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14 August 2019

ASX Limited

Market Announcement

Think Childcare Limited (ASX Code: TNK)

TNK enters into Scheme Implementation Deed with Think Childcare Development Limited (TND)

The greenfield development of child care services (**Greenfield Developments**) is the core of the growth strategy of TNK. Currently, the vast majority of these Greenfield Developments are in the hands of third parties.

Through a stapled structure, TNK proposes an innovative way that it expects to:

- Reduce reliance on and complement third party incubator strategy
- Enhance involvement in negotiating favourable terms with landlords and developers[1]
- Respond to market opportunities presented by non-incubator developers
- Create separation between child care service operations and Greenfield Developments
- Facilitate access to project finance for future pipeline[2]
- Retain the benefit of development profits within the Stapled Group[3] for reinvestment in the future pipeline
- Recognise the value of a new purpose-built Nido service at acquisition price on TNK balance sheet[4]
- Quarantine development and trade-up risk in TND and consequentially outside of TNK

[1] Market evidence that developers are now seeking greater security when dealing with third party incubators (e.g. increase in bank guarantees from 6 to 12-months, demand for strong tenant covenants)
[2] Preliminary discussions with debt advisor support competitive financing by way of project finance. Proposed initial debt funding of TND via existing Macquarie Bank Limited facility with TNK with an expectation that, over-time, TND will be able to access project finance facility for future developments
[3] The 'Stapled Group' comprises TNK and TND. Statutory reporting TNK and TND will form a consolidated group and goodwill is eliminated on consolidation
[4] TNK excluding TND

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TNK is pleased to announce that it has entered into a Scheme Implementation Deed with Think Childcare Development Limited ACN 635 178 166 (**TND**), an entity that is currently wholly owned by TNK, under which it is proposed that TNK and TND will create a stapled structure (**Restructure Proposal**) with a view to enhancing and securing TNK's development pipeline by bringing the development and incubation function of new and trade-up leasehold child care services under TND. A redacted copy of the Scheme Implementation Deed is annexed to this announcement.

The Restructure Proposal will be effected by a scheme of arrangement between TNK and its shareholders (**Scheme**) and an associated dividend or capital return or a combination. Implementation of the Scheme will result in the creation of a stapled structure (**Stapled Structure**) under which fully paid ordinary shares in TNK will be stapled to fully paid ordinary shares in TND on a one for one basis (**Stapled Shares**). The Restructure Proposal is subject among other things to the approval of TNK shareholders.

It is intended that if the Restructure Proposal is approved by TNK shareholders and the Stapled Structure is implemented, TND will act as a developer and incubator of new greenfield trade-up leasehold child care services on behalf of, and to be managed by, TNK, which TNK will have a right to purchase at a pre-agreed acquisition multiple when certain operating performance criteria are satisfied.

Implementation of the Restructure Proposal

On the implementation of the Restructure Proposal:

- TNK's constitution will be replaced with a new constitution to provide for the stapling of TNK's ordinary shares (identical provisions of which are included in TND's constitution) which will restrict the transfer of ordinary shares in TNK unless there is a transfer of a like number of ordinary shares in TND to the same transferee;
- a dividend or capital return (or a combination) of $6 million will be paid by TNK to TNK shareholders which will be immediately applied by TNK shareholders as consideration for the issue of new fully paid ordinary shares in TND;
- ordinary shares in TND will be issued to all existing shareholders of TNK in their respective proportions as at the record date for implementation of the Scheme;
- TNK's existing shareholding in TND will be cancelled;
- the Stapled Group will be listed on the ASX; and
- the resulting Stapled Shares will trade as a single security on the ASX.

Development pipeline

TNK are currently considering and undertaking due diligence in relation to two potential transactions that would seed TND with its initial development pipeline. A summary of the two proposed transactions are set out below. Shareholders should refer to the *Proposed Restructure – additional information'* presentation released to the ASX on or about the date of this ASX announcement for further information and disclaimers in relation to the Restructure Proposal.

- ***Transaction 1****:* Transaction 1 relates to a potential transaction with entities associated with Mathew Edwards (the CEO and a 25% shareholder, through controlled entities, of TNK) to purchase 100% of the issued shares in various operating entities affiliated with

Mathew that own certain greenfield child care services. The potential cost of Transaction 1 is approximately $5 million, which would be payable to Mathew or entities controlled by Mathew by the issue of new Stapled Shares. As Transaction 1 involves a related party transaction, it will require shareholder approval under the ASX Listing Rules; and

- ***Transaction 2:*** Transaction 2 relates to a series of proposed individual Greenfield Development with third parties. It is proposed that Transaction 1 and Transaction 2 will be undertaken in conjunction with the Restructure Proposal and the creation of the Stapled Structure.

Approvals and key conditions

The implementation of the Stapled Structure will be subject to a number of conditions and legal approvals. In particular, regulatory approvals, orders and relief including from ASIC and the ASX, are required before the Stapled Structure can be implemented. In summary, the conditions of the Scheme and the legal and regulatory requirements to implement the Stapled Structure include:

- each of the conditions precedent set out in clause 3.1 of the Scheme Implementation Deed being satisfied or waived (a redacted copy of the Scheme Implementation Deed accompanies this ASX announcement), which include but are not limited to:
  - regulatory approvals (including approvals and relief from the ASX and ASIC under the ASX Listing Rules and Chapter 2E of the Corporations Act);
  - the Stapled Group being listed on the ASX;
  - ASX granting quotation of the Stapled Shares on the ASX;
  - necessary shareholder approvals being obtained; and
  - the Independent Expert concluding in the Independent Expert's Report that in its opinion the Scheme is in the best interest of TNK shareholders;
- approval of the Scheme by the Federal Court under section 411(4)(b) of the Corporations Act, or any alterations made or required by the Federal Court under section 411(6) of the Corporations Act;
- satisfaction of any other conditions imposed by the Federal Court under section 411(6) of the Corporations Act;
- the orders of the Federal Court made under section 411(4)(b) (and if applicable section 411(6)) of the Corporations Act approving this Scheme coming into effect, pursuant to section 411(10) of the Corporations Act, on or before the End Date; and
- other customary conditions precedent for a transaction of this kind (ie. the Scheme Implementation Deed and ancillary documents not being terminated, warranties given by TNK and TND being true and correct at the relevant times).

The full conditions are set out in the Scheme Implementation Deed, a summary of which will be included in the Explanatory Booklet to be dispatched to shareholders in connection with the Scheme, together with a redacted copy of that agreement.

Management of TND

It is proposed that TND will have a majority independent board that will include certain members of the TNK board of directors. This will allow TND to leverage the governance model and practices of TNK. It is also proposed that TND will have an independent management team.

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TNK will enter into a Management and Administrative Services Deed with TND, which will set out the terms of the management and administrative services it will provide to TND to assist it in its day to day operations and the conduct of its business following implementation of the Stapled Structure.

TNK Board unanimously recommend the Scheme

The Directors of TNK unanimously recommend shareholders vote in favour of the Scheme at the meeting of TNK's shareholders convened for the purpose of voting on the Scheme (**Scheme Meeting**) subject to the Independent Expert confirming its opinion that the Scheme is in the best interest of TNK shareholders. Each Director of TNK intends to vote all TNK shares held or controlled by them in favour of the Scheme at the Scheme Meeting subject to the same qualification. The Directors' recommendation and voting intentions as set out above are also subject to no superior proposal for TNK shareholders emerging.

The Board advises that TNK shareholders should read the Explanatory Booklet to be provided in October 2019 and seek appropriate advice before voting on the Scheme.

Indicative timetable and next steps

TNK shareholders do not need to take any action at the present time.

An Explanatory Booklet containing (among other things) information relating to the Scheme, reasons for the Directors' unanimous recommendation, details of the Scheme Meeting and the Independent Expert's Report (prepared by Ernst & Young Transaction Advisory Services Limited ABN 87 003 599 844) is expected to be sent to shareholders in October 2019.

Shareholders will be given the opportunity to vote on the Scheme at the Scheme Meeting which is expected to be held in November 2019. Subject to TNK shareholder and Court approval and the other conditions of the Scheme being satisfied, the Scheme is expected to be implemented in December 2019.

Further information

This announcement should be read in conjunction with the '*Proposed Restructure – additional information'* presentation accompanying this announcement.

Further information on the Restructure Proposal will be lodged with the ASX and included on TNK's website at www.thinkchildcare.com.au.

Mathew Edwards
Managing Director and Chief Executive Officer

End



Execution Version

Scheme Implementation Deed

Think Childcare Limited ABN 81 600 793 388 (**Think**)
Think Childcare Development Limited ACN 635 178 166 (**TND**)

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Scheme Implementation Deed

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Details

Date 14 August 2019

Parties

Name	**Think Childcare Limited ACN 600 793 388**
ABN	81 600 793 388
Short form name	**Think**
Notice details	Suite 3, 1 Park Avenue, Drummoyne NSW 2047 Email: jenny.saliba@thinkchildcare.com.au Attention: Jennifer Saliba

Name	**Think Childcare Development Limited ACN 635 178 166**
Short form name	**TND**
Notice details	Suite 3, 1 Park Avenue, Drummoyne NSW 2047 Email: jenny.saliba@thinkchildcare.com.au Attention: Jennifer Saliba

Background

A Think intends to propose the Scheme and the Supporting Resolutions in order to restructure its capital in conjunction with TND, directing the amount of the Capital Reduction to be applied by Think Shareholders for shares in TND, stapling of Think Shares to TND Shares and providing for the quotation of the Stapled Securities.

B Think and TND have agreed certain other matters in connection with the Proposed Transaction as set out in this deed.

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Agreed terms

1. Defined terms & interpretation

1.1 Defined terms

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

Adviser means in relation to an entity, a financial, corporate, legal, technical or other expert adviser or consultant, who provides advisory or consultancy services in a professional capacity in the ordinary course of its business and has been engaged in that capacity in connection with the Proposed Transaction by the entity.

Announcement means an announcement by Think prior to signing of this deed.

ASIC means the Australian Securities and Investments Commission.

Associate has the meaning given in Division 2 of Part 1.2 of the Corporations Act as if section 12(1) of that Act included a reference to this deed and Think was the designated body.

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

Authorised Person means, in respect of a person:

(a) a director, officer, member or employee of the person;

(b) an Adviser of the person;

(c) a director, officer or employee of an Adviser of the person.

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

Capital Reduction means Think returning an aggregate of $6 million of its capital to Think Shareholders by way of a dividend or capital return or a combination pro rata to their respective shareholdings in Think as at the Record Date for the purposes of the Scheme.

Capital Reduction Resolution means the proposed special resolution in respect of the Capital Reduction.

Claim means, in relation to a person, a demand, claim, action or proceeding made or brought by or against the person, however arising and whether present, unascertained, immediate, future or contingent.

Competing Proposal means any offer, proposal or expression of interest (including, by way of takeover bid or scheme of arrangement) under which, if ultimately completed, a person or two or more persons who are Associates would:

(a) acquire an interest in or become the holder of:

  (i) more than 50% of the Think Shares; or

  (ii) the whole or a material part of the business or property of Think or the Think Group; or

(b) acquire control of Think, within the meaning of section 50AA of the Corporations Act;

(c) otherwise acquire or merge with Think.

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

Constitution Replacement Resolution means the proposed special resolution to repeal the existing constitution of Think and to replace it with the Think Replacement Constitution.

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

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

Deed Poll means the deed poll to be executed by TND prior to the First Court Date, in the form set out in Schedule 2 or in such other form as is acceptable to Think acting reasonably.

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

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

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

End Date means:

(a) 30 June 2020; or

(b) such other date and time agreed in writing between TND and Think.

Explanatory Booklet means the explanatory booklet to be prepared by Think in respect of the Proposed Transaction in accordance with the terms of this deed and to be dispatched to Think Shareholders.

First Court Date means the date the Court first hears the application to order the convening of the Scheme Meeting under section 411(1) of the Corporations Act or, if the application is adjourned or subject to appeal for any reason, the day on which the adjourned application is heard.

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

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

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

Independent Expert means an expert, independent of the parties, engaged by Think in good faith to prepare the Independent Expert's Report.

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

Insolvency Event means in relation to a person:

(a) **insolvency official**: the appointment of a liquidator, provisional liquidator, administrator, statutory manager, controller, receiver, receiver and manager or other insolvency official (whether under an Australian law or a foreign law) to the person or to the whole or a substantial part of the property or assets of the person and the action is not stayed, withdrawn or dismissed within 14 days;

(b) **arrangements**: the entry by the person into a compromise or arrangement with its creditors generally;

(c) **winding up**: the calling of a meeting to consider a resolution to wind up the person (other than where the resolution is frivolous or cannot reasonably be considered to be likely to lead to the actual winding up of the person) or the making of an application or order for the winding up or deregistration of the person other than where the application or order (as the case may be) is set aside or withdrawn within 14 days;

(d) **suspends payments**: the person suspends or threatens to suspend payment of its debts as and when they become due;

(e) **ceasing business**: the person ceases or threatens to cease to carry on business;

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(f) **insolvency**: the person is or becomes unable to pay its debts when they fall due within the meaning of the Corporations Act or is otherwise presumed to be insolvent under the Corporations Act;

(g) **deregistration**: the person being deregistered as a company or otherwise dissolved;

(h) **deed of company arrangement**: the person executing a deed of company arrangement;

(i) **person as trustee or partner**: the person incurs a liability while acting or purporting to act as trustee (or co-trustee) or general partner of a trust or partnership (including a limited partnership) and the person is not entitled to be fully indemnified against the liability out of trust or partnership assets because of one or more of the following:

(i) a breach of trust or obligation as partner by the person;

(ii) the person acting outside the scope of its powers as trustee or partner;

(iii) a term of the trust or partnership denying, or limiting, the person's right to be indemnified against the liability;

(iv) the assets of the trust or partnership being insufficient to discharge the liability; or

(j) **analogous events**: anything analogous to those set out in any of paragraphs (a) to (i) inclusive occurs in relation to the person under the laws of a foreign jurisdiction,

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

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

Management Deed means the management and administrative services deed to be entered into between Think and TND effective from the Effective Date under which Think will provide management and administrative services to TND on the terms set out in Schedule 4 (or on such other terms as Think and TND may agree).

Management Deed Resolution means the proposed resolution for the purposes of sections 208 and 217 to 227 of the Corporations Act for the approval for Think and TND to enter into the Management Deed.

Performance Right means a right granted under the Performance Rights Plan to acquire by way of issue a Share subject to the terms of such plan.

Performance Rights Holder means a person who holds a Performance Right.

Performance Rights Plan means Think's Employee Share Option Plan dated 10 March 2016.

Performance Rights Plan Rules means the rules of the Performance Rights Plan.

Proposed Transaction means:

(a) means the proposal referred to in recital A for the restructure of Think through the implementation of the Scheme; and

(b) all associated transactions and steps contemplated by this deed.

Public Authority means includes the Crown, any government and any governmental, semi-governmental, public, administrative, regulatory or judicial entity. It also includes a Minister, a statutory corporation, a self regulatory organisation or supervisory authority established by statute and any market licensee of a financial market (including ASX) and any operator of an overseas financial market.

Record Date means, in respect of the Scheme, 7.00pm on the third Business Day (or such other Business Day as the parties agree in writing) following the Effective Date.

Regulatory Approvals means the approvals set out in clause 3.1(a).

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

Relevant Interest has the meaning given in the Corporations Act.

RG 60 means Regulatory Guide 60 issued by ASIC.

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Scheme means the proposed scheme of arrangement under Part 5.1 of the Corporations Act between Think and Scheme Shareholders in respect of all Scheme Shares, substantially in the form set out in Schedule 3 or in such other form as the parties agree in writing, subject to any alterations or conditions that are:

(a) agreed to in writing by Think and TND, and approved by the Court; or

(b) made or required by the Court under section 411(6) of the Corporations Act and agreed to by each party.

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

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

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

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

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

Stapled Security means a Think Share stapled to a TND Share listed for quotation and trading together as one security on ASX.

Stapling Deed means the deed embodying the stapling arrangements between Think and TND contemplated for the purposes of the Proposed Transaction, substantially on the terms set out in Schedule 5 (or on such other terms as may be agreed by Think and TND).

Stapling Deed Resolutions means the proposed resolution of Think Shareholders and TND Shareholders for Think and TND to enter into the Stapling Deed for the purposes of sections 208 and 217 to 227 of the Corporations Act.

Subsidiary has the meaning given to that term in section 46 of the Corporations Act.

Superior Proposal means a bona fide Competing Proposal which in the determination of the Think Board acting in good faith and in order to satisfy what the Think Board reasonably considers to be its fiduciary or statutory duties would, if completed substantially in accordance with its terms, be likely to result in a transaction more favourable to Think Shareholders as a whole than the Proposed Transaction, having regard to matters including consideration, conditionality, funding, certainty and timing.

Supporting Resolutions means the following resolutions:

(a) the Stapling Deed Resolutions;

(b) the Capital Reduction Resolution;

(c) the Constitution Replacement Resolution; and

(d) the Management Deed Resolution,

to be considered and voted on in the case of 0, (b) and (c) at the Think General Meeting and in the case of 0 and (d) at the TND General Meeting.

Think Board means the board of directors of Think (or any committee of the board of directors of Think constituted to consider the Proposed Transaction on behalf of Think).

Think Director means a director of Think.

Think General Meeting means the general meeting of Think Shareholders for the purpose of considering the Supporting Resolutions.

Think Group means Think and its Subsidiaries.

Think Parties means each member of the Think Group and its Related Bodies Corporate and Authorised Persons.

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Think Prescribed Occurrence means the occurrence of any of the following on or after the date of this deed:

(a) Think converts all or any of its shares into a larger or smaller number of shares (see section 254H of the Corporations Act);

(b) any member of the Think Group resolves to reduce its share capital in any way other than the Capital Reduction;

(c) any member of the Think Group:

(i) enters into a buy-back agreement; or

(ii) resolves to approve the terms of a buy-back agreement under subsection 257C(1) or 257D(1) of the Corporations Act;

(d) any member of the Think Group issues securities, or grants a performance right, or an option over its securities, or agrees to make such an issue or grant such a right or an option other than under the valid exercise of an option or performance right on issue immediately before the date of this deed;

(e) any member of the Think Group issues, or agrees to issue, convertible notes;

(f) any member of the Think Group disposes, or agrees to dispose, of the whole, or a substantial part, of its business or property;

(g) any member of the Think Group creates or agrees to create, any security interest over the whole, or a substantial part, of its business or property; or

(h) an Insolvency Event occurs in relation to any member of the Think Group.

Think Replacement Constitution means the proposed new constitution of Think in a form consistent with Think implementing the Proposed Transaction, in particular the stapling of Think Shares and TND Shares substantially in the form set out in Schedule 6.

Think Share means an issued fully paid ordinary share in the capital of Think.

Think Information means information to be included by Think in the Explanatory Booklet that explains the effect of the Scheme and sets out the information prescribed by the Corporations Act and the *Corporations Regulations 2001* (Cth), and any other information that is material to the making of a decision by Think Shareholders whether or not to vote in favour of the Scheme, being information that is within the knowledge of the Think Board and has not previously been disclosed to Think Shareholders, other than the TND Information and the Independent Expert's Report.

Think Shareholder means each person who is registered in the register maintained by Think under section 168(1) of the Corporations Act as a holder of Think Shares.

Think Warranties means the representations and warranties of Think set out in clause 8.3.

Timetable means the indicative timetable in relation to the Proposed Transaction set out in Schedule 1 with such modifications as may be agreed in writing by the parties.

TND General Meeting means the general meeting of TNK Shareholders for the purpose of considering the Supporting Resolutions.

TND Group means TND and its Subsidiaries (if any).

TND Information means such information regarding TND to enable:

(a) the Explanatory Booklet to be prepared and completed in compliance with all applicable laws; and

(b) applications for Regulatory Approvals to be made.

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

TND Parties means TND and its respective Authorised Persons.

TND Warranties means the representations and warranties of TND set out in clause 8.1.

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1.2 Interpretation

In this deed, except where the context otherwise requires:

(a) the singular includes the plural, and the converse also applies;

(b) gender includes other genders;

(c) if a word or phrase is defined, its other grammatical forms have a corresponding meaning;

(d) a reference to a clause, paragraph, schedule or annexure is to a clause or paragraph of, or schedule or annexure to, this deed, and a reference to this deed includes any schedule or annexure;

(e) a reference to a document or instrument includes the document or instrument as novated, altered, supplemented or replaced from time to time;

(f) a reference to **A$**, **$A**, **dollar** or **$** is to Australian currency;

(g) a reference to time is to Melbourne, Australia time;

(h) a reference to a party is to a party to this deed, and a reference to a party to a document includes the party's executors, administrators, successors and permitted assigns and substitutes;

(i) a reference to a person includes a natural person, partnership, body corporate, association, governmental or local authority or agency or other entity;

(j) a reference to legislation or to a provision of legislation (including a listing rule or operating rule of a financial market or of a clearing and settlement facility) includes a modification or re enactment of it, a legislative provision substituted for it and a regulation or statutory instrument issued under it;

(k) a word or expression defined in the Corporations Act has the meaning given to it in the Corporations Act;

(l) a reference to conduct includes an omission, statement or undertaking, whether or not in writing;

(m) the meaning of general words is not limited by specific examples introduced by **including**, **for example** or similar expressions;

(n) a rule of construction does not apply to the disadvantage of a party because the party was responsible for the preparation of this deed or any part of it; and

(o) if a day on or by which an obligation must be performed or an event must occur is not a Business Day, the obligation must be performed or the event must occur on or by the next Business Day.

1.3 Headings

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

1.4 Business Day

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

1.5 Consents or approvals

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

1.6 Listing requirements included as law

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

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1.7 Reasonable endeavours

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

(a) to pay any money or provide any financial compensation, valuable consideration or any other incentive to or for the benefit of any person except for payment of any applicable fee for the lodgement or filing of any relevant application with any Governmental Agency; or

(b) to commence any legal action or proceeding against any person,

except where that provision specifies otherwise.

2. Agreement to propose Scheme

2.1 Scheme

(a) Think must, as soon as reasonably practicable after the date of this deed and substantially in accordance with the Timetable, propose the Scheme under which, subject to the Scheme becoming Effective, all Scheme Shareholders will be issued with one TND Share for each Scheme Share held by them at the Record Date which will be stapled to their Think Shares.

(b) Think agrees to propose and implement the Scheme on and subject to the terms and conditions of this deed, and substantially in accordance with the Timetable.

(c) TND agrees to assist Think in proposing and implementing the Scheme on and subject to the terms and conditions of this deed, and substantially in accordance with the Timetable.

2.2 Deed Poll

TND covenants in favour of Think (in Think's own right and separately as trustee for each of the Scheme Shareholders) to execute, deliver and perform the Deed Poll prior to the dispatch of the Explanatory Booklet.

3. Conditions precedent and pre-implementation steps

3.1 Conditions to Scheme

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

(a) (**Regulatory Approvals**) before the Delivery Time on the Second Court Date, ASIC and ASX issue or provide such consents or approvals as are necessary or which Think and TND agree are necessary or desirable to implement the Scheme and such consent, approval or other act has not been withdrawn or revoked before the Delivery Time on the Second Court Date;

(b) (**Listing of TND**) the stapled group comprising Think and TND must be approved for admission to the official list of ASX (subject only to customary listing conditions);

(c) (**Quotation of Stapled Securities**) ASX has indicated in writing that it will grant permission for the quotation of the Stapled Securities (subject only to customary pre-quotation listing conditions);

(d) (**No Think Prescribed Occurrence**) no Think Prescribed Occurrence occurs between the date of this deed and the Delivery Time on the Second Court Date;

(e) (**No change of Think Board recommendation**) between the date of this deed and the date of the Scheme Meeting, none of the Directors of Think changing, qualifying or withdrawing their unanimous recommendation to Think Shareholders to vote in favour of the Scheme, which recommendation may be expressed to be given subject to the Independent Expert opining that the Scheme is in the best interest of Think Shareholders;

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(f) (**Think Warranties**) the Think Warranties being true and correct in all material respects on the date of this deed and at the Delivery Time on the Second Court Date;

(g) (**TND Warranties**) the TND Warranties being true and correct in all material respects on the date of this deed and at the Delivery Time on the Second Court Date;

(h) (**Shareholder approval of Scheme**) the Scheme is approved by Think Shareholders at the Scheme Meeting by the majorities required under section 411(4)(a)(ii) of the Corporations Act;

(i) (**Shareholder approval of Supporting Resolutions**) the Supporting Resolutions are approved by Think Shareholders at the Think General Meeting by the majorities required under the Corporations Act;

(j) (**Shareholder approval of Supporting Resolutions**) the Supporting Resolutions are approved by TND Shareholders at the TND General Meeting by the majorities required under the Corporations Act;

(k) (**Stapling Deed**) the Stapling Deed has been executed to take effect on the Implementation Date;

(l) (**Think Performance Rights**) before the Delivery Time:

(i) legally binding arrangements have been put in place so that all Performance Rights outstanding at the date of this deed will have either:

(A) vested and been exercised prior to the Scheme becoming Effective on terms agreed by the parties (acting reasonably); or

(B) otherwise been dealt with as agreed by the parties,

such that no Performance Rights are in existence prior to the Scheme becoming Effective; and

(ii) Think has complied with its obligations under clause 4.

(m) (**Court approval**) the Scheme is approved by the Court in accordance with section 411(4)(b) of the Corporations Act either unconditionally or on conditions that do not impose unduly onerous obligations upon either party (acting reasonably); and

(n) (**Independent Expert**) the Independent Expert concluding in the Independent Expert's Report that in its opinion the Scheme is in the best interest of Think Shareholders and the Independent Expert maintaining that opinion (including by not withdrawing, qualifying or changing that opinion) at all times up to the Second Court Date.

3.2 Benefit and waiver of conditions precedent

(a) Other than the Conditions in clauses 3.1(h) (Shareholder approval) and 3.1(m) (Court approval) which cannot be waived, the Conditions in clause 3.1 are for the benefit of Think and any breach or non-fulfilment of then may only be waived (if capable of waiver) by Think giving its written consent.

(b) Think is entitled to waive a Condition under this clause 3.2 in its absolute discretion. Any waiver of a Condition by Think must take place on or prior to the Delivery Time on the Second Court Date.

3.3 Reasonable endeavours

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

3.4 Notifications

Each of TND and Think must:

(a) keep the other promptly and reasonably informed of the steps it has taken and of its progress towards satisfaction of the Conditions;

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(b) promptly notify the other in writing if it becomes aware that any Condition has been satisfied; and

(c) promptly notify the other in writing if it becomes aware that any Condition is or has become incapable of being satisfied (having regard to the respective obligations of each party under clause 3.3).

3.5 Certificate

On the Second Court Date:

(a) TND and Think will provide a joint certificate to the Court confirming whether or not the Conditions set out in clause 3.1 have been satisfied or waived in accordance with the terms of this deed;

(b) Think will provide a certificate to TND confirming whether or not Think has breached any of its obligations under this deed (including a breach of a representation or warranty), and if it has, giving details of such breach; and

(c) TND will provide a certificate to Think confirming whether or not TND has breached any of its obligations under this deed (including a breach of a representation or warranty), and if it has, giving details of such breach.

3.6 Scheme voted down

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

(a) apply for an order of the Court contemplated by section 411(4)(a)(ii)(A) of the Corporations Act to disregard the Headcount Test and seek Court approval of the Scheme under section 411(4)(b) of the Corporations Act, notwithstanding that the Headcount Test has not been satisfied; and

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

3.7 Conditions not capable of being fulfilled

(a) If:

(i) any Condition is not satisfied or (where capable of waiver) waived by the date specified in this deed for its satisfaction (or an event occurs which would or is likely to prevent a condition precedent being satisfied by the date specified in this deed);

(ii) a circumstance occurs with the result that a Condition is not capable of being fulfilled and, if the Condition is able to be waived by a party under clause 3.2 the party does not waive the Condition within 5 Business Days after the occurrence of the circumstance; or

(iii) the Scheme does not become Effective by the End Date,

and the Independent Expert has not opined to the effect that the Scheme is not in the best interest of Think Shareholders, then Think may:

(i) propose that the Scheme proceed by way of alternative means or methods;

(ii) extend the relevant time or date for satisfaction of the Condition;

(iii) change the date of the application to be made to the Court for orders under section 411(4)(b) of the Corporations Act approving the Scheme or adjourning that application (as applicable) to another date agreed by the parties; or

(iv) extend the End Date.

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(b) If a Condition becomes incapable of being satisfied before the End Date and Think has not made an election under clause 3.7(a) within 5 Business Days of the date on which Think became aware that the Condition has become incapable of being satisfied (or, if earlier, by the Delivery Time on the Second Court Date), then unless the relevant Condition (where capable of waiver) is waived, Think may terminate this deed by giving TND notice without any liability to any party by reason of that termination alone.

3.8 Interpretation

For the purposes of this clause 3, a Condition will be incapable of satisfaction, or incapable of being fulfilled if:

(a) in the case of a Condition relating a Regulatory Approval – the relevant Governmental Agency makes or has made a final adverse determination in writing to the effect that it will not provide the Regulatory Approval; and

(b) in all other cases – there is an act, failure to act or occurrence that will prevent the Condition being satisfied by the End Date (and the breach or non-fulfilment that would otherwise have occurred has not already been waived in accordance with this deed).

4. Treatment of Performance Rights

(a) As soon as practicable after the date of this agreement, the Think Board must give a written notice to each Performance Rights Holder stating that:

(i) subject to obtaining the necessary waivers from ASX and the Scheme being approved by Think Shareholders at the Scheme Meeting, the Performance Rights Holder may exercise his Performance Rights at any time prior to the Scheme becoming Effective;

(ii) subject to the Performance Rights Holder exercising his rights in accordance with clause 4(a)(i), Think agrees to issue to the Performance Rights Holder such number of Think Shares to which the Performance Rights Holder is entitled prior to the Scheme becoming Effective.

(b) Without limiting clause 4(a), Think must, subject to obtaining the necessary waivers from ASX and the Scheme being approved by Think Shareholders at the Scheme Meeting, take all necessary steps to permit each Performance Rights Holder to exercise his Performance Rights prior to the Scheme becoming Effective by accelerating the vesting of all unvested Performance Rights.

5. Recommendation, intentions and announcements

5.1 Think Board Recommendation and Voting Intention

(a) Think must ensure that the Announcement and the Explanatory Booklet state that each Think Director recommends that Think Shareholders vote in favour of the Scheme (**Recommendation**) which Recommendation must not be qualified in any way other than by words to the effect of 'in the absence of a Superior Proposal' and 'subject to the Independent Expert concluding that the Scheme is in the best interest of Think Shareholders'.

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(b) TND acknowledges that each Think Director may, subject to the terms of this deed, publicly (or otherwise) withdraw, change or in any way qualify their Recommendation if the Independent Expert concludes in the Independent Expert's Report (either in its initial report or any subsequent update of its report) that the Scheme is not in the best interest of the Think Shareholders.

(c) Think and TND acknowledge that each Think Director has indicated to Think that they intend to cause any Think Shares in which they have a Relevant Interest to be voted in favour of the Scheme (**Voting Intention**), subject to the Independent Expert concluding that the Scheme is in the best interest of Think Shareholders, and that the Explanatory Booklet will state that Voting Intention to the extent to which it is current as at the date of the Explanatory Booklet.

(d) TND acknowledges that each Think Director may, subject to the terms of this deed, publicly (or otherwise) withdraw, change or in any way qualify their Voting Intention.

5.2 Confirmation

Think represents and warrants to TND that each Think Director has confirmed his or her agreement not to do anything inconsistent with their Recommendation and Voting Intention (including withdrawing, changing or in any way qualifying their Recommendation or Voting Intention) other than in the circumstances referred to in clause 5.1(b)

5.3 Announcements

(a) Immediately after the execution of this deed Think must issue the Announcement to the ASX.

(b) Any further public announcements by Think or TND in relation to, or in connection with, the Proposed Transaction or any other transaction related to this deed or the Scheme may only be made in a form approved by each party in writing (acting reasonably). Where a party is required by law or the Listing Rules to make any announcement or to make any disclosure in relation to, or in connection with the Proposed Transaction or any other transaction related to this deed or the Scheme, it may do so to the extent legally required and only then after it has given the other party as much notice as possible and has consulted to the fullest extent possible in the circumstances with the other party.

6. Scheme – parties' respective implementation obligations

6.1 Think's obligations

Think must take all steps reasonably necessary to propose and (subject to all of the Conditions being satisfied or waived in accordance with their terms) implement the Scheme as soon as reasonably practicable and after the date of this deed and substantially in accordance with the Timetable, including without limitation taking each of the following steps:

(a) (**Explanatory Booklet**) prepare the Explanatory Booklet in accordance with clause 6.3;

(b) (**Independent Expert**) promptly appoint the Independent Expert and provide all assistance and information reasonably requested by the Independent Expert in connection with the preparation of the Independent Expert's Report;

(c) (**approval of draft for ASIC**) as soon as reasonably practicable after the preparation of an advanced draft of the Explanatory Booklet suitable for review by ASIC, procure that a meeting of the Think Board, or of a committee of the Think Board appointed for the purpose, is held to consider approving that draft as being in a form appropriate for provision to ASIC for its review and approval for the purposes of section 411(2) of the Corporations Act;

(d) (**liaison with ASIC**) as soon as reasonably practicable after the date of this deed:

(i) provide an advanced draft of the Explanatory Booklet, in a form approved in accordance with clauses 6.1(c) and 6.2(b), to ASIC for its review and approval for the purposes of section 411(2) of the Corporations Act; and

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(ii) liaise with ASIC during the period of its consideration of that draft of the Explanatory Booklet and keep TND reasonably informed of any matters raised by ASIC in relation to the Explanatory Booklet and use reasonable endeavours, in consultation with TND, to resolve any such matters;

(e) (**approval of Explanatory Booklet**) as soon as reasonably practicable after the conclusion of the review by ASIC of the Explanatory Booklet, procure that a meeting of the Think Board, or of a committee of the Think Board appointed for the purpose, is held to consider approving the Explanatory Booklet for dispatch to the Think Shareholders, subject to orders of the Court under section 411(1) of the Corporations Act;

(f) (**section 411(17)(b) statements**) apply to ASIC for the production of statements in writing under section 411(17)(b) of the Corporations Act stating that ASIC has no objection to the Scheme;

(g) (**first Court hearing**) lodge all documents with the Court and take all other reasonable steps to ensure that promptly after, and provided that, the approvals in clauses 6.1(e) and 6.2(c) have been received, an application is heard by the Court for an order under section 411(1) of the Corporations Act directing Think to convene the Scheme Meeting;

(h) (**registration of explanatory statement**) request ASIC to register the explanatory statement included in the Explanatory Booklet in relation to the Scheme in accordance with section 412(6) of the Corporations Act;

(i) (**convene Scheme Meeting**) take all reasonable steps necessary to comply with the orders of the Court including, as required, despatching the Explanatory Booklet to the Think Shareholders and convening and holding the Scheme Meeting on the same day and at the same time or immediately before the Think General Meeting;

(j) (**convene Think General Meeting**) take all reasonable steps necessary to convene and hold the Think General Meeting to be held on the same day as the Scheme Meeting and promptly after the Scheme Meeting concludes;

(k) (**convene TND General Meeting**) take all reasonable steps necessary to convene and hold the TND General Meeting to be held on the same day as the Scheme Meeting and promptly after the Scheme Meeting concludes;

(l) (**lodge amendments to Think constitution**) lodge with ASIC the Think Replacement Constitution under section 136(5) of the Corporations Act;

(m) (**return of capital**) undertake the Capital Reduction;

(n) (**stapling**) ensure the stapling of Think Shares to TND Shares;

(o) (**Court approval application if parties agree that conditions are capable of being satisfied**) if the resolution submitted to the Scheme Meeting is passed by the majorities required under section 411(4)(a)(ii) of the Corporations Act and, if necessary, the parties agree on the Business Day immediately following the Scheme Meeting that it can be reasonably expected that all of the Conditions will be satisfied or waived prior to the proposed Second Court Date, apply to the Court for orders approving the Scheme;

(p) (**implementation of Scheme**) if the Scheme is approved by the Court:

(i) subject to the Listing Rules, promptly lodge with ASIC an office copy of the orders approving the Scheme in accordance with section 411(10) of the Corporations Act;

(ii) applying on behalf of Scheme Shareholders for TND Shares by using the proceeds of the Capital Reduction and stapling of Think Shares to the TND Shares issued by TND; and

(iii) do all other things contemplated by or necessary to give effect to the Scheme and the orders of the Court approving the Scheme;

(q) (**Regulatory notifications**) in relation to the Regulatory Approvals, lodge with any Governmental Agency within the relevant periods all documentation and filings required by law to be so lodged by Think in relation to the Proposed Transaction;

(r) (**Shareholder support**) promote to its shareholders the merits of the Scheme, including soliciting proxy votes in favour of the Scheme; and

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(s) (**Compliance with laws**) do everything reasonably within its power to ensure that all transactions contemplated by this deed are effected in accordance with all applicable laws and regulations.

6.2 TND's obligations

TND must take all steps reasonably necessary to assist Think to implement the Scheme as soon as reasonably practicable and substantially in accordance with the Timetable including, without limitation, taking each of the following steps:

(a) (**Regulatory notifications**) in relation to the Regulatory Approvals, lodge with any regulatory authority within the relevant time periods all documentation and filings required by law to be so lodged by TND in relation to the Proposed Transaction;

(b) (**approval of draft for ASIC**) as soon as reasonably practicable after the preparation of an advanced draft of the Explanatory Booklet suitable for review by ASIC, procure that a meeting of the appropriate representatives of TND is held to consider approving those sections of that draft that relate to TND as being in a form appropriate for provision to ASIC for review;

(c) (**approval of Explanatory Booklet**) as soon as reasonably practicable after the conclusion of the review by ASIC of the Explanatory Booklet, procure that a meeting of the appropriate representatives of TND is held to consider approving those sections of the Explanatory Booklet that relate to TND as being in a form appropriate for dispatch to Think Shareholders, subject to approval of the Court;

(d) (**return of capital**) issue the TND Shares to Think Shareholders in accordance with the requirements of the Scheme and the Capital Reduction under the Supporting Resolutions such that TND Shares to be allotted and issued to Scheme Shareholders and rank pari passu in all respects with each other and all other TND Shares on issue at that time (if any);

(e) (**stapling**) ensure the stapling of Think Shares to TND Shares;

(f) (**Representation**) procure that TND is represented by counsel at the Court hearings convened for the purposes of section 411(4)(b) of the Corporations Act; and

(g) (**Compliance with laws**) do everything reasonably within its power to ensure that all transactions contemplated by this deed are effected in accordance with all applicable laws and regulations.

6.3 Explanatory Booklet - preparation principles

(a) As soon as reasonably practicable after the date of this deed and substantially in accordance with the Timetable, Think must prepare the Explanatory Booklet in compliance with:

(i) all applicable laws, in particular with the Corporations Act, RG 60 and the Listing Rules; and

(ii) this clause 6.3.

(b) The Explanatory Booklet will include:

(i) the terms of the Scheme;

(ii) the notice of Scheme Meeting, and any other notice of meeting in respect of any resolution that is necessary, expedient or incidental to give effect to the Scheme, together with a proxy form for the Scheme Meeting and for any ancillary meeting;

(iii) the notice of Think General Meeting;

(iv) the Think Information;

(v) the TND Information;

(vi) a copy of this deed (without the schedules or annexures);

(vii) a copy of the Management Deed;

(viii) a copy of the Stapling Deed;

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(ix) a copy of the Think Replacement Constitution;

(x) a copy of the executed Deed Poll; and

(xi) a copy of the Independent's Expert Report.

7. Conduct of business before the Implementation Date

7.1 Conduct of Think business

From the date of this deed up to and including the Implementation Date, Think must conduct and must cause each of its Subsidiaries to conduct their businesses in the ordinary and usual course of business and:

(a) operate those businesses consistent with past practice, in substantially the same manner as previously conducted;

(b) use reasonable endeavours to preserve their relationships with customers, suppliers, landlords, licensors, licensees and others having material business dealings with them, and to retain the services of all key employees;

(c) use reasonable endeavours to ensure that all assets are maintained in the normal course consistent with past practice;

(d) use reasonable endeavours to comply in all material respects with all material contracts to which a member of the Think Group is a party, and with laws, authorisations and licences applicable to each member of the Think Group; and

(e) not take or fail to take any action that constitutes a Think Prescribed Occurrence or that could reasonably be expected to result in a Think Prescribed Occurrence.

7.2 Permitted activities

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

(a) undertaken by a member of the Think Group in conducting its businesses in the usual and ordinary course and consistent with past practice;

(b) required to be done or procured by Think under, or which is otherwise contemplated by, this deed or the Scheme; or

(c) required by law or by an order of a court or Governmental Agency.

8. Representations and warranties

8.1 TND representations

(a) TND represents and warrants to Think (on Think's own behalf and separately as trustee for each of the other Think Parties) each of the matters set out in clause 8.1(b) as at the date of this deed and on each subsequent day until the Delivery Time on the Second Court Date (except that where any statement is expressed to be made only at a particular date it is given only at that date).

(b) TND represents and warrants that:

(i) TND is a validly existing corporation registered under the laws of its place of incorporation;

(ii) the execution and delivery of this deed has been properly authorised by all necessary corporate action and TND has full corporate power and lawful authority to execute and deliver this deed and to perform or cause to be performed its obligations under this deed; and

(iii) this deed constitutes legal, valid and binding obligations on it and this deed does not result in a breach of or default under any deed or any writ, order or injunction, rule or regulation to which TND is a party or is bound.

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8.2 TND's indemnity

TND agrees with Think (on Think's own behalf and separately as trustee or nominee for each of the other Think Parties) to indemnify and keep indemnified the Think Parties from and against all claims, actions, proceedings, liabilities, obligations, damages, loss, harm, charges, costs, expenses, duties and other outgoings of whatever nature and however arising which any of the Think Parties may suffer or incur by reason of any breach of any of the representations and warranties in clause 8.1(a) or 8.1(b).

8.3 Think representations

(a) Think represents and warrants to TND each of the matters set out in clause 8.3(b) as at the date of this deed and on each subsequent day until on the Second Court Date (except that where any statement is expressed to be made only at a particular date it is given only at that date).

(b) Think represents and warrants that:

(i) Think is a validly existing corporation registered under the laws of its place of incorporation;

(ii) the execution and delivery of this deed by Think has been properly authorised by all necessary corporate action and Think has full corporate power and lawful authority to execute and deliver this deed and to perform or cause to be performed its obligations under this deed; and

(iii) this deed constitutes legal, valid and binding obligations on Think and the execution of this deed of itself does not result in a breach of or default under any agreement or deed or any writ, order or injunction, rule or regulation to which Think or any of its Subsidiaries is a party or to which they are bound.

8.4 Think's indemnity

Think agrees with TND to indemnify and keep indemnified the TND Parties from and against all claims, actions, proceedings, liabilities, obligations, damages, loss, harm, charges, costs, expenses, duties and other outgoings of whatever nature and however arising which any of the Guarantor Indemnified Parties may suffer or incur by reason of any breach of any of the representations and warranties in clauses 8.3(a) or 8.3(b).

8.5 Notifications

Each party will promptly advise the other in writing if it becomes aware of any fact, matter or circumstance which constitutes or may constitute a breach of any of the representations or warranties given by it under this clause 8.

8.6 Survival of representations

Each representation and warranty in clauses 8.1 and 8.3:

(a) is severable;

(b) will survive the termination of this deed; and

(c) is given with the intent that liability thereunder will not be confined to breaches which are discovered prior to the date of termination of this deed.

8.7 Survival of indemnities

Each indemnity in this deed (including those in clauses 8.2 and 8.4) will:

(a) be severable;

(b) be a continuing obligation;

(c) constitute a separate and independent obligation of the party giving the indemnity from any other obligations of that party under this deed; and

(d) survive the termination of this deed.

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9. Releases

9.1 Think Parties

(a) Without limiting TND's rights under clause 8, TND releases all rights against and agrees with Think that it will not make a Claim against, any Think Party (other than Think) in connection with:

(i) Think's execution or delivery of this deed;

(ii) any breach of any representation, covenant and warranty of Think in this deed; or

(iii) the implementation of the Scheme,

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

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

9.2 TND Parties

(a) Without limiting Think's rights under clause 8, Think releases its rights against, and agrees with TND that it will not make a Claim against any TND Party (other than TND) in connection with:

(i) TND's execution or delivery of this deed;

(ii) any breach of any representation, covenant and warranty of TND in this deed; or

(iii) the implementation of the Scheme,

(iv) any disclosure made by any TND Party that contains any statement which is false or misleading whether in content or by omission,

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

10. Confidentiality and public announcement

10.1 Confidentiality

Each party agrees and acknowledges that it may only use confidential information of another party for the purposes of this deed, and must keep the existence and the terms of this deed and any confidential information of another party confidential except where:

(a) the information is public knowledge (but not because of a breach of this deed) or the party has independently created the information;

(b) disclosure is required by law or a Public Authority or is permitted under this deed; or

(c) disclosure is made to a person who must know for the purposes of this deed on the basis that the person keeps the information confidential.

10.2 Required announcement

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

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10.3 Statements on termination

The parties must use all reasonable endeavours to issue agreed statements in respect of any termination of this deed and, to that end but without limitation, clause 10.2 applies to any such statements or disclosures.

11. Termination

11.1 Termination by notice

(a) TND or Think may, by notice in writing to the other, terminate this deed at any time prior to the Second Court Date:

(i) if the other is in material breach of any of its obligations under this deed (including a material breach of a representation or warranty) and the other party has failed to remedy that breach within 10 Business Days (or the Delivery Time on the Second Court Date if earlier) of receipt by it of a notice in writing from the terminating party setting out details of the relevant circumstance and requesting the other party to remedy the breach;

(ii) receipt by Think and TND of the conditional consent of ASX to grant official quotation of the Stapled Securities on terms which, in the reasonable opinion of the directors of Think and TND, are unsatisfactory, or the failure to receive conditional consent in writing of ASX to grant official quotation of the Stapled Securities on terms which, in the reasonable opinion of the directors of Think and TND, are satisfactory;

(iii) if the Court refuses to make any order directing Think to convene the Scheme Meeting, provided that both Think and TND have met and consulted in good faith and agreed that they do not wish to proceed with the Scheme; or

(iv) if the Effective Date for the Scheme has not occurred on or before the End Date.

(b) Think may, by notice in writing to TND, terminate this deed:

(i) in accordance with clause 3.7; or

(ii) at any time prior to the Delivery Time on the Second Court Date if at any time before then each of that number of Think Directors as constitutes a majority of the Think Board withdraws or adversely modifies their recommendation of the Proposed Transaction or recommends or supports Superior Proposal.

11.2 Automatic termination

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

11.3 Effect of termination

(a) In the event of termination of this deed under clause 3.7, 11.1 or 11.2, this deed will become void and have no effect, except that the provisions of clauses 8.6, 8.7, 11 and 13.3 to 13.15 (inclusive) survive termination.

(b) Termination of this deed does not affect any accrued rights of a party in respect of a breach of this deed prior to termination.

12. Notices

Any communication under or in connection with this deed:

(a) must be in writing;

(b) must be sent to the address for service of the addressee specified in the Details;

(c) must be signed by the party making the communication or by a person duly authorised by that party;

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(d) must be delivered or posted by prepaid post to the address, or sent by email of the addressee, in accordance with the Details; and

(e) will be deemed to be received by the addressee:

(i) (**in the case of prepaid post**) on the third Business Day after the date of posting to an address within Australia, and on the fifth Business Day after the date of posting to an address outside Australia;

(ii) (**in the case of delivery by hand**) on delivery at the address of the addressee as provided in the Details, unless that delivery is not made on a Business Day, or after 5.00pm on a Business Day, when that communication will be deemed to be received at 9.00am on the next Business Day.

(iii) (**in the case of email**) 4 hours after the time sent (as recorded on the device from which the sender sent the email) unless the sender receives an automated message that the email has not been delivered.

13. General

13.1 Further acts

Each party will promptly do and perform all further acts and execute and deliver all further documents (in form and content reasonably satisfactory to that party) required by law or reasonably requested by any other party to give effect to this deed.

13.2 Timetable

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

13.3 Payments

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

(a) in immediately available and irrevocable funds by electronic transfer to a bank account or accounts notified by the Receiving Party in writing on or before the due date for payment, or in other such immediately payable funds as the parties may agree; and

(b) without deduction, withholding or set-off.

13.4 GST

(a) Any reference in this clause 13.4 to a term defined or used in the *A New Tax System (Goods and Services Tax) Act 1999* is, unless the context indicates otherwise, a reference to that term as defined or used in that Act.

(b) Unless expressly included, the consideration for any supply under or in connection with this deed does not include GST.

(c) To the extent that any supply made by a party (**Supplier**) to another party (**Recipient**) under or in connection with this deed is a taxable supply, the Recipient must pay to the Supplier, in addition to the consideration to be provided under this deed but for the application of this clause 13.4(c) for that supply (**GST Exclusive Consideration**), an amount equal to the amount of the GST Exclusive Consideration (or its GST exclusive market value) multiplied by the rate at which GST is imposed in respect of the supply. This clause 13.4(c) does not apply to any taxable supply under or in connection with this deed that is stated to include GST.

(d) The amount on account of GST payable in accordance with this clause 13.4 will be paid at the same time and in the same manner as the consideration otherwise payable for the supply is provided.

(e) Any reference in the calculation of any consideration or of any indemnity, reimbursement or similar amount to a cost, expense or liability incurred by a person (**Relevant Expense**) is a reference to the relevant expense reduced by an amount equal to any input tax credit entitlement of that person (or of the representative member of any GST group to which the

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person belongs) in relation to the Relevant Expense. A party will be assumed to have an entitlement to a full input tax credit unless it demonstrates otherwise prior to the date on which the relevant payment or consideration must be provided.

13.5 Stamp duty

TND must pay all stamp duties (if any) and any fines and penalties with respect to stamp duty in respect of this deed or the Scheme or the steps to be taken under this deed or the Scheme (including without limitation the acquisition or transfer of Scheme Shares under the Scheme).

13.6 Expenses

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

13.7 Amendments

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

13.8 Assignment

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

13.9 Business Day

Except where otherwise expressly provided, where under this deed the day on which any act, matter or thing is to be done is a day other than a Business Day, such act, matter or thing will be done on the next Business Day.

13.10 Waiver

(a) Failure to exercise or enforce or a delay in exercising or enforcing or the partial exercise or enforcement of any right, power or remedy provided by law or under this deed by any party will not in any way preclude, or operate as a waiver of, any exercise or enforcement, or further exercise or enforcement of that or any other right, power or remedy provided by law or under this deed.

(b) Any waiver or consent given by any party under this deed will only be effective and binding on that party if it is given or confirmed in writing by that party.

(c) No waiver of a breach of any term of this deed will operate as a waiver of another breach of that term or of a breach of any other term of this deed.

(d) Nothing in this deed obliges a party to exercise a right to waive any conditional term of this deed that may be in its power.

13.11 Counterparts

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

(b) This deed is binding on the parties on the exchange of duly executed counterparts.

(c) The parties agree that a copy of an original executed counterpart sent by facsimile machine to the facsimile number of the other party specified in clause 12, instead of the original, is sufficient evidence of the execution of the original and may be produced in evidence for all purposes in place of the original.

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13.12 Entire agreement

This deed:

(a) embodies the entire understanding of the parties and constitutes the entire terms agreed on between the parties; and

(b) supersedes any prior agreement (whether or not in writing) between the parties.

13.13 No representation or reliance

(a) Each party acknowledges that no party (nor any person acting on its behalf) has made any representation or other inducement to it to enter into this deed, except for representations or inducements set out in this deed.

(b) Each party acknowledges and confirms that it does not enter into this deed in reliance on any representation or other inducement by or on behalf of any other party, except for any representation or inducement set out in this deed.

13.14 No merger

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

13.15 Governing law

(a) This deed is governed by and will be construed according to the laws of Victoria.

(b) Each party irrevocably submits to the non-exclusive jurisdiction of the courts of Victoria and of the courts competent to determine appeals from those courts.

13.16 Time

Time is of the essence of this deed.

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Schedule 1 – Indicative timetable

Event	Date
Enter into Scheme Implementation Deed	14 August 2019 *Day 0*
Lodge Explanatory Booklet with ASIC for review and comment	30 September 2019 *Day 45*
First Court Date	15 October 2019 *Day 60*
Explanatory Booklet registered with ASIC	16 October 2019 *Day 61*
Dispatch Explanatory Booklet to Think Shareholders	21 October 2019 *Day 66*
Scheme Meeting Think General Meeting TND General Meeting	21 November 2019 *Day 97*
Second Court Date	29 November 2019 *Day 105*
Effective Date – lodge office copy of Court order approving the Scheme with ASIC	2 December 2019 *Day 108*
Record Date	9 December 2019 *Day 115*
Implementation Date	12 December 2019 *Day 118*

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Schedule 2 – Deed Poll

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Schedule 3 – Scheme

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Schedule 4 – Management Deed

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Schedule 5 – Stapling Deed

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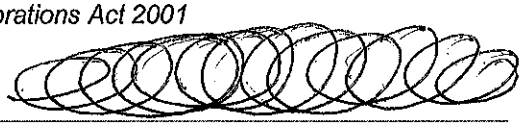
Schedule 6 – Think Replacement Constitution

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Signing page

EXECUTED as a **deed**.

Executed by **Think Childcare Limited ABN 81 600 793 388** in accordance with Section 127 of the *Corporations Act 2001*



Signature of director

Mathew Graeme Edwards

Name of director (print)

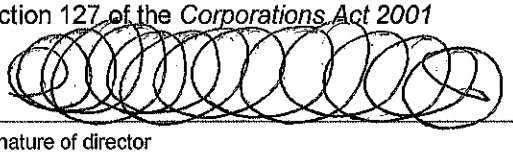


Signature of ~~director~~/company secretary
(Please delete as applicable)

Trinh Tuyet Bui

Name of ~~director~~/company secretary (print)

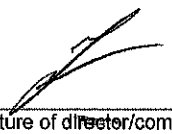
Executed by **Think Childcare Development Limited ACN 635 178 166** in accordance with Section 127 of the *Corporations Act 2001*



Signature of director

Mathew Graeme Edwards

Name of director (print)



Signature of ~~director~~/company secretary
(Please delete as applicable)

Trinh Tuyet Bui

Name of ~~director~~/company secretary (print)

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