrictions on offers, solicitations or allocations of Offer Shares, the restrictions on the distribution of Offer Documents, the allocation process, the subscription for Offer Shares, the distribution of any Offer Shares, the 'foreign selling restrictions' to be set out in the Offer Documents, the escrow arrangements and the moratorium in clause 12.2(b), in each case, are for the purposes

of, and reasonably necessary for undertaking, the activity of supplying services to the Offerors.

3 Conditions Precedent

3.1 General Conditions Precedent

The Joint Lead Managers will have no obligations under this Agreement unless each of the following conditions precedent is satisfied (or waived under clause 3.4):

- (a) **(Prospectus lodgement)** the Offerors lodge the Prospectus with ASIC, in form and substance acceptable to the Joint Lead Managers, by 11.59pm on the Lodgement Date;
- (b) **(due diligence documents)** the following documents (in a final and executed form) are delivered to the Joint Lead Managers, in form and substance acceptable agreed with the Joint Lead Managers prior to the date of this agreement, prior to the lodgement of the Prospectus with ASIC on the Lodgement Date:

[illegible]

- (vi) all other opinions, sign-offs, reports and certificates required to be delivered to the DDC prior to lodgement of the Prospectus,
- (c) each as contemplated in the Due Diligence Planning Memorandum(**Restriction Agreements**) each Escrowed Person:
 - (i) entering into a Restriction Agreement with the Company by 8.00am on the Lodgement Date (with a signed copy being provided to the Joint Lead Managers as soon as practicable after signing),
 - (ii) agreeing in writing within that Restriction Agreement to the application of a "holding lock" (as defined in the Listing Rules) in respect of the relevant Shares up until their respective Restriction End Date ,in a form and substance agreed with the Joint Lead Managers prior to the date of this agreement;
- (d) (**Call Option Deed**) the Call Option Deed having been entered into by SaleCo and the Selling Shareholder (in a form and substance agreed with the Joint Lead Managers prior to the date of this agreement) prior to the lodgement of the Prospectus with ASIC on the

Lodgement Date (with a signed copy being provided to the Joint Lead Managers as soon as practicable after signing);

- (e) **(Debt Commitment Letter)** the Debt Commitment Letter having been entered into by a Group Member and the other parties to it by 8.00am on the Lodgement Date; and
- (f) **(U.S. Offer Documents)** the Offerors having provided (i) the preliminary Institutional Offering Memorandum, in form and substance satisfactory to the Joint Lead Managers (acting reasonably), on or prior to the Lodgement Date, and (ii) the final Institutional Offering Memorandum, in form and substance acceptable to the Joint Lead Managers (acting reasonably), on the Lodgement Date.

3.2 Specific Conditions Precedent

Without limiting clause 3.1, each Joint Lead Manager will have no obligations under clause 8.5 unless each of the following conditions precedent is satisfied (or waived under clause 3.4):

- (a) **(other conditions)** the satisfaction, or waiver by the Joint Lead Managers under clause 3.4, of each of the conditions precedent in clause 3.1;
- (b) **(applications)** the Company becoming capable of accepting applications in accordance with section 727(3) prior to 5.00pm on the Opening Date;
- (c) **(Certificates)** a duly executed Shortfall Certificate and duly executed Closing Certificate is delivered to the Joint Lead Managers in accordance with clause 14;
- (d) **(Call Option Deed)** the Call Option Deed not being:
 - (i) terminated or rescinded or materially varied, materially altered or materially amended on or before the Settlement Date without the prior written consent of the Joint Lead Managers; or
 - (ii) breached in a material respect or found to be void or voidable on or before the Settlement Date;
- (e) **(Restriction Agreements)** each Restriction Agreement not being:
 - (i) terminated or rescinded or materially varied, materially altered or materially amended on or before the Settlement Date without the prior written consent of the Joint Lead Managers; or
 - (ii) breached in a material respect or found to be void or voidable on or before the Settlement Date;
- (f) **(Debt Commitment Letter)** the Debt Commitment Letter not being:
 - (i) terminated (other than as a result of full form documents being entered into) or rescinded or materially varied, materially altered or materially amended on or before the Settlement Date without the prior written consent of the Joint Lead Managers; or
 - (ii) breached in a material respect or found to be void or voidable on or before the Settlement Date;
- (g) **(Material Contracts)** each Material Contract (except for this agreement) not being:
 - (i) terminated or rescinded or materially varied, materially altered or materially amended on or before the Settlement Date without the prior written consent of the Joint Lead Managers; or
 - (ii) breached in a material respect or found to be void or voidable on or before the Settlement Date;

(i) **(other opinions)** the Joint Lead Managers receiving by 8.00am on the Settlement Date or such other time as the Joint Lead Managers and the Company agree, opinions from:

[illegible]

(j) **(new circumstances sign-off)** the Joint Lead Managers receiving by 8.00am on the Settlement Date, a copy of the signed new circumstances sign-off from each of the members of the DDC (other than the Joint Lead Managers), dated as at no more than two Business Days prior to the Settlement Date, as contemplated by section 5.8 of the Due Diligence Planning Memorandum;

- (k) **(admission and quotation)** ASX provides to the Company written approval for:
 - (i) admission of the Company to the Official List; and
 - (ii) Official Quotation of the Offer Shares (such quotation to commence on a deferred settlement basis on the Quotation Date),

by 5.00pm on the Quotation Approval Date (provided that any such approvals for admission and Official Quotation may be subject only to such customary conditions as are acceptable to the Joint Lead Managers, acting reasonably); and
- (l) **(appointment of agent for service of process)** evidence that Cogency Global Inc. has accepted the appointment by the Offerors contemplated by clause 24.13(b); and

3.3 Reasonable endeavours

Each Offeror must use its reasonable endeavours to procure that each Condition Precedent is satisfied by the relevant time for satisfaction referred to in that Condition Precedent.

3.4 Benefit

The Conditions Precedent are for the benefit of the Joint Lead Managers only and may only be waived by the Joint Lead Managers in their absolute discretion.

3.5 Notice

The Offerors must notify the Joint Lead Managers:

- (a) when it has satisfied any Condition Precedent; and
- (b) if any Condition Precedent is not satisfied, or becomes incapable of satisfaction, by the relevant time for satisfaction referred to in that Condition Precedent,

as soon as practicable after becoming aware of that matter.

3.6 Conditions not satisfied

If any Condition Precedent is not satisfied or waived by the Joint Lead Managers by the relevant time for satisfaction referred to in that Condition Precedent (or such later time as may be agreed between the Joint Lead Managers and the Company), then this Agreement (other than clauses 1, 9, 16, 17, 18, 20, 21, 22, 23 and 24 (excluding clause 24.8)) is at an end as to its future operation except for the enforcement of any right or claim which arises on or has arisen before this Agreement comes to an end.

4 Conduct of the Offer

4.1 Compliance

The Offerors must:

- (a) lodge the Prospectus with ASIC (under section 718 of the Corporations Act) on the Lodgement Date;
- (b) conduct the Offer in accordance with the Offer Documents, the Timetable, this Agreement, the Constitution, the Corporations Act, the Listing Rules, the ASX Settlement Operating Rules, all other applicable laws and regulations, and with regard to relevant regulatory guides published by ASIC; and
- (c) keep the Joint Lead Managers fully informed as to the progress of the Offer, including the application made to the ASX for admission of the Company to the Official List and the Official Quotation of the Offer Shares.

4.2 Offer of Offer Shares

The Company must offer the New Shares for subscription and SaleCo must offer the Offer Shares for purchase in accordance with the constitutions of the Company and SaleCo, Timetable, the Offer Documents, this Agreement, the Listing Rules, the ASX Settlement Operating Rules, the Corporations Act and any other applicable laws and regulations.

4.3 Timetable

The Timetable may be amended by the Offerors only if:

- (a) each Joint Lead Manager provides its prior written consent; and
- (b) to the extent required, ASX and ASIC provide their prior written consent,

other than an amendment resulting from an extension of the exposure period by ASIC under section 727(3) of the Corporations Act which, to avoid doubt, does not require the consent of the Joint Lead Managers. If ASIC extends the exposure period, then the parties agree that they must determine (acting reasonably and in good faith) what items in the Timetable should be varied, having regard to the additional length of the exposure period.

4.4 Publicity, support and access

The Offerors must provide their full support in the appointment of any participating co-lead managers, co-managers, or brokers to the Offer and in the marketing of the Offer as reasonably required by the Joint Lead Managers, including by:

- (a) **(support and access)** providing the Joint Lead Managers with the full support of, and access to, the Company's senior executives as is reasonably required for the marketing, promotion and advertising of the Offer, including the attendance and participation of such senior executives at roadshow presentations and other investor briefings;
- (b) **(marketing and promotion)** marketing, promoting and advertising the Offer at the times, to the extent and in the form and manner as the Joint Lead Managers may reasonably require;
- (c) **(Pathfinder)** providing a marked copy of the Offer Documents (as lodged on the Lodgement Date) showing all changes from the drafts of the relevant documents (including the draft Prospectus and the draft preliminary Institutional Offering Memorandum, as applicable) provided by the Lead Managers to Institutional Investors, Brokers and co-lead managers and (including marked up versions against the draft Prospectus or between different versions of the draft Prospectus); and
- (d) **(copies of Offer Documents)** providing to, or at the direction of, the Joint Lead Managers an electronic copy of the Offer Documents and such number of printed copies of the Prospectus and Institutional Offering Memorandum as the Joint Lead Managers may reasonably require.

4.5 Offer Documents

The Offerors must obtain the prior written approval of the Joint Lead Managers to the form and contents of, and any amendments to, the Offer Documents (such consent not to be unreasonably withheld or delayed in respect of any Offer Document that is not the Prospectus).

4.6 Public announcements and consultation on publicity

- (a) Each Offeror agrees that until Completion it will not make any announcement in relation to the Offer, its progress, the results of the Offer or the business of the Group (that is

material to the Offer) without the prior written consent of the Joint Lead Managers (such consent not to be unreasonably withheld).

- (b) Where an Offeror is required by the Corporations Act, the Listing Rules or any other applicable law to make an announcement in relation to the Offer, its progress, the results of the Offer or the business of the Group, the Offeror will consult with, and have regard to the comments of, the Joint Lead Managers as to the form, content and timing of that announcement prior to making that announcement.
- (c) The Offerors acknowledge and agree that a Joint Lead Manager may, once the Offer is publicly announced or disclosed, describe or refer to its involvement in the Offer and use the Company's logo including (without limitation) in any pitch, case study, presentation or other similar marketing materials which a Joint Lead Manager uses as part of its ordinary course financial advisory and/or capital markets businesses, provided that the content of any announcements or disclosure is public (and must ensure that no information which is confidential to the Company or which is otherwise subject to any confidentiality obligations is included) or otherwise free from restrictions as to its use.

5 Application for Listing

5.1 Application to ASX

The Company must on, or within 1 Business of, the Lodgement Date apply to ASX for:

- (a) admission of the Company to the Official List; and
- (b) the Offer Shares and all other Shares to be granted Official Quotation.

5.2 Admission and quotation

The Offerors must use reasonable endeavours to:

- (a) obtain admission of the Company to the Official List; and
- (b) procure that the Offer Shares are granted Official Quotation (such quotation to commence on a conditional and deferred settlement basis on the Quotation Date),

by the Quotation Approval Date (provided that any such approvals for admission and Official Quotation may be subject only to such customary conditions as are acceptable to the Joint Lead Managers acting reasonably).

5.3 Notify Joint Lead Managers

The Company must notify the Joint Lead Managers immediately after its admission to the Official List and the granting of Official Quotation of the Offer Shares.

5.4 CHESS approval

The Company must use its best endeavours to ensure that the Offer Shares will be "CHESS approved" (as defined in the Listing Rules) no later than the Quotation Date.

6 Bookbuild

6.1 Offer Price

The Offer Price was determined by the Company, by agreement with the Joint Lead Managers, prior to the Bookbuild and prior to the entry into this Agreement.

6.2 Allocation

- (a) The:

- (i) allocation of Offer Shares between the Institutional Offer, the Broker Firm Offer and the Priority Offer;
- (ii) the identity and level of participation of brokers participating in the Broker Firm Offer; and
- (iii) the identity and level of participation of Institutional Investors under the Institutional Offer,

was determined by the Joint Lead Managers, by agreement with the Company, SaleCo and the Company's financial adviser, following the Bookbuild and prior to entry into this Agreement, having regard to the results of the Bookbuild.

- (b) The parties agree that Brokers participating in the Broker Firm Offer will have the sole and absolute discretion to determine the identity of, and allocations to, their private clients in Australia and to their private clients New Zealand that meet the conditions in section 9.15.9 of the Prospectus within the terms of their allocation.
- (c) The Company, after consultation with the Joint Lead Managers, will determine the allocation of the Offer Shares to participants within the Priority Offer.

7 Allotment and Settlement

7.1 Settlement

- (a) To the extent practicable, settlement of the subscription for or sale of the Offer Shares in respect of each category of the Offer will occur as follows:
 - (i) the Institutional Offer and the Broker Firm Offer will take place on the Settlement Date on a DvP basis in accordance with the Listing Rules. UBS will appoint a Related Body Corporate of one of the Joint Lead Managers as nominee to act as broker and as settlement agent for the Offer on behalf of the Offerors (**Settlement Agent**); and
 - (ii) the Registry will act as settlement agent and manage settlement of the Priority Offer on behalf of the Company.
- (b) Completion of the Call Option Deed must take place in accordance with that Call Option Deed and must occur on or before the Allotment Date.
- (c) The Offerors must take all necessary and appropriate steps in connection with settlement as directed by the Joint Lead Managers, including in the case of the Company issuing Allocation Interests in respect of the relevant Offer Shares to the Settlement Agent or an Affiliate.

7.2 Valid Applications

- (a) Subject to clause 6.2, the Company must accept all Valid Applications. However, the parties acknowledge and agree that Valid Applications may be scaled back or rejected as a result of the allocations of Offer Shares made under clause 6.2.
- (b) Subject to clause 6.2, all Valid Applications for which payment has been received into the Company's bank account established for the purpose of the Offer in immediately available funds by 4.00pm on the Settlement Date will be deemed to have been accepted in full by the Company (in its own right and on behalf of SaleCo) and will go in relief of the underwriting obligations of the Joint Lead Managers under this Agreement.

7.3 Allotment and transfer

- (a) Subject to clause 6.1, and subject to the Company having been notified of the matters referred to in clause 6.1, the Company and SaleCo must take all necessary and appropriate steps to allot or register the transfer of (as applicable) all of the Offer Shares by 8.00am on the Allotment Date to persons to whom allocations have been made under clause 6.1 and for which Valid Applications have been received.

7.4 Records and information on applications

- (a) The Company must maintain or procure the maintenance of (and permit the Joint Lead Managers to inspect at any reasonable time) accurate records of the receipt of applications for Offer Shares, the banking of application money, the processing of applications for Offer Shares and the dispatch of statements as to uncertificated holdings for Offer Shares.
- (b) The Company must direct the Registry, whenever requested by a Joint Lead Manager, to:
 - (i) provide the Joint Lead Manager with details and numbers of all applications (whether Valid Applications or not) lodged in respect of the Offer;
 - (ii) inform the Joint Lead Managers of the number of applications for Offer Shares which it considers are not valid;
 - (iii) inform the Joint Lead Managers of the grounds on which it believes the applications referred to in clause 7.4(b)(ii) are not valid; and
 - (iv) if so requested, allow the Joint Lead Managers to review the invalid applications.

7.5 Application money

The Company undertakes that it will promptly bank for collection in a trust account for the exclusive benefit of applicants all cheques and other remittances accompanying Application Forms lodged with the Company or the Registry by applicants for Offer Shares in accordance with sections 722 and 724 of the Corporations Act.

7.6 Despatch of holding statements and refunds

The Company must dispatch statements as to uncertificated holdings and refund cheques (if any) in respect of each Offer Share in accordance with the Timetable, the Listing Rules, the Constitution, the Corporations Act and all other applicable laws.

8 Settlement of the Offer and Subscription for Shortfall Shares

8.1 Notification of Shortfall Shares

If as at 6.00pm on the Business Day before the Shortfall Notification Date, Valid Applications for all of the Offer Shares have not been lodged, the Company (in its own right and on behalf of SaleCo) must by 10.00am on the Shortfall Notification Date notify the Joint Lead Managers in writing of the number of Shortfall Shares (which notification must include the Company's calculation of the number of Shortfall Shares).

8.2 Review of applications

Before providing a notice under clause 8.1, the Company (in its own right and on behalf of the SaleCo) must inform the Joint Lead Managers of the number of applications for Offer Shares which are not Valid Applications and the grounds on which the Company believes those applications are not valid and permit the Joint Lead Managers to review those applications.

8.3 Effect of rejecting a Valid Application

Subject to clause 6.2, if the Offerors fail or refuse to issue or transfer (as applicable) any Offer Shares the subject of a Valid Application lodged with the Offerors, other than because of a direction given by the Joint Lead Managers, the Valid Application will, for the purposes of determining the obligations (if any) of the Joint Lead Managers under clause 8.5, be taken to have been accepted in full.

8.4 Improperly completed applications

If the Offerors issue or transfer (as applicable) any Offer Shares under an application (which was lodged by 5.00pm on the Closing Date) and at any time it becomes apparent that the Application Form was improperly completed or presented or lodged without proper authority, the application will be taken to be a Valid Application for the purpose of determining the number of Shortfall Shares.

8.5 Application for Shortfall Shares and settlement support

Subject to clauses 3, 14 and 15, each Joint Lead Manager must:

- (a) lodge or cause to be lodged, with the Offerors Valid Applications for the Shortfall Shares;
- (b) pay, or procure the payment of, an amount equal to Offer Price multiplied by the Shortfall Shares to the Company (on behalf of the Offerors) in immediately available funds in its Relevant Proportion; and
- (c) pay, or procure the payment of, an amount equal to Offer Price multiplied by the Shares for which Valid Applications have been received under the Broker Firm Offer and the Institutional Offer, to the Company (on behalf of the Offerors) in immediately available funds in its Relevant Proportion,

by 4.00pm on the Settlement Date.

8.6 Assignment of contractual rights

- (a) Subject to the Joint Lead Managers performing their obligations under clause 8.5, the Company hereby assigns to the Joint Lead Managers all contractual rights and recourse it may have against any person allocated Offer Shares under the Institutional Offer or the Broker Firm Offer (including the right to require that person to pay the Offer Price for the relevant Offer Shares or, alternatively, to terminate the contract to issue the relevant Offer Shares to that person and instead issue them to a Joint Lead Manager or any person nominated by a Joint Lead Manager), which contractual rights and recourse may arise by reason of that person's failure to settle on the Settlement Date in respect of the Offer Shares allocated to it under the Institutional Offer or Broker Firm Offer.
- (b) If the Company is unable to assign to the Joint Lead Managers all contractual rights and recourse under clause 8.6(a) on the date of this Agreement, it undertakes that it will assign such rights and recourse when it is legally able to do so.

8.7 Records

The Offerors must maintain or procure the maintenance of (and permit the Joint Lead Managers to inspect at any reasonable time) accurate records of the receipt of applications for Offer Shares, the banking of application money, the processing of applications for Offer Shares and the dispatch of statements as to uncertificated holdings for Offer Shares.

8.8 Purchase and resale of Offer Shares in the U.S. Offer

Offer Shares offered and sold pursuant to Rule 144A as part of the U.S. Offer will be purchased for the purpose of Rule 144A on the Settlement Date by the Joint Lead Managers and/or one or more of their respective Affiliates and resold to persons reasonably believed by the Joint Lead Managers to be QIBs in accordance with Rule 144A. The Company must register the Offer Shares sold to QIBs as part of the U.S. Offer in such names as the Joint Lead Managers request and deliver such Offer Shares through the facilities of CHESS into the accounts specified by the Joint Lead Managers.

9 Payment of Fees and Expenses

9.1 Base Fee

- (a) Subject to the Joint Lead Managers satisfying their obligations under clause 8.5 and receipt of an invoice pursuant to clause 9.1(b), at 5.00pm on the Settlement Date, the Company must pay to the Joint Lead Managers in their Relevant Proportions:
 - (i) a management fee equal to 0.4% of the Gross Proceeds (exclusive of GST); and
 - (ii) an underwriting fee equal to 1.6% of the Gross Proceeds (exclusive of GST),(together, the **Base Fee**).
- (b) The Joint Lead Managers will issue an invoice to the Company for the Base Fee.

9.2 Discretionary Fee

- (a) Subject to the Joint Lead Managers satisfying their obligations under clause 8.5, the Company may pay to the Joint Lead Managers in immediately available funds a discretionary incentive fee of up to 1.0% of the sum of the Gross Proceeds (exclusive of GST) in aggregate, with any such amount and allocation between the Joint Lead Managers to be determined at the discretion of BCH and the Company (**Discretionary Fee**).
- (b) The Company will procure BCH to determine with the Company the amount and allocation of the Discretionary Fee, if any, and notify each Joint Lead Manager in writing within ten Business Days after the Settlement Date.
- (c) On receipt of a notice under clause 9.2(b), each Joint Lead Manager shall invoice the Company for their determined allocation, if any, of the Discretionary Fee (based on the Gross Proceeds), which is to be paid by the Company within 30 days after receipt of the invoice.
- (d) The Company acknowledges and agrees that it would not be appropriate for it to take into account, and it will not take into account, the content of any research reports prepared by, any pre-deal investor education undertaken by, and any decision to initiate equity research coverage by a Joint Lead Manager or its affiliates in determining whether to pay any part of any Discretionary Fee or the quantum of any part of any Discretionary Fee.

9.3 Expenses

- (a) Subject to clause 9.3(b), whether or not the Offer is completed, the Company shall reimburse the Joint Lead Managers, in accordance with clause 9.3(c), as soon as reasonably practicable, and any case within 20 Business Days, upon request and presentation of a tax invoice for all reasonable fees, expenses, disbursements and other costs (together with any GST payable thereon) reasonably incurred by the Joint Lead Managers in connection with the Offer including:

- (i) the fees and disbursements of legal counsel to the Joint Lead Managers;
 - (ii) all roadshow costs and the costs of any other presentations to investors (including reasonable travel and accommodation expenses);
 - (iii) fees of any listing, quotation or registration fees, and any expenses incurred in connection with the qualification of the Offer Shares for sale or issue respectively under the laws of the relevant jurisdictions outside Australia as agreed between the Company and the Joint Lead Managers in which the Offer Shares are offered, issued or sold;
 - (iv) the reasonable costs of publishing any notices;
 - (v) research or subscription based services and electronic bookbuild platform costs;
 - (vi) all reasonable travel and accommodation costs;
 - (vii) any stamp duty, transfer taxes, withholding taxes or similar taxes (but excluding any income tax of a Joint Lead Manager) payable in respect of the Offer and any other reasonable costs in respect of the Offer and the allocation and transfer or issue of the Offer Shares (including any DvP or other settlement arrangements);
 - (viii) all reasonable costs in respect of any review of the Offer Documents undertaken by the ASX, ASIC or any other regulatory body; and
 - (ix) all other reasonable and properly incurred out of pocket expenses of the Joint Lead Managers.
- (b) The obligation of the Company to reimburse the Joint Lead Managers under clause 9.3(a) above is subject to the following:
 - (i) the fees, expenses and disbursements (excluding GST) of Allens who has been appointed as external Australian legal counsel to the Joint Lead Managers shall be limited to a maximum cap of [REDACTED]
 - (ii) the fees, expenses and disbursements (excluding GST) of Sullivan & Cromwell who has been appointed as external US legal counsel to the Joint Lead Managers shall be limited to a maximum cap of [REDACTED]
 - (iii) individual out of pocket expenses greater than A\$2,000 (excluding GST), and all reasonable expenses relating to overseas travel, are pre-approved in writing by the Company. This will include, inter alia, overseas travel relating to non-deal roadshows, investor education and institutional roadshows; and
 - (iv) each Joint Lead Manager's aggregate claim for reimbursement from the Company for reasonably incurred fees, expenses, disbursements and other costs in relation to the Offer under clause 9.3(a)(ix) is limited to a maximum cap of A\$5,000 (excluding GST).
- (c) Invoices for fees, expenses, disbursements and other costs referred to in clause 9.3(a) will be issued by each Joint Lead Manager, after the earlier of:
 - (i) the date of Completion;
 - (ii) the termination date of the Joint Lead Manager's appointment; or
 - (iii) the date on which the Offerors withdraw the Offer.
- (d) The Company and SaleCo shall be responsible for all of its own fees, expenses, disbursements and other costs incurred in connection with the Offer including, without limitation:

- (i) the legal fees, expenses and disbursements of its legal counsel;
 - (ii) the fees and expenses of its accounting, tax advisers and auditors, financial adviser(s) and public relations adviser(s);
 - (iii) any expenses incurred in connection with the preparation, organisation and coordination of the data room containing information about the Group;
 - (iv) all stock exchange listing fees and other listing costs;
 - (v) the costs of printing and distributing any Offer Document in their preliminary or final forms, and any other sales literature or marketing materials for the Offer.
- (e) For the avoidance of doubt, this expense provision shall in no way limit the indemnity set out in clause 16 other than to the extent expressly set out above.

9.4 Payment without withholding or deduction

The Company must pay the fees, expenses, disbursements and other costs in this clause 9 and make any other payment required under this Agreement free of any restriction or condition and without any withholding or deduction for any taxes, duties, assessments or governmental charges of any nature (including, without limitation, any GST) imposed, levied, collected, withheld or assessed by or within any relevant jurisdiction or by any authority therein or thereof having power to tax, unless such withholding or deduction is required by law. If the Company is required by law to make any withholding or deduction, it must pay to the Joint Lead Managers such additional amounts as are necessary to ensure that the net amount received by the Joint Lead Managers is the amount that would have been received by the Joint Lead Managers had no withholding or deduction been made.

9.5 Set-off

- (a) Subject to it complying with its obligation under this clause 9, a Joint Lead Manager may set-off any amounts payable under this clause 9 against any payment obligation owed to the Company by that Joint Lead Manager or any of its Related Bodies Corporate. However, the parties acknowledge and agree that the Joint Lead Managers will not deduct the Base Fee (and, if applicable, any Discretionary Fee) from the proceeds of the Offer but that the Company will pay those fees directly following receipt of appropriate invoices.
- (b) No payments made by the Company to third parties will reduce amounts owed by the Company to the Joint Lead Managers.

9.6 No payment if Completion does not occur

If the Offer does not proceed to Completion for any reason, the Company shall not be required to pay either the Base Fee or the Discretionary Fee under clause 9.1 and 9.2 respectively to the Joint Lead Managers.

9.7 Continuing obligations

For avoidance of doubt, the obligations of the Company under this clause 9 survive termination or completion of this Agreement.

9.8 Payments to co-lead managers, co-managers and Brokers

If any co-lead managers, co-manager or Broker is appointed to the Offer in accordance with clause 2.2, the Joint Lead Managers will be responsible for the payment, on behalf of the Company, all the fees payable to any such co-lead manager, co-manager or Broker out of the fees received by the Joint Lead Managers from the Company pursuant to clause 9.1.

10 Due Diligence Investigations

10.1 Obligations of the Offerors

The Offerors must, until Completion:

- (a) make all inquiries that are reasonable in the circumstances;
 - (b) take all reasonable steps; and
 - (c) exercise due diligence in accordance with the Due Diligence Planning Memorandum, to ensure that:
 - (i) there are no omissions from the Prospectus of information required by the Corporations Act, the Listing Rules and applicable laws to be included;
 - (ii) no statement in the Prospectus is, or becomes, misleading or deceptive;
 - (iii) the:
 - (A) preliminary Institutional Offering Memorandum does not, as of its date;
 - (B) Pricing Disclosure Package will not, as of the Applicable Time; and
 - (C) final Institutional Offering Memorandum will not, on the Settlement Date, include any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading; and
 - (iv) the DDC is made aware of any of the circumstances referred to in clause 10.3(a)(iii) as soon as practicable after any such circumstance arises,
- (together, the ***Due Diligence Investigations***). The Offerors must procure that the Due Diligence Investigations are carried out through the DDC in accordance with the Due Diligence Planning Memorandum.

10.2 Due diligence material

Subject to clause 19 (including the purpose requirements set out therein), the Offerors must provide each Joint Lead Manager and its authorised representatives and advisers with full and free access to, and on request copies of, the DDC Report, the Due Diligence Results, the Verification Materials and any other materials or documents used or created in connection with the Due Diligence Investigations, Offer or the Offer Documents and must maintain those materials and documents for that purpose until the date (the ***Retention Date***) which is the later of:

- (a) the seventh anniversary of Completion; and
- (b) the date on which any regulatory or administrative inquiry or review, legal proceeding or Claim arising in connection with the Offer or any Offer Document of which an Offeror or a Joint Lead Manager becomes aware on or before the date in clause 10.2(a) is finally concluded.

10.3 Supplementary Prospectus and amended or supplemented U.S. Offer Documents

- (a) Without prejudice to a Joint Lead Manager's rights under clause 15, if, before Completion, an Offeror is notified or otherwise becomes aware that there is:
 - (i) a statement in the Prospectus that is, or has become, misleading or deceptive;
 - (ii) an omission from the Prospectus of information required by the Corporations Act to be included; or

- (iii) a new circumstance that:
 - (A) has arisen since the Prospectus or any Supplementary Prospectus was lodged; and
 - (B) would have been required by the Corporations Act to be included in the Prospectus or any Supplementary Prospectus if it had arisen before the relevant document was lodged,

it must immediately notify the Joint Lead Managers of that statement, omission or circumstance, and the Offerors must, as soon as practicable, lodge a Supplementary Prospectus (in form and substance approved in writing by the Joint Lead Managers) in respect of that statement, omission or circumstance as soon as practicable afterwards, and otherwise comply with the Corporations Act. Following lodgement of any Supplementary Prospectus, the Offerors must immediately take all actions in respect of the Supplementary Prospectus as may be reasonably required by the Joint Lead Managers (including despatch of copies of the Supplementary Prospectus to all recipients of the Prospectus, any draft Prospectus or relevant Offer Document).

- (b) Prior to, or concurrently with, the lodgement of a Supplementary Prospectus or if, at any time prior to the completion of the distribution of the Offer Shares by the Joint Lead Managers, the Offerors or a Joint Lead Manager forms the view or becomes aware of any matter that would cause the preliminary Institutional Offering Memorandum, the final Institutional Offering Memorandum or the Pricing Disclosure Package to contain any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading, the Offerors must, as soon as practicable, amend or supplement the preliminary Institutional Offering Memorandum, the final Institutional Offering Memorandum or the Pricing Disclosure Package (as applicable), in form and substance approved in writing by the Joint Lead Manager if necessary so that it does not, at the Applicable Time, and at any other time up to and including the Settlement Date will not, include any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements therein, in the light of the circumstances in which they were made, not misleading.
- (c) Any notification or approval given in respect of this clause 10.3 is given without prejudice to the rights of the Joint Lead Managers to terminate this Agreement under clauses 3.6 or 15.

10.4 Offerors' responsibility

Without limiting any other provisions of this Agreement, notwithstanding that the Joint Lead Managers have assisted, and may continue to assist the Offerors in the preparation of the Offer Documents and in connection with promotional activities in relation to the Offer, it shall be the final and absolute responsibility of the Offerors to ensure, and each Offeror undertakes to ensure, that the Offer Documents and all Publications and other promotional material and communications related to the Offer (including the contents of any material which has been approved by a Joint Lead Manager) comply in all respects with the relevant provisions of all applicable laws. The Offerors acknowledge that they are responsible for the final form and content of the Offer Documents and the Publications.

11 Representations and Warranties

11.1 General representations and warranties

Each party to this Agreement represents, warrants and undertakes to each other party that:

- (a) **(power)** it has the full capacity and power to enter into and comply with all of the terms and conditions of this Agreement;
- (b) **(incorporation)** it has been duly incorporated in accordance with the laws in its place of incorporation and is validly existing under those laws;
- (c) **(authorisations)** all approvals and authorities that may be required to permit it to enter into this Agreement and to perform its obligations under this Agreement in accordance with its terms have been obtained and remain valid and subsisting; and
- (d) **(validity of obligations)** this Agreement is a valid and binding obligation on it.

11.2 Representations and warranties by the Offerors

[illegible]

[illegible]

[illegible]

[illegible]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[illegible]

[REDACTED]

[REDACTED]

11.3 Additional representations and warranties by the Company

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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[illegible]

[illegible]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[illegible]

[illegible]

Each of the paragraphs and sub-paragraphs of clauses 11.1, 11.2, 11.3 and 11.4 will be construed independently and no paragraph or sub-paragraph will be limited by implications arising from any other paragraph or sub-paragraph.

Each party further warrants severally that each of the warranties given by it in this clause 11 is true and correct in every respect as at the date of this Agreement and will be so at all times

before Completion except in respect of clause 11.3(g) which the Company represents and warrants is true and correct in every respect as at the date of this Agreement and will be so at all times until the final Restriction End Date.

11.7 Reliance

Each party acknowledges that the other parties are entering into this Agreement in reliance on the representations and warranties given to them in this clause 11.

11.8 Acknowledgment

Each party to this Agreement acknowledges that the representation and warranty in clause 11.3(g) or the undertaking in clause 12.2(f), does not give the Joint Lead Managers any power to dispose of, or control the disposal of, the Shares the subject of a Restriction Agreement referred to in clauses 3.1(c) and 12.2(f), and a breach of clause 11.3(g) will only give rise to a right to damages.

11.9 Not affected by investigations

The representations, warranties and undertakings under this Agreement are not affected or extinguished by any investigation made by, or on behalf of, the Joint Lead Managers into the affairs of the Group, the Company or SaleCo or by any other event or matter.

11.10 Knowledge

References in this agreement to the knowledge or awareness of the Company or SaleCo are a reference to:

- (a) in the case of the Company:
 - (i) the actual knowledge or awareness of any of the Company or the directors, the chief financial officer, chief legal officer of the Company or the chief executive officer of Velocity; or
 - (ii) the knowledge or awareness that any of the Company or any of the other persons referred to in clause 11.10(a)(i) above would have after due and careful enquiry in relation to the matter that a reasonable person would have made in the circumstances in order to give a relevant representation or warranty, acknowledgement, consent or statement; and
- (b) in the case of SaleCo:
 - (i) the actual knowledge or awareness of any of SaleCo or the directors of SaleCo;
 - (ii) the knowledge or awareness that any of SaleCo or any of the other persons referred to in clause 11.10(b)(i) would have after due and careful enquiry in relation to the matter that a reasonable person would have made in the circumstances in order to give a relevant representation or warranty, acknowledgement, consent or statement.

12 Undertakings

12.1 Undertakings by the Offerors

Each Offeror undertakes in favour of the Joint Lead Managers that:

- (a) **(notice of breach)** for the period before Completion, it will notify the Joint Lead Managers of:

- (i) any breach of any representation, warranty or undertaking given by the Offeror under this Agreement; or
 - (ii) the occurrence of any of the events described in clause 15.1 or the non-satisfaction of any of the conditions in clauses 3.1, and 3.2,immediately after it becomes aware of any such matter;
- (b) **(amendments or supplements to Offer Documents)** it will obtain the prior written consent of the Joint Lead Managers to the form and content of any amendments or supplements to any Offer Document;
- (c) **(directors' consents)** it will ensure that each of its directors, as at the date of the Prospectus, has consented and are named in the Prospectus as having consented, to the lodgement of the Prospectus; and
- (d) **(no withdrawal of Offer)** it will not withdraw the Offer;
- (e) **(ASIC notifications)** for the period before Completion, it will give notice to the Joint Lead Managers no later than one Business Day after becoming aware of any of the following:
 - (i) ASIC issuing an order (including an interim order) under section 739 of the Corporations Act;
 - (ii) ASIC holding a hearing under section 739(2) of the Corporations Act;
 - (iii) an application being made by ASIC for an order under Part 9.5 of the Corporations Act in relation to the Offer or the Offer Documents;
 - (iv) ASIC commencing any investigation or hearing under Part 3 of the ASIC Act in relation to the Offer or an Offer Documents;
 - (v) any person giving a notice under section 733(3) of the Corporations Act or any person who has previously consented to the inclusion of its name in any Offer Document withdraws that consent; or
 - (vi) any person giving a notice under section 730 in relation to the Prospectus;
- (f) **(correspondence with ASIC, ASX or other Government Agency)** it will promptly provide the Joint Lead Managers with copies of any material communication from ASX, ASIC, or any other Government Agency (or any of their respective advisers) relating to, or that may be material in the context of, the Offer, and give the Joint Lead Managers a reasonable opportunity to comment on any correspondence from the Offerors (or any of their advisers) to ASIC, ASX or Government Agency (as relevant) (or any of their respective advisers) in connection with the Prospectus or the Offer from the date of this Agreement until Completion;
- (g) **(no breach)** before Completion, be involved in or acquiesce in any activity which may breach:
 - (i) the Corporations Act;
 - (ii) in any material respect, the *Competition and Consumer Act 2010* (Cth);
 - (iii) the Listing Rules (except where compliance has been waived by ASX);
 - (iv) the Constitution (in the case of the Company) or its constitution (in the case of any other Group Member or SaleCo);
 - (v) any legally binding requirement of ASIC or ASX; or
 - (vi) in any material respect, any other applicable law;

- (h) **(no Encumbrance)** other than as disclosed in the Offer Documents, it will not create or agree to create any Encumbrance over any or all of the Offer Shares;
- (i) **(Blue Sky laws)** it will qualify the Offer Shares, if necessary, for offer and sale under the securities or "Blue Sky" laws of such jurisdictions as the Joint Lead Managers shall reasonably request, and continue such qualifications in effect so long as required for the offering and resale of the Offer Shares, provided that the Offerors shall not be required to:
 - (i) qualify as a foreign corporation or other entity or as a dealer in securities in any such jurisdiction where it would not otherwise be required to so qualify;
 - (ii) file any general consent to service of process in any such jurisdiction; or
 - (iii) subject itself to taxation in any such jurisdiction if it is not otherwise so subject;
- (j) **(no Supplementary Prospectus)** subject to clause 10.3, it will not lodge or issue a Supplementary Prospectus without the prior written consent of the Joint Lead Managers;
- (k) **(keep Joint Lead Managers informed)** during the term of this Agreement and until Completion, it will keep the Joint Lead Managers promptly and fully informed of all strategies and developments relevant to the Offer or any material adverse changes to the Company's financial position or prospects and must ensure that no material initiative relevant to the Offer is undertaken without the prior consent of the Joint Lead Managers and in accordance with this Agreement;

12.2 Undertakings by the Company

The Company undertakes in favour of the Joint Lead Managers that:

- (a) **(no variation of constitution)** exception for adoption of the new constitution in connection with the Company's admission to the official list of ASX, it will not, before the expiration of 180 days after Completion vary any term of its constitution, without the prior consent of the Joint Lead Managers to the terms of the variation or alteration (such consent not to be unreasonably withheld or delayed);
- (b) **(further issues)** without the prior consent of the Joint Lead Managers (such consent not to be unreasonably withheld), at any time after execution of this Agreement and before the expiration of 180 days after Completion, the Company will not issue, agree to issue, offer for subscription or grant any option over, or indicate in any way that it may or will issue, agree to issue, offer for subscription or grant any option over, any shares, options or other securities of the Company (or securities convertible or exchangeable into equity of the Company) or permit any Group Member to do any of the foregoing, or do anything economically equivalent to any of the foregoing, other than under the Offer, provided that nothing in this clause 12.2(b) prevents:
 - (i) the issue of the Offer Shares;
 - (ii) any issue of securities specifically referred to in the Prospectus, the Pricing Disclosure Package and the Institutional Offering Memorandum;
 - (iii) the Company issuing securities pursuant to:
 - (A) any employee incentive scheme (as defined in the Listing Rules);
 - (B) any dividend reinvestment plan (other than to an underwriter of any such plan); or

- (C) any bonus share plan (other than to an underwriter of any such plan), described in the Prospectus, the Pricing Disclosure Package and the Institutional Offering Memorandum; or
 - (iv) the issue of securities on the conversion or exercise of securities:
 - (A) issued under a plan or scheme referred to in clause 12.2(b)(iii); or
 - (B) in existence as at the date of this Agreement;
- (c) **(no change)** not, before the expiration of 180 days after Completion (other than as contemplated by the Offer Documents) alter the capital structure of the Company except:
 - (i) to refinance existing aircraft, finance new aircraft or aircraft parts or for lease extensions for existing aircraft;
 - (ii) with the prior written consent of the Lead Managers (such consent not to be unreasonably withheld or delayed); or as permitted under clause 12.2(b);
- (d) **(conduct of business)** during the period from the date of this Agreement until 120 days after Completion, it, and each Group Member:
 - (i) will carry on its business in the ordinary course; and
 - (ii) will not dispose of, or agree to dispose of, the whole or any part of its business or its property,

without the prior written consent of the Joint Lead Managers (such consent not to be unreasonably withheld or delayed), except:

 - (iii) in the ordinary course of business or disclosed in the Prospectus; or
- (e) **(website)** the Company will make the Prospectus available on its website or an offer website during the period the Offer is open, subject to and in compliance with all applicable laws and provided such Prospectus is located behind website screens (in a form agreed with the Joint Lead Managers acting reasonably) designed to restrict access to such documents to persons that are not in the United States; and
- (f) **(Restriction Agreements)** it will strictly enforce each Restriction Agreement in accordance with its terms and will not amend the terms of a Restriction Agreement in any material respect without the prior consent of the Joint Lead Managers.

13 Additional undertakings by the Offerors

- (a) Each of the Offerors represents and agrees that, without the prior consent of the Joint Lead Managers, it has not made and will not make any written communication that constitutes an offer to sell or solicitation of an offer to buy the Offer Shares in the United States (each such communication by the Offerors or their agents and representatives (other than a communication referred to in clauses 13(a)(i) and 13(a)(ii) below) an **Offeror Written Communication**) other than:
 - (i) the Institutional Offering Memorandum; and
 - (ii) the Pricing Disclosure Package.

- (b) Any Offeror Written Communication as at the date of this Agreement is listed in Schedule 2.

14 Certificates

14.1 Obligation to deliver

The Offerors must give to the Joint Lead Managers two certificates, each signed by any two Directors, one to be delivered on the Shortfall Notification Date before 8.00am (the **Shortfall Certificate**) and the other to be delivered on the Settlement Date before 10.00am (the **Closing Certificate**).

14.2 Contents of certificates

- (a) The Shortfall Certificate must be dated the Shortfall Notification Date, and the Closing Certificate must be dated the Settlement Date (as relevant).
- (b) The Shortfall Certificate will certify as at 8.00am on the Shortfall Notification Date, and the Closing Certificate will certify as at 10.00am on the Settlement Date (as relevant), that to the best of the Directors' knowledge, information and belief after due and proper inquiry:
 - (i) each Condition Precedent which must be satisfied by 8.00am on the Shortfall Notification Date or 10.00am on the Settlement Date (as applicable) has been satisfied or waived by the Joint Lead Managers;
 - (ii) the Offerors have complied with all obligations on their part to be performed under this Agreement;
 - (iii) the Offerors have complied with all obligations on their part to be performed in respect of the Offer, whether arising under statute or otherwise;
 - (iv) the representations and warranties made by the Offerors pursuant to clause 11 are true and correct and there has been no breach of them; and
 - (v) none of the termination events described in clause 15.1 has occurred.

15 Termination

15.1 Unqualified termination events

Subject to clause 15.4, a Joint Lead Manager may at any time by notice given to the Offerors and the other Joint Lead Managers immediately, without cost or liability to itself or the other Joint Lead Managers, terminate this Agreement so that it is relieved of all its obligations under this Agreement if any of the following events occurs before 4.00pm on the Settlement Date (except where otherwise indicated):

- (a) **(defect in the Institutional Offering Memorandum or Pricing Disclosure Package)** the Institutional Offering Memorandum or the Pricing Disclosure Package includes an untrue statement of a material fact or omits to state a material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading ;
- (b) **(disclosures in the Prospectus and Pathfinder)** a material statement contained in the Prospectus or Pathfinder is or becomes misleading or deceptive, or a matter required to be included is omitted from the Prospectus or Pathfinder (including, without limitation, having regard to the provisions of Part 6D.2);

- (c) **(forecasts)** the Prospectus or Pathfinder include any forecast, expression of opinion, belief, intention or expectation which is not, in all material respects, made after due and careful consideration in good faith and based on reasonable assumptions (including having regard to ASIC Regulatory Guide 170), taken as a whole; or any financial forecast that appears in the Prospectus or Pathfinder is or becomes incapable of being met in the projected time;
- (d) **(market fall)** the S&P/ASX 200 Index:
 - (i) closes at a level that is 12.5% or more below the level of that index on the Business Day immediately prior to the date of this Agreement (**Applicable Starting Level**) for at least two consecutive Business Days before the Settlement Date; or
 - (ii) closes on the Business Day immediately before the Settlement Date at a level that is 12.5% or more below the Applicable Starting Level;
- (e) **(Supplementary Prospectus)**
 - (i) the Offerors lodge a Supplementary Prospectus that has not been approved by the Joint Lead Managers in accordance with clause 10.3; or
 - (ii) a Supplementary Prospectus is required to be lodged with ASIC under the Corporations Act and the Offerors do not lodge that Supplementary Prospectus; or
 - (iii) that the Institutional Offering Memorandum or the Pricing Disclosure Package must be supplemented or amended in any material respect;
- (f) **(ASIC notifications)** any of the following notifications are made in respect of the Offer:
 - (i) ASIC issuing an order (including an interim order) under section 739 of the Corporations Act; ASIC holding a hearing under section 739(2) of the Corporations Act;
 - (ii) an application being made by ASIC for an order under Part 9.5 of the Corporations Act in relation to the Offer or an Offer Document;
 - (iii) ASIC commencing any investigation or hearing under Part 3 of the ASIC Act in relation to the Offer or an Offer Document;
 - (iv) any person giving a notice under section 733(3) of the Corporations Act or any person who has previously consented to the inclusion of its name in the Prospectus withdraws that consent (other than a Joint Lead Manager); or
 - (v) any person (other than a Joint Lead Manager) giving a notice to an Offeror under section 730,unless such notification is not made public and is withdrawn within the earlier of:
 - (A) 2 Business Days; and
 - (B) 5.00pm on the Business Day prior to the Settlement Date;
- (g) **(Insolvency)** either Offeror or any Group Member becomes Insolvent, or an act occurs or an omission is made which may result in an Offeror or a Group Member becoming Insolvent;
- (h) **(prosecution or fraud)** any of the following occur:
 - (i) a director of an Offeror engages or has engaged in any fraudulent conduct or activity or is charged with an indictable offence;

- (ii) any Government Agency commences any public action against an Offeror or any other Group Member or any the directors of an Offeror in their capacity as a director of that entity, or announces that it intends to take that action; any director of an Offeror is disqualified from managing a corporation under Part 2D.6; or
 - (iii) any member of the Group or SaleCo engages in fraudulent conduct or activity, whether or not in connection with the Offer;
- (i) **(Directors and Senior Management)**
 - (i) a change in Chairman, the Chief Executive Officer, or Chief Financial Officer of the Company or the chief executive officer of Velocity occurs, or the Chairman, Chief Executive Officer, Chief Financial Officer or chief executive officer of Velocity dies or becomes permanently incapacitated
 - (ii) a Director, the Chief Executive Officer or Chief Financial Officer of the Company or chief executive officer of Velocity is charged with a criminal offence relating to any financial or corporate matter;
 - (iii) any Government Agency commences any public action against an Offeror, any of the Directors or any member of the Senior Management, or announces that it intends to take any such action; or
- (j) **(withdrawal of Offer Documents or Offer)** an Offeror withdraws the Prospectus, the Institutional Offering Memorandum or the Offer or all or any part of the Offer or indicates that it does not intend to proceed with the Offer or any part of it;
- (k) **(Certificate)** an Offeror does not provide a Shortfall Certificate or Closing Certificate as and when required by this Agreement;
- (l) **(Timetable)** any event specified in the Timetable is delayed for two or more Business Days without the prior written approval of the Joint Lead Managers (other than any delay agreed to by the Joint Lead Managers in accordance with clause 4.3 or a delay that results from an extension of the exposure period by ASIC);
- (m) **(unable to issue or transfer)** the Company is prevented from allotting or issuing the New Share or SaleCo is prevented from transferring the Sale Shares within the time required by the Timetable, the Prospectus, the Listing Rules, the ASX Settlement Operating Rules or by any other applicable laws, under an order of a court of competent jurisdiction or a Government Agency;
- (n) **(Restriction Agreements)** each Restriction Agreement:
 - (i) is not, or cease to be, valid, binding and enforceable in accordance with its terms;
 - (ii) is varied in a material respect without the prior written consent of the Joint Lead Managers; or
 - (iii) is not performed in a material respect in accordance with its terms;
- (o) **(Call Option Deed)** the Call Option Deed:
 - (i) is not, or cease to be, valid, binding and enforceable in accordance with its terms;
 - (ii) is varied in a material respect without the prior written consent of the Joint Lead Managers; or
 - (iii) is not performed in a material respect in accordance with its terms;
- (p) **(force majeure)** there is an event or occurrence, including any statute, order, rule, regulation, directive, request (including one compliance with which is in accordance with

the general practice of persons to whom the directive or request is addressed) of any Government Agency which makes it illegal for the Joint Lead Managers to satisfy an obligation under this Agreement, or to market, promote or settle the Offer.

15.2 Qualified termination events

Subject to clauses 15.3 and 15.4, a Joint Lead Manager may at any time by notice given to the Offerors and the other Joint Lead Managers immediately, without cost or liability to itself or the other Joint Lead Managers, terminate this Agreement so that it is relieved of all its obligations under this Agreement if any of the following events occurs before 4.00pm on the Settlement Date (except where otherwise indicated):

- (a) **(adverse change)** there is an adverse change in the assets, liabilities, financial position or performance, profits, losses or prospects of an Offeror, including any adverse change in the assets, liabilities, financial position or performance, profits, losses or prospects of an Offeror from those respectively disclosed in the Offer Documents;
- (b) **(new circumstances)** there occurs a new circumstance that arises after the Prospectus is lodged with ASIC, that would have been required to be included in the Prospectus if it had arisen before the lodgement;
- (c) **(disclosures)** any material information supplied by or on behalf of the Offerors to the Joint Lead Managers in connection with the Offerors or the Offer is inaccurate, incomplete, false, misleading or deceptive (including by omission);
- (d) **(legal proceedings)** any of the following occurs:
 - (i) the commencement of legal proceedings against an Offeror or any Group Member (other than ordinary course proceedings in relation to workers compensation matters); or
 - (ii) any regulatory body (including a Governmental Authority) commences any investigation, claim, inquiry, proceedings or public action against an Offeror or any Group Member; or
 - (iii) a Government Agency withdraws, revokes or amends in an adverse manner any authorisation, licence or other approval necessary to the conduct of the Company's business;
- (e) **(breach of representation and warranty)** a representation or warranty contained in this Agreement on the part of an Offeror (whether severally or jointly) is breached, becomes not true or correct or is not performed;
- (f) **(Certificate)** a statement in the Shortfall Certificate or Closing Certificate furnished under clause 14 is untrue, incorrect or misleading or deceptive (including by way of omission);
- (g) **(disclosures in DDC Report)** the DDC Report or Verification Material or any other material information supplied by or on behalf of the Offerors (with their prior consent) to the Joint Lead Managers in relation to the Group or the Offer is or becomes inaccurate or false or misleading or deceptive or likely to mislead or deceive, including by way of omission;
- (h) **(compliance)** any Offeror, before Completion, commits, is involved in or acquiesces in any activity which breaches any of the following matters:
 - (i) the Corporations Act;
 - (ii) the Listing Rules (except where compliance has been waived, or as modified, by ASX);

- (iii) its constitution;
 - (iv) any legally binding requirement of ASIC or ASX; or
 - (v) in any material respect, any other applicable law including the *Competition and Consumer Act 2010* (Cth);
- (i) **(breach of Agreement)** an Offeror fails to comply with its obligations under this Agreement;
- (j) **(change in law)** there is introduced, or there is a public announcement of a proposal to introduce, into the Parliament of the Commonwealth of Australia or any State or Territory of Australia a new law, or the Government of Australia, or any State or Territory of Australia, the Reserve Bank of Australia, or any Minister or other Government Agency of Australia or any State or Territory of Australia, adopts or announces a proposal to adopt a new policy (other than a law or policy which has been announced before the date of this Agreement) ;
- (k) **(disruption in financial markets)** any of the following occurs:
 - (i) a suspension or material limitation in trading of all securities quoted on ASX, Hong Kong Stock Exchange, London Stock Exchange, or New York Stock Exchange for at least 1 day on which that exchange is open for trading;
 - (ii) a general moratorium on commercial banking activities in Australia, Hong Kong, the United States of America or the United Kingdom is declared by the relevant central banking authority in any of those countries, or there is a material disruption in commercial banking or securities settlement or clearance services in any of those countries; or
 - (iii) any adverse change or disruption to the existing financial markets, political or economic conditions of Australia, Hong Kong the United States of America, the United Kingdom or the international financial markets;
- (l) **(hostilities)** hostilities not existing at the date of this Agreement commence (whether war has been declared or not) or a major escalation in existing hostilities occurs (whether war has been declared or not), in either case, involving any one or more of Australia, New Zealand, the United States of America, United Kingdom, Japan, any member state of the European Union, the People's Republic of China, Hong Kong or any member state of the North Atlantic Treaty Organization or a national state of emergency is declared or there is an escalation of a national emergency by any of those countries, or a major terrorist act is perpetrated in any of those countries or:
 - (i) chemical, nuclear or biological weapons of any sort are used in connection with; or
 - (ii) the military of any member state of the North Atlantic Treaty Organization becomes directly involved in,

the conflicts involving Ukraine, Israel and India that are ongoing at the date of this Agreement.
- (m) **(Offer Documents (other than Prospectus or Pathfinder))** that:
 - (i) there is an omission from the Offer Documents (other than the Prospectus or Pathfinder) of material required by the Corporations Act to be included;
 - (ii) an Offer Document (other than the Prospectus or Pathfinder) contains a statement which is untrue, inaccurate, misleading or deceptive or likely to mislead or deceive (whether by inclusion or omission); or

- (iii) an Offer Document (other than the Prospectus or Pathfinder) does not contain all information required to comply with all applicable laws;
- (n) **(Material Contracts)** any Material Contract is void or voidable, is breached in a material respect, terminated or rescinded; or
- (o) **(debt facilities)**
 - (i) there occurs:
 - (A) an event of default;
 - (B) a review event which gives a lender or financier the right to accelerate or require repayment of the debt or financing; or
 - (C) any other similar event,

under or with respect to any such Debt Facility Agreement except where it relates to change control provisions under the 'Velocity Frequent Flyer – Syndicated Facility Agreement' dated 8 April 2024 with BNP Paribas or the 'Working Capital Facility Agreement' with QIC Limited dated 5 October 2020 (and any associated side letters to these); or

15.3 Limitation on exercise of rights

- (a) An event listed in clause 15.2 does not entitle a Joint Lead Manager to terminate this Agreement unless, in the reasonable opinion of that Joint Lead Manager, the event:
 - (i) has had or is likely to have a material adverse effect on:
 - (A) the success, outcome or settlement of the Offer;
 - (B) the ability of that Joint Lead Manager to market or promote or settle the Offer; or
 - (ii) has given or is likely to give rise to a contravention by that Joint Lead Manager or its Affiliates of, or that Joint Lead Manager or its Affiliates being involved in a contravention of, the Corporations Act or any other applicable law.
- (b) For the purposes of this Agreement, the effect of any matter, fact, event, circumstance, act, omission or otherwise (an **Event**) on any of the matters referred to in clause 15.3(a)(i) will be determined by assessing or considering (without limitation) the likely effect of the Event on a decision of an investor to invest in the Offer Shares as if that decision to invest was made after the occurrence of that Event or only the number and extent of Valid Applications received before the occurrence of that Event.

15.4 Effect of termination

- (a) Any rights or powers of the Joint Lead Managers may be exercised severally.
- (b) The exercise by a Joint Lead Manager of its rights upon the happening of an event specified in clause 15.1 or 15.2 does not automatically terminate the obligations of the other Joint Lead Managers.
- (c) If a Joint Lead Manager terminates its obligations (such Joint Lead Manager being a **Terminating Joint Lead Manager**), each remaining Joint Lead Manager who has not terminated (such Joint Lead Managers being the **Remaining Joint Lead Managers**) may elect by notice in writing to the Terminating Joint Lead Manager and the Offerors within two Business Days of the Terminating Joint Lead Manager terminating its obligations under clauses 15.1 or 15.2 of this Agreement as a result of that event to assume the obligations of the Terminating Joint Lead Manager under this Agreement.

- (d) If none of the Remaining Joint Lead Managers give notice under this clause 15.4(c), all Remaining Joint Lead Managers will be treated as having also terminated their obligations under this Agreement.
- (e) The termination of this Agreement under clauses 15.1 or 15.2 will discharge the Terminating Joint Lead Manager from its obligations under this Agreement and the Company's obligation to pay to the Terminating Joint Lead Manager the fees referred to in clause 9.1, but the termination of this Agreement will not limit or prevent the exercise of any other rights and remedies which any of the parties may otherwise have under this Agreement.
- (f) If any of the Remaining Joint Lead Managers gives notice under clause 15.4(c) that it will assume the obligations of a Terminating Joint Lead Manager under this Agreement, then that Remaining Joint Lead Manager, in addition to the fees to which they are entitled under clause 9.1, will also be entitled to the fees that would have been payable to that Terminating Joint Lead Manager under clause 9.1 if it had not exercised its right of termination.
- (g) Without limiting clause 15.4(e), nothing contained in this clause 15 will prejudice or nullify any claim for damages or other right which a Joint Lead Manager or any other Indemnified Party may have against the Offerors, or which the Offerors may have against a Joint Lead Manager, for or arising out of any breach of undertaking, warranty or representation or failure to observe or perform an obligation under this Agreement.

15.5 Independent construction

Each of the paragraphs and sub-paragraphs in clauses 15.1 and 15.2 must be construed independently and no paragraph or sub-paragraph is to be limited by implications arising from any other paragraph or sub-paragraph.

16 Indemnity

16.1 Indemnity

Subject to clauses 16.2 and 16.18, each Offeror unconditionally and irrevocably agrees to indemnify and hold harmless the Joint Lead Managers, each of their respective Related Bodies Corporate and Affiliates and each of their respective officers, employees, agents and advisers (each, an **Indemnified Party**) against any and all Claims and Losses of whatever nature and in whichever jurisdiction, which may be instituted, made or alleged against, or which are suffered or incurred by, such Joint Lead Manager or other Indemnified Party and which relate to or arise from or are in connection with the Offer or this Agreement and whether occurring before or after the date of this Agreement, including Losses and Claims incurred or suffered as a result of:

- (a) any misstatement in, or omission from, any Offer Document;
- (b) any roadshow presentation, investor education or pre-marketing material, Publication, advertising or publicity in relation to the Offer made or distributed by an Offeror, or distributed by or on behalf of an Indemnified Party on the Offeror's behalf with the prior authorisation of the Offeror or its legal advisers;
- (c) any breach by the Offerors of, or any failure by the Offerors to perform or observe any of its obligations under, this Agreement or any other binding obligations in respect of any Offer Documents and the Offer, including any of the representations and warranties by the Company or SaleCo contained in this Agreement not being true or correct;
- (d) the preparation, issue, publication or distribution of any Offer Document;

- (e) the subscription for, allotment, issue or transfer of Offer Shares pursuant to the Offer;
- (f) any review, enquiry or investigation undertaken by ASIC, ASX, the Australian Taxation Office, any state or territory regulatory office or any other regulatory or Government Agency in relation to the Offer or the Offer Documents, whether commenced or threatened, and any matter incidental to it, including preparation for, defence of, or settlement, judgment or determination made in respect of it; or
- (g) any other Claim under which an Indemnified Party has any liability under the Corporations Act or any other applicable law in relation to the Offer or any Offer Document or Publication.

Each of the paragraphs of this clause 16.1 must be construed independently and no paragraph is to be limited by implications arising from any other paragraph.

16.2 Limit on indemnity

The indemnity to an Indemnified Party in clause 16.1 does not extend to any Claims or Losses suffered by that Indemnified Party if and to the extent that such Claims and Losses:

- (a) are finally and conclusively determined by a court of competent jurisdiction to have resulted from the fraud, gross negligence, recklessness or wilful misconduct of, that Indemnified Party claiming the benefit of the indemnity or another Indemnified Party associated with the Indemnified Party claiming the benefit of the indemnity;
- (b) is a criminal penalty or fine which that Indemnified Party claiming the benefit of the indemnity is required to pay for a contravention by it of the Corporations Act or any other applicable law, except to the extent such contravention was caused or contributed to by an Offeror; or
- (c) is an amount in respect of which that indemnity would be illegal, void or unenforceable under any applicable law.

16.3 No Claims against Indemnified Parties

- (a) Subject to clause 16.3(b), each Offeror agrees that no Claim may be made by it or any of its respective directors, officers, employees or agents against the Indemnified Parties, and each Offeror (on its own behalf and on behalf of its Affiliates) unconditionally and irrevocably releases and discharges each Indemnified Party from any Claim that may be made by it or its Affiliates, to recover from any Indemnified Party any Losses incurred or suffered by the Offerors arising directly or indirectly as a result of the participation of that Indemnified Party in the preparation of the Offer Documents or in relation to the Offer, except in relation to matters where, and to the extent that, any Losses are finally judicially determined by a court of competent jurisdiction to result from the fraud, gross negligence, recklessness or wilful misconduct of that Indemnified Party claiming the benefit of this release or another Indemnified Party associated with the Indemnified Party claiming the benefit of this release.
- (b) Each Offeror agrees (on its own behalf and on behalf of its Affiliates) that no Claim may be made by it against any officer, employee, adviser or agent of a Joint Lead Manager or any Related Body Corporate or Affiliate of a Joint Lead Manager (together, the **Released Parties**), and each Offeror unconditionally and irrevocably releases and discharges each Released Party from any Claim that may be made by it, to recover from any Released Party any Losses incurred or sustained by the Offerors arising directly or indirectly as a result of the participation of that Released Party in the preparation of the Offer Documents or in relation to the Offer.

- (c) The parties agree and acknowledge that the net liability of an Indemnified Person shall not be increased as a result of a limitation or exclusion of liability arising under a contract between either of the Offerors and a third party who is joint and severally liable for any part of the Losses, by operation of statute or because of such third party's death, bankruptcy or insolvency.
- (d) Notwithstanding anything else in this clause 16.3:
 - (i) the Indemnified Parties are not liable in any circumstance for any indirect or consequential loss or damage;
 - (ii) the Indemnified Parties are not liable to the extent that any Loss is caused or contributed to by the Company, SaleCo or any Group Member or any of their respective directors, officers, employees, agents or other representatives or advisers.

16.4 Notification

- (a) If an Indemnified Party receives notice of any act, matter or thing which could reasonably be expected to give rise to an Indemnified Claim, it must promptly (and in any event within 20 Business Days) notify the Offerors of the act, matter or thing (giving such details as are known to it at that time).
- (b) A failure on the part of an Indemnified Party to notify the Offerors in accordance with clause 16.4(a) will not release an Offeror from any obligation or liability which it may have pursuant to this Agreement, except that the liability of an Offeror to indemnify that Indemnified Party under this Agreement will be reduced to the extent to which the amount the subject of the indemnity under this Agreement has materially increased as a result of the failure to so notify, and the Indemnified Party's rights under this agreement are otherwise not affected.

16.5 Obligations of Indemnified Parties

Subject to clause 16.6, the Indemnified Parties must:

- (a) take such reasonable action as the Offerors request to avoid, dispute, resist, appeal, compromise or defend any Indemnified Claim in respect of it;
- (b) not settle any Indemnified Claim without the prior written consent of the Offerors (such consent not to be unreasonably withheld or delayed);
- (c) subject to legal professional privilege, give all reasonable assistance and co-operation to the Offerors in the conduct of any legal or other proceedings associated with any Indemnified Claim; and
- (d) subject to the rights of any insurer, do anything reasonably necessary or desirable to ensure that the Offerors are subrogated to and enjoy the benefit of the rights of the Indemnified Parties in relation to any cross-claims.

The Joint Lead Managers will be under no obligation to the Offerors in respect of a failure by another Indemnified Party that is not associated with it to observe the provisions of this clause 16.5.

16.6 Conditions precedent to Indemnified Parties' obligations

- (a) The Indemnified Parties are under no obligation under clause 16.5 unless at the time an Offeror requests any of the Indemnified Parties to take any action each Offeror:

- (i) irrevocably and unconditionally agrees, in a form acceptable to that Indemnified Party acting reasonably, to indemnify the Indemnified Parties against all Losses incurred by the Indemnified Parties in taking the action required, as and when they fall due, including legal costs and disbursements of its lawyers on a full indemnity basis;
 - (ii) satisfies, and continues to satisfy, the Indemnified Parties of its financial ability to indemnify the Indemnified Parties under this clause 16.
- (b) The Indemnified Parties are under no obligation to take or refrain from taking action under clause 16.5, and the Offerors will have no right to defend or institute legal or other proceedings in the name of the Indemnified Parties, if to do so would, in the reasonable opinion of the Joint Lead Managers, be likely to lead to a risk of damage to its reputation or standing.

16.7 Obligations of the Offerors

The Offerors will not, without the Joint Lead Managers' prior written consent, settle, admit liability or compromise any pending or threatened Claim, (whether or not a Joint Lead Manager or any other Indemnified Party is an actual or potential party to such Claim), unless such settlement, admission or compromise includes an unconditional release of each Indemnified Party from all liability arising out of such Claim and does not provide, represent or imply the Indemnified Party is liable, culpable or at fault in any way.

16.8 Separate representation

Despite anything to the contrary in this clause 16, an Indemnified Party may engage its own legal or other representation and participate in any proceeding arising pursuant to this clause 16 if:

- (a) the Offerors have not chosen legal counsel satisfactory to the Indemnified Party (acting reasonably);
- (b) a conflict for legal counsel chosen by the Offerors or between the interests of the Company and the interests of the Indemnified Party arises or could arise;
- (c) there may be legal defences available to the Indemnified Party that are different from, or additional to, those available to the Offerors or another Indemnified Party represented by that legal counsel; or
- (d) the Indemnified Party believes (acting in good faith) it is desirable to do so in order to protect the Indemnified Party's reputation or standing,

in which case the cost of the representation will be borne by the Offerors. An Indemnified Party may otherwise elect to be separately represented at any time not related to clauses 16.8(a) to (d) above, in which case any reasonable expenses incurred by it in relation to that proceeding will only be borne by the Offerors to the extent that those expenses are incurred with the prior written authority of the Offerors.

- (e) However, nothing in this clause 16.8 affects the obligation of the Offerors to bear the Losses that are the subject of clause 16.10(c).

16.9 Conduct of proceedings

Subject to clause 16.6, the Offerors may, at its sole cost, have the sole conduct of the defence of any Indemnified Claim (and in that case, the Offerors are not responsible for any costs and

expenses incurred by the Indemnified Party (including legal costs) after the Offerors take over conduct of the proceedings) provided that:

- (a) each Joint Lead Manager has the right to information, consultation and independent legal representation (subject to clause 16.7) concerning or with respect to the development and defence of any litigation or threatened litigation;
- (b) the Offerors have reasonable regard to preserving the reputation of the Joint Lead Managers in conducting the defence of the Indemnified Claim, and the Joint Lead Managers remain satisfied (acting reasonably) that their respective reputations are not threatened by the Offerors' conduct of the defence;
- (c) the Offerors must not (without the prior written consent of relevant Indemnified Parties) settle, compromise or consent to the entry of any judgement in relation to any Indemnified Claim unless:
 - (i) such settlement, compromise or consent does not include a statement or admission that an Indemnified Party is or was at fault or culpable, failed to act or contravened any applicable law; and
 - (ii) the Offerors obtain an unconditional release of each Indemnified Party from all liabilities arising out of such Indemnified Claim; and
- (d) should a conflict arise between the interests of the Offerors and the interests of an Indemnified Party, the Indemnified Party will be entitled (at its election), without prejudice to its right of indemnity under this clause 16 and at the Offerors' cost, to be separately represented in the proceedings,

and the Offerors must not otherwise make any admission of liability in relation to an Indemnified Claim without the prior written consent of the relevant Indemnified Parties.

16.10 Right to reassume control of proceedings

An Indemnified Party has a right at any time to assume or reassume the control of any legal or other proceedings defended or instituted by an Offeror in the name of that Indemnified Party as contemplated by clause 16.9 (**Reassumed Claim**). If an Indemnified Party does this:

- (a) it will have the right to conduct the proceedings under its sole management and control and will have absolute discretion with regards to the conduct of those proceedings including any decision to settle, compromise or consent to the entry of any judgment in relation to any Reassumed Claim the subject of those proceedings but in doing so, will act reasonably and consult with and take account of the views of the Offerors so far as is reasonably possible;
- (b) the indemnity given by the Offerors under clause 16.1 will continue to apply in respect of the Indemnified Party in relation to the Claim the subject of the proceedings or to any Loss resulting from those proceedings other than to the extent such Loss is finally determined by a court of competent jurisdiction to have been solely and directly caused by the failure of the Indemnified Party to conduct the Reassumed Claim in a reasonable manner; and
- (c) the Offerors must:
 - (i) render all reasonable assistance and cooperation to the Indemnified Party in the conduct of any Reassumed Claim; and
 - (ii) do anything reasonably necessary or desirable to ensure that the Indemnified Party is subrogated to and enjoys the benefits of the rights of the Offerors in relation to any cross claims.

16.11 Contribution procedure

If for any reason the indemnities contained in this clause 16 are unavailable or insufficient to hold harmless any Indemnified Party against any Loss against which the Indemnified Party is stated to be indemnified under this clause 16 other than as a result of the operation of clause 16.2 (a **Relevant Loss**), then the Offerors agree to contribute to the Relevant Loss with the Indemnified Parties in accordance with clauses 16.12 to 16.16, in all cases to the maximum extent permitted by law.

16.12 Determination of proportions

- (a) The contribution of the Offerors (on the one hand) and the Indemnified Parties (on the other hand) in relation to the Relevant Loss will be as agreed by the Offerors and the Indemnified Parties (and, failing agreement, as determined by a court of competent jurisdiction) having regard to:
 - (i) the relevant benefits received by the Offerors (on the one hand) and the Joint Lead Managers (on the other hand) from the Offer. The relative benefits received by the Offerors (on the one hand) and the Joint Lead Managers (on the other hand) will be deemed to be in the same respective proportions as the net proceeds (before deducting expenses) received by the Offerors from the issue of the Offer Shares bear to the total amount of fees received under this Agreement by the Joint Lead Managers in connection with the Offer; or
 - (ii) if the allocation provided by clause 16.12(a)(i) is not permitted by law, the participation in, instigation of or other involvement of the Offerors (on the one hand) and the Indemnified Parties (on the other hand) in the conduct complained of (including the Offerors' and the Indemnified Parties' relative intent, knowledge, access to information and opportunity to correct any misleading or deceptive statement or omission).
- (b) In respect of any Relevant Loss, the Offerors must pay to the Indemnified Parties an amount equal to the contribution of the Offerors to that Relevant Loss (to the extent suffered by the relevant Indemnified Parties), as agreed or determined in accordance with clause 16.12(a)).

16.13 No excess contributions

The Offerors agree with each Joint Lead Manager (on behalf of itself and each Indemnified Party associated with that Joint Lead Manager) that in no circumstance will that Joint Lead Manager and the Indemnified Parties associated with that Joint Lead Manager be required to contribute under clause 16.12 to the extent that the aggregate amount of any Relevant Loss exceeds the fees paid by the Offerors to that Joint Lead Manager under this Agreement.

16.14 Limit on contributions

- (a) The Joint Lead Managers acknowledge that the Offerors may enter into arrangements which limit the extent to which the Offeror may claim against any third party or third parties in connection with the Offer (a **Relevant Limitation**). If any Loss is suffered by an Offeror for which a Joint Lead Manager would otherwise be liable to the Offeror with any third party or third parties, the extent to which such Loss will be recoverable by the Offeror from that Joint Lead Manager will:
 - (i) be limited so as to be in proportion to that Joint Lead Manager's contribution to the overall fault for such damage or loss, as agreed between the parties or, in the

absence of agreement, as finally determined by a court of competent jurisdiction;
and

- (ii) be no more than it would have been had any Relevant Limitation not been agreed to by the Offerors.
- (b) If any Loss is suffered by a Joint Lead Manager arising from a liability which would be a liability of that Joint Lead Manager with a third party, but for:
 - (i) a Relevant Limitation; or
 - (ii) a limitation on the extent to which that Joint Lead Manager may claim against a third party which binds that Joint Lead Manager and that has been agreed by the Offerors,

the indemnity of the Offerors under this clause 16 will cover any amount which that Joint Lead Manager is unable to recover from the third party because of the Relevant Limitation or other limitation.

- (c) The degree to which a Joint Lead Manager may rely on the work of any such third party will be unaffected by any Relevant Limitation.
- (d) Each Offeror acknowledges that if it suffers any damage or loss for which a Joint Lead Manager may become liable due to a Relevant Limitation, it will notify that Joint Lead Manager of those circumstances promptly at that time.

16.15 Reimbursement by the Offerors

- (a) If an Indemnified Party pays an amount in relation to a Relevant Loss where it is entitled to contribution from an Offeror under this clause 16, the relevant Offeror must promptly reimburse the Indemnified Party for that amount.

16.16 Reimbursement by Indemnified Parties

- (a) If an Offeror pays an amount in relation to a Relevant Loss where it is entitled to contribution from any Indemnified Parties under this clause 16 or that indemnity would not otherwise be payable pursuant to the terms of clause 16.2, the relevant Indemnified Parties must promptly reimburse the relevant Offeror for that amount.

16.17 Preservation of rights

The rights of an Indemnified Party under this Agreement will not in any way be prejudiced or affected by:

- (a) any involvement by that Indemnified Party in the preparation of, or any approval given by that Indemnified Party concerning, any Offer Document or Publication;
- (b) any consent to be named in any Offer Document or Publication;
- (c) any knowledge (actual or constructive) of:
 - (i) any failure by an Offeror to perform or observe any obligations under this Agreement; or
 - (ii) any non-compliance by a Group Member with any statutory or ASX requirement concerning the Offer or any Offer Document or Publication;
- (d) any termination by a Joint Lead Manager of its obligations under this Agreement;
- (e) any inaccuracy in or breach or default of any representation, warranty or undertaking made or deemed to have been made by an Offeror under this Agreement; or

- (f) any other fact, matter or thing which might otherwise constitute a waiver of, or in any way prejudice or affect, any right of an Indemnified Party.

16.18 U.S. Offer Indemnity

For purposes of this clause 16, the term “Offer Documents” does not include the U.S. Offer Documents and clauses 16.1 to 16.6 do not apply in respect of the U.S. Offer. In respect of the U.S. Offer, the Offerors will each indemnify the Joint Lead Managers and the Joint Lead Managers will indemnify the Offerors on the terms and conditions set out in clause 17.

17 U.S. Offer Indemnity

17.1 Offerors’ indemnity

Each of the Offerors, jointly and severally, will indemnify and hold harmless each Joint Lead Manager from and against any Losses (or actions in respect thereof) joint or several, to which such Joint Lead Manager may become subject, under the U.S. Securities Act, the U.S. Exchange Act or otherwise, insofar as such Losses arise out of, or are based upon, any untrue statement or alleged untrue statement of a material fact contained in the Institutional Offering Memorandum or the Pricing Disclosure Package, or any amendment or supplement thereto, or any Offeror Written Communication, in each case, to the extent that those documents relate to the U.S. Offer, or arise out of or are based upon the omission or alleged omission to state therein a material fact necessary in order to make the statements therein, in the light of the circumstances under which they were made, not misleading, and will reimburse each Joint Lead Manager for any legal or other expenses reasonably incurred by such Joint Lead Manager in connection with investigating or defending any such action or claim as such expenses are incurred; provided, however, that the Offerors shall not be liable in any such case to the extent such Losses arise out of, or are based upon, any untrue statement or alleged untrue statement or omission or alleged omission made in the Institutional Offering Memorandum or the Pricing Disclosure Package, or any amendment or supplement thereto, or any Offeror Written Communication, in reliance upon and in conformity with any information furnished in writing to the Offerors by the Joint Lead Managers expressly for use therein, it being understood and agreed that the only such information consists of the name and address of the Joint Lead Managers provided by each Joint Lead Manager in respect of itself only and included in the Parties details on page 1 of this Agreement.

17.2 Indemnification of the Offerors

Each Joint Lead Manager will, severally and not jointly, indemnify and hold harmless the Offerors against any Losses to which the Offerors may become subject, under the U.S. Securities Act, the U.S. Exchange Act or otherwise, insofar as such Losses (or actions in respect thereof) arise out of, or are based upon, any untrue statement or alleged untrue statement of a material fact contained in the Institutional Offering Memorandum or the Pricing Disclosure Package, or any amendment or supplement thereto, or any Offeror Written Communication, in each case, to the extent those documents relate to the U.S. Offer, or arise out of or are based upon the omission or alleged omission to state therein a material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading, in each case to the extent, but only to the extent, that such untrue statement or alleged untrue statement or omission or alleged omission was made in the Institutional Offering Memorandum or the Pricing Disclosure Package, or any amendment or supplement thereto, or any Offeror Written Communication in reliance upon and in conformity with information furnished to the Offerors in writing by such Joint Lead Manager expressly for use therein, it being understood and agreed that the only such information consists of the name and address of the Joint Lead Managers provided by each Joint Lead Manager in respect of itself only and included in the Parties details on page 1 of this

Agreement; and will reimburse the Offerors for any legal or other expenses reasonably incurred by the Offerors in connection with investigating or defending any such action or claim as such expenses are incurred.

17.3 Notice and procedures

Promptly after receipt by an indemnified party under clauses 17.1 or 17.2 above of notice of the commencement of any action, such indemnified party shall, if a claim in respect thereof is to be made against the indemnifying party under such section, notify the indemnifying party in writing of the commencement thereof; but the omission so to notify the indemnifying party shall not relieve it from any liability which it may have to any indemnified party otherwise than under such section. In case any such action shall be brought against any indemnified party and it shall notify the indemnifying party of the commencement thereof, the indemnifying party shall be entitled to participate therein and, to the extent that it shall wish, jointly with any other indemnifying party similarly notified, to assume the defence thereof, with counsel satisfactory to such indemnified party (who shall not, except with the consent of the indemnified party, be counsel to the indemnifying party), and, after notice from the indemnifying party to such indemnified party of its election so to assume the defence thereof, the indemnifying party shall not be liable to such indemnified party under such subsection for any legal expenses of other counsel or any other expenses, in each case subsequently incurred by such indemnified party, in connection with the defence thereof other than reasonable costs of investigation. No indemnifying party shall, without the written consent of the indemnified party, effect the settlement or compromise of, or consent to the entry of any judgment with respect to, any pending or threatened action or claim in respect of which indemnification or contribution may be sought hereunder (whether or not the indemnified party is an actual or potential party to such action or claim) unless such settlement, compromise or judgment (i) includes an unconditional release of the indemnified party from all liability arising out of such action or claim and (ii) does not include a statement as to, or an admission of, fault, culpability or a failure to act, by or on behalf of any indemnified party.

17.4 Contribution

If the indemnification provided for in this clause 17 is unavailable to or insufficient to hold harmless an indemnified party under clause 17.1 or 17.2 above in respect of any Losses (or actions in respect thereof) referred to therein, then each indemnifying party shall contribute to the amount paid or payable or suffered or incurred by such indemnified party as a result of such Losses (or actions in respect thereof) in such proportion as is appropriate to reflect the relative benefits received by the Offerors on the one hand and the Joint Lead Managers on the other from the offering of the Offer Shares. If, however, the allocation provided by the immediately preceding sentence is not permitted by applicable law or if the indemnified party failed to give the notice required under clause 17.3 above, then each indemnifying party shall contribute to such amount paid or payable or suffered or incurred by such indemnified party in such proportion as is appropriate to reflect not only such relative benefits but also the relative fault of the Offerors on the one hand and the Joint Lead Managers on the other in connection with the statements or omissions which resulted in such Losses (or actions in respect thereof), as well as any other relevant equitable considerations. The relative benefits received by the Offerors on the one hand and the Joint Lead Managers on the other shall be deemed to be in the same proportion as the total net proceeds from the Offer (before deducting expenses) received by the Offerors bear to the total fees received by the Joint Lead Managers (in each case as set forth in the Offer Documents). The relative fault shall be determined by reference to, among other things, whether the untrue or alleged untrue statement of a material fact or the omission or alleged omission to state a material fact relates to information supplied by the Offerors on the one hand or the Joint Lead Managers on the other and the parties' relative intent, knowledge, access to information and

opportunity to correct or prevent such statement or omission. The Offerors and the Joint Lead Managers agree that it would not be just and equitable if contribution pursuant to this clause 17.4 were determined by pro rata allocation (even if the Joint Lead Managers were treated as one entity for such purposes) or by any other method of allocation which does not take account of the equitable considerations referred to above in this clause 17.4. The amount paid or payable by an indemnified party as a result of the Losses (or actions in respect thereof) referred to above in this clause 17.4 shall be deemed to include any legal or other expenses reasonably incurred by such indemnified party in connection with investigating or defending any such action or claim.

Notwithstanding the provisions of this clause 17.4, no Joint Lead Manager shall be required to contribute any amount in excess of the amount by which the fees received by such Joint Lead Manager under this agreement with respect to the Offer Shares sold in the U.S. Offer exceeds the amount of any damages which such Joint Lead Manager has otherwise been required to pay by reason of such untrue or alleged untrue statement or omission or alleged omission. The Joint Lead Managers' obligations under this clause 17.4 to contribute are several in proportion to the fees received by each Joint Lead Manager and not joint.

17.5 Limitation of liability

The obligations of the Offerors under this clause 17.5 shall be in addition to any liability which the Offerors may otherwise have and shall extend, upon the same terms and conditions, to any Affiliate of each Joint Lead Manager and each person, if any, who controls any Joint Lead Manager within the meaning of section 15 of the U.S. Securities Act or section 20 of the U.S. Exchange Act (including any officer and director); and the obligations of each Joint Lead Manager under this clause 17.5 shall be in addition to any liability which such Joint Lead Manager may otherwise have and shall extend, upon the same terms and conditions, to each officer and director of the Offerors and to each person, if any, who controls the Offerors within the meaning of Section 15 of the U.S. Securities Act or Section 20 of the U.S. Exchange Act.

17.6 Limitation

Notwithstanding anything to the contrary in this agreement, this clause 17 shall apply in respect of the Pricing Disclosure Package and any Institutional Offering Memorandum, and any amendment or supplement thereto and any Offeror Written Communication, to the extent that those documents relate to the U.S. Offer, and to the extent this clause 17 conflicts with or is otherwise inconsistent with clause 16 of this agreement, this clause 17 shall control over and supersede clause 16.

18 Guarantee and indemnity

18.1 Guarantee

The Company unconditionally and irrevocably guarantees to each Joint Lead Manager (and in respect of the indemnity in clause 16 and clause 17, the other Indemnified Parties) the due and punctual performance and observance by SaleCo of its obligations under this Agreement, including any obligations to pay money. To the extent that SaleCo fails to perform under this Agreement, and without limiting the previous sentence, the Company undertakes that it will perform or procure performance of the relevant obligation promptly on request by the Joint Lead Managers.

18.2 Term

The guarantee referred to in clause 18.1 commences on the date of this Agreement and continues to cover the performance of obligations arising until the earlier of Completion or, subject to clause 18.5, this Agreement being terminated by the Joint Lead Managers.

18.3 Indemnity

Subject to clause 18.2, as a separate undertaking, the Company unconditionally and irrevocably indemnifies each Joint Lead Manager (and in respect of the indemnity in clause 16, the other Indemnified Parties) against all Losses arising from and incurred in connection with, a breach by SaleCo of this Agreement. It is not necessary for a Joint Lead Manager to incur expenses or make payment before enforcing that right of indemnity.

18.4 Waiver

The Company waives any right it has of first requiring a Joint Lead Manager to commence proceedings or enforce any other right against SaleCo or any other person before claiming under this guarantee and indemnity.

18.5 Continuing security

This guarantee and indemnity is a continuing security and is not discharged by any one payment.

18.6 Liabilities of the Company not affected

The liabilities of the Company under this guarantee and indemnity as a guarantor, indemnifier or principal debtor and the rights of the Joint Lead Managers under this guarantee and indemnity are not affected by anything which might otherwise affect them at law or in equity.

18.7 Consent required

Subject to clause 18.2, the Company may not, without the consent of the Joint Lead Managers:

- (a) raise a set-off or counterclaim available to it or SaleCo against the Joint Lead Managers in reduction of its liability under this guarantee and indemnity;
- (b) claim to be entitled by way of contribution, indemnity, subrogation, marshalling or otherwise to the benefit of any security or guarantee held by the Joint Lead Managers in connection with this Agreement; or
- (c) prove in competition with the Joint Lead Managers if a liquidator, provisional liquidator, receiver, official manager or trustee in bankruptcy is appointed in respect of SaleCo, or SaleCo is otherwise unable to pay its debts when they fall due,

until Completion and all money payable to the Joint Lead Managers by SaleCo in connection with this Agreement is paid.

18.8 Joint Lead Managers' rights

If a claim is upheld, conceded or compromised (including under laws relating to liquidation, insolvency or protection of creditors), that a payment or transfer to the Joint Lead Managers in connection with this Agreement is void or voidable, the Joint Lead Managers are entitled immediately as against the Company to the rights to which it would have been entitled under this guarantee and indemnity but only to the extent that the payment or transfer is reduced by the claim.

18.9 Reimbursement

The Company agrees to pay or reimburse the Joint Lead Managers on demand for:

- (a) its costs in making, enforcing and doing anything in connection with this guarantee and indemnity including, but not limited to, legal costs and expenses on a full indemnity basis; and

- (b) all stamp duties, fees, taxes and charges which are payable in connection with this guarantee and indemnity or a payment, receipt or other transaction contemplated by it.

18.10 Money paid

Money paid to the Joint Lead Managers by the Company must be applied first against payment of costs under clause 18.9, then against other obligations under the guarantee and indemnity.

18.11 Principal and independent obligations

This clause 18 is a principal obligation and is not to be treated as ancillary or collateral to any other right or obligation and extends to cover this Agreement as amended, varied, supplemented, renewed or replaced.

19 Restriction Event

- (a) Notwithstanding any other provision of this Agreement, although the Joint Lead Managers may procure other subscribers for any Offer Shares which they are required to subscribe for under this Agreement (**Relevant Shares**), it may not itself (or through its Affiliates) take up Relevant Shares to the extent that doing so would result in:

- (i) a Joint Lead Manager or any of its Affiliates being obliged to notify the Treasurer under the *Foreign Acquisitions and Takeovers Act 1975* (Cth) (**FATA**);
- (ii) a Joint Lead Manager or any of its Affiliates breaching published Foreign Investment Review Board policy (**FIRB Policy**);
- (iii) a Joint Lead Manager or any of its Affiliates breaching section 606 of the Corporations Act (the **Takeovers Prohibition**); or
- (iv) a Joint Lead Manager or any of its Affiliates breaching the shareholder limits under the *Airports Act 1999* (**AA**),

(each of the events referred to in sub-paragraphs (i), (ii), (iii) and (iv) being a **Restriction Event**), taking into account the number of shares in the Company then held by a Joint Lead Manager and/or its Affiliates (or in which they hold a relevant interest for the purposes of Chapter 6 of the Corporations Act).

- (b) To the extent that clause 19(a) prevents a Joint Lead Manager itself subscribing for Relevant Shares, it must still comply with its obligations to pay or procure payment to the Company pursuant to clause 8.5, and must continue its efforts to procure subscribers for those Relevant Shares.
- (c) The Offerors must promptly transfer the Relevant Shares (and apply for them to be granted official quotation on ASX and use best endeavours to procure such official quotation) upon notification from the applicable Joint Lead Manager at any time after the date of this Agreement that it has procured subscribers for such Relevant Shares, or is itself able to subscribe for such Relevant Shares without resulting in a Restriction Event, provided that no subscriptions may be made by any person (other than a Joint Lead Manager or its Affiliates) unless they have confirmed to a Joint Lead Manager and the Company in writing that:
 - (i) they are a sophisticated or professional investor within the meaning of section 708(8) or 708(11) of the Corporations Act (respectively) and a wholesale client within the meaning of section 761G of the Corporations Act; and
 - (ii) the subscription for such Relevant Shares will not lead to a breach by that person or its Affiliates of FATA, FIRB Policy, the Takeovers Prohibition or the AA.

- (d) For the avoidance of doubt, the Company is not required to repay at any time any amount paid by the Joint Lead Manager to the Company under clause 8.5 in respect of Relevant Shares, if a Joint Lead Manager is not able to procure subscribers or itself subscribe for those Relevant Shares.
- (e) This clause 19 will not merge on the performance of the Joint Lead Manager's obligations under clause 8.5.

20 Access to Information

- (a) The Offerors agree to allow each Joint Lead Manager and its authorised representatives and advisers full and free access to examine and make inquiries of and concerning the business, assets, liabilities, books, accounts and records of SaleCo and each Group Member at all times as that Joint Lead Manager reasonably requires:
 - (i) from the date of this Agreement until Completion; and
 - (ii) during any actual or threatened regulatory or administrative inquiry or review, legal proceeding or Claim arising in connection with the Offer or any Offer Document,and the Offerors must promptly furnish all the information and documents reasonably requested by that Joint Lead Manager or its authorised representatives or advisers (and on request provide that Joint Lead Manager with copies of such information and documents) to enable that Joint Lead Manager to obtain any information about the Group and any matters which that Joint Lead Manager reasonably requires in relation to the Offer, the inquiry, review or the proceedings.
- (b) The Offerors must provide any information (including copies of documents), assistance and facilities which a Joint Lead Manager reasonably requires for the purposes of clause 20(a) up to and including the Retention Date.
- (c) If the provision of any information contemplated by this clause 19 or clause 10.2 would, in the reasonable opinion of legal advisers to the Company lead to the loss of any legal professional privilege;
 - (i) the Company must use all reasonable endeavours to identify and then employ a method for providing maximum access, information, assistance or facilities to the Joint Lead Managers without the loss of legal professional privilege;
 - (ii) if the Company consider that any access, information, assistance or facilities cannot be provided under this clause 19(c), it must obtain an opinion from legal counsel satisfactory to the Joint Lead Managers (acting reasonable) which confirms that the access, information, assistance or facilities could not be made without the risk of loss of legal professional privilege;
 - (iii) the Offerors may withhold any access, information, assistance or facilities in order to prevent the loss of any legal professional privilege, provided the Company complies with clauses 20(c)(i) and 20(c)(ii); and
 - (iv) the Joint Lead Managers must comply with any reasonable steps identified or required by the Company under clause 20(c)(i) to preserve any legal professional privilege, provided the Company complies with clauses 20(c)(i) and 20(c)(ii).

21 GST

21.1 Definitions

In this clause 21, a term which has a defined meaning in the GST Act has the same meaning when used in this clause and **GST Act** means the *A New Tax System (Goods and Services Tax) Act 1999* (Cth).

21.2 GST to be added to amounts payable

- (a) Subject to this clause 21.2, if GST is payable on a Taxable Supply made under this Agreement, for which the consideration is not expressly stated to include GST, the recipient agrees to pay to the supplier an additional amount equal to the GST payable at the same time that the consideration for the supply is to be provided.
- (b) This clause does not apply to the extent that the Consideration for the Taxable Supply is expressly stated to be GST inclusive.
- (c) The recipient need not pay the additional amount of GST until the supplier gives the receipt a tax invoice or an adjustment notice.
- (d) If an adjustment event arises in respect of the supply, the additional amount must be adjusted accordingly and the recipient or the supplier (as appropriate) must make any payments necessary to reflect the adjustment.
- (e) This clause 21 does not apply to the extent that the GST on the supply is payable by the recipient under Division 84 of the GST Act.
- (f) If a party is required under this Agreement to indemnify another party, or pay or reimburse costs of another party, that party agrees to pay the relevant amount less any input tax credits to which the other party is entitled.

21.3 GST obligations to survive termination

This clause will continue to apply after expiration or termination of this Agreement.

22 Notices

Any notice, demand, consent or other communication (a **Notice**) given or made under this Agreement:

- (a) must be in writing and signed by the sender or a person duly authorised by the sender (or in the case of email, setting out the full name and position or title of the sender or person duly authorised by the sender);
- (b) must be delivered to the intended recipient by prepaid post (if posted to an address in another country, by registered airmail) or by hand or email to the address or email address below or the address or email address last notified by the intended recipient to the sender:

- (i) to Barrenjoey:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

- (ii) to GS: [REDACTED]
- (iii) to UBS: [REDACTED]
- (iv) to the Offerors: [REDACTED]

- (c) will be conclusively taken to be duly given or made:
- (i) in the case of delivery in person, when delivered;
 - (ii) in the case of delivery by post, three Business Days after the date of posting (if posted to an address in the same country) or seven Business Days after the date of posting (if posted to an address in another country); and
 - (iii) in the case of email, the earlier of:
 - (A) the time that the sender receives an automated message from the intended recipient's information system confirming delivery of the email;
 - (B) the time that the email is first opened or read by the intended recipient, or an employee or officer of the intended recipient; and
 - (C) two hours after the time the email is sent (as recorded on the device from which the sender sent the email) unless the sender receives, within that two hour period, an automated message that the email has not been delivered,

but if the result is that a Notice would be taken to be given or made:

- (1) in the case of delivery by hand or post, at a time that is later than 5pm;
- (2) in the case of delivery by email, at a time that is later than 7pm;
or
- (3) on a day that is not a Business Day,

in the place specified by the intended recipient as its postal address under clause 22(b), it will be conclusively taken to have been duly given or made at the start of business on the next Business Day in that place.

23 Acknowledgements

23.1 Advice and communications

Each Offeror acknowledges that:

- (a) the Joint Lead Managers are not required to give any tax, legal, regulatory, accountancy or other specialist or technical advice in connection with the Offer;
- (b) while the Joint Lead Managers will participate in the Due Diligence Investigations in connection with the Offer in accordance with the Due Diligence Planning Memorandum, the Offerors will rely on their own expertise and on that of specialist legal, accounting and tax advisers in respect of that due diligence; and
- (c) without limiting clause 23.1(a) in any respect, any advice (whether written or oral) given by a Joint Lead Manager to the Offerors, or any communications between a Joint Lead Manager and the Offerors, may not be:
 - (i) used or relied upon by any third party; or
 - (ii) disclosed to any third party except:
 - (A) to the Offerors' professional advisers (who are not entitled to rely on any such advice or communications);
 - (B) where that Joint Lead Manager has provided its prior written consent; or
 - (C) to the extent required by any applicable law or the rules of any relevant stock exchange.

23.2 No fiduciary relationship

The Company and SaleCo each acknowledge and agree that:

- (a) none of the Joint Lead Managers or any person representing or acting on behalf of the Joint Lead Managers is acting as a fiduciary for, or an adviser to, the Company, SaleCo or any other persons in connection with entry into the transactions contemplated by this Agreement or the Offer, and the Company and SaleCo are not relying on any communication (written or oral) of the Joint Lead Managers as investment advice or as a recommendation to enter into the transaction contemplated by this Agreement;
- (b) the Joint Lead Managers have been engaged solely as an independent contractor to provide the services set out in this Agreement. In providing these services, the Joint Lead Managers are acting solely in a contractual relationship with the Company and SaleCo on an arm's length basis;
- (c) the Joint Lead Managers may have interests that differ from those of the Company and SaleCo. The Joint Lead Managers may take into account any factors (including those solely in their interests) they consider appropriate in performing duties or exercising rights under this Agreement;
- (d) the Joint Lead Managers are not acting as financial adviser or fiduciary to the Company or SaleCo or any other persons in connection with the Offer or advising the Company or SaleCo or any other persons including as to any legal, financial, tax, investment, accounting or regulatory matters in any jurisdiction. The Company and SaleCo must consult their own advisers on those matters (as they deem appropriate) and are responsible for making their own independent investigations and appraisals of the Offer. The Joint Lead Managers have no responsibility or liability to the Company or SaleCo regarding these matters;

- (e) the Joint Lead Managers and their respective Affiliates may be providing, or may in the future provide, financial or other services to other parties with conflicting interests to the Company or SaleCo however they manage any such conflicts in accordance with ASIC Regulatory Guides and their applicable policies;
- (f) any communication, whether written or oral, given by the Joint Lead Managers to an Offeror, or any communications between the Joint Lead Managers and an Offeror, can only be used and relied on by that Offeror and may not be used or relied on by any third party and may not be disclosed to any third party without the prior written approval of the Joint Lead Managers (other than the Offeror's professional advisers who may place no reliance on that advice, and who agree to treat it in confidence) (which approval must not be unreasonably withheld or delayed by the Joint Lead Managers);
- (g) the Joint Lead Managers together with their Affiliates are full service financial institutions. As is the case with other full service firms, the Joint Lead Managers together with their Affiliates engage in various activities, including (as applicable to each of them) advisory, underwriting and financing, principal investing, sales and trading, research, asset and investment management activities with a variety of clients and counterparties, corporate, governmental, institutional and individual. Each Joint Lead Manager's clients and counterparties may include persons and entities in the Company's sector, with which the Company or SaleCo has a relationship or that may be involved in the Company and SaleCo's potential transaction and the firm may be, may have been or may become involved in transactions and assignments with these clients and counterparties that are unrelated to this engagement. In the ordinary course of these activities, the Joint Lead Managers and their Affiliates may at any time for their own account and for the account of their customers, and officers, employees and contractors of the Joint Lead Managers and their Affiliates may also at any time make or hold long or short positions and investments as well as actively trade or otherwise effect transactions in debt, equity and other securities (or related derivative securities) and financial products (including bank loans and other obligations) of the Company, its stakeholders and their respective Affiliates as well as of other entities and persons and their Affiliates which may or may not be involved in or affected by the transactions arising from or relating to the Offer or otherwise have relationships with the Company, SaleCo and any of their Affiliates and may owe duties to other persons which may conflict with the interests of the Company, SaleCo or their Affiliates and may receive customary fees and expenses or other transaction considerations in respect of such activities. The Company and SaleCo each agree that these entities or persons may trade such securities and hold such positions and effect such transactions without regard to the Company or SaleCo's interests under this Agreement and regardless of any conflict of interest (whether actual, perceived or potential) that may arise as a result of such activity;
- (h) the Joint Lead Managers shall not be under a duty to disclose to the Company or SaleCo or to take into account for the benefit of the Company or SaleCo, any non-public information acquired in the course of carrying on any business for, or in connection with the provision of services to, a party other than the Company or SaleCo or which is otherwise subject to any obligation of confidence to another person or information as to the Joint Lead Managers' or their Affiliates' possible interests;
- (i) UBS or its Affiliates are also acting as financial adviser and underwriter, in relation to a corporate debt facility with the Company and/or its Affiliates for the purpose of refinancing certain of its existing indebtedness and for general corporate purposes. Accordingly, UBS and its Affiliates may have a financial interest separate from its interests in the Offer arising under this Agreement. UBS and its Affiliates may earn fees, make profits and

manage, avoid and/ or incur losses, and be indemnified for liabilities and/or reimbursed for expenses in connection with these transactions;

- (j) as is customary, and as the Joint Lead Managers consider is required for licensing purposes, the Joint Lead Managers have in place information management arrangements (including 'Chinese Walls') designed to preserve and protect confidential information so that the information of one client is not made available to, or used for the benefit of, other clients. Accordingly, the Joint Lead Managers participate in the Offer only to the extent of the knowledge of their respective Affiliates who have been directly involved in the Offer, in a manner consistent with applicable information management arrangements. This limitation is considered appropriate on the basis that investors could not 'reasonably expect' that confidential information of other clients of the Company's or SaleCo's advisers be included in the Prospectus; and
- (k) the Joint Lead Managers may perform the services contemplated by this Agreement in conjunction with their respective Affiliates, and any Affiliates performing these services are entitled to the benefits of and are subject to the terms of this Agreement.

The Company and SaleCo each waive to the full extent permitted by applicable law any claims they may have against a Joint Lead Manager arising from an alleged breach of fiduciary obligations in connection with the Offer and the process leading up to the Offer.

23.3 Recognition of the U.S. Special Resolution Regimes

- (a) In the event that a Joint Lead Manager that is a Covered Entity becomes subject to a proceeding under a U.S. Special Resolution Regime, the transfer from the Joint Lead Manager of this Agreement, and any interest and obligation in or under this Agreement, will be effective to the same extent as the transfer would be effective under the U.S. Special Resolution Regime if this Agreement, and any such interest and obligation, were governed by the laws of the United States or a state of the United States.
- (b) In the event that a Joint Lead Manager that is a Covered Entity or a BHC Act Affiliate of a Joint Lead Manager becomes subject to a proceeding under a U.S. Special Resolution Regime, Default Rights under this Agreement that may be exercised against that Joint Lead Manager are permitted to be exercised to no greater extent than such Default Rights could be exercised under the U.S. Special Resolution Regime if this Agreement were governed by the laws of the United States or a state of the United States.
- (c) In this clause 23.3, capitalised terms have the meanings given below:
 - (i) **BHC Act Affiliate** has the meaning assigned to the term "affiliate" in, and shall be interpreted in accordance with, 12 U.S.C. § 1841(k).
 - (ii) **Covered Entity** means any of the following:
 - (A) a "covered entity" as that term is defined in, and interpreted in accordance with, 12 C.F.R. §252.82(b);
 - (B) a "covered bank" as that term is defined in, and interpreted in accordance with, 12 C.F.R. §47.3(b); or
 - (C) a "covered FSI" as that term is defined in, and interpreted in accordance with, 12 C.F.R. §382.2(b).
 - (iii) **Default Rights** has the meaning assigned to that term in, and shall be interpreted in accordance with, 12 C.F.R. §§ 252.81, 47.2 or 382.1, as applicable.
 - (iv) **U.S. Special Resolution Regime** means each of (i) the Federal Deposit Insurance Act and the regulations promulgated thereunder and (ii) Title II of the

Dodd-Frank Wall Street Reform and Consumer Protection Act and the regulations promulgated thereunder.

23.4 U.S. Patriot Act disclosure

GS hereby notifies the Offerors that, pursuant to the requirements of the USA Patriot Act (Title III of Pub. L. 107-56 (signed into law October 26, 2001)) (as amended, the **Patriot Act**) and other applicable laws, rules and regulations, it is required to obtain, verify and record information that identifies the Offerors and their respective Affiliates, which information includes the name and address of the Offerors and their respective affiliates and other information that will allow GS to identify the Offerors in accordance with the Patriot Act and such other laws, rules and regulations.

23.5 Information

- (a) Each Offeror acknowledges and agrees that the Joint Lead Managers:
 - (i) will use and rely on information provided by the Offeror or its agents or advisers (including financial and accounting information) in performing their obligations under this Agreement without having independently verified the information;
 - (ii) do not assume responsibility for the accuracy or completeness of the information contemplated by clause 23.5(a)(i) or any other information on which it may rely in connection with this Agreement; and
 - (iii) will not be in breach of this Agreement in relying on any information contemplated by clause 23.5(a)(i) or 23.5(a)(ii).
- (b) Each Offeror must promptly inform the Joint Lead Managers if it becomes aware that any information provided by the Offeror or its agents or advisers to the Joint Lead Managers or publicly is not or ceases to be true, accurate and complete and not misleading.

23.6 Judgement regarding the Offer

Each Offeror and each Joint Lead Manager acknowledges and agrees that it is solely responsible for making their own independent judgements with respect to the Offer.

24 General

24.1 Entire agreement

This Agreement contains the entire agreement between the Parties with respect to their subject matter. They set out the only conduct, representations, warranties, covenants, conditions, agreements or understanding (collectively **Conduct**) relied on by the parties and supersede all earlier Conduct by or between the Parties in connection with their subject matter, including the Engagement Letter. Neither party has relied on or is relying on any other Conduct in entering into this Agreement and completing the transactions contemplated by it.

24.2 Inconsistency

If there is any inconsistency between the provisions of this Agreement and the provisions of the Engagement Letter, the provisions of this Agreement will prevail to the extent of any inconsistency and the provisions of the Engagement Letter will be construed accordingly.

24.3 Consents or approvals

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

24.4 Amendment and assignment

- (a) This Agreement can only be amended, supplemented, replaced or novated by another agreement signed by the parties.
- (b) This Agreement may be amended by the parties (including in a manner that adversely affects the interests of the Indemnified Parties) without obtaining the consent of the Indemnified Parties.
- (c) The rights and obligations of each party under this Agreement may not be assigned without the prior written consent of all other parties.

24.5 Time of the essence

Time will be the essence of this Agreement.

24.6 Waiver

- (a) A failure to exercise or a delay in exercising any right, power or remedy under this Agreement does not operate as a waiver.
- (b) A single or partial exercise, or waiver of the exercise, of any right, power or remedy does not preclude any other or further exercise of that or any other right, power or remedy.
- (c) A waiver is not valid or binding on the party granting that waiver unless made in writing.
- (d) A party is not liable for Loss caused by the exercise or attempted exercise of, failure to exercise, or delay in exercising a right or remedy under this Agreement.

24.7 Remedies cumulative

The rights and remedies provided in this Agreement are in addition to other rights and remedies given by law independently of this Agreement.

24.8 Further assurances

Each party agrees to do all things and execute all deeds, instruments, transfers or other documents as may be reasonably necessary to give full effect to the provisions of this Agreement and the transactions contemplated by it.

24.9 No merger

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

24.10 Ongoing benefit and operation of provisions

- (a) Each of the representations, warranties, undertakings, indemnities and releases given to a Joint Lead Manager under this Agreement is for the benefit of that Joint Lead Manager and each of the Indemnified Parties associated with that Joint Lead Manager (whether or not party to this Agreement), and those representations, warranties, undertakings, indemnities and releases may be enforced on their behalf by that Joint Lead Manager.
- (b) Notwithstanding Completion or other termination or expiry of the obligations of a Joint Lead Manager, the obligations of the Offerors under this Agreement will subsist for so long as may be necessary in order to give full force and effect to the obligations, terms and conditions of this Agreement on the part of the Offerors to be complied with, observed and performed.

- (c) Without limiting clause 24.10(b), the representations, warranties, undertakings, indemnities and releases contained in this Agreement are continuing obligations which will not merge on Completion or other termination or expiry of the Agreement. It is not necessary for a party to incur expense or make a payment before enforcing a right of indemnity under this Agreement.

24.11 Severability of provisions

Any provision of this Agreement that is prohibited or unenforceable in any jurisdiction is ineffective as to that jurisdiction to the extent of the prohibition or unenforceability. That does not invalidate the remaining provisions of this Agreement nor affect the validity or enforceability of that provision in any other jurisdiction. This clause 24.11 has no effect if the severance alters the basic nature of this Agreement or is contrary to public policy.

24.12 Governing Law and Jurisdiction

Subject to clause 24.13(d), this Agreement is governed by the laws of New South Wales, Australia. In relation to it and related non-contractual matters each party irrevocably submits to the non-exclusive jurisdiction of courts with jurisdiction there, and waives any right to object to the venue on any ground.

24.13 Submission to New York jurisdiction; Appointment for agent for service of process in New York; Judgment currency

- (a) **(Jurisdiction)** Each of the Offerors hereby irrevocably submits to the non-exclusive jurisdiction of the United States federal and state courts in The City of New York and County of New York in any suit, action or proceeding arising out of or relating to this Agreement or the transactions contemplated hereby insofar as this Agreement or such transactions relate to the U.S. Offer, including the Institutional Offering Memorandum, the Pricing Disclosure Package and any Offeror Written Communication. The parties each hereby waive to the fullest extent permitted by law, any objection to any suit or proceeding in such courts whether on the grounds of venue, resident or domicile or on the grounds that such suit or proceeding has been brought in an inconvenient forum. The parties each hereby waive to the fullest extent permitted by applicable law any and all right to trial by jury with respect to any proceedings arising out of or relating to this agreement or the transactions contemplated hereby insofar as this Agreement or such transactions relate to the U.S. Offer.
- (b) **(Agent)** Each of the Offerors hereby irrevocably appoint Cogency Global Inc. as their authorised agent (the **Authorised Agent**) for a period of 7 years from the date of this Agreement upon whom process may be served in any suit, action or proceeding arising out of or based upon this Agreement or the transactions contemplated herein that may be instituted in any state or U.S. federal court in The City of New York and County of New York, by a Joint Lead Manager, any directors, officers and Affiliates of any Joint Lead Manager, or by any person who Controls any Joint Lead Manager, and expressly accepts the non-exclusive jurisdiction of any such court in respect of any such suit, action or proceeding. Each of the Offerors hereby represents and warrants that the Authorised Agent has accepted such appointments and has agreed to act as said agent for service of process, and each of the Offerors agrees to take any and all action, including the filing of any and all documents that may be necessary to continue such appointment in full force and effect as aforesaid. Service of process upon the Authorised Agent shall be deemed, in every respect, effective service of process upon the Offerors. Notwithstanding the foregoing, any action arising out of or based upon this Agreement may be instituted by any Joint Lead Manager, the directors, officers and Affiliates of a Joint Lead Manager,

or by any person who Controls any Joint Lead Manager, in any court of competent jurisdiction in Australia.

- (c) **(Judgment currency)** If for the purpose of obtaining judgment in any United States federal or state court it is necessary to convert a sum due hereunder into any currency other than U.S. dollars, the parties hereto agree, to the fullest extent that they may effectively do so, that the rate of exchange used shall be the rate at which in accordance with normal banking procedures the Joint Lead Manager could purchase U.S. dollars with such other currency in New York City on the business day preceding that on which final judgment is given. The obligations of the Offerors in respect of any sum due from any of them to the Joint Lead Manager arising out of any judgment in any United States federal or state court shall, notwithstanding any such judgment in the currency other than U.S. dollars, not be discharged until the first business day following receipt by the Joint Lead Manager of any sum adjudged to be so due in such other currency on which (and only to the extent that) the Joint Lead Manager may in accordance with normal banking procedures purchase U.S. dollars with such other currency. If the amount of U.S. dollars so purchased is less than the sum originally due to the Joint Lead Manager hereunder, each of the Offerors agree as a separate obligation and notwithstanding any such judgment, to indemnify the Joint Lead Manager against such loss.
- (d) **(Governing law)** This clause 24.13, clause 16.18 and clause 17 shall be governed by and construed in accordance with the laws of the State of New York without regard to any conflict of laws principles that would indicate the applicability of the laws of any other jurisdiction.

24.14 Execution and Counterparts

This Agreement may be executed electronically and in any number of counterparts. All counterparts together will be taken to constitute one instrument, the date of which will be the date on which the last counterpart is executed.

Schedule 1**Timetable**

Event	Date
Allocation Date (last day for determination of the Offer Price and the allocation of Offer Shares)	6 June 2025
Lodgement Date (last day for lodgement of the Prospectus with ASIC)	6 June 2025
Opening Date (last day for Retail Offer to open)	16 June 2025
Closing Date (the date on which the Retail Offer closes)	19 June 2025
Shortfall Notification Date (date on which the number of Shortfall Shares are to be notified to the Joint Lead Managers)	23 June 2025
Quotation Approval Date (last date by which approval for admission to the Official List and Official Quotation are to be obtained)	23 June 2025
Quotation Date (conditional and deferred settlement trading of the Offer Shares on ASX commences)	24 June 2025
Settlement Date (settlement of the Offer and the last day for the payment of application monies under the Institutional Offer)	25 June 2025
Allotment Date (last day for the allotment and transfer of Offer Shares)	26 June 2025
Normal Trading Date (normal settlement trading of the Offer Shares on ASX commences)	26 June 2025
Statement Despatch Date (last day for despatch of statements as to uncertificated holdings of Offer Shares and refund cheques (if any) to be despatched)	27 June 2025

Schedule 2

Offeror Written Communication

- Roadshow Presentation, uploaded to Netroadshow on or around 21 May 2025

Executed as an Agreement

Each attorney executing this Agreement states that he or she has no notice of revocation or suspension of his or her power of attorney.

[REDACTED]
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VGN - Appendix B

Date of change	Person whose relevant interest changed	Nature of Change	Consideration given in relation to change	Number of securities	Class
24-Jun-25	UBS Securities Australia Ltd	A relevant interest in Virgin Australia Holdings Limited shares under section 608(8) of the Corporations Act 2001 (Cth) pursuant to the terms of the underwriting agreement with respect to the IPO dated 6 June 2025 (See Appendix A)	N/A	100,387,931	Ordinary