

## MIDWAY LIMITED (ASX: MWY)

19 December 2024

### Scheme Booklet registered with ASIC

Midway Limited (**Midway**) refers to its announcement earlier today and is pleased to confirm that the Australian Securities and Investments Commission has registered its scheme booklet (**Scheme Booklet**) in relation to the proposed acquisition of Midway by RCM BidCo Pty Ltd (an entity owned and controlled by funds managed and advised by River Capital Pty Ltd) by way of a scheme of arrangement.

A copy of the Scheme Booklet is attached to this announcement.

This announcement has been authorised by Midway's Company Secretary.

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#### About Midway Limited

Founded in 1980, Midway Limited is one of Australia's largest woodfibre processors and exporters with a strong and growing plantation and carbon management business. Midway's fibre is used in recyclable paper and packaging, plastic replacement products and coal replacing energy generation in the Asian region. The Company is building a plantation carbon management business to generate carbon abatement and emissions offsets solutions utilising its expertise in the process. Midway has woodchip processing and exporting operations at five major port locations in key forestry areas around Australia including: Bell Bay, Tasmania; Portland and Geelong in Victoria; Brisbane, Queensland; and Melville Island in the Northern Territory's Tiwi Islands. For further information, visit [www.midwaylimited.com.au](http://www.midwaylimited.com.au).

# Midway Limited

ACN 005 616 044

## Scheme Booklet

For the recommended scheme of arrangement between Midway Limited and its shareholders in relation to the proposed acquisition of Midway Limited by RCM BidCo Pty Ltd (**BidCo**), an entity owned and controlled by funds managed and advised by River Capital Pty Ltd.

**VOTE IN FAVOUR**

The Midway Directors unanimously recommend that you vote in favour of the Scheme in the absence of a superior proposal and subject to the independent expert continuing to conclude that the Scheme is in the best interests of Midway shareholders.

The independent expert has concluded that the Scheme is fair and reasonable and in the best interests of Midway shareholders, in the absence of a superior proposal.

This is an important document and requires your immediate attention.

You should read it carefully and in full before deciding whether or not to vote in favour of the Scheme.

If you are in any doubt about how to deal with this document, you should contact your broker or financial, taxation or legal adviser immediately.

If, after reading this Scheme Booklet, you have any questions about the Scheme or the number of Midway Shares you hold or how to vote, please call the Shareholder Information Line on 1300 850 505 (within Australia) or +61 3 9415 4000 (outside Australia) Monday to Friday between 8:30am and 5:00pm (AEDT).

If you have recently sold all of your Midway Shares, please disregard this document.

## Important Notices

### General

This Scheme Booklet is important and requires your immediate attention. You should read this Scheme Booklet carefully in full before making a decision about how to vote at the Scheme Meeting.

### Nature of this document

The purpose of this Scheme Booklet is to explain the terms of the Transaction and the manner in which the Scheme will be considered and implemented (if approved) and to provide such information as is prescribed or otherwise material to the decision of Midway Shareholders whether or not to approve the Scheme.

This Scheme Booklet is not a disclosure document for the purposes of Chapter 6D of the Corporations Act. Section 708(17) of the Corporations Act provides that the requirements of Chapter 6D of the Corporations Act do not apply in relation to arrangements under Part 5.1 of the Corporations Act which are approved at a meeting held as a result of an order under subsection 411(1) of the Corporations Act. Rather, Midway Shareholders asked to vote on an arrangement at such a meeting, must be provided with an 'explanatory statement' which complies with section 412(1) of the Corporation Act. This Scheme Booklet includes the explanatory statement required to be sent to Midway Shareholders under Part 5.1 of the Corporations Act.

### Defined terms

A number of defined terms are used in this Scheme Booklet. These terms are explained in Section 11 of this Scheme Booklet.

### No investment advice

The information contained in this Scheme Booklet does not constitute financial product advice and has been prepared without reference to your own investment objectives, financial situation, taxation position and particular needs. It is important that you read this Scheme Booklet in its entirety before making any investment decision and any decision as to whether or not to vote in favour of the Scheme. If you are in any doubt in relation to these matters, you should consult your financial, legal, stockbroking, taxation or other professional adviser.

### Not an offer

Other than with respect to the offer to subscribe for Class B Shares as part of the Scheme Consideration, this Scheme Booklet does not constitute or contain an offer to Midway Shareholders, or a solicitation of an offer from Midway Shareholders, in any jurisdiction.

### Foreign jurisdictions

The release, publication or distribution of this Scheme Booklet in jurisdictions other than Australia may be restricted by law or regulation in such other jurisdictions and persons outside of Australia who come into possession of this Scheme Booklet should seek advice on and observe any such restrictions. Any failure to comply with such restrictions may constitute a violation of applicable laws or regulations.

This Scheme Booklet has been prepared in accordance with Australian law and the information contained in this Scheme Booklet may not be the same as that which would have been disclosed if this Scheme Booklet had been prepared in accordance with the laws and regulations outside Australia.

### Role of ASIC and ASX

This document is the explanatory statement for the scheme of arrangement between Midway and the holders of its fully paid ordinary shares as at the Scheme Record Date for the purposes of section 412(1) of the Corporations Act. A copy of the proposed Scheme is included in this Scheme Booklet as Annexure B.

A copy of this Scheme Booklet has been registered with ASIC for the purposes of section 412(6) of the Corporations Act. ASIC has been given the opportunity to comment on this Scheme Booklet in accordance with section 411(2)(b) of the Corporations Act. Neither ASIC nor any of its officers takes any responsibility for the contents of this Scheme Booklet.

ASIC has been requested to provide a statement, in accordance with section 411(17)(b) of the Corporations Act, that ASIC has no objection to the Scheme. If ASIC provides that statement, it will be produced to the Court at the time of the Second Court hearing to approve the Scheme.

A copy of this Scheme Booklet has been provided to ASX. Neither ASX nor any of its officers takes any responsibility for the contents of this Scheme Booklet.

### Notice of Scheme Meeting

The Notice of Scheme Meeting is set out in Annexure F.

### Notice of Second Court Hearing

At the Second Court Hearing, the Court will consider whether to approve the Scheme following the vote at the Scheme Meeting.

Any Midway Shareholder may appear at the Second Court Hearing, expected to be held at 2.15pm on 4 February 2025 at the Federal Court of Australia, 305 William Street, Melbourne.

Any Midway Shareholder who wishes to oppose approval of the Scheme at the Second Court Hearing may do so by filing with the Court and serving on Midway a notice of appearance in the prescribed form together with any affidavit that the Midway Shareholder proposes to rely on.

### Important notice associated with the Court order under section 411(1) of the Corporations Act

The fact that the Court has ordered under section 411(1) of the Corporations Act that the Scheme Meeting be convened and has directed that the Scheme Booklet accompany the Notice of Scheme Meeting does not mean that the Court:

- has formed any view as to the merits of the proposed Scheme or as to how Midway Shareholders should vote (on this matter Midway Shareholders must reach their own decision);
- has prepared, or is responsible for, the content of the Scheme Booklet; or
- has approved or will approve the terms of the Scheme.

The order of the Court that the Scheme Meeting be convened is not, and should not be treated as, an endorsement by the Court of, or any other expression of opinion by the Court on, the Scheme.

### Disclaimer as to forward-looking statements

This Scheme Booklet contains both historical and forward-looking statements. All statements other than statements of historical fact are, or may be deemed to be, forward-looking statements.

All forward-looking statements in this Scheme Booklet reflect views only as at the Last Practicable Date, and generally may be identified by the use of forward-looking words such as "believe", "aim", "expect", "anticipate", "intending", "foreseeing", "likely", "should", "planned", "may", "estimate", "potential", or other similar words. Similarly, statements that describe Midway's, or BidCo's objectives, plans, goals or expectations are or may be forward-looking statements.

The statements contained in this Scheme Booklet about the impact that the Scheme may have on the results of Midway's operations and the benefits and disadvantages anticipated to result from the Scheme, are also forward-looking statements.

These forward-looking statements involve known and unknown risks, uncertainties and other factors that may cause actual results, performance or achievements to differ materially from the anticipated results, performance or achievements, expressed, projected or implied by these forward-looking statements.

The operations and financial performance of Midway and BidCo are subject to various risks, including those summarised in this Scheme Booklet, which may be beyond the control of Midway and BidCo. Midway Shareholders should note that the historical financial performance of Midway is no assurance of future financial performance of Midway (whether the Scheme is implemented or not). Those risks and uncertainties include factors and risks specific to the industry in which Midway and BidCo operate as well as general economic conditions, prevailing exchange rates and interest rates and conditions in the financial markets. As a result, the actual results of operations and earnings of Midway following implementation of the Scheme, as well as the actual benefits of the Scheme, may differ significantly from those that are anticipated in respect of timing, amount or nature and may never be achieved.

Any forward-looking statements included in the Midway Information have been made on reasonable grounds. Although Midway believes that the views reflected in any forward-looking statements included in the Midway Information have been made on a reasonable basis, no assurance can be given that such views will prove to have been correct.

Any forward-looking statements included in the BidCo Information have been made on reasonable grounds. Although BidCo believes that the views reflected in any forward-looking statements included in the BidCo Information have been made on a reasonable basis, no assurance can be given that such views will prove to have been correct.

None of Midway, BidCo, Midway's officers, BidCo's officers, any persons named in this Scheme Booklet with their consent or any person involved in the preparation of this Scheme Booklet makes any representation or warranty (express or implied) as to the likelihood of fulfilment of any forward-looking statement, or any events or results expressed or implied in any forward-looking statement, except to the extent required by law. You are cautioned not to place undue reliance on any forward-looking statement.

You should review all of the information in this Scheme Booklet carefully. Section 1.4 sets out the reasons why you should vote in favour of the Scheme and Section 1.5 sets out the reasons why you may not wish to vote in favour of the Scheme.

All subsequent written and oral forward-looking statements attributable to Midway, BidCo or any persons acting on their behalf are qualified by this cautionary statement.

The forward looking statements in this Scheme Booklet reflect views held only at the Last Practicable Date. Additionally, statements of intention in this Scheme Booklet reflect present intentions as at the Last Practicable Date and may be subject to change.

Subject to any continuing obligations under relevant laws or the Listing Rules of ASX, Midway and BidCo do not give any undertaking to update or revise any such statements after the Last Practicable Date, to reflect any change in expectations in relation thereto or any change in events, conditions or circumstances on which any such statement is based.

#### **Timetable and dates**

All times and dates referred to in this Scheme Booklet are times and dates in Sydney, Australia, unless otherwise indicated. All times and dates relating to the implementation of the Scheme referred to in this Scheme Booklet may change and, among other things, are subject to any necessary approvals from Government Agencies.

#### **Effect of rounding**

A number of figures, amounts, percentages, prices, estimates, calculations of value and fractions in this Scheme Booklet, including in respect of the Scheme Consideration, are subject to the effect of rounding (unless otherwise stated).

Accordingly, the actual calculation of these figures may differ from the figures set out in this Scheme Booklet.

#### **No website is part of this Scheme Booklet**

Midway maintain a website at <https://www.midwaylimited.com.au>. Any references in this Scheme Booklet to that or other internet sites are for information purposes only and do not form part of this Scheme Booklet.

#### **Responsibility statement**

Midway has been solely responsible for preparing the Midway Information. None of BidCo or its Related Entities or their respective directors, officers or employees assumes any responsibility for the accuracy or completeness of any such Midway Information.

BidCo has been solely responsible for preparing the BidCo Information. The information concerning BidCo and the intentions, views and opinions of BidCo contained in this Scheme Booklet has been prepared by BidCo and is the responsibility of BidCo. None of Midway, its Related Entities and their respective directors, officers or employees assumes any responsibility or liability for the accuracy or completeness of any such BidCo Information.

BDO Corporate Finance Australia Pty Ltd has prepared the Independent Expert's Report in relation to the Scheme and takes responsibility for that report. The Independent Expert's Report is set out in Annexure A. None of Midway, BidCo or their respective directors, officers or employees or Related Entities assume any responsibility or liability for the accuracy or completeness of the Independent Expert's Report.

Computershare Investor Services Pty Limited has had no involvement in the preparation of any part of this Scheme Booklet other than being named as the Share Registry. Computershare Investor Services Pty Limited has not authorised or caused the issue of, and expressly disclaims and takes no responsibility for, any part of this Scheme Booklet.

No consenting party has withdrawn their consent to be named before the date of this Scheme Booklet.

#### **Supplementary information**

Midway Shareholders may contact Midway by contacting the designated telephone line on the cover of this Scheme Booklet. Midway may provide additional information after the date of this Scheme Booklet in accordance with Section 10.18 of this Scheme Booklet.

#### **Privacy**

Midway and BidCo may collect personal information in the process of implementing the Scheme. Such information may include the name, contact details and shareholdings of Midway Shareholders and the name of persons appointed by those persons to act as a proxy, attorney or corporate representative at the Scheme Meeting. The primary purpose of the collection of personal information is to assist Midway and BidCo to conduct the Scheme Meeting and implement the Scheme. Personal information of the type described above may be disclosed to the Share Registry, print and mail service providers, authorised securities brokers, Related Bodies Corporate of Midway and BidCo, and Midway, and BidCo's advisers and service providers. Midway Shareholders have certain rights to access personal information that has been collected. Midway Shareholders should contact the Share Registry in the first instance, if they wish to access their personal information. Midway Shareholders who appoint a named person to act as their proxy, attorney or corporate representative should ensure that they inform that person of these matters.

#### **Date of this Scheme Booklet**

This Scheme Booklet is dated 19 December 2024.

# Table of Contents

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## Contents

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	<b>Contents</b>	<b>1</b>
	<b>Important Dates for the Scheme</b>	<b>2</b>
	<b>Letter from the Chairman of Midway</b>	<b>5</b>
<b>1</b>	<b>Key considerations relevant to your vote</b>	<b>13</b>
<b>2</b>	<b>Frequently Asked Questions</b>	<b>25</b>
<b>3</b>	<b>Next Steps</b>	<b>47</b>
<b>4</b>	<b>How to Vote and How to make an Election</b>	<b>49</b>
<b>5</b>	<b>Overview and Key Steps</b>	<b>53</b>
<b>6</b>	<b>Information about Midway</b>	<b>66</b>
<b>7</b>	<b>Information about BidCo and the BidCo Group</b>	<b>79</b>
<b>8</b>	<b>Risks</b>	<b>100</b>
<b>9</b>	<b>Tax Implications of the Scheme</b>	<b>114</b>
<b>10</b>	<b>Additional Information</b>	<b>120</b>
<b>11</b>	<b>Glossary and Interpretation</b>	<b>137</b>
	<b>Annexure A - Independent Expert's Report</b>	<b>155</b>
	<b>Annexure B - Scheme of Arrangement</b>	
	<b>Annexure C - Deed Poll</b>	
	<b>Annexure D - RollCo Shareholders' Deed</b>	
	<b>Annexure E - RollCo Constitution</b>	
	<b>Annexure F - Notice of Scheme Meeting</b>	
	<b>Corporate Directory</b>	

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# Important Dates for --- the Scheme

## Important Dates for the Scheme

Event	Date and time
<p><b>First Court Date</b></p> <p>The date on which the Court made orders convening the Scheme Meeting.</p>	<p>Thursday, 19 December 2024</p>
<p><b>Election Time</b></p> <p>Last time and date by which Election Forms must be received by the Share Registry</p>	<p>7.00pm (AEDT) on Monday, 20 January 2025</p>
<p><b>Announcement of Election Results</b></p> <p>Election results to be announced to ASX, including an indication of whether the Scaleback Arrangements apply.</p>	<p>Wednesday, 22 January 2025</p>
<p><b>Announcement of Special Dividend</b> (if determined or declared)</p>	<p>Before 11:00am (AEDT) on Tuesday 28 January 2025.</p>
<p><b>Scheme Meeting Proxy Form deadline</b></p> <p>Latest time and date for receipt of Proxy Form (including those lodged online), powers of attorney and certificates of appointment of body corporate representatives (pursuant to section 250D of the Corporations Act) for the Scheme Meeting</p>	<p>11:00am Tuesday, 28 January 2025</p>
<p><b>Meeting Record Date</b></p> <p>Time and date for determining eligibility to vote at the Scheme Meeting</p>	<p>7.00pm (AEDT) Tuesday, 28 January 2025</p>
<p><b>Scheme Meeting</b></p> <p>The Scheme Meeting will be held as a physical meeting. Midway Shareholders or duly appointed proxies, attorneys or corporate representatives of Midway Shareholders can attend, participate and vote at the Scheme Meeting at the offices of KPMG, Level 36, Tower 2, Collins Square, 727 Collins Street, Melbourne VIC 3008.</p> <p>Full details of how to vote at the Scheme Meeting are set out in Section 4 and the Notice of Scheme Meeting set out in Annexure F to this Scheme Booklet.</p>	<p>11:00am (AEDT) Thursday 30 January 2025</p>

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<b>If the Scheme is approved by the Requisite Majorities of Midway Shareholders</b>	
<b>Second Court Date</b> Second Court Hearing to approve the Scheme	Tuesday, 4 February 2025
<b>Effective Date</b> This is the date on which the Court order approving the Scheme is lodged with ASIC, announced to ASX and the Scheme becomes Effective and binding on Midway Shareholders.  Midway Shares will be suspended from trading at the close of trading on the ASX on the Effective Date. If the Scheme proceeds, this will be the last day that Midway Shares will trade on the ASX.	Wednesday, 5 February 2025
<b>Special Dividend Record Date</b> If the Special Dividend is declared or determined, the date and time for determining entitlements to receive the Special Dividend. <sup>1</sup>	7.00pm (AEDT) Friday, 7 February 2025
<b>Scheme Record Date</b> Time and date for determining entitlements to Scheme Consideration	7.00pm (AEDT) Tuesday, 11 February 2025
<b>Implementation Date</b> The date on which the Scheme will be implemented and the Scheme Consideration will be provided to Midway Shareholders.  If determined, the Special Dividend is also expected to be paid on this date.	Tuesday 18 February 2025

All dates following the date of the Scheme Meeting are indicative only and, among other things, are subject to all necessary approvals from the Court. Any changes to the above timetable (which may include an earlier or later date for the Second Court Hearing) will be announced through ASX and notified on Midway's website at <https://www.midwaylimited.com.au/investor-centre/>.

Midway has the right to vary the timetable detailed above subject to the approval of such variation by BidCo, the Court, ASIC and ASX where required.

All references to time in this Scheme Booklet are references to Sydney, New South Wales time, unless otherwise stated. Any obligation to do an act by a specified time in an Australian time zone must be done at the corresponding time in any other jurisdiction.

Midway Shareholders who have elected to receive communications electronically will receive an email which contains instructions about how to download a copy of this Scheme Booklet, and to lodge their proxy vote online. The Scheme Booklet will also be available for viewing and downloading on the Midway website at <https://www.midwaylimited.com.au/investor-centre/>.

<sup>1</sup> The Midway Board currently intends to determine or declare the Special Dividend of up to \$0.3835 but this is subject to the determination of the Midway Board.

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Letter from the

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Chairman of

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Midway

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## Letter from the Chairman of Midway

### Dear fellow Midway Shareholder

On behalf of the Midway Board, I am pleased to present you with this Scheme Booklet for your consideration in relation to the proposed acquisition of Midway Limited by RCM BidCo Pty Ltd (**BidCo**), an entity owned and controlled by funds managed and advised by River Capital Pty Ltd. River Capital currently holds Midway Shares representing approximately 8.17% of Midway's total issued share capital.

### Background to the Scheme

On 14 November 2024, Midway announced that it had entered into a Scheme Implementation Deed with BidCo, under which, it is proposed that BidCo will acquire 100% of the issued shares in Midway (**Scheme Share(s)**) by way of a scheme of arrangement (**Scheme**). The Scheme will be subject to Midway Shareholder and Court approval, and certain other Conditions. Full details of the Scheme are set out in this Scheme Booklet.

This Scheme Booklet has been sent to you because you are a Midway Shareholder and are being asked to vote on the Scheme.

### Overview of Cash Consideration

If the Scheme is approved and implemented, Midway Shareholders (other than those who make a valid Election to receive any of the Scrip Consideration Options described below) will receive cash payments equal to \$1.19 in respect of each Midway Share (**Cash Payments**). The Cash Payments are expected to comprise:

- a partially franked special dividend of \$0.3835 for each Midway Share held as at the Special Dividend Record Date (**Special Dividend**); and
- cash consideration under the Scheme of \$1.19 per Scheme Share less the amount of any Special Dividend (**Cash Consideration**).<sup>2</sup>

The Cash Payments are expected to be provided as follows:

Cash Consideration	(\$/Midway Share)	Franking <sup>3</sup>
<b>Total Cash Payments</b>	<b>\$1.19</b>	
<i>comprising:</i>		
<b>Total Special Dividend<sup>1</sup></b>		
<b>Fully Franked Special Dividend<sup>1</sup></b>	<b>\$0.3009</b>	<b>Fully franked<sup>2</sup></b>
<b>Unfranked Special Dividend</b>	<b>\$0.0826</b>	<b>Unfranked</b>
<b>Balance paid by BidCo</b>	<b>\$0.8065</b>	
<b>[1] Subject to determination or a declaration by the Midway Board to pay the dividend.</b>		
<b>[2] Subject to availability of franking credits and based on the estimated franking balance prior to the Second Court Date.</b>		
<b>[3] Value of franking credits is subject to individual taxation circumstances</b>		

The Cash Payments represent:

- a premium of 56% to the closing price of Midway Shares of \$0.765 on 13 November 2024 (being the last day on which Midway Shares traded before the Scheme was announced); and
- an implied fully diluted equity value for Midway of approximately \$104 million<sup>3</sup>.

The Special Dividend is expected to be determined or declared by the Midway Board shortly prior to the Meeting Record Date and paid on the Implementation Date.

<sup>2</sup> The Midway Board has a discretion to declare or determine and pay the Special Dividend. It is currently expected that the Special Dividend will be publicly determined or declared shortly prior to the date of the Scheme Meeting Record Date. It is not anticipated that Midway will declare or pay any other dividend or distribution. If the Midway Board determines or declares that it will pay the Special Dividend, it will be required to be paid to Midway Shareholders on or before the Implementation Date. If the Midway Board does not determine or declare that it will pay the Special Dividend of \$0.3835 by the date that is two Business Days before the Second Court Date (or, if the Special Dividend becomes incapable of being declared or determined and paid), then BidCo may terminate the Scheme Implementation Deed.

<sup>3</sup> Based on total Midway Shares outstanding of 87,336,222 multiplied by \$1.19.

Any determination by the Midway Board to pay the Special Dividend will be subject to:

- the Scheme becoming Effective following approval by Midway Shareholders and the Court;
- sufficient availability of franking credits such that it will not result in the franking account of Midway being in deficit after the Special Dividend is paid;
- Midway having sufficient existing available cash or funds available, to fund the payment of the Special Dividend; and
- certain other conditions described in Section 5.4.

If the Midway Board does determine to pay a Special Dividend, to receive the Cash Payments (and any franking credits attached to the Special Dividend) you will need to hold your shares on the Special Dividend Record Date and the Scheme Record Date.

If a Special Dividend of \$0.3835 becomes incapable of being determined and paid, or is not determined by Midway by the date that is two Business Days before 8.00am on the Second Court Date, then (at the absolute discretion of BidCo):

- BidCo may elect to proceed with the Scheme and fund the entire amount of the Cash Consideration of \$1.19 per Scheme Share. In circumstances where no other dividend is declared and BidCo elects to proceed with the Scheme, shareholders will receive \$1.19 as Cash Consideration, and there will be no reduction in the amount of the Cash Consideration. If a dividend of less than the amount of the Special Dividend is declared and BidCo elects to proceed with the Scheme, Midway Shareholders will receive the amount of that dividend as well as the Cash Consideration of \$1.19 per Scheme Share less the amount of the dividend. In either case, the Cash Payments received by participating Midway Shareholders (other than those who make a valid Election to receive a Scrip Consideration Option) will be \$1.19; or
- BidCo may elect to terminate the Scheme Implementation Deed (in which case the Scheme will not proceed and Midway Shareholders will retain their Midway shares and not receive the \$1.19 Cash Payments<sup>4</sup>). In that event, Midway may also be required to pay BidCo a Break Fee of \$519,650. See Section 5.4 of this Scheme Booklet for more information on the Special Dividend and the amount of the Break Fee that may be payable in the event of termination of the Scheme Implementation Deed.

The extent to which any Special Dividend is franked will depend on the availability of franking credits but the Special Dividend is expected to be a partially franked dividend equivalent to the aggregate of approximately \$0.3009 per Midway Share fully franked and approximately \$0.0826 per Midway share unfranked<sup>5</sup>. Whether Midway Shareholders will be able to realise the full benefit of the franking credits will depend on their individual tax status, any Class Ruling issued by the ATO and their own specific circumstances. Midway Shareholders should seek professional taxation advice in this regard. For further information, see Section 9.

### Overview of the Scrip Consideration Options

As an alternative to receiving All Cash Consideration, Midway Shareholders (other than Ineligible Shareholders and persons who become Midway Shareholders after the Election Time) may elect (subject to certain limitations) to receive a Scrip Consideration Option under the Scheme. The Scrip Consideration Options gives eligible Midway Shareholders an opportunity to retain an ongoing interest in the Midway business.

In deciding whether to make an election for a Scrip Consideration Option, Midway Shareholders should note that the Independent Expert has concluded that the Scrip Consideration is deemed NOT fair.

If a Special Dividend is determined and paid, a Midway Shareholder who elects to receive a Scrip Consideration Option will also receive any Special Dividend that is paid by Midway in respect of each Midway Share held on the Special Dividend Record Date.

<sup>4</sup> BidCo has the right to terminate the Scheme Implementation Deed if a Special Dividend of \$0.3835 becomes incapable of being declared or determined, and paid, or if the Midway Board does not determine or declare that it will pay the Special Dividend by the date that is two Business Days before the Second Court Date.

<sup>5</sup> Subject to availability of franking credits and based on the estimated franking balance prior to the Second Court Date.

The Scrip Consideration Options comprise:

- **All Scrip Consideration:** for 100% of Scheme Shares held, unlisted scrip in the form of 1 Class B Share in RollCo, an unlisted public company, that holds all the shares of BidCo, for each Scheme Share held; or
- **Mixed Consideration:** for one of 25%, 50% and 75% of your Scheme Shares (as Elected by a Scheme Shareholder), unlisted scrip in the form of 1 Class B Share in RollCo for each Scheme Share to which the Election applies, and for the remaining Scheme Shares held by that Scheme Shareholder, the Cash Consideration.

Midway Shareholders who make a valid Election to receive a Scrip Consideration Option and receive Class B Shares will become subject to the RollCo Shareholders' Deed and be subject to the RollCo Constitution.<sup>6</sup>

The Scrip Consideration Options are subject to pro rata Scaleback Arrangements, which will apply if valid Elections made by Midway Shareholders would result in Midway Shareholders holding, in aggregate, more than 49.99% of the total issued capital of RollCo as at the Implementation Date. They are also subject to a Minimum Scrip Threshold so that if valid Elections to accept Class B Shares as Scheme Consideration (in aggregate), are less than 5% of the issued capital of RollCo then no Scrip Consideration will be issued and all Midway Shareholders who elected a Scrip Consideration Option as Scheme Consideration will receive Cash Consideration.

#### Default Consideration

The default form of consideration under the Scheme is the All Cash Consideration. A Midway Shareholder who does not make a valid Election by the Election Time (or who is an Ineligible Shareholder), will receive Cash Consideration. Persons who become Midway Shareholders after the Election Time and continue to remain Midway Shareholders as at the Scheme Record Date, will also receive Cash Consideration.

#### Risks of Electing the Scrip Consideration Options

*It is important to understand that any investment in unlisted Class B Shares would represent a fundamentally different investment than your current investment in Midway.*

You should form your own view as to whether you wish to make an Election to receive Scrip Consideration based on your own individual circumstances, financial situation, taxation position, investment objectives and risk profile.

Electing to receive a Scrip Consideration Option carries additional risks, including:

- lack of liquidity as there will be no public market for the trading of the Class B Shares post-implementation of the Scheme, nor is there expected to be any such market in the future;
- uncertainty as to the declaration of dividends as any dividends will be at the sole discretion of the RollCo Board (subject to the Corporations Act);
- the Independent Expert's Report and the views expressed in Annexure A, noting that the Independent Expert has calculated the value of a Class B Share to be in the range of \$0.99 and \$1.13 (inclusive of a Special Dividend of \$0.3835 for each Midway Share) on a minority interest basis and having regard to the lack of marketability of the Class B Shares. It is important to note that the Independent Expert has not valued each of the Scrip Consideration Options but has concluded that the Scrip Consideration is deemed NOT fair. There is no assurance that the future value of the Class B Shares will result in the value of a Scrip Consideration Option being equal to or higher than the value of the All Cash Consideration;
- Midway Shareholders who receive Class B Shares under the Scheme will become parties to the RollCo Shareholders' Deed which will govern the relationship between investors in RollCo and will be subject to RollCo's constitution;
- Midway Shareholders who receive Class B Shares will have those shares registered in the name of a custodian nominated by RollCo (being the Nominee) to hold as bare trustee for that Midway Shareholder (such that the Midway Shareholder will be the beneficial holder but not the legal holder of the relevant Class B Shares) in

<sup>6</sup> Please see Section 7.5(c) for a summary of the rights and obligations attaching to the Class B Shares under the RollCo Shareholders Deed

accordance with the terms of a custody agreement (being the Nominee Deed) as specified by RollCo;

- at any time after the first anniversary of the Implementation Date, the Investor Shareholders, or the RollCo Board, may require Class B Shareholders that hold a Small Holding (less than \$10,000) to dispose of that Small Holding at fair value. therefore, Class B Shareholders may be forced to sell their Class B shares at any time after then initial 12 month period (see page 91 of this Scheme Booklet);
- there is no guarantee that Class B Shareholders will be able to sell their Class B Shares if a decision to Exit is not made by the River Investors. In particular, there will be no active market for the sale and purchase of Class B Shares following implementation of the Scheme and there are restrictions, in the RollCo Shareholders' Deed, on the ability of Class B Shareholders to sell or transfer their Class B Shares other than in very limited circumstances (see page 110 of this Scheme Booklet);
- conversely, there is no guarantee that Class B Shareholders will want to sell their Class B Shares at the same time as a decision to Exit is made by the River Investors. Despite this, if a decision to Exit is made, Class B Shareholders may be forced to sell their Class B Shares under the RollCo Shareholders' Deed. Class B Shareholders may not agree with the Exit strategy adopted by RollCo or and may not receive the price and return on investment they expect (see page 110 of this Scheme Booklet).
- an investment in RollCo will not involve various protections which Midway Shareholders experience when investing in an ASX-listed company; and
- Midway Shareholders who receive shares in RollCo under the Scheme will be subject to risks inherent in minority shareholdings (as Midway Shareholders will collectively have no more than a 49.99% interest in RollCo).

Please refer to Section 7.5 of this Scheme Booklet which sets out a summary of the RollCo Shareholders' Deed and the rights and obligations attaching to Class B Shares and Section 8.4 of this Scheme Booklet which sets out some of the risks relating to RollCo and the Class B Shares.

#### Unanimous Directors' Recommendation

***The Midway Board unanimously recommends<sup>7</sup> that Midway Shareholders vote in favour of the Scheme in the absence of a Superior Proposal and subject to the Independent Expert continuing to conclude the Scheme to be in the best interests of Midway Shareholders.***

Subject to those same qualifications, **each Midway Director has stated that he or she intends to vote in favour** of the Scheme, for all Midway Shares held or controlled by each Midway Director.

Before deciding to make their recommendation, the Midway Board, together with Midway's advisers conducted a comprehensive evaluation of the Scheme as well as the alternative options available to Midway, including maintaining the status quo or pursuing other potential transactions. The Midway Directors believe that the Scheme represents the most attractive and certain option for Midway Shareholders to realise value for their Midway Shares.

The Midway Directors' unanimous recommendation that you vote in favour of the Scheme has been formed by reference to the quantum of the Cash Consideration only. The Midway Directors make no recommendation in relation to the Scrip Consideration Options, due to the speculative nature of the Class B Shares and the fact that whether the Class B Shares are appropriate will depend significantly on your individual circumstances, financial situation, taxation position, investment objectives and risk profile.

<sup>7</sup> Midway Shareholders should note that Midway's Managing Director and Chief Executive Officer, Mr Anthony (Tony) McKenna, will receive certain benefits in connection with the Scheme. These benefits have an aggregate value of \$2,084,655 and are comprised of: (i) the accelerated vesting and cash settling of Midway Performance Rights held by Mr McKenna, in the amount of \$1,562,310; (ii) cash settling of fully vested Midway Options in the amount of \$372,344; and (iii) a one-off Transaction Bonus of \$150,000. These benefits are discussed in further detail in sections 1.2 and 10.8(e) of this Scheme Booklet. Despite these benefits, Mr McKenna considers that given his role as Managing Director and Chief Executive Officer, it is important and appropriate for him to provide a recommendation to Midway Shareholders in relation to voting on the Scheme. Additionally, the other Midway Directors also consider that it is important and appropriate for Mr McKenna to provide a recommendation to Midway Shareholders in relation to the Scheme given his role in the management and operations of Midway.

The Midway Board was unanimous in its decision to recommend the Scheme, subject to the above qualifications, and notes that:

- the Cash Consideration of \$1.19 under the Scheme represents a premium of 56% to Midway's closing price of \$0.765 on 13 November 2024 (being the last day on which Midway Shares traded before the Scheme was announced);
- the Independent Expert has concluded that the Scheme is fair and reasonable on an All Cash Consideration basis and, therefore, is in the best interests of Midway Shareholders (in the absence of a Superior Proposal);
- if the Scheme is implemented, the Cash Consideration provides Midway Shareholders with certainty of value and the opportunity to immediately realise their investment for cash;
- the Special Dividend (if it is determined or declared, and paid) is likely to be partially franked (see above) which may provide those Midway Shareholders who are able to realise the benefit of the franking credits attached to the Special Dividend with an additional expected benefit;
- Midway's share price may fall, perhaps materially, in the near-term if the Scheme is not implemented and in the absence of a Superior Proposal;
- no Superior Proposal has emerged as at the Last Practicable Date and Midway Directors are not aware of any Superior Proposal that is likely to emerge; and
- brokerage charges will not apply to the transfer of your Midway Shares under the Scheme.

In forming their unanimous decision to recommend the Scheme to Midway Shareholders, subject to the qualifications above, the Midway Directors considered the potential disadvantages of the Scheme proceeding, including:

- you may disagree with the Midway Board's unanimous recommendation and the Independent Expert's conclusion and believe that the Scheme is not in your best interests;
- you may wish to maintain your direct investment in Midway as an ASX-listed company;
- you may believe it is in your best interests to maintain your current investment and risk profile;
- you may believe that there is potential for a Superior Proposal to emerge in the foreseeable future; and
- the tax consequences of the Scheme may not suit your individual position and circumstances.

Please see Sections 1.4 and 1.5 of this Scheme Booklet for further information as to the reasons why the Midway Directors unanimously recommend the Scheme to Midway Shareholders and reasons why you may not vote in favour of the Scheme.

#### **Additional considerations in relation to Mr Anthony (Tony) McKenna**

When considering the recommendation of the Midway Directors, Midway Shareholders should note that, that Midway's Managing Director and Chief Executive Officer, Mr Anthony (Tony) McKenna, will receive certain benefits in connection with the Scheme if the Scheme is implemented. These benefits have an aggregate value of \$2,084,655 and are comprised of: (i) the accelerated vesting and cash settling of Midway Performance Rights held by Mr McKenna, in the amount of \$1,562,310; (ii) cash settling of vested Midway Options held by Mr McKenna, in the amount of \$372,344; and (iii) a one-off Transaction Bonus of \$150,000. Despite these benefits, Mr McKenna considers that given his role as Managing Director and Chief Executive Officer, it is important and appropriate for him to provide a recommendation to Midway Shareholders in relation to voting on the Scheme. Additionally, the other Midway Directors also consider that it is important and appropriate for Mr McKenna to provide a recommendation to Midway Shareholders in relation to the Scheme given his role in the management and operations of Midway.

Performance Rights proposed to be issued to Mr McKenna as approved at Midway's 2024 AGM will not be issued if the Scheme proceeds.

Please see Section 1.2 and footnote 7 of this Scheme Booklet for more information in relation to Mr McKenna's recommendation and the benefits that Mr McKenna will receive should the Scheme be implemented.

## Major Shareholder Support

As at the Last Practicable Date, Chebmont Pty Ltd, which has a Relevant Interest in approximately 23.8% of Midway Shares has confirmed that it intends to vote all Midway Shares held or controlled by it in favour of the Scheme in the absence of a Superior Proposal and subject to the Independent Expert continuing to conclude that the Scheme is in the best interests of Midway Shareholders<sup>8</sup>.

Separately BidCo has the benefit of Voting Deeds entered into by Mr Gregory McCormack and his associated entities (together, **McCormack Entities**), representing approximately 11.2% of Midway Shares on issue pursuant to which the McCormack Entities have committed to voting in favour of the Scheme in the absence of a Superior Proposal and subject to the Independent Expert continuing to conclude that the Scheme is in the best interest of Midway Shareholders.

By reason of the Voting Deeds, BidCo and River Capital (which indirectly controls BidCo) have a Relevant Interest in approximately 11.2% of Midway Shares. This Relevant Interest is in addition to River Capital's direct holding of Midway Shares, representing approximately 8.17% of the issued Midway Shares.

## Independent Expert

Midway appointed BDO Corporate Finance Australia Pty Ltd as the Independent Expert to assess the merits of the Scheme.

The Independent Expert has concluded that the Scheme is fair and reasonable and in the best interests of Midway Shareholders, in the absence of a Superior Proposal.

The Independent Expert has concluded that the Cash Consideration of \$1.19 per Scheme Share is within its assessed valuation range of \$1.12 and \$1.32 for each Midway Share on a controlling interest and fully diluted basis.

The Independent Expert has reached this conclusion based on its valuation and assessment of the All Cash Consideration as the default consideration under the Scheme. As noted above, the Independent Expert has assessed the fair market value of the Scrip Consideration and has calculated the value of a Class B Share to be in the range of \$0.99 and \$1.13 (inclusive of a Special Dividend of \$0.3835 for each Midway Share) on a minority interest basis, which is below the value of the All Cash Consideration and accordingly the Scrip Consideration is deemed NOT fair.

A copy of the Independent Expert's Report is included in Annexure A of this Scheme Booklet.

## How to vote

Your vote is important and will determine the future ownership of Midway.

The Scheme can only be implemented if approved by the Requisite Majorities at the Scheme Meeting which is scheduled for 11:00am (AEDT) on Thursday 30 January 2025 at the offices of KPMG, Level 36, Tower 2, Collins Square, 727 Collins Street, Melbourne VIC 3008.

Midway Directors strongly encourage you to vote on this significant proposed transaction (and to vote in favour of it, in the absence of a Superior Proposal and subject to the Independent Expert continuing to conclude that the Scheme is in the best interests of Midway Shareholders).

You may vote on the Scheme Resolution by attending the Scheme Meeting in person. You can also vote on the Scheme by appointing a proxy, attorney or, if you are a body corporate, a duly appointed body corporate representative to attend the Scheme Meeting and vote on your behalf.

As noted above, River Capital currently holds Shares in Midway representing approximately 8.17% of Midway's total issued share capital. However, River Capital will not vote on the Scheme Resolution at the Scheme Meeting.

Please refer to Section 4 for information setting out how to participate in and vote at the

<sup>8</sup> Midway Directors, Nils Gunnensen and Tom Gunnensen are also directors of Chebmont Pty Ltd but have represented that they do not control, or have a Relevant Interest in the shares of, Chebmont Pty Ltd.



Scheme Meeting.

**Further Information**

Please read the Scheme Booklet carefully and in its entirety as it will assist you in making an informed decision on how to vote. I would also encourage you to seek independent financial, legal, stockbroking and taxation advice before making any investment decision in relation to your Midway Shares.

If you require any further information, please call the Shareholder Information Line on 1300 850 505 (within Australia) or +61 3 9415 4000 (outside Australia) between 8.30am and 5.00pm (AEDT) Monday to Friday.

On behalf of the Midway Board, I would like to take this opportunity to thank you for your continued support of Midway and I look forward to your participation at the Scheme Meeting.

Yours sincerely,



Gordon Davis  
Chairman  
Midway Limited

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# Key considerations

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## relevant to your vote

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# 1 Key considerations relevant to your vote

## 1.1 General

The purpose of this Scheme Booklet is to:

- explain the terms of the proposed Scheme;
- explain the manner in which the Scheme will be considered and implemented (if approved by the Requisite Majorities of Midway Shareholders and by the Court); and
- provide you with information as is prescribed or otherwise material to the decision of Midway Shareholders on whether or not to vote in favour of the Scheme Resolution.

This Scheme Booklet includes the explanatory statement required to be sent to Midway Shareholders in relation to the Scheme pursuant to section 412(1) of the Corporations Act.

The Scheme has a number of benefits and potential disadvantages that may affect Midway Shareholders in different ways depending on their individual circumstances. Midway Shareholders should seek professional advice on their particular circumstances, as appropriate.

Section 1.4 sets out the key reasons why the Midway Board unanimously recommends<sup>9</sup> that Midway Shareholders vote in favour of the Scheme in the absence of a Superior Proposal, subject to the Independent Expert continuing to conclude that the Scheme is in the best interests of Midway Shareholders. Section 1.5 sets out the reasons why Midway Shareholders may not support the Scheme and may consider voting against the Scheme. Other important considerations relevant to this recommendation are set out in Section 1.2 and footnote 7.

While the Midway Directors acknowledge the reasons to vote against the Scheme, they believe the benefits of the Scheme significantly outweigh the disadvantages.

You should read this Scheme Booklet in full, including the Independent Expert's Report, before deciding how to vote at the Scheme Meeting to be held at 11:00am Thursday 30 January 2025 at the offices of KPMG, Level 36, Tower 2, Collins Square, 727 Collins Street, Melbourne VIC 3008.

In considering the potential reasons for why you may consider voting against the Scheme, you should be aware that even if you do not vote, or vote against the Scheme, the Scheme may still be implemented if it is approved by the Requisite Majorities of Midway Shareholders and by the Court. If this occurs, your Midway Shares will be transferred to BidCo and you will receive the Scheme Consideration even though you voted against, or did not vote on, the Scheme.

River Capital will not vote at the Scheme Meeting. A confirmatory statement to that effect is made by the BidCo Group at Section 7.8.

## 1.2 Important Information concerning Directors' Recommendations

The Midway Directors unanimously recommend<sup>10</sup> that Midway Shareholders vote in favour of the Scheme, in the absence of a Superior Proposal and subject to the Independent Expert continuing to conclude that the Scheme is in the best interests of Midway Shareholders. Additionally, each Midway Director intends to vote the Midway Shares he or she controls in favour of the Scheme in the absence of a Superior Proposal and subject to the Independent Expert continuing to conclude that the Scheme is in the best interests of Midway Shareholders.

<sup>9</sup> In considering the voting recommendation of the Midway Directors, Midway Shareholders should note that Midway's Managing Director and Chief Executive Officer, Mr McKenna, will receive certain benefits in connection with the Scheme with an aggregate value of \$2,084,655. Midway Shareholders should refer to footnote 7 and Section 1.2 for further details.

<sup>10</sup> In relation to the unanimous recommendation of the Midway Directors, refer to footnote 7 and Section 1.2 for further details.

While all Midway Directors are making this recommendation, Midway Shareholders should consider this in light of the fact that, if the Scheme is implemented, the Managing Director and Chief Executive Officer of Midway, Mr Anthony McKenna, will receive additional benefits in the form of:

- accelerated vesting and cash settling of 973,006 Midway Performance Rights held by Mr McKenna for cash consideration of \$1,562,310;
- cash settling of 721,436 vested “in the money” Midway Options held by Mr McKenna for cash consideration of \$372,344; and
- a one-off Transaction Bonus of \$150,000,

for an aggregate payment of \$2,084,655.

Accordingly, Mr McKenna will be receiving a material benefit if the Scheme proceeds in the form of accelerated vesting and cash settling of his Midway Performance Rights and Midway Options, and payment of the Transaction Bonus.

The rationale for, and other information about, the Transaction Bonus and cash-settling of these Midway Rights and Midway Options held by Mr McKenna can be found in Sections 10.8(e) to 10.8(g) (inclusive). Midway Shareholders should also take into account that Mr McKenna will not receive the 607,644 Midway Performance Rights approved by Midway Shareholders at the Company’s 2024 AGM, if the Scheme is implemented.

The accelerated vesting of Mr McKenna’s outstanding Performance Rights as noted above will not reduce the Scheme Consideration payable to Scheme Shareholders.

The Midway Board (with Mr McKenna abstaining) has determined that Mr McKenna can, and should, if he wishes to do so, make a recommendation on the Scheme notwithstanding the nature of the additional benefit described above which will be received by him if the Scheme is implemented.

Shareholders should have regard to the Midway Rights held by Mr McKenna, as well as the potential for him to receive a Transaction Bonus as set out above, when considering his recommendation on the Scheme in respect of the Scheme Consideration, which appears throughout this Scheme Booklet.

Mr McKenna considers that it is appropriate for him, notwithstanding the nature of the additional benefit described above which he will receive, to make a recommendation on the Scheme in light of the importance of the Scheme and his role as Managing Director and Chief Executive Officer of Midway, and in assisting with the facilitation of the Transaction.

Shareholders should note that Midway Directors, Messrs Nils and Tom Gunnensen are also directors of Midway’s largest shareholder, Chebmont Pty Ltd. Chebmont Pty Ltd has confirmed to the Company that it intends to vote all Midway Shares held or controlled by it in favour of the Scheme in the absence of a Superior Proposal and subject to the Independent Expert continuing to conclude that the Scheme is in the best interest of Midway Shareholders.

Messrs Nils and Tom Gunnensen have confirmed to Midway that they do not own, control or otherwise hold a Relevant Interest in the Midway Shares held by Chebmont Pty Ltd.

### 1.3 Summary of key reasons why you might vote for or against the Scheme

#### (a) Reasons to vote in favour of the Scheme

- ✓ The Midway Directors unanimously recommend<sup>11</sup> that you vote in favour of the Scheme in the absence of a Superior Proposal and subject to the Independent Expert continuing to conclude that the Scheme is in the best interests of Midway Shareholders.
- ✓ The Independent Expert has concluded that the Cash Consideration of \$1.19 is fair and reasonable and in the best interests of Midway Shareholders in the absence of a Superior Proposal.

<sup>11</sup> In considering the voting recommendation of the Midway Directors, Midway Shareholders should note that Midway’s Managing Director and Chief Executive Officer, Mr McKenna, will receive certain benefits in connection with the Scheme with an aggregate value of \$2,084,655. Midway Shareholders should refer to footnote 7 and section 1.2 for further details.

- ✓ the Cash Consideration of \$1.19 per Midway Share under the Scheme represents a premium of 56% to the closing price for Midway Shares of \$0.765 on 13 November 2024 (being the last day on which Midway Shares traded before the Transaction was announced);
- ✓ The Cash Consideration provides Midway Shareholders with certainty of value and the opportunity to immediately realise their investment for cash, avoiding the uncertainties and risks associated with Midway's business and volatile market conditions.
- ✓ No Superior Proposal has emerged as at the Last Practicable Date.
- ✓ If the Midway Board decides to determine and pay the Special Dividend, eligible Midway Shareholders may be entitled to the additional benefit of franking credits attached to any Special Dividend, if any. Whether Midway Shareholders will be in a position to realise the full benefit of franking credits attached to any Special Dividend will depend on their tax status and specific circumstances. Midway Shareholders should seek professional taxation advice in this regard. Please see Section 9 for more information.
- ✓ The ability to make an Election to receive a Scrip Consideration Option<sup>12</sup> gives Midway Shareholders the opportunity to have continued ownership of Midway under River Capital's control.
- ✓ There are risks associated with being a listed company and Midway's share price may fall, perhaps materially, if the Scheme is not implemented.
- ✓ You will not incur any brokerage charges or stamp duty on the transfer of your Midway Shares if the Scheme proceeds.

(b) **Potential reasons to vote against the Scheme**

- ✗ You may disagree with the Midway Directors' unanimous recommendation and the Independent Expert's conclusion and believe that the Scheme is not in your best interests.
- ✗ You may wish to maintain a direct investment in Midway as an ASX listed company.
- ✗ You may believe it is in your best interests to maintain your current investment and risk profile.
- ✗ You may believe the tax consequences of the Scheme may not suit your interests.
- ✗ You may believe that there is potential for a Superior Proposal to be made in the foreseeable future.

## 1.4 Key reasons to vote in favour of the Scheme

The Midway Directors consider that the key reasons to vote in favour of the Scheme are as follows:

- (a) **The Midway Directors unanimously recommend<sup>13</sup> that you vote in FAVOUR of the Scheme, in the absence of a Superior Proposal and subject to the Independent Expert continuing to conclude that the Scheme is in the best interests of Midway Shareholders**

In reaching their recommendation, the Midway Directors have assessed the Scheme having regard to the reasons to vote in favour of, or against the Scheme, as set out in this Scheme Booklet. The Midway Directors believe the

<sup>12</sup> Midway Shareholders should note that the Independent Expert has concluded that the Scrip Consideration is deemed NOT fair.

<sup>13</sup> In considering the voting recommendation of the Midway Directors, Midway Shareholders should note that Midway's Managing Director and Chief Executive Officer, Mr McKenna, will receive certain benefits in connection with the Scheme with an aggregate value of \$2,084,655. Midway Shareholders should refer to footnote 7 and section 1.2 for further details.

Cash Consideration is compelling and provides Shareholders with certainty of value at an attractive price which may not be achieved if the Scheme does not proceed.

The Midway Directors have also considered the macroeconomic conditions and execution risks in achieving Midway's future plans when determining whether to recommend the Scheme.

The Midway Board has also undertaken an extensive and comprehensive process to reach this outcome, with the assistance of financial and legal advisers. This included an evaluation of Midway's strategic plan as an independent company and the various operational and execution risks inherent in achieving this strategic plan. The Midway Board also considered a number of other transactional alternatives, beginning in 2022, noting that:

- all of these were considered to be less favourable than the Cash Consideration; and
- no credible Third Party transaction alternatives (other than the Scheme) have since arisen.

In the absence of a Superior Proposal and subject to the Independent Expert continuing to conclude that, on an All Cash Consideration basis, the Scheme is in the best interests of Midway Shareholders, each Midway Director intends to vote, or procure the voting of, all Midway Shares held or controlled by them in favour of the Scheme.

The Midway Directors make no recommendation to Midway Shareholders in relation to the Scrip Consideration Options as an investment in RollCo involves risks that are materially different from, and in addition to, those risks that apply to their existing investment in Midway as an ASX listed company. The Independent Expert has also concluded that the Scrip Consideration is deemed NOT fair. Please see Section 8.4 for the risks associated with an investment in RollCo.

The Relevant Interests of Midway Directors in Midway Shares, including the Midway Rights held by Mr Anthony McKenna, Managing Director and Chief Executive Officer of Midway are set out in Sections 10.6 and 10.7. Midway Shareholders should have regard to these interests, particularly those of Mr McKenna, when considering the Midway Directors' recommendation in relation to the Scheme. Please see Section 10.8(e) for the cash amounts to be paid to Mr McKenna if the Scheme is implemented, and footnote 7 and Section 1.2 for further discussion in relation to Mr McKenna's recommendation.

(b) **The Independent Expert has concluded that, on an All Cash Consideration basis, the Scheme is fair and reasonable and consequently in the best interests of Midway Shareholders, in the absence of a Superior Proposal**

The Midway Board appointed BDO as the Independent Expert to prepare an Independent Expert's Report providing an opinion as to whether the Scheme is fair and reasonable and in the best interests of Midway Shareholders.

The Independent Expert has analysed Midway's business and, in light of this analysis, the Independent Expert has concluded that, based on a Midway Shareholder receiving their Scheme Consideration as All Cash Consideration, the Scheme is fair and reasonable and, therefore, is in the best interests of Midway Shareholders, in the absence of a Superior Proposal.

The Independent Expert has assessed the full underlying value of Midway at between \$1.12 and \$1.32 per Midway Share on a controlling and fully diluted interest basis. The Scheme Consideration that is received as Cash Consideration of \$1.19 cash per Midway Share is within this range.

The Independent Expert has not assessed the fair market value of each of the Scrip Consideration Options, however, has calculated the value of each Class B Share to be in the range of \$0.99 and \$1.13 (inclusive of a Special Dividend of \$0.3835 for each Midway Share) on a minority interest basis. The value of the Scrip Consideration Options is therefore less than the All Cash Consideration and the Independent Expert has concluded that the Scrip Consideration is deemed NOT fair.

The reasons why the Independent Expert reached these conclusions are set out in the Independent Expert's Report, a copy of which is included in Annexure A. The Midway Directors encourage you to read the Independent Expert's Report in its entirety.

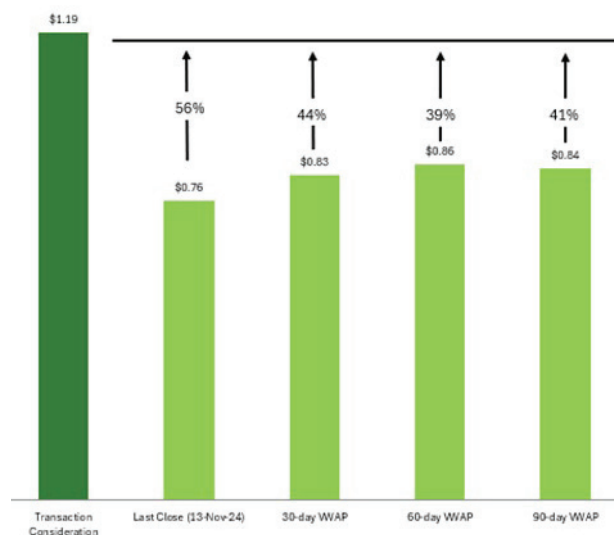
(c) **The value of the Cash Consideration represents a compelling premium to the undisturbed trading price of Midway Shares**

If the Scheme is implemented, Midway Shareholders (other than those who make a valid Election to receive Scrip Consideration) will receive \$1.19 in cash for each Midway Share, comprising:

- a partially franked dividend of up to \$0.3835<sup>14</sup> for each Midway Share they hold as at the Special Dividend Record Date; and
- the consideration under the Scheme, which will be \$1.19 per Midway Share held as at the Scheme Record Date, less the amount of any dividend that is declared or determined, and paid by Midway.

The Cash Consideration of \$1.19 per Midway Share under the Scheme represents a premium of 56% to the closing price for Midway Shares of \$0.765 on 13 November 2024 (being the last day on which Midway Shares traded before the Scheme was announced).

The Scheme Consideration implies a fully diluted equity value for the Midway Group of approximately \$104 million<sup>15</sup>.



Source: NAB Trade, management analysis.

(d) **Midway Shareholders who elect to receive the All-Cash Consideration will receive certainty of value and the opportunity to immediately realise their investment for cash, avoiding the uncertainties and risks associated with Midway's business**

If the Scheme is implemented, the All-Cash Consideration of \$1.19 cash per Midway Share provides certainty of value and liquidity for Midway Shareholders<sup>16</sup>.

In contrast, if the Scheme does not proceed, Midway Shares will continue to remain quoted on the ASX and will continue to be subject to market volatility, including general stock market movements, the impact of general economic conditions and the demand for listed securities. The price that Midway Shareholders will be able to realise for their Midway Shares will necessarily be

<sup>14</sup> Subject to determination or declaration by the Midway Board to pay the Special Dividend.

<sup>15</sup> Based on total Midway Shares outstanding of 87,337,222 multiplied by \$1.19.

<sup>16</sup> If the Midway Board does not declare or determine a Special Dividend of \$0.3835 (or becomes incapable of doing so) by the time that is 2 Business Days prior to 8.00am on the Second Court Date, BidCo may terminate the Scheme Implementation Deed and in that event the Scheme will not proceed. See Section 5.4 for more detail about the Special Dividend.

uncertain and subject to a number of other risks including those outlined in Section 8 of this Scheme Booklet. There is no guarantee that, in the foreseeable future (or otherwise), Midway Shareholders will be able to realise a price equal to, or greater than, the Cash Consideration of \$1.19 per Midway Share.

The Midway Directors, together with Midway's advisers have conducted a comprehensive evaluation of the proposal from BidCo as well as the alternative options available to Midway, including maintaining the status quo, pursuing other potential transactions and considering alternative strategies. The Midway Directors believe that the Scheme represents the most attractive and certain option for Midway Shareholders to realise value for their Midway Shares in the absence of a Superior Proposal.

(e) **No Superior Proposal has emerged as at the Last Practicable Date**

Since the proposed Scheme was announced and up until the Last Practicable Date, no Superior Proposal has emerged. The Midway Board is not aware, as at the date of this Scheme Booklet, of any Superior Proposal that is likely to emerge.

As set out in Section 10.10(c), under the Scheme Implementation Deed, Midway is bound by customary exclusivity obligations, including in relation to Competing Proposals.

Given the time elapsed since the Transaction was announced, the process followed by the Midway Board as summarised in Section 1.4(a), and the other factors set out above, Midway Shareholders should consider whether a Superior Proposal is likely to arise in the circumstances.

If a Superior Proposal is received, this will be announced to ASX, and the Midway Directors will carefully consider the proposal and advise Midway Shareholders of their recommendation (subject to the exclusivity provisions of the Scheme Implementation Deed). The Scheme Implementation Deed contains customary provisions that regulate the way in which Midway can respond to Competing Proposals, details of which are summarised in Section 10.10(c) of this Scheme Booklet.

(f) **If the Midway Board decides to determine and pay the Special Dividend, eligible Midway Shareholders may be entitled to the additional benefit of franking credits attached to any Special Dividend.**

Whether Midway Shareholders will be in a position to realise the full benefit of franking credits, if any, attached to any Special Dividend will depend on their tax status and specific circumstances. Midway Shareholders should seek professional taxation advice in this regard. See Section 9 for further information.

(g) **The option to receive either the All Cash Consideration or a Scrip Consideration Option (subject to the Scaleback Arrangements and Minimum Scrip Threshold) provides flexibility for Midway Shareholders (other than Ineligible Shareholders who will receive the Cash Consideration) who wish to sell and for those that wish to have an ongoing interest in the Midway business.**

The Scheme Consideration provides flexibility for Midway Shareholders (other than Ineligible Shareholders who will receive the Cash Consideration) to receive the Cash Consideration or elect to receive a Scrip Consideration Option, subject to the Scaleback Arrangements.

The Scrip Consideration Options provide Midway Shareholders who wish to stay invested in the Midway business over a longer term with an alternate option.

Midway Shareholders should carefully consider the risks associated with an investment in RollCo set out in Section 8.4, the information in relation to the Scrip Consideration Options outlined at Section 5.7 and the fact that the Independent Expert has concluded that the Scrip Consideration is deemed NOT fair.

For the reasons set out in Sections 1.4(a) and 5.7(a), the Midway Directors make no recommendation in relation to the Scrip Consideration Options.



- (h) **The Midway Share price will continue to be subject to market volatility and may fall, perhaps materially, if the Scheme is not implemented and in the absence of a Superior Proposal**

On the last undisturbed trading day prior to the announcement of BidCo and Midway's entry into the Scheme Implementation Deed, being 13 November 2024, Midway's share price was \$0.765. Since then, it has increased by \$0.4025 per Midway Share on the Last Practicable Date. The Midway Directors are unable to predict the price at which Midway Shares will trade in the future but consider that, if the Scheme is not implemented and a Superior Proposal is not forthcoming, the price of Midway Shares may fall.

- (i) **Brokerage charges will not apply to the transfer of your Midway Shares**

You will not incur any brokerage charges on the transfer of your Midway Shares to BidCo under the Scheme.

It is possible that such brokerage charges (and, potentially GST on those charges) would be incurred if you dispose of your Midway Shares other than under the Scheme.

## 1.5 Key reasons why you may not wish to vote in favour of the Scheme

Although the Scheme is recommended by the Midway Directors and the Independent Expert has concluded that the All Cash Consideration is fair and reasonable and, therefore, in the best interests of Midway Shareholders (in the absence of a Superior Proposal) factors which may lead you to consider voting against the Scheme include the following:

- (a) **You may disagree with the Midway Directors' recommendation and the Independent Expert's conclusion and believe that the Scheme is not in your best interests**

Despite the unanimous recommendation<sup>17</sup> of the Midway Directors to vote in favour of the Scheme and the conclusion of the Independent Expert that the Scheme is fair and reasonable and in the best interests of Midway Shareholders, you may believe that the Scheme is not in your best interests.

- (b) **You may prefer to participate in the future value of Midway as an ASX listed company by retaining your Midway Shares, and may consider that the Scheme does not sufficiently capture Midway's future potential**

You may wish to maintain your investment in Midway as an ASX listed company in order to have an investment in a publicly listed company with the specific characteristics of Midway including in terms of industry, operational profile, size, capital structure, liquidity and potential dividend payments.

Implementation of the Scheme may be considered a disadvantage by those who wish to maintain ASX listed securities in their investment profile. An overview of Midway's business as well as historical financial information about Midway are set out in Section 6 of this Scheme Booklet.

If the Scheme is implemented and you receive the All-Cash Consideration, you will no longer be a Midway Shareholder and will forgo any benefits that may result from being a Midway Shareholder.

This will mean that you will not participate in the future performance of Midway or retain any exposure to Midway's business or assets or have the potential to share in the value that could be generated by Midway in the future. However, there is no guarantee as to Midway's future performance, as is the case with all investments. You may also consider that it would be difficult to identify or invest in alternative investments that have a similar investment profile to that of Midway or may incur transaction costs in undertaking any new investment.

Alternatively, by electing to receive a Scrip Consideration Option, eligible Midway Shareholders can choose to invest in RollCo, a newly formed unlisted

<sup>17</sup> In considering the voting recommendation of the Midway Directors, Midway Shareholders should note that Midway's Managing Director and Chief Executive Officer, Mr McKenna, will receive certain benefits in connection with the Scheme with an aggregate value of \$2,084,655. Midway Shareholders should refer to footnote 7 and section 1.2 for further details.

public company controlled by River Capital. This will provide Midway Shareholders who elect to receive Scrip Consideration with an ongoing economic exposure to Midway if the Scheme is implemented. However, an investment in RollCo is not the same as an investment in Midway, and an investment in RollCo will have different characteristics (including with respect to your rights and the returns and liquidity profiles) than your current investment in Midway. In particular, an investment in RollCo will not involve various protections which shareholders experience when investing in an ASX listed company. You should also take into account that the Independent Expert has concluded that the Scrip Consideration is deemed NOT fair.

See Sections 4.6 and 5.7 for further information on the Scrip Consideration Options.

Midway Shareholders who are considering electing to receive Class B Shares should first read this Scheme Booklet carefully, including Sections 7 and 8, to ensure they understand the nature of the Class B Shares and their associated risks, and seek professional advice as to whether electing to receive Class B Shares suits their particular circumstances. Midway Shareholders who are considering electing to receive the Class B Shares should also be aware that they will be required to enter into the RollCo Shareholders Deed. The total percentage of issued capital in RollCo available to Midway Shareholders under the Scheme is capped at 49.99% in aggregate. Accordingly, River Capital will retain a controlling interest in RollCo.

(c) **You may believe that it is in your interests to maintain your current investment and risk profile by retaining your investment in Midway**

You may prefer to keep your Midway Shares to preserve your investment in an ASX listed company with the specific characteristics of Midway.

You may consider that, despite the risk factors relevant to Midway's potential future operations (including those set out in Section 8), Midway may be able to return greater value from its assets by remaining a standalone entity or by seeking alternative corporate transactions in the future.

Midway Shareholders who wish to maintain their investment profile may find it difficult to find an investment with a similar profile to that of Midway and they may incur transaction costs in undertaking any new investment.

(d) **You may believe that there is potential for a Superior Proposal to emerge**

It is possible that a more attractive proposal for Midway Shareholders could materialise in the future, such as a takeover bid with a higher offer price than the Scheme Consideration. However, since Midway's announcement of the entry into the Scheme Implementation Deed to the ASX on 14 November 2024 and as at the Last Practicable Date, no Superior Proposal has emerged, and the Midway Board is not currently aware of any Competing Proposal, nor are the Midway Directors aware of any intention of a party to make a Competing Proposal.

See Section 1.6(c) for further details.

(e) **The tax consequences of the Scheme may not be attractive to you**

The tax consequences of the Scheme will depend on your individual situation. If the Scheme is implemented, it may result in unfavourable taxation consequences for you.

A general guide to the taxation implications of the Scheme is set out in Section 9. Midway Shareholders should consider the information in Section 9 to be general in nature and should seek professional taxation advice regarding the tax consequences applicable to their own circumstances.

## 1.6 Other considerations relevant to your vote on the Scheme

You should also take into account the following additional considerations in deciding whether to vote in favour of, or against, the Scheme.

(a) **The Scheme may proceed and apply to you even if you vote against it**

If the Scheme Resolution is passed by the Requisite Majorities, is approved by the Court and all other conditions to the Scheme are either satisfied or (if permitted) waived, the Scheme will be implemented irrespective of whether you do not vote or you vote against the Scheme Resolution at the Scheme Meeting.

If this occurs, any Midway Shares you hold as at the Scheme Record Date will be transferred to BidCo and you will receive the Scheme Consideration in the form of the Cash Consideration (assuming you did not make a valid Election).

(b) **Conditionality of the Scheme and the Special Dividend**

If the Scheme is not approved by the Requisite Majorities at the Scheme Meeting and approved by the Court, or if all outstanding Conditions are not satisfied or (if permitted) waived, the Scheme will not become Effective and will not be implemented.

In addition, as noted at Section 5.4 below, BidCo has a right to terminate the Scheme Implementation Deed at any time prior to 8.00am on the Second Court Date if the Special Dividend of \$0.3835 per Midway Share: (a) becomes incapable of being declared or determined, and paid by Midway; or (b) has not been publicly declared or determined to be paid by Midway by no later than 2 Business Days prior to 8:00am on the Second Court Date.

If all Conditions are not satisfied or waived (where capable of waiver), or BidCo exercises its termination right, the Scheme will not become Effective and Midway Shareholders will not receive the Scheme Consideration and will retain their Midway Shares. Midway will then continue to operate as it does currently and Midway Shares will remain listed on ASX.

(c) **Exclusivity**

The Scheme Implementation Deed provides that Midway is subject to certain exclusivity obligations and restrictions, including no shop, no talk and no due diligence restrictions, and notification obligations during the Exclusivity Period. It also provides that BidCo has a matching right in respect of Competing Proposals.

Midway must not, directly or indirectly, solicit or encourage any Competing Proposal or any enquiries or discussions in relation to, or which may reasonably be expected to lead to, a Competing Proposal.

However, if the Midway Board determines that complying with no talk and no due diligence restrictions would be likely to constitute a breach of the fiduciary or statutory duties owed by the Midway Board, it need not do so, and in those circumstances, Midway would be permitted to respond to any Competing Proposal.

A Competing Proposal may arise without the assistance or engagement of the Midway Board.

Refer to Section 10.10 for further information.

(d) **Costs and Break Fee**

Midway has already incurred, and will incur, significant costs in respect of the proposal to implement the Scheme. These costs include negotiation with BidCo, retention of advisers, provision of information to BidCo, facilitating BidCo's access to due diligence, engagement of the Independent Expert and the preparation of this Scheme Booklet.

If the Scheme is implemented, these costs will effectively be met by BidCo as the ultimate controller of Midway following implementation of the Scheme. If the Scheme is not implemented and if no Superior Proposal emerges, Midway expects to incur total costs of approximately \$900,000 (excluding GST).

Under the Scheme Implementation Deed, Midway may become liable to pay the Break Fee to BidCo in certain circumstances. The quantum of the Break Fee depends on the circumstances relating to the termination of the Scheme Implementation Deed. Failure by Midway Shareholders to approve the Scheme at the Scheme Meeting will not trigger an obligation to pay the Midway Break Fee. Further details of the circumstances in which the Midway Break Fee may become payable to BidCo, and the quantum, are in Section 10.10(e).

## 1.7 What are your options and what should you do?

You have the following four options in relation to your Midway Shares. Midway encourages you to consider your personal risk profile, portfolio strategy, tax position and financial circumstances and seek professional advice before making any decision in relation to your Midway Shares.

### (a) **Vote in favour of the Scheme at the Scheme Meeting**

The Midway Directors unanimously recommend<sup>18</sup> that you vote in favour of the Scheme, in the absence of a Superior Proposal and subject to the Independent Expert continuing to conclude that the Scheme, based on the All Cash Consideration only, is in the best interests of Midway Shareholders. The reasons for the Midway Directors' unanimous recommendation are set out in Section 1.4.

If you wish to support the Scheme, you can do so by voting in favour of the Scheme Resolution at the Scheme Meeting. For directions on how to vote at the Scheme Meeting, and important voting information generally, please refer to Section 4 and the Notice of Scheme Meeting is contained in Annexure F.

### (b) **Vote against the Scheme at the Scheme Meeting**

If, despite the Midway Directors' unanimous recommendation and the conclusion of the Independent Expert, you do not support the Scheme, you may vote against the Scheme Resolution at the Scheme Meeting.

However, you should note that, if the Scheme is agreed to by the Requisite Majorities at the Scheme Meeting and approved by the Court, and all of the Conditions to the Scheme are satisfied or waived (where applicable), the Scheme will bind all Midway Shareholders, including those who vote against the Scheme Resolution at the Scheme Meeting or those who do not vote at all. In such circumstances, you will receive your Scheme Consideration in the form of the All Cash Consideration (assuming you did not make a valid Election for a Scrip Consideration Option).

### (c) **Sell your Midway Shares on ASX**

The Scheme does not preclude you from selling your Midway Shares on market for cash, if you wish, provided that you do so before close of trading in Midway Shares on ASX on the Effective Date when trading in Midway Shares on ASX will end.

If you are considering selling your Midway Shares on ASX you should have regard to the prevailing trading prices of Midway Shares at that time.

If you sell your Midway Shares on market for cash, you:

- will not be entitled to receive the Scheme Consideration;
- may incur a brokerage charge;
- may incur CGT; and
- will not be able to participate in a Superior Proposal, if one emerges, noting that at the Last Practicable Date, Midway has not received any Competing Proposals.

<sup>18</sup> In considering the voting recommendation of the Midway Directors, Midway Shareholders should note that Midway's Managing Director and Chief Executive Officer, Mr McKenna, will receive certain benefits in connection with the Scheme with an aggregate value of \$2,084,655. Midway Shareholders should refer to footnote 7 and section 1.2 for further details.

(d) **Do nothing**

If, despite the Midway Directors' unanimous recommendation<sup>19</sup> and the conclusion of the Independent Expert, you decide to do nothing, you should note that if all of the Conditions to the Scheme are satisfied or waived (where applicable), the Scheme will bind all Midway Shareholders, including those who vote against the Scheme Resolution at the Scheme Meeting or those who do not vote at all. In such circumstances, you will receive your Scheme Consideration in the form of All Cash Consideration (assuming you did not make a valid Election for a Scrip Consideration Option).

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<sup>19</sup> Refer to previous footnote (and footnote 7 and section 1.2) for further details.

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# Frequently --- Asked Questions

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## 2 Frequently asked questions

Question	Answer	More information
<b>Details of the Scheme</b>		
<b>Why have I received this Scheme Booklet?</b>	<p>This Scheme Booklet has been sent to you because you are a Midway Shareholder and you are being asked to vote on the Scheme.</p> <p>This Scheme Booklet is intended to help you to consider and decide on how to vote on the Scheme at the Scheme Meeting.</p> <p>You should read this Scheme Booklet carefully and, if necessary, consult your legal, tax, financial or other independent professional adviser before voting on the Scheme Resolution.</p>	See Cover Page and Important Notices.
<b>What is the Scheme?</b>	<p>The Scheme is a scheme of arrangement between Midway and Midway Shareholders at the Scheme Record Date. The Scheme will effect the acquisition of Midway by BidCo.</p> <p>A scheme of arrangement is a statutory procedure that is commonly used to enable one company to acquire another company. In addition to requiring Court approval, schemes of arrangement require a shareholder vote in favour of a resolution to implement the scheme of arrangement by the Requisite Majorities.</p>	Section 5 contains an overview of the Scheme and a copy of the Scheme is contained in Annexure B.
<b>What will be the effect of the Scheme?</b>	<p>If the Scheme is approved by the Requisite Majority of Midway Shareholders and by the Court:</p> <ul style="list-style-type: none"> <li>• all your Midway Shares will be transferred to BidCo;</li> <li>• in exchange, you will receive the Scheme Consideration for each Midway Share you hold as at the Scheme Record Date; and</li> <li>• Midway will become a wholly owned Subsidiary of BidCo and will be removed from the official list of ASX.</li> </ul>	Section 5.3.
<b>Overview of the Scheme Consideration</b>		
<b>What is the Scheme Consideration?</b>	<p>The Scheme Consideration refers to:</p> <ul style="list-style-type: none"> <li>• All Cash Consideration;</li> <li>• All Scrip Consideration</li> <li>• Mixed Consideration Option 1;</li> <li>• Mixed Consideration Option 2; or</li> <li>• Mixed Consideration Option 3,</li> </ul> <p>subject to the terms of the Scheme and the Election made by each Midway Shareholder.</p>	Sections 5.5, 5.6 and 5.7.

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Question	Answer	More information
<p><b>What is the Cash Consideration?</b></p>	<p>If the Scheme becomes Effective (unless you make a valid Election to receive Scrip Consideration), Midway Shareholders will receive the All Cash Consideration, which is \$1.19 in cash for each Midway Share held as at the Scheme Record Date less the amount of any Special Dividend.</p> <p>If Midway determines or declares the Special Dividend, then Midway Shareholders as at the Special Dividend Record Date will be entitled to receive the Special Dividend.</p> <p>Refer to the question 'What is the Special Dividend?' for further information relating to the Special Dividend</p>	<p>Sections 5.5 and 5.6.</p>
<p><b>What are the Scrip Consideration Options?</b></p>	<p>As an alternative to receiving the All Cash Consideration, eligible Midway Shareholders may make an Election to receive one of the following Scrip Consideration Options:</p> <ul style="list-style-type: none"> <li>• <u>All Scrip Consideration</u>: Scrip Consideration for each Scheme Share held by a Scheme Shareholder who has made this Election.</li> <li>• <u>Mixed Consideration Option 1</u>: Cash Consideration for each Scheme Share, in respect of 25% of the Scheme Shares, plus Scrip Consideration for each Scheme Share, in respect of the other 75% of the Scheme Shares, held by a Scheme Shareholder who has made this Election;</li> <li>• <u>Mixed Consideration Option 2</u>: Cash Consideration for each Scheme Share, in respect of 50% of the Scheme Shares, plus Scrip Consideration for each Scheme Share, in respect of the other 50% of the Scheme Shares, held by a Scheme Shareholder who has made this Election; or</li> <li>• <u>Mixed Consideration Option 3</u>: Cash Consideration for each Scheme Share, in respect of 75% of the Scheme Shares, plus Scrip Consideration for each Scheme Share, in respect of the other 25% of the Scheme Shares, held by a Scheme Shareholder who has made this Election.</li> </ul> <p>In each of the Scrip Consideration Options, the Scrip Consideration will be 1 Class B Share in RollCo per Scheme Share held on the Scheme Record Date subject to the Minimum Scrip Threshold, the Maximum Scrip Threshold and the operation of the pro rata Scaleback Arrangements if the Maximum Scrip Threshold is exceeded.</p>	<p>Sections 5.5 and 5.7.</p>

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Question	Answer	More information
<p><b>What should I be aware of if I make an Election to receive Scrip Consideration?</b></p>	<p>Importantly, Midway Shareholders should be aware that if they make a valid Election to receive Scrip Consideration:</p> <ul style="list-style-type: none"> <li>• the Independent Expert has concluded that the Scrip Consideration is deemed NOT fair;</li> <li>• they will face risks that apply to an investment in RollCo that are materially different from, and in addition to, those risks that apply to their existing investment in Midway, for example: <ul style="list-style-type: none"> <li>• at any time after the first anniversary of the Implementation Date, the Investor Shareholders or the RollCo Board may require Class B Shareholders that hold a Small Holding (less than \$10,000) to dispose of that Small Holding at fair value. therefore, Class B Shareholders may be forced to sell their Class B shares at any time after then initial 12 month period;</li> <li>• there is no guarantee that Class B Shareholders will be able to sell their Class B Shares if a decision to Exit is not made by the River Investors. In particular, there will be no active market for the sale and purchase of Class B Shares following implementation of the Scheme and there are restrictions, in the RollCo Shareholders' Deed, on the ability of Class B Shareholders to sell or transfer their Class B Shares other than in very limited circumstances; and</li> <li>• conversely, there is no guarantee that Class B Shareholders will want to sell their Class B Shares at the same time as a decision to Exit is made by the River Investors. Despite this, if a decision to Exit is made, Class B Shareholders may be forced to sell their Class B Shares under the RollCo Shareholders' Deed. Class B Shareholders may not agree with the exit strategy adopted by RollCo or and may not receive the price and return on investment they expect.</li> </ul> </li> <li>• lack of liquidity as there will be no public market for the trading of the Class B Shares post-implementation of the Scheme, nor is there expected to be any such market in the future;</li> <li>• uncertainty as to the declaration of dividends as any dividends will be at the sole discretion of the RollCo Board (subject to the Corporations Act) and the RollCo Board retains the ability to declare dividends to one share class and not another;</li> <li>• Midway Shareholders who receive Class B Shares under the Scheme will become parties to the RollCo Shareholders' Deed which will govern the relationship between investors in RollCo and will be subject to RollCo's constitution;</li> <li>• an investment in RollCo will not involve various protections which Midway Shareholders experience when investing in an ASX-listed company; and</li> <li>• Midway Shareholders who receive Class B</li> </ul>	<ul style="list-style-type: none"> <li>• The Independent Expert's Report is attached as Annexure A</li> <li>• Section 7.5(c) sets out a summary of the RollCo Shareholders' Deed and the rights attaching to Class B Shares.</li> <li>• Section 8.4 sets out a summary of the key risks attaching to Class B Shares.</li> <li>• A copy of the RollCo Shareholders Deed is attached at Annexure D and a copy of RollCo's Constitution is attached an Annexure E.</li> </ul>

Question	Answer	More information
	<p>Shares in RollCo under the Scheme will be subject to risks inherent in minority shareholdings (as Midway Shareholders will collectively have no more than a 49.99% interest in RollCo).</p> <p>Midway Shareholders should carefully read Section 8.4 for additional information on some of the risks associated with an investment in RollCo and consider obtaining appropriate professional advice before making any Election to receive Scrip Consideration.</p>	
<p><b>What is the Minimum Scrip Threshold?</b></p>	<p>The Scrip Consideration will only be available to Scheme Shareholders if the Minimum Scrip Threshold is satisfied. That is, if Elections received under the Scheme would result in Midway Shareholders holding, in aggregate, at least 5% of the total issued capital of RollCo as at the Implementation Date or a lesser percentage notified by BidCo to Midway at least five Business Days before the Scheme Meeting.</p> <p>If the Minimum Scrip Threshold is not satisfied, all Scheme Shareholders, including those who have made valid Elections to receive Scrip Consideration, will receive the Cash Consideration in respect of their Scheme Shares.</p>	<p>Section 5.7(b).</p>
<p><b>What is the Maximum Scrip Threshold and the Scaleback Arrangements?</b></p>	<p>The Scaleback Arrangements set out in the Scheme will apply if valid Elections to receive a Scrip Consideration Option made by eligible Midway Shareholders would result in Midway Shareholders holding, in aggregate, more than 49.99% of the total issued capital of RollCo as at the Implementation Date. This is the Maximum Scrip Threshold.</p> <p>If the Maximum Scrip Threshold is exceeded, each Scheme Shareholder who makes a Valid Election to receive Scrip Consideration will receive the number of Class B Shares as Scrip Consideration as reduced by the pro rata Scaleback Arrangements, with the balance of the Election being satisfied by way of Cash Consideration.</p>	<p>Section 5.7(b).</p>
<p><b>When will I find out if the Minimum Scrip Threshold has been met and if the Scaleback Arrangements applies?</b></p>	<p>Midway will announce the indicative results of the Election process to the ASX, including an indication of whether the Minimum Scrip Threshold has been met, the Maximum Scrip Threshold has been exceeded and whether the Scaleback Arrangements apply.</p> <p>The announcement is currently expected to be made on Wednesday, 22 January 2025.</p> <p>The final results of the Election process will only be made available after the Scheme Record Date. If the final results differ from the results in the indicative announcement, Midway will release an update to the ASX.</p>	<p>Section 4.6.</p>
<p><b>Do I need to make an Election to receive the Cash Consideration?</b></p>	<p>No.</p> <p>If the Scheme is approved and implemented, Midway Shareholders will automatically receive All Cash</p>	<p>Section 4.6.</p>

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Question	Answer	More information
	<p>Consideration unless they have made a valid Election to receive a Scrip Consideration Option.</p>	
<p><b>How do I make an Election to receive a Scrip Consideration Option?</b></p>	<p>If you are an eligible Midway Shareholder and wish to elect to receive a Scrip Consideration Option, you need to complete an Election Form in accordance with the instructions set out in the Election Form and return it to the Share Registry by the Election Time, currently expected to be 7.00pm (AEDT) on Monday, 20 January 2025.</p> <p>If you have not received an Election Form or need a new Election Form, you can request a form by contacting the Midway Shareholder Information Line on 1300 850 505 (within Australia) or +61 3 9415 4000 (outside Australia) between 8:00am to 5:00pm (AEDT) Monday to Friday (excluding public holidays).</p> <p>Midway will announce the indicative results of the Election process to the ASX, including an indication of whether the Scaleback Arrangements applies.</p> <p>The announcement is currently expected to be made on 22 January 2025.</p>	<p>Section 4.6.</p>
<p><b>If I make an Election, can I later withdraw or change it?</b></p>	<p>Yes.</p> <p>You may subsequently withdraw and amend your Election by completing and returning an Election Withdrawal/Amendment Form in accordance with the instructions on the Election Withdrawal/Amendment Form by no later than the Election Time (expected to be 7.00pm (AEDT) on Monday, 20 January 2025).</p> <p>Where a Midway Shareholder returns more than one Election Form or Election Withdrawal/Amendment Form, the last valid form received by the Share Registry before the Election Time will be treated as final and used to determine your Election (or withdrawal or amendment (as applicable)).</p>	<p>Section 4.6.</p>
<p><b>How do I make separate Elections if I hold one or more parcels of Midway Shares as trustee, nominee or otherwise on account of another person?</b></p>	<p>If you hold one or more parcels of Midway Shares as trustee or nominee for, or otherwise on account of, another person who is eligible to make an Election, you may establish separate and distinct holdings for each of your beneficiaries and make individual Elections for each holding (and for the purpose of calculating the Scheme Consideration to which you are entitled, each such parcel of Midway Shares will be treated as though it were held by a separate Midway Shareholder). However, you may not accept instructions from a beneficiary to make an Election unless it is in respect of all parcels of Midway Shares held by you on behalf of that beneficiary.</p>	<p>Section 4.6.</p>
<p><b>What if I do not make an Election in time or if the Election is not a valid Election?</b></p>	<p>If you do not make a valid Election, or your Election is not received by the Share Registry by the Election Time, you will receive All Cash Consideration for all of your Scheme Shares.</p> <p>If you are an Ineligible Shareholder or become a Midway Shareholder after the Election Time, you will receive All Cash Consideration for all of your Scheme Shares.</p>	<p>Section 4.6 and 5.12.</p>

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Question	Answer	More information
<p><b>How will fractional entitlements be treated?</b></p>	<p>Any entitlement of an eligible Midway Shareholder under the Scheme to be provided with a fraction of a RollCo Share will be:</p> <ul style="list-style-type: none"> <li>• rounded up to the nearest whole number if the entitlement is to half a RollCo Share or more; and</li> <li>• rounded down to the nearest whole number if the entitlement is to less than half a RollCo Share.</li> </ul> <p>Any entitlement of a Midway Shareholder under the Scheme to be provided with a fraction of a cent will be:</p> <ul style="list-style-type: none"> <li>• rounded up to the nearest whole cent if the entitlement is to half a cent or more; and</li> <li>• rounded down to the nearest whole cent if the entitlement is to less than half a cent.</li> </ul>	<p>Section 5.11.</p>
<p><b>Who is an Ineligible Shareholder?</b></p>	<p>If your Registered Address, as shown in the Midway Share Register as at the Scheme Record Date, is a place outside Australia, you will be an Ineligible Shareholder.</p> <p>If you are a Midway Shareholder whose Registered Address as shown in the Midway Share Register is a place outside Australia and wish to receive one of the Scrip Consideration Options, you should contact the Midway Shareholder Information Line on 1300 850 505 (within Australia) or +61 9415 4000 (outside Australia) to enquire as to whether you may be an eligible Midway Shareholder.</p>	<p>Section 5.8(c).</p>
<p><b>How will an Ineligible Shareholder be treated under the Scheme?</b></p>	<p>If you are an Ineligible Shareholder, you will not be entitled to make an Election to receive a Scrip Consideration Option.</p> <p>If you make an Election to receive a Scrip Consideration Options, your Election will be invalid and have no effect, and you will receive the All Cash Consideration for all of your Midway Shares held on the Scheme Record Date if the Scheme becomes Effective. All Ineligible Shareholders will receive the All Cash Consideration in respect of all of their Midway Shares held on the Scheme Record Date if the Scheme becomes Effective.</p> <p>If you are an Ineligible Shareholder, you will also receive any Special Dividend that may be declared or determined, and paid by Midway in respect of each Midway Share you hold as at the Special Dividend Record Date.</p> <p>If you are an Ineligible Shareholder and wish to receive one of the Scrip Consideration Options, you should contact the Midway Shareholder Information Line on 1300 850 505 (within Australia) or +61 3 9415 4000 (outside Australia) to enquire as to whether you may be an eligible Midway Shareholder.</p>	<p>Section 5.12.</p>

Question	Answer	More information
<p><b>When will I receive the Special Dividend and the Scheme Consideration?</b></p>	<p>If the Scheme is approved and implemented, the Scheme Consideration and Special Dividend (if any) will be received as follows:</p> <ul style="list-style-type: none"> <li>• Midway Shareholders on the Register on the Scheme Record Date will be sent and/or issued (as applicable) the Scheme Consideration on the Implementation Date; and</li> <li>• if a Special Dividend is determined and paid by the Midway Board, Midway Shareholders on the Register on the Special Dividend Record Date are expected to be sent or have paid to them the Special Dividend on the Implementation Date.</li> </ul> <p>If the Scheme is not approved by the requisite majorities of Midway Shareholders or the Court, the Special Dividend (and the Scheme Consideration) will not be provided.</p> <p>If the Midway Board does not determine or declare a Special Dividend of \$0.3835 by that date that is 2 Business Days prior to 8.00am on the Second Court Date (or becomes incapable of doing so), BidCo may terminate the Scheme Implementation Deed and in that event, the Scheme will not proceed.</p>	<p>Sections 5.4, 5.8 and 5.13(f) set out details related to the expected payment of the Scheme Consideration and the Special Dividend.</p>
<p><b>How will I be paid the Cash Consideration?</b></p>	<p>Scheme Shareholders who have validly registered their bank account details with the Share Registry before the Scheme Record Date may have their Cash Consideration sent directly to their bank account.</p> <p>Otherwise, Scheme Shareholders will have their Cash Consideration sent by cheque in Australian dollars to their address shown on the Midway Share Register, unless their address is in New Zealand in which case payment will be held until a valid bank account has been nominated.</p> <p>You can review and update your bank account details online by visiting <a href="http://www.computershare.com.au">www.computershare.com.au</a> and logging into the Investor Centre. You will need an account (or establish an account) to do this.</p>	<p>Section 5.8(a).</p>
<p><b>Will I have to pay brokerage?</b></p>	<p>You will not have to pay brokerage on the transfer of your Midway Shares to BidCo under the Scheme.</p>	<p>Section 1.4(i).</p>
<p><b>What are the tax implications of the Scheme for me?</b></p>	<p>If the Scheme becomes Effective, there will be tax consequences for Scheme Shareholders which may include tax being payable on any gain or disposal of Midway Shares and tax being payable in respect of the Special Dividend (with the possibility of a franking offset being available).</p> <p>For further information about the general Australian tax consequences of the Scheme and the Special Dividend for certain Midway Shareholders, see Section 9. The tax treatment may vary depending on the nature and characteristics of each Midway Shareholder and that Midway Shareholder's specific circumstances. Midway Shareholders should seek independent professional advice based on their particular circumstances.</p> <p>Midway has applied to the ATO requesting the Class Ruling to confirm the key taxation implications of the</p>	<p>Section 9 contains further details.</p>

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Question	Answer	More information
	<p>Scheme and any Special Dividend.</p> <p>The Class Ruling has not been finalised as at the Last Practicable Date. Midway anticipates that the ATO will provide a draft of the Class Ruling prior to the Scheme becoming Effective. Midway will make an announcement to the ASX if it receives a draft of the Class Ruling before the Scheme Meeting.</p> <p>When the final Class Ruling is published by the ATO, it will be available on the ATO's website at <a href="http://www.ato.gov.au">www.ato.gov.au</a>.</p>	
<b>Special Dividend</b>		
<p><b>What is the Special Dividend?</b></p>	<p>The Special Dividend is a partially franked cash dividend in the amount of \$0.3835 per Midway Share held by a Midway Shareholder on the Special Dividend Record Date that the Midway Board expects to determine and pay.</p> <p>The Midway Board currently expects to determine and pay the Special Dividend of \$0.385 per Midway Share. If the Special Dividend is determined and paid, it will result in franking credits equivalent to the aggregate of approximately \$0.3009 per Midway Share fully franked and approximately \$0.0826 per Midway share unfranked<sup>20</sup>. Whether Midway Shareholders will be able to realise the full benefit of the franking credits will depend on their individual tax status and specific circumstances. Midway Shareholders should seek professional taxation advice in this regard.</p> <p>If the Midway Board decides to pay the Special Dividend, payment of such Special Dividend will be conditional on the Scheme becoming Effective.</p> <p>It is important to note that the Special Dividend does not represent an additional payment over and above the Scheme Consideration. If the Midway Board decides to pay the Special Dividend, the Scheme Consideration provided to Midway Shareholders on the Implementation Date will be reduced by the cash amount of the Special Dividend per Midway Share held on the Special Dividend Record Date.</p>	<p>Letter from the Chairman and Section 5.4.</p>
<p><b>Will I definitely receive the Special Dividend?</b></p>	<p>No. There is no guarantee that a Special Dividend will be paid. The Midway Board has a discretion whether to pay the Special Dividend. However, the Midway Board currently expects to determine and pay the Special Dividend of \$0.3835 per Midway Share.</p> <p>If the Midway Board does not determine a Special Dividend by the date that is two Business Days prior to 8.00am on the Second Court Date, BidCo may terminate the Scheme Implementation Deed and in that event the Scheme will not proceed.</p>	<p>Section 5.4.</p>

<sup>20</sup> Subject to availability of franking credits and based on the estimated franking balance prior to the Second Court Date for the Scheme.

Question	Answer	More information
<p><b>If I receive the Special Dividend and the Cash Consideration, how much will I receive?</b></p>	<p>If you receive the Special Dividend and the Cash Consideration you will receive total Cash Payments of \$1.19 for each Midway Share you hold.</p>	<p>Sections 5.4 and 5.6.</p>
<p><b>What happens if a Special Dividend of \$0.3835 is not determined and paid?</b></p>	<p>If a Special Dividend of \$0.3835 is not determined by Midway (including if Midway determines a Special Dividend of less than \$0.3835 per Midway Share) then BidCo may terminate the Scheme Implementation Deed (in which case the Scheme will not proceed and Midway Shareholders will not receive any Scheme Consideration).</p>	<p>Section 5.4.</p>
<p><b>What is the ATO Class Ruling?</b></p>	<p>Midway has applied to the ATO requesting a Class Ruling to confirm the key taxation implications of the Scheme and that the impact of any Special Dividend that may be declared or determined, and paid by Midway on Midway Shareholders is in accordance with the general description in this Scheme Booklet.</p> <p>The Class Ruling has not been finalised as at the Last Practicable Date. The expected taxation implications for Midway Shareholders are summarised in Section 9. The Scheme is not conditional on the receipt of the Class Ruling.</p>	<p>Section 9.</p>
<p><b>Will I receive the Special Dividend if I make a valid Election to receive Scrip Consideration?</b></p>	<p>Yes. If a Special Dividend is declared or determined, and paid, a Midway Shareholder who elects to receive Scrip Consideration will also receive any Special Dividend in respect of each Midway Share held by that Midway Shareholder on the Special Dividend Record Date.</p>	<p>Section 5.4.</p>
<p><b>When will I know if Midway has decided to declare or determine, and pay a Special Dividend and, if so, what the amount of the Special Dividend will be?</b></p>	<p>Before the date of the Scheme Meeting the decision of the Midway Board to declare or determine the Special Dividend will be communicated to Midway Shareholders by way of an ASX announcement.</p> <p>The amount of the Special Dividend provided for in the Scheme Implementation Deed is \$0.3835.</p>	<p>Section 5.4(e).</p>
<p><b>Am I eligible to receive the Special Dividend?</b></p>	<p>If the Midway Board decides to declare and pay the Special Dividend, and if you hold Midway Shares on the Special Dividend Record Date, you will be eligible to receive the Special Dividend in respect of each Midway Share held by you on that date.</p>	<p>Section 5.4.</p>

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Question	Answer	More information
<p><b>When will I receive the Special Dividend?</b></p>	<p>If the Midway Board declares the Special Dividend, the Scheme Implementation Deed requires that the Special Dividend must be paid by no later than the Implementation Date.</p> <p>Payment of the Special Dividend will be conditional, among other things, on the Scheme becoming Effective.</p>	<p>Section 5.4.</p>
<p><b>Will the Special Dividend be franked?</b></p>	<p>If the Midway Board decides to declare or determine, and pay, the Special Dividend it is expected that the Special Dividend will be partially franked.</p> <p>This means that, assuming a partially franked Special Dividend of \$0.3835 is declared or determined, and paid, depending on the tax status and individual circumstances of each Midway Shareholder, each Midway Shareholder on the Midway Share Register on the Special Dividend Record Date may also receive franking credits in respect of approximately \$0.3009 per Midway Share fully franked and approximately \$0.0826 per Midway share unfranked.</p> <p>Midway Shareholders should read and consider Section 9 in relation to possible taxation implications of the Scheme and obtain professional or taxation advice applicable to their individual circumstances.</p>	<p>Section 5.4.</p>
<p><b>How will Midway fund the Special Dividend (if determined)?</b></p>	<p>Midway intends to fund the payment of the Special Dividend by drawing on its current cash and retained earnings and may have access to its working capital facility to assist with working capital, subject to certain constraints under the Scheme Implementation Deed</p>	<p>Section 5.4.</p>
<p><b>Voting recommendations and considerations</b></p>		
<p><b>What do the Midway Directors recommend and how do they intend to vote?</b></p>	<p>The Midway Directors have carefully considered the benefits and disadvantages of the Scheme and unanimously recommend<sup>21</sup> that you vote in favour of the Scheme, in the absence of a Superior Proposal and subject to the Independent Expert continuing to conclude that the Scheme is in the best interests of Midway Shareholders.</p> <p>The Midway Board's unanimous recommendation is based on the quantum of the Cash Consideration. The Midway Board makes no recommendation in relation to the Scrip Consideration due to the speculative nature of the Class B Shares and the fact that whether the Scrip Consideration Options are appropriate will depend significantly on the characteristics and risk profile of the individual Midway Shareholder.</p>	<p>Section 1.2 and footnote 7 sets out important information relating to the Directors' Recommendations.</p> <p>Section 1.4 provides a summary of some of the reasons why the Midway Board considers that Midway Shareholders should vote in favour of the Scheme.</p> <p>Sections 10.6 and 10.7 set out the interests of Midway Directors in Midway.</p> <p>Section 10.8(e) also sets additional</p>

<sup>21</sup> In considering the voting recommendation of the Midway Directors, Midway Shareholders should note that Midway's Managing Director and Chief Executive Officer, Mr McKenna, will receive certain benefits in connection with the Scheme with an aggregate value of \$2,084,655. Midway Shareholders should refer to footnote 7 and section 1.2 for further details.



Question	Answer	More information
		<p>benefits being received by Mr Anthony McKenna in connection with the Scheme.</p>
<p><b>Do the Midway Directors have any specific views or recommendations for Midway Shareholders on the Scrip Consideration Options?</b></p>	<p>No.</p> <p>The default form of consideration under the Scheme is the All Cash Consideration which provides Midway Shareholders with the opportunity to receive the Cash Consideration of \$1.19 per Scheme Share for all of their Scheme Shares. The Midway Directors recommendation<sup>22</sup> that you approve the Scheme by voting in favour of the Scheme Resolution has been formed by reference to the quantum of the All Cash Consideration.</p> <p>The Midway Directors make no recommendation in relation to any of the Scrip Consideration Options, due to the speculative nature of the Class B Shares and the fact that whether the Scrip Considerations Options are appropriate will depend significantly on the characteristics and risk profile of the individual Midway Shareholder.</p> <p>Eligible Midway Shareholders who are considering making an Election to receive a Scrip Consideration Option should:</p> <ul style="list-style-type: none"> <li>• consider that the Independent Expert has concluded that the Scrip Consideration is deemed NOT fair;</li> <li>• take into account that the Class B Shares would be subject to the rights and restrictions set out in the RollCo Shareholders' Deed and the RollCo Constitution, copies of which are set out in Annexure D and Annexure E, respectively, and described in Section 7.5(c) of this Scheme Booklet;</li> <li>• carefully consider the matters set out in Sections 5.7(b) and the risk factors set out in Section 8.4, noting that an investment in RollCo does not involve the same liquidity and other protections which shareholders have when investing in an ASX listed company;</li> <li>• carefully consider the tax considerations set out in Section 9 and how they apply to the Scrip Consideration Options in comparison to the Cash Consideration; and</li> <li>• take into account the Independent Expert's Report and the views expressed in relation to the Class B Shares set out in Annexure A;</li> </ul> <p>and</p> <ul style="list-style-type: none"> <li>• consult with their appropriate legal, financial, tax or other professional advisers about whether an investment in RollCo meets their individual</li> </ul>	<p>Letter from the Chairman, Section 1.4(a) 5.7(a) and 7.5(c).</p>

<sup>22</sup> In considering the voting recommendation of the Midway Directors, Midway Shareholders should note that Midway's Managing Director and Chief Executive Officer, Mr McKenna, will receive certain benefits in connection with the Scheme with an aggregate value of \$2,084,655. Midway Shareholders should refer to footnote 7 and Section 1.2 for further details.

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Question	Answer	More information
	<p>investment objectives; and</p> <ul style="list-style-type: none"> <li>ultimately, the Midway Directors consider that it is a matter for each eligible Midway Shareholder to decide whether or not to make an Election to receive one of the Scrip Consideration Options, having regard to their individual circumstances, financial situation, tax profile, investment objectives and risk profile.</li> </ul>	
<p><b>How do the Midway Directors intend to vote?</b></p>	<p>Each Midway Director intends to vote the Midway Shares in which they have a Relevant Interest in favour of the Scheme, in the absence of a Superior Proposal and subject to the Independent Expert continuing to conclude that the Scheme is in the best interests of Midway Shareholders. The interests of the Midway Directors in Midway Shares and Midway Rights are described in Sections 10.6 and 10.7.</p>	<p>Letter from the Chairman, Sections 1.2, 1.4, 5.2, 10.6 and 10.7.</p>
<p><b>What benefits will the Directors receive if the Scheme is implemented?</b></p>	<p>In relation to the recommendation of the Directors, Midway Shareholders should have regard to the fact that Mr Anthony McKenna holds Midway Options and Midway Performance Rights as detailed in footnote 7 and Section 1.2 and, if the Scheme is implemented, those Midway Options and Midway Performance Rights will be dealt with in accordance with Section 10.8. Mr McKenna is also entitled to receive a Transaction Bonus, as detailed in Section 10.8(f).</p> <p>For the reasons set out in footnote 7 and Section 1.2, Mr Anthony McKenna considers that, despite these arrangements, it is appropriate for him to make a recommendation in relation to the Scheme.</p> <p>Midway Shareholders should have regard to these arrangements when considering the recommendation of the Directors in relation to the Scheme.</p>	<p>Sections 1.2 and 10.8.</p>
<p><b>What is the opinion of the Independent Expert?</b></p>	<p>The Independent Expert concluded that the Scheme is fair and reasonable and, therefore, in the best interests of Midway Shareholders in the absence of a Superior Proposal.</p> <p>The Independent Expert has estimated the value of a Midway Share on a controlling interest basis to be in the range of \$1.12 to \$1.32.</p> <p>The Independent Expert has reached this conclusion based on its valuation and assessment of the quantum of the All Cash Consideration as the default consideration under the Scheme. The Independent Expert has not assessed each of the Scrip Consideration Options but has calculated the value of each Class B Share to be in the range of \$0.99 and \$1.13 (inclusive of a Special Dividend of \$0.3835 for each Midway Share) on a minority interest basis. The value of the Scrip Consideration Options is therefore less than the All Cash Consideration and the Independent Expert has concluded that the Scrip Consideration is deemed NOT fair.</p> <p>The Midway Directors recommend that you read the Independent Expert's Report carefully and in its entirety.</p>	<p>A copy of the Independent Expert's Report is contained in Annexure A.</p>

Question	Answer	More information
<p><b>What if the Independent Expert changes its opinion?</b></p>	<p>If the Independent Expert changes its opinion, this will be announced to ASX. In such circumstances, the Midway Board will consider the Independent Expert's revised opinion and advise Midway Shareholders of its recommendation.</p> <p>The Midway Board may change, qualify or withdraw their recommendation that Midway Shareholders vote in favour of the Scheme without paying the Midway Break Fee to BidCo if the Independent Expert concludes that the Scheme is no longer in the best interests of Midway Shareholders (other than where the conclusion is due to the existence of a Competing Proposal).</p>	<p>See Section 1.4.</p>
<p><b>What choices do I have as a Midway Shareholder?</b></p>	<p>You may:</p> <ul style="list-style-type: none"> <li>• vote for or against the Scheme Resolution to approve the Scheme (in person, or by proxy, corporate representative or attorney);</li> <li>• sell your Midway Shares on-market before the Effective Date; or</li> <li>• abstain or do nothing, in which case: <ul style="list-style-type: none"> <li>▪ if the Scheme becomes Effective, your Midway Shares will be transferred to BidCo and you will receive the Scheme Consideration for all of your Midway Shares held on the Scheme Record Date; or</li> <li>▪ if the Scheme does not become Effective, you will continue to hold your Midway Shares.</li> </ul> </li> </ul> <p>If you are an eligible Midway Shareholder and you wish to make an Election for one of the Scrip Consideration Options instead of the All Cash Consideration, you will need to complete and return an Election Form in accordance with the instructions on that Election Form by no later than the Election Time (currently expected to be 5:00pm (AEDT) on Monday, 20 January 2025).</p> <p>You do not need to complete an Election Form if you wish to receive Cash Consideration.</p>	<p>Section 1.7 sets out your options.</p>
<p><b>What happens if a Competing Proposal for Midway emerges?</b></p>	<p>Although no Competing Proposal has emerged as at the Last Practicable Date, if an unsolicited Competing Proposal for Midway is received before the Scheme Meeting, the Midway Directors will carefully consider it to determine whether it is a Superior Proposal and will inform you of any material developments.</p> <p>Midway Shareholders should note that Midway has agreed to certain exclusivity provisions in favour of BidCo under the Scheme Implementation Deed. In particular, Midway must notify BidCo of, and BidCo has the right to match or better any Competing Proposal in accordance with the Scheme Implementation Deed if one is received by Midway.</p> <p>Any change of the Midway Directors' current recommendation in response to a Competing Proposal being announced, may result in Midway being obliged to pay the Break Fee of \$1,556,589 (excluding any GST) to BidCo (see below).</p>	<p>Section 10.10.</p>

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Question	Answer	More information
<p><b>Is a Superior Proposal likely to emerge?</b></p>	<p>Since the announcement of the execution of the Scheme Implementation Deed on 14 November 2024, and up to the Last Practicable Date, no Superior Proposal has emerged.</p> <p>The Midway Directors have no reasonable basis for believing that a Competing Proposal will be received which will be a Superior Proposal.</p>	<p>Section 1.4(e).</p>
<p><b>What are the Voting Deeds?</b></p>	<p>BidCo has the benefit of Voting Deeds entered into by Mr Gregory McCormack and his associated entities, representing approximately 11.2% of Midway Shares on issue pursuant to which those persons have committed to, amongst other things, voting in favour of the Scheme in the absence of a Superior Proposal and subject to the Independent Expert continuing to conclude that the Scheme is in the best interest of Midway Shareholders.</p> <p>Subject to the same qualifications the Voting Deeds prohibit, amongst other things, any disposal of the Midway Shares the subject of the Voting Deed or to support a Competing Proposal.</p>	<p>Chairman's Letter, Sections 1.4(e) and 10.3.</p>
<p><b>Questions about BidCo and RollCo</b></p>		
<p><b>Who is BidCo, RollCo and River Capital?</b></p>	<p>BidCo is a special purpose company that was incorporated for the purpose of acquiring all of the Scheme Shares under the Scheme. BidCo is an unlisted Australian proprietary company.</p> <p>RollCo is an unlisted Australian public company and is the ultimate shareholder of all of the shares in BidCo. RollCo is the entity through which those Midway Shareholders who make a valid Election to receive a Scrip Consideration Option will receive their RollCo Shares.</p> <p>Established in 1996, River Capital is an investment firm focussed on compounding the capital of its principals, their families, and a select group of individual and family office investors. The firm takes a disciplined, long-term approach to investing in listed and unlisted companies in Australia and internationally. The Group currently manages approximately \$1 billion on behalf of investors.</p> <p>Further information about River Capital is available on its website, <a href="http://www.rivercapital.com.au">www.rivercapital.com.au</a>.</p>	<p>Sections 7.1 to 7.4.</p>
<p><b>How is BidCo funding the Scheme Consideration?</b></p>	<p>River Capital has established the Midway Trust to be the holder of Class A Shares in RollCo. The equity funding from the Midway Trust is primarily sourced from River's existing investors in funds managed and/or advised by River Capital (<b>Equity Funding</b>).</p> <p>BidCo intends to fund the Cash Consideration with the proceeds of the Equity Funding.</p>	<p>Section 7.6.</p>

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Question	Answer	More information
	<p>BidCo's commitment to fund the Cash Consideration is supported by an Equity Commitment Letter from the River Capital Funds under which the River Capital Funds commit to provide BidCo an aggregate amount of up to \$70.4 million (Equity Support). The Equity Support will be relied upon only to the extent BidCo does not otherwise hold sufficient funds to satisfy payment of the Maximum Cash Consideration (including through the Equity Funding).</p>	
<p><b>What are BidCo's intentions regarding Midway if the Scheme is implemented?</b></p>	<p>If the Scheme is implemented, the current intention of BidCo is to undertake a detailed review of the Midway business assets and operations. BidCo will only make final decisions following the completion of its review of the business and based on the facts and circumstances at the relevant time. BidCo also intends to, following implementation of the Scheme:</p> <ul style="list-style-type: none"> <li>• have the quotation of Midway Shares on the ASX terminated and Midway removed from the official list of the ASX on or around the Business Day following the Implementation Date;</li> <li>• reconstitute the Midway Board on the Implementation Date;</li> <li>• not make any material changes to the current organisation structure of Midway; and</li> <li>• replace Midway's existing constitution with a constitution appropriate for a company limited by shares (and which is a wholly owned subsidiary of RollCo); and</li> <li>• enter into arrangements with River Capital in respect of time and resources that River Capital spends working with RollCo.</li> </ul>	<p>Section 7.7.</p>
<p><b>Conditions</b></p>		
<p><b>Are there any conditions to the Scheme?</b></p>	<p>Yes. There are a number of Conditions that will need to be satisfied or waived (where capable of waiver) before the Scheme can become Effective.</p> <p>In summary, as at the Last Practicable Date, the outstanding Conditions include:</p> <ul style="list-style-type: none"> <li>• no legal restraints or impediments to the Scheme;</li> <li>• Midway Shareholders approve the Scheme;</li> <li>• the Independent Expert does not change its opinion that the Scheme is in the best interests of Midway Shareholders</li> </ul>	<p>Sections 5.9 and 10.10(a) contains further information on the Conditions to the Scheme.</p> <p>Sections 10.10(g) and 10.10(h) contains further information on the termination rights.</p>

Question	Answer	More information
	<ul style="list-style-type: none"> <li>• the Court approves the Scheme;</li> <li>• no Material Adverse Change occurs;</li> <li>• no Prescribed Occurrence occurs;</li> <li>• ASIC and ASX consent or provide all necessary waivers, relief or consents to give effect to Scheme;</li> <li>• The CBA Facilities to be in full force and effect and not subject to any events of default or review events;</li> <li>• The CBA consents to the change of control of Midway as a result of the Transaction and</li> <li>• arrangements have been put in place so that all Midway Rights have been issued as Midway Shares or cancelled in accordance with the Scheme Implementation Deed.</li> </ul> <p>The conditions of the Scheme are summarised in further detail in Section 10.10(a) of this Scheme Booklet. As at the Last Practicable Date, none of the Midway Directors are aware of any circumstances which would cause any Conditions not to be satisfied or waived (if capable of waiver).</p> <p>Midway Shareholders should also be aware that the Scheme Implementation Deed may be terminated in certain circumstances (details of which are summarised in Section 10.10(h) of this Scheme Booklet) including where Midway becomes incapable of, or fails to, publicly determine a Special Dividend of \$0.3835 before 8:00am on the Second Court Date.</p> <p>If the Scheme Implementation Deed is terminated, the Scheme will not proceed.</p>	
<p><b>When must the Conditions be satisfied or waived by?</b></p>	<p>Apart from the Conditions relating to Midway Shareholder approval and Court approval, the Conditions must be satisfied or waived as at 8.00am on the Second Court Date.</p> <p>While any Conditions (other than Court approval) remain unsatisfied and have not been waived (if applicable), there is a risk that the Second Court Hearing will be delayed until after those Conditions have been satisfied or waived (if applicable). If the Second Court Hearing is delayed, this may in turn delay the Implementation Date.</p> <p>In addition, the Scheme will not proceed if any of the Conditions are not satisfied or waived (if applicable) by the End Date, and either Midway or BidCo terminates the Scheme Implementation Deed.</p> <p>Further, if a Special Dividend of \$0.3835 is not publicly determined by the Midway Board, BidCo may terminate the Scheme Implementation Deed, in which case, the Scheme will not proceed.</p> <p>The End Date is 12 May 2025 and may be extended by agreement between Midway and BidCo.</p>	<p>Sections 5.4 and 10.10(a)</p>
<p><b>When does the Scheme become Effective?</b></p>	<p>In order to become Effective, the Scheme must be approved by the Court at the Second Court Hearing.</p> <p>Midway will apply to the Court for an order approving the Scheme if the Scheme is approved by the Requisite</p>	<p>Section 5.1</p>

Question	Answer	More information
	<p>Majorities of Midway Shareholders voting at the Scheme Meeting and all other Conditions (other than Court approval) have been satisfied or waived.</p> <p>If the Court makes orders approving the Scheme, Midway will lodge a copy of those orders with ASIC under section 411(10) of the Corporations Act. As soon as the copies of the Court orders approving the Scheme are lodged with ASIC, the Scheme will become Effective. This is expected to occur on or shortly after the date on which the Court issues orders approving the Scheme (currently scheduled to be on Tuesday, 4 February 2025).</p>	
<b>Voting on the Scheme</b>		
<b>What is the Scheme Resolution?</b>	The Scheme Resolution is a resolution to approve the Scheme. It will be voted on at the Scheme Meeting and is set out in the Notice of Scheme Meeting at Annexure F.	Section 4 and Annexure F.
<b>Where and when is the Scheme Meeting?</b>	The Scheme Meeting is scheduled to be held at the offices of KPMG, Level 36, Tower 2, Collins Square, 727 Collins Street, Melbourne VIC 3008 at 11:00am (AEDT) on Thursday 30 January 2025.	Annexure F.
<b>Who can vote at the Scheme Meeting?</b>	<p>If you are a Midway Shareholder at 7.00pm (AEDT) on the Meeting Record Date, you may vote at the Scheme Meeting.</p> <p>If you are eligible to vote and have appointed a proxy, attorney or corporate representative, that individual may vote at the Scheme Meeting on your behalf.</p> <p>As noted above, River Capital currently holds Shares in Midway representing approximately 8.17% of Midway's total issued share capital. However, River Capital will not vote on the Scheme Resolution at the Scheme Meeting.</p>	See Section 4.4 and the Notice of Scheme Meeting in Annexure F.
<b>Is voting compulsory?</b>	<p>Voting is not compulsory. However, the Scheme will only be successful if it is approved by the Midway Shareholders by the Requisite Majorities, so voting is important and the Midway Board encourages you to vote.</p> <p>The Midway Board unanimously recommends<sup>23</sup> that Midway Shareholders vote in favour of the Scheme in the absence of a Superior Proposal, and subject to the Independent Expert continuing to conclude that the Scheme is in the best interests of Midway Shareholders.</p>	Section 1.7 and 5.13.
<b>What are the approval</b>	For the Scheme to be approved, the Scheme Resolution	Section 4.2 and

<sup>23</sup> In relation to the unanimous recommendation of the Midway Directors, refer to Section 1.2 for further details.

Question	Answer	More information
<p><b>thresholds for the Scheme?</b></p>	<p>must be passed by the Requisite Majorities, being:</p> <ul style="list-style-type: none"> <li>• unless the Court orders otherwise, more than 50% in number of Midway Shareholders who are present and voting, either in person or by proxy, by attorney or, in the case of a corporation, by its duly appointed corporate representative, at the Scheme Meeting; and</li> <li>• at least 75% of the total number of votes cast on the Scheme Resolution.</li> </ul> <p>Even if the Scheme is approved by the Requisite Majorities of Midway Shareholders at the Scheme Meeting, the Scheme is still subject to the approval of the Court.</p>	<p>5.13(a).</p>
<p><b>How can I vote if I can't, or do not wish to, attend the Scheme Meeting?</b></p>	<p>If you would like to vote but cannot, or do not wish to, attend the Scheme Meeting, you can vote by appointing a proxy (including by lodging your Proxy Form online at <a href="http://www.investorvote.com.au">www.investorvote.com.au</a> and using control number 184630 and your SRN or HIN) or by appointing an attorney to attend and vote on your behalf.</p> <p>You may also vote by corporate representative if that option is applicable to you.</p>	<p>Section 3.2 and the Notice of Scheme Meeting in Annexure F.</p>
<p><b>What if I do not vote at the Scheme Meeting or if I vote against the Scheme?</b></p>	<p>If the Scheme is approved by the Requisite Majorities of Midway Shareholders, then, subject to the other Conditions being satisfied or waived (if applicable) and the Scheme becoming Effective, the Scheme will be implemented and will be binding on all Midway Shareholders, including those who voted against the Scheme, or did not vote.</p>	<p>Sections 5.3 and 5.13(a).</p>
<p><b>When will the result of the Scheme Meeting be known?</b></p>	<p>The result of the Scheme Meeting will be available shortly after the conclusion of the meeting and will be announced to ASX once available. Even if the Scheme Resolution is passed by the Scheme Meeting, the Scheme is still subject to approval of the Court.</p>	<p>See Important Dates page.</p>
<p><b>What if I want to oppose the Scheme?</b></p>	<p>If you, as a Midway Shareholder, oppose the Scheme, you may:</p> <ul style="list-style-type: none"> <li>• attend the Scheme Meeting in person or by proxy, representative or attorney and vote against the relevant Scheme Resolution; and/or</li> <li>• if Midway Shareholders pass the Scheme Resolution at the Scheme Meeting and you wish to appear and be heard at the hearing on the Second Court Date, you must lodge a notice of intention to appear at such hearing and indicate opposition to the Scheme. You should seek professional advice as to how to do this.</li> </ul>	<p>See Important Notices and Sections 4 and 5.13(c).</p>

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Question	Answer	More information
<b>Trading</b>		
<p><b>Can I sell my Midway Shares before the Scheme is implemented?</b></p>	<p>You can sell your Midway Shares on-market at any time before the close of trading on ASX on the Effective Date. However, if you do so you will receive the trade price you agree to on-market at the time of sale which may not be the same price as the Cash Consideration, and you may also be required to pay brokerage.</p> <p>Midway intends to apply to ASX for Midway Shares to be suspended from official quotation on ASX from close of trading on the Effective Date. You will not be able to sell your Midway Shares on-market after that time. You may however seek to sell your Midway Shares off-market after the Effective Date but before the Scheme Record Date.</p> <p>If you sell your Midway Shares before the Scheme Record Date, you:</p> <ul style="list-style-type: none"> <li>• may receive the proceeds of the sale of your Midway Shares sooner than you would receive payment under the Scheme (noting that your sale proceeds may vary from the Cash Consideration);</li> <li>• will not receive the Special Dividend if you are not a Midway Shareholder on the Special Dividend Record Date;</li> <li>• may incur brokerage costs if you sell your Midway Shares on market; and</li> <li>• will not be able to participate in the Scheme or a Superior Proposal, if one emerges after the date on which you sell your Midway Shares</li> </ul>	<p>Section 1.7(c).</p>
<b>Other questions</b>		
<p><b>When will the Break Fee be payable?</b></p>	<p>Midway will be obliged to pay BidCo a Break Fee of up to \$1,556,589 (excluding GST) in certain circumstances, including if:</p> <ul style="list-style-type: none"> <li>• during the Exclusivity Period, any of the Midway Directors withdraws or adversely revises their recommendation to vote in favour of the Scheme, or makes any public statement to the effect that the Scheme is not, or is no longer, recommended, subject to certain exceptions, (including where the Independent Expert subsequently determines that the Scheme is not in the best interest of Midway Shareholders except where the reason for that conclusion is a Competing Proposal);</li> <li>• a Competing Proposal is announced or made before the Second Court Date and, within 12 months of the date of such announcement, a Third Party or an Associate of that Third Party (i) completes a Competing Proposal; or (ii) acquires a Relevant Interest in more than 50% of the Midway Shares under a transaction that is or has become wholly unconditional or otherwise comes to Control Midway or acquires substantially all of the assets of Midway;</li> <li>• Midway enters into any agreement with a Third Party in respect of a Competing Proposal pursuant to</li> </ul>	<p>Section 1.6(d), 10.10(e) and 10.10(f).</p>

Question	Answer	More information
	<p>which a Third Party, Midway or both agree to undertake, implement or give effect to a Competing Proposal;</p> <ul style="list-style-type: none"> <li>• at any time prior to the Second Court Date, a Third Party acquires a Relevant Interest in 50% or more of the Midway Shares under a transaction that is or has become wholly unconditional or otherwise acquires (either alone or in aggregate) Control of Midway;</li> <li>• BidCo validly terminates the Scheme Implementation Deed in circumstances where Midway is in material breach of the Scheme Implementation Deed and fails to remedy that breach within the requisite timeframe.</li> </ul> <p>A reduced Break Fee of \$519,650 is also payable by Midway at any time before 8.00 am on the Second Court Date by notice in writing to Midway if (a) a Special Dividend of \$0.3835 in aggregate per Midway Share becomes incapable of being declared or determined and paid in accordance with clause 5.1 of the Scheme Implementation Deed or any agreement made between the parties in writing or (b) has not been publicly declared or determined to be paid by Midway to Midway Shareholders by the date which is 2 Business Days before that time.</p> <p>BidCo will be obliged to pay Midway a Break fee of \$1,556,589 (excluding GST) if Midway is entitled to terminate the Scheme Implementation Deed and does terminate the Scheme Implementation Deed in circumstances where BidCo is in material breach of the Scheme Implementation Deed and fails to remedy that breach within the requisite timeframe.</p>	
<p><b>What happens if the Scheme does not proceed?</b></p>	<p>If the Scheme is not approved at the Scheme Meeting, or another condition to the Scheme is not satisfied or waived (where capable of waiver), the Scheme will not proceed.</p> <p>If the Scheme does not proceed:</p> <ul style="list-style-type: none"> <li>• the Scheme Consideration will not be provided to Scheme Shareholders;</li> <li>• the Special Dividend will not be paid;</li> <li>• BidCo will not acquire the Scheme Shares;</li> <li>• Midway will continue to be listed on ASX; and</li> <li>• Midway Shareholders will retain their Midway Shares and continue to share in any benefits and risks of Midway's ongoing business.</li> </ul> <p>If the Scheme does not proceed, and no Superior Proposal emerges, Midway Shareholders will continue to be exposed to the general market risks set out in Section 8.2 and the risk factors relating to the business and operations of the Midway Group set out in Section 8.3, including the risk that the price of Midway Shares may fall.</p>	<p>Section 5.10 sets out further details on what happens if the Scheme does not proceed</p>

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Question	Answer	More information
<b>Who can I contact if I have further questions in relation to the Scheme?</b>	If you have any further questions, you should seek advice from independent and appropriately qualified financial, legal, stockbroking and taxation advisers.  You may also call the Shareholder Information Line on 1300 850 505 (within Australia), or +61 3 9415 4000 (outside Australia), between 8.30am and 5.00pm (AEDT), Monday to Friday.	N/A

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# Next Steps

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## 3 Next steps

### 3.1 Carefully read this Scheme Booklet in full and seek advice if you have any questions

You should carefully read this Scheme Booklet in its entirety to assist you in making an informed decision on how to vote on the Scheme.

This Scheme Booklet contains important information, including:

- the reasons for the Midway Directors' recommendation;
- the reasons why you may choose to vote for or against the Scheme;
- information about the Scheme Consideration;
- information about Midway, BidCo, RollCo and River Capital;
- risks associated with the Scheme and
- the Independent Expert's Report.

If you have further questions, you can call the Shareholder Information Line on 1300 850 505 (within Australia), or +61 3 9415 4000 (outside Australia), between 8.30am and 5.00pm, Monday to Friday.

If you are in any doubt as to what you should do, you should seek advice from independent and appropriately qualified financial, legal, stockbroking or taxation advisers before making any decision regarding the Scheme.

### 3.2 Vote on the Scheme

For the Scheme to proceed, it is necessary that sufficient Midway Shareholders vote in favour of the Scheme.

If you are registered as a Midway Shareholder at 7.00pm (AEDT) on the Meeting Record Date (expected to be Tuesday, 28 January 2025), you will be entitled to vote on the Scheme.

As noted above, River Capital currently holds Shares in Midway representing approximately 8.17% of Midway's total issued share capital. However, River Capital will not vote on the Scheme Resolution at the Scheme Meeting.

Further details about voting are contained in Section 4.

### 3.3 Why you should vote

As a Midway Shareholder, you have a say in whether BidCo will acquire all the issued shares in Midway.

This is your opportunity to play a role in deciding the future of Midway.

### 3.4 Consider whether to make an Election

If you are a Midway Shareholder (other than an Ineligible Shareholder), you can make an Election to receive one of the Scrip Consideration Options.

If you do not make a valid Election and the Scheme is implemented, you will receive the All Cash Consideration by default.

For further information on how to make an Election, see Section 4.6.

How to Vote and

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How to make an

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Election

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## 4 How to vote and how to make an Election

This Section 4 contains information pertaining to the Scheme Meeting, including the specific details of the Scheme Meeting, how to vote at the Scheme Meeting, the voting majorities required for the Scheme Resolution to succeed and how to make an Election to receive Scheme Consideration.

### 4.1 Scheme Meeting details

The notice convening the Scheme Meeting is attached at Annexure F to this Scheme Booklet. A personalised Proxy Form for the Scheme Meeting accompanies this Scheme Booklet. You can also lodge your proxy online at [www.investorvote.com.au](http://www.investorvote.com.au). You will need control number 184630 and your SRN or HIN.

The Scheme Meeting will be held at 11:00am Thursday 30 January 2025 at the offices of KPMG, Level 36, Tower 2, Collins Square, 727 Collins Street, Melbourne VIC 3008.

Further instructions are outlined in the Notice of Scheme Meeting in Annexure F.

### 4.2 Voting majorities required

The Scheme needs to be approved by the **Requisite Majorities** of Midway Shareholders at the Scheme Meeting, which is:

- at least 75% of the total number of votes cast on the Scheme Resolution by Midway Shareholders present and voting at the Scheme Meeting (in person, or by proxy, attorney or corporate representative); and
- a majority in number (more than 50%) of Midway Shareholders present and voting at the Scheme Meeting (in person, or by proxy, attorney or corporate representative).

The Court has the discretion to waive the second of these two requirements if it considers it appropriate to do so.

If the Scheme is not approved by the Requisite Majorities of Midway Shareholders in accordance with subparagraph 411(4)(a)(ii) of the Corporations Act and approved by the Court in accordance with paragraph 411(4)(b) of the Corporations Act, the Scheme will not proceed.

You should be aware that even if you do not vote, or vote against the Scheme, the Scheme may still be implemented if it is approved by the Requisite Majorities of Midway Shareholders and the Court. If this occurs, your Midway Shares will be transferred to BidCo and you will receive the Scheme Consideration, even though you did not vote on, or voted against, the Scheme Resolution at the Scheme Meeting.

### 4.3 Your vote is important

Midway Directors urge Midway Shareholders to vote on the Scheme Resolution. The Scheme affects your shareholding in Midway and your vote on the Scheme Resolution is important in determining whether the Scheme becomes Effective.

If you are unable to attend the Scheme Meeting, the Midway Directors urge you to complete and return, in the enclosed reply-paid envelope, the personalised Scheme Meeting Proxy Form that accompanies this Scheme Booklet or lodge your Scheme Meeting Proxy Form online at Computershare's website ([www.investorvote.com.au](http://www.investorvote.com.au) and use control number 184630) in accordance with the instructions given there.

### 4.4 Voting entitlements

Midway Shareholders registered on the Midway Share Register on the Meeting Record Date (currently expected to be 7.00pm (AEDT) Tuesday, 28 January 2025) will be entitled to vote at the Scheme Meeting.

As noted above, River Capital currently holds Shares in Midway representing approximately 8.17% of Midway's total issued share capital. However, River Capital will not vote on the Scheme Resolution at the Scheme Meeting.

## 4.5 How to vote

You may vote:

- **in person:** by attending the Scheme Meeting in person at 11:00am (AEDT) Thursday 30 January 2025 at the offices of KPMG, Level 36, Tower 2, Collins Square, 727 Collins Street, Melbourne VIC 3008;
- **by proxy:** by completing and returning the Proxy Form provided with this Scheme Booklet in accordance with the instructions on the Proxy Form. To be valid, the Proxy Form must be received by the Midway Share Registry by 11am (AEDT) on Tuesday, 28 January 2025;
- **by attorney:** by appointing an attorney to participate in the Scheme Meeting by delivering an instrument appointing the attorney to the Share Registry prior to the Scheme Meeting; or
- **by corporate representative:** in the case of a body corporate which is a Midway Shareholder, by appointing a corporate representative to attend and vote at the Scheme Meeting on behalf of that Midway Shareholder and providing a duly executed "Appointment of Corporate Representative" form (in accordance with section 250D of the Corporations Act) prior to the Scheme Meeting.

Further details of how to vote using each of these methods is contained in the Notice of Scheme Meeting set out in Annexure F. If you need assistance with the voting methods above, please contact the Midway Shareholder Information Line on 1300 850 505 (within Australia) or +61 3 9415 4000 (outside Australia) between 8:30am to 5:00pm (AEDT) Monday to Friday (excluding public holidays).

## 4.6 Scheme Consideration Elections

You do not need to make an Election if you wish to receive the Cash Consideration.

If you are a Midway Shareholder (other than an Ineligible Shareholder), you can make an Election to receive Scrip Consideration. See Section 5.7 which sets out further details relating to the Scrip Consideration Options.

To make an Election, complete the Election Form (sent with this Scheme Booklet) and return it in accordance with the instructions on the Election Form so that it is received by the Share Registry by no later than the Election Time (currently expected to be 7.00pm (AEDT) on Monday, 20 January 2025).

If you do not make a valid Election or your Election is not received by the Share Registry by the Election Time and the Scheme becomes Effective, you will receive Scheme Consideration in the form of the All Cash Consideration. If you are an Ineligible Shareholder or a person who becomes a Midway Shareholder after the Election Time, you will receive the All Cash Consideration.

If you hold one or more parcels of Midway Shares as trustee or nominee for, or otherwise on account of, another person who is eligible to make an Election, you may establish separate and distinct holdings for each of your beneficiaries and make individual Elections for each holding (and for the purpose of calculating the Scheme Consideration to which you are entitled, each such parcel of Midway Shares will be treated as though it were held by a separate Midway Shareholder). However, you may not accept instructions from a beneficiary to make an Election unless it is in respect of all parcels of Midway Shares held by you on behalf of that beneficiary.

If you need any assistance with completing an online Election or need a replacement Election Form, please call the Midway Shareholder Information Line on 1300 850 505 (within Australia) or +61 3 9415 4000 (outside Australia) between 8:30am to 5:00pm (AEDT) Monday to Friday (excluding public holidays).

You may also withdraw and amend your Election by completing and returning an Election Withdrawal/Amendment Form in accordance with the instructions on the Election Withdrawal/Amendment Form. An Election Withdrawal/Amendment Form may be requested by calling the Midway Shareholder Information Line on 1300 850 505 (within Australia) or +61 3 9415 4000 (outside Australia) between 8:30am to 5:00pm (AEDT) Monday to Friday (excluding public holidays). Where a Midway Shareholder returns more



than one Election Form or Election Withdrawal/Amendment Form, the last valid form that is received by the Share Registry before the Election Time will be treated as final and will be used to determine your Election (or withdrawal or amendment, as applicable).

**In order to be valid, Election Forms or must be received by the Share Registry by no later than the Election Time (currently expected to be 7.00pm (AEDT) on Monday, 20 January 2025.**

There are a number of ways Election Forms or Election Withdrawal/Amendment Forms may be submitted:

- **by mail:** Computershare Investor Services Pty Limited GPO Box 1282 Melbourne Victoria 3001 Australia
- **by email:** [corpactprocessing@computershare.com.au](mailto:corpactprocessing@computershare.com.au)

Valid Elections for a Scrip Consideration Option are subject to the Scheme becoming Effective and the operation of the pro rata Scaleback Arrangements if the Maximum Scrip Threshold is exceeded, and the Minimum Scrip Threshold being met. Therefore, even if you make an Election to receive a Scrip Consideration, there is no guarantee that you will receive Scrip Consideration for your Midway Shares in respect of which you have made an Election. Where the Maximum Scrip Threshold is exceeded, and the Scaleback Arrangements are applied, you will receive the balance of your Election in the form of Cash Consideration.

Midway will announce the indicative results of the Election process to the ASX, including an indication of whether the Scaleback Arrangements apply. The announcement is currently expected to be made on Wednesday, 22 January 2025. The final results of the Election process will only be made available after the Scheme Record Date. If the final results differ from the results in the indicative announcement, Midway will release an update to the ASX.

Midway Shareholders who make an Election to receive a Scrip Consideration agree to become members of RollCo and to be bound by the terms of the RollCo Shareholders' Deed and the RollCo Constitution, attached at Annexure D and Annexure E, respectively.

You should read this Scheme Booklet in full before making an Election to receive a Scrip Consideration Option (including Sections 5.7 and 7.7). You may also consider obtaining appropriate independent professional advice before making such an Election.

#### 4.7 Binding instructions or notifications

Except for a Midway Shareholder's tax file number, any binding instructions or notifications by a Midway Shareholder to Midway relating to the Midway Shares (including any email addresses, instructions relating to communications from Midway, whether dividends are to be paid by cheque or into a specific bank account) will be deemed from the Implementation Date (except to the extent determined otherwise by RollCo in its sole discretion), by reason of the Scheme, to be made by the Midway Shareholder to RollCo until that instruction, notification or election is revoked or amended in writing addressed to BidCo, provided that any such instructions or notifications accepted by RollCo will apply to and in respect of the issue of the Scrip Consideration.

#### 4.8 Further information

Please refer to the Notice of Scheme Meeting set out in Annexure F for further information on voting procedures and details of the Scheme Resolution to be voted on at the Scheme Meeting (including who is entitled to vote on the Scheme Resolution).

# Overview and --- Key Steps ---

## 5 Overview and key steps

### 5.1 Overview

On 14 November 2024, Midway announced that it had entered into a Scheme Implementation Deed with BidCo under which, it is proposed that BidCo will acquire, by way of a scheme of arrangement under Part 5.1 of the Corporations Act, 100% of Midway Shares on issue, subject to Midway Shareholder and Court approval, and the satisfaction or waiver of a number of other Conditions.

The Scheme Implementation Deed contains terms and conditions that are relatively standard for these types of agreements, including in relation to the parties' obligations to implement the Scheme and Midway's obligation to conduct its business in the ordinary course during the Scheme process.

The Scheme Implementation Deed sets out a framework for Midway to propose a scheme of arrangement between itself and Midway Shareholders under which BidCo will acquire all of the Midway Shares on issue as at the Scheme Record Date.

A full copy of the Scheme Implementation Deed was attached to Midway's announcement to the ASX relating to the Scheme dated 14 November 2024. A full copy of the Scheme Implementation Deed can be obtained from the ASX website ([www.asx.com.au](http://www.asx.com.au)).

The key terms of the Scheme Implementation Deed are also summarised at Section 10.10.

### 5.2 Background to the Scheme and why it is recommended by the Midway Board

Having carefully considered BidCo's proposal and the merits of the alternatives, the Midway Directors unanimously recommend<sup>24</sup> that Midway Shareholders vote in favour of the Scheme in the absence of a Superior Proposal and subject to the Independent Expert continuing to conclude that, the Scheme is in the best interests of the Midway Shareholders, on an All Cash Consideration basis.

In reaching its recommendation, the Midway Board, together with Midway's advisers made an evaluation of Midway's strategic plan as an independent company and the various operational and execution risks inherent in achieving that plan, as well as various transactional alternatives, beginning in 2022.

To determine the most prudent path to deliver on Midway's strategic plan, in March 2022, the Midway Board announced to ASX a strategic review to examine all options to improve shareholder returns (**2022 Strategic Review**).

As part of the scope of the 2022 Strategic Review, Midway engaged financial advisers to assist it with an evaluation of the prospects of Midway, including the possibility of de-listing from ASX and returning Midway to private ownership. The Midway Board also held conversations with various parties as part of the 2022 Strategic Review covering a wide range of potential transaction alternatives.

The combination of the commodity exposed nature of Midway's underlying woodfibre exporting business and emerging plantation carbon management business (that was not contributing to Midway's earnings and was not expected to do so over the medium term) meant no viable transaction alternatives emerged.

Following that process, in June 2023, the Midway Board determined to revert to the status quo and to focus on executing management's strategic plan of: (i) lifting Midway's operating performance; (ii) maximising the value of assets; and (iii) building momentum in carbon.

In July 2024, the Midway Board was approached by River Capital to discuss a potential control transaction. The Midway Board appointed PricewaterhouseCoopers Securities Ltd

<sup>24</sup> In considering the voting recommendation of the Midway Directors, Midway Shareholders should note that Midway's Managing Director and Chief Executive Officer, Mr McKenna, will receive certain benefits in connection with the Scheme with an aggregate value of \$2,084,655. Midway Shareholders should refer to footnote 7 and section 1.2 for further details

(PwCS) to review an initial indicative non-binding offer from River Capital, assist in optimising the indicative offer terms, and to consider if an alternative, competing proposal could be solicited. Following negotiations with River Capital, as well as the benefit of market soundings conducted by Midway senior management personnel and PwCS, River Capital provided an improved non-binding indicative offer which was subject to, amongst other things, due diligence.

In the interests of maximising shareholder value, and in the absence of any other indication of interest, it was determined by the Midway Board to grant River Capital exclusive due diligence rights to determine if River Capital's non-binding indicative offer could be made sufficiently attractive and certain to warrant Midway Board recommendation and be put to a vote of the Midway Shareholders.

On 14 November 2024 Midway announced that it had entered into a Scheme Implementation Deed under which BidCo had agreed to acquire 100% of the issued Midway Shares by way of the Scheme.

As noted above, prior to entering into the Scheme Implementation Deed the Midway Board considered a number of alternative ways to maximise shareholder value, and also an assessment of standalone value. The various alternatives were evaluated across a number of criteria. The Scheme was ultimately selected on the basis of it delivering the most attractive and certain option for Midway Shareholders to realise value for their Midway Shares.

### 5.3 What will happen under the Scheme?

If the Scheme is approved by the Requisite Majorities of Midway Shareholders and the Court, and subject to the satisfaction or waiver (where capable of waiver) of the other Conditions in accordance with the terms of the Scheme Implementation Deed, and is implemented:

- BidCo will acquire all of the Midway Shares;
- Midway may determine and pay a Special Dividend of up to \$0.3835 per Midway Share on or before the Scheme is implemented;
- at the close of trading on the Effective Date, Midway Shares will cease trading on the ASX;
- On the Implementation Date:
  - all Midway Shares held by Scheme Shareholders on the Scheme Record Date will be transferred to BidCo;
  - in return, Scheme Shareholders will be entitled to receive the Scheme Consideration for each Midway Share they hold at the Scheme Record Date; and
- Midway will become a wholly owned Subsidiary of BidCo and, after implementation, will be delisted from ASX by the close of trading on the trading day immediately following the Implementation Date.

A copy of the Scheme is set out in full in Annexure B to this Scheme Booklet. Section 5.13 explains the key steps involved in implementing the Scheme in more detail.

### 5.4 Special Dividend

#### (a) Background

The terms of the Scheme Implementation Deed reflect an agreement between Midway and BidCo that the quantum of the All-Cash Consideration would effectively ensure that Midway Shareholders receive the benefit of agreed distributable cash in the Midway Business (being an amount of \$33,493,449)<sup>25</sup> by way of the Special Dividend.

<sup>25</sup> After allowing for the proposed cash settlement of the Midway Rights as contemplated in Section 10.8 and payment of Transaction Costs) by way of the Special Dividend.

As at the Last Practicable Date, Midway had cash at bank of approximately \$46.45 million.

(b) **Payment structure**

To provide price certainty to Midway Shareholders, the Midway Directors agreed with BidCo that the Cash Consideration would be an amount of \$1.19 per Midway Share to be reduced by the amount of any Special Dividend that Midway may determine and pay. The balance of the Cash Consideration is being paid by BidCo.

The constituent elements of the Cash Consideration are illustrated in the following table:

Cash Consideration	(\$/Midway Share)	Franking <sup>3</sup>
Total Cash Payments	\$1.19	
<i>comprising:</i>		
Total Special Dividend <sup>1</sup>		
Fully Franked Special Dividend <sup>1</sup>	\$0.3009	Fully franked <sup>2</sup>
Unfranked Special Dividend	\$0.0826	Unfranked
Balance paid by BidCo	\$0.8065	
[1] Subject to determination or a declaration by the Midway Board to pay the dividend.		
[2] Subject to availability of franking credits and based on the estimated franking balance prior to the Second Court Date.		
[3] Value of franking credits is subject to individual taxation circumstances		

It is the current intention of the Midway Board to distribute the agreed distributable cash to Midway Shareholders (subject to their fiduciary duties, the requirements of the Corporations Act and certain other conditions described in this Section 5.4) which is expected to be in the form of the Special Dividend of \$0.3835 per Midway Share. Such distributable cash may be cash at bank and Midway may also have recourse to its working capital facility to a limited extent.

BidCo and Midway agreed that BidCo has the right to terminate the Scheme Implementation Deed if the Special Dividend of \$0.3835 becomes incapable of being declared or determined and paid, or if the Midway Board does not determine or declare that it will pay the Special Dividend of \$0.3835 by the date that is two Business Days before the Second Court Date. If the termination right is exercised by BidCo in such circumstances, Midway would be required to pay BidCo a reduced Break Fee of \$519,650 (See Section 10.10 (g) for more information).

The structure of the Scheme Consideration and the associated termination right given to BidCo is designed to provide Midway Shareholders with:

- the value of distributable cash at bank of \$0.3835 per Midway Share (and any associated franking credits) as part of the Scheme; and
- price certainty when deciding how to vote at the Scheme Meeting.

Midway will announce any decision about the Special Dividend to ASX. The announcement is currently expected to be made no later than 28 January 2025.

As at the Last Practicable Date, the Midway Directors reasonably expect that Midway will be capable of determining a Special Dividend of \$0.3835 per Midway Share.

Final decisions about the Special Dividend will be made by the Midway Board in light of all material information, facts and circumstances at the relevant time. Determination of the Special Dividend remains at the absolute discretion of the Midway Board.

(c) **Requirements**

Midway may (in its absolute discretion) declare or determine, and pay a Special Dividend to Midway Shareholders, provided that:

- Midway must consult with BidCo prior to any announcement, determination, declaration or payment of a Special Dividend;

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- the Special Dividend must be paid in cash and funded from cash reserves or, subject to certain limitations under the Scheme Implementation Deed, from the working capital facility forming part of the CBA Facilities;
- the Special Dividend may be franked to the maximum extent possible subject to certain customary limitations; and
- the payment date for the Special Dividend will be on or before the Implementation Date.

In addition, it will be a Prescribed Occurrence if the Cash Balance of the Midway Group on the Implementation Date (before payment of the Special Dividend) is less than:

- \$38,642,303 (or less than \$33,493,449 after allowing for payment by Midway of unpaid Transaction Costs and the proposed cash settlement of the Midway Rights as contemplated in Section 10.8) and the Net Working Capital is less than the Net Working Capital Peg; or
- \$38,642,303 (or less than \$33,493,449 after allowing for payment by Midway of unpaid Transaction Costs and the proposed cash settlement of the Midway Rights as contemplated in Section 10.8) and the amount of the Cash Balance shortfall is not represented by Net Working Capital in excess of the Net Working Capital Peg

(d) **Corporations Act requirements**

Under section 254T of the Corporations Act, dividends may only be paid by a company if :

- the company's assets exceed its liabilities immediately before the dividend is declared and the excess is sufficient for the payment of the dividend;
- the payment of the dividend is fair and reasonable to the company's shareholders as a whole; and
- the payment of the dividend does not materially prejudice the company's ability to pay its creditors.

In addition, section 260A of the Corporations Act enables a company to financially assist a person to acquire shares in the company or a holding company only if certain conditions are satisfied. Financial assistance of this kind would be permitted if the giving of assistance does not materially prejudice:

- the interests of the company;
- the interests of its shareholders; or
- the company's ability to pay its creditors.

The Corporations Act specifically contemplates that financial assistance (of the kind that is regulated under section 260A of the Corporations Act) may take the form of paying a dividend which may be given before the acquisition of shares.

However regard to the above tests, and based on the information currently available, the Midway Directors expect to be in a position to determine that paying the Special Dividend is in the best interests of Midway and does not materially prejudice the interests of Midway or Midway Shareholders and does not materially prejudice Midway's ability to pay its creditors.

(e) **Announcement regarding any Special Dividend**

It is currently expected that a final decision of the Midway Directors regarding the payment of any Special Dividend (and quantum) will be communicated to Midway Shareholders by way of an ASX announcement before 11:00am on Tuesday, 28 January 2025.

(f) **Impact of any Special Dividend**

The Scheme Consideration will be reduced by the amount of any Special Dividend.

(g) **Payment of Special Dividend**

If a Special Dividend is determined, it will be paid on the Implementation Date.

**5.5 Overview of Scheme Consideration**

If the Scheme becomes Effective and is implemented, each Scheme Shareholder will receive the Scheme Consideration, which will be:

- **Cash Consideration:** for Midway Shareholders (other than those who make a valid Election to receive a Scrip Consideration Option described below) the Cash Consideration of \$1.19 per Scheme Share held by them less the amount of any Special Dividend of up to \$0.3835 that may be determined and paid by Midway on or before the date the Scheme is implemented; or
- **Scrip Consideration Options:** for Midway Shareholders (other than Ineligible Shareholders) that make a valid Election for either:
  - **All Scrip Consideration:** for 100% of Scheme Shares held, unlisted scrip in the form of 1 Class B Share in RollCo for each Scheme Share held; or
  - **Mixed Consideration:** for one of 25%, 50% or 75% of Scheme Shares held (as Elected by the Scheme Shareholder), unlisted scrip in the form of one (1) Class B Share in RollCo for each Scheme Share to which the Election applies and, for the remaining balance of their Scheme Shares, the Cash Consideration,

subject, in each case, to the terms of the Scheme and the Scaleback Arrangements.

It is important to note that if a Midway Shareholder sells their Midway Shares before the Scheme Record Date, they will not receive the Scheme Consideration.

**5.6 Cash Consideration**

If the Scheme becomes Effective, each Midway Shareholder (other than those who make a valid Election to receive a Scrip Consideration Option) will receive the Cash Consideration of \$1.19 for each Midway Share held by that Midway Shareholder as at the Scheme Record Date, less the amount of any Special Dividend (up to \$0.3835 per Midway Share) that may be declared or determined, and paid by Midway in respect of each Midway Share held by that Midway Shareholder as at the Special Dividend Record Date.

A determination of whether or not to pay a Special Dividend will be made by the Midway Directors and will depend upon a number of factors (see Section 5.4). The payment and amount of the Special Dividend is at the discretion of the Midway Board. The Midway Board currently intends to determine and pay a partially franked Special Dividend of \$0.3835 per Midway Share on or prior to implementation of the Scheme, which if determined and paid, is expected to result in franking credits equivalent to the aggregate of approximately \$0.3009 per Midway Share fully franked and approximately \$0.0826 per Midway share unfranked<sup>26</sup> per Midway Share.

While the payment and amount of the Special Dividend is at the discretion of the Midway Board, any failure to publicly declare or determine a Special Dividend of \$0.3835 (or if Midway becomes incapable of doing so) by the date that is 2 Business Days prior to 8:00am on the Second Court Date will give BidCo the right to terminate the Scheme Implementation Deed and entitle BidCo to a break fee of \$519,650 (excluding any GST).

Whether a Midway Shareholder will be able to capture the full benefit of the franking credits in respect of any Special Dividend paid will depend on their individual circumstances.

It is important to note that you will receive the Cash Consideration if you are a Scheme Shareholder and:

<sup>26</sup> Subject to availability of franking credits and based on the estimated franking balance prior to the Second Court Date for the Scheme.

- you are deemed to have made a valid Election to receive the Cash Consideration in respect of all (or some) of your Scheme Shares, including Ineligible Shareholders;
- you do not make an Election to receive a Scrip Consideration Option in respect of all of your Scheme Shares; or
- you do not make a valid Election.

The Cash Consideration will be paid to relevant Scheme Shareholders on the Implementation Date

## 5.7 Details of Scrip Consideration Options

### (a) Overview

As an alternative to the Cash Consideration, eligible Midway Shareholders<sup>27</sup> may make an Election (subject to certain limitations) to receive a Scrip Consideration Option which will enable Midway Shareholders to retain an interest in the Midway business after implementation of the Scheme. The Scrip Consideration Options are:

- **All Scrip Consideration:** Scrip Consideration for each Scheme Share held by a Scheme Shareholder who has made this Election;
- **Mixed Consideration Option 1:** Cash Consideration for each Scheme Share, in respect of 25% of the Scheme Shares, plus Scrip Consideration for each Scheme Share, in respect of the other 75% of the Scheme Shares, held by a Scheme Shareholder who has made this Election;
- **Mixed Consideration Option 2:** Cash Consideration for each Scheme Share, in respect of 50% of the Scheme Shares, plus Scrip Consideration for each Scheme Share, in respect of the other 50% of the Scheme Shares, held by a Scheme Shareholder who has made this Election;
- **Mixed Consideration Option 3:** Cash Consideration for each Scheme Share, in respect of 75% of the Scheme Shares, plus Scrip Consideration for each Scheme Share, in respect of the other 25% of the Scheme Shares, held by a Scheme Shareholder who has made this Election; or

The notional value of the Class B Shares issued under a Scrip Consideration Option will be equal to the value of the Cash Consideration. Midway Shareholders considering whether or not to make an Election to receive a Scrip Consideration Option should note the notional issue price of a Class B Shares does not necessarily equal or otherwise reflect the underlying economic value of that Class B Share. The Independent Expert has calculated the value of each Class B Share to be in the range of \$0.99 and \$1.13 (inclusive of a Special Dividend of \$0.3835 for each Midway Share) on a minority interest basis. The value of the Scrip Consideration Options is therefore less than the All Cash Consideration and accordingly the Independent Expert has concluded that the Scrip Consideration is deemed NOT fair.

Further information in relation to the Class B Shares and RollCo are set out in Section 7 and information relating to the risks associated with RollCo and the Class B Shares is set out in Section 8.4.

The Midway Board makes no recommendation in relation to the Scrip Consideration Options and considers that it is a matter for each eligible Midway Shareholder to decide whether or not to make an Election to receive a Scrip Consideration Option, having regard to their individual circumstances, financial situation, tax profile, investment objectives and risk profile.

<sup>27</sup> Midway Shareholders who are Ineligible Shareholders or persons who become Midway Shareholders after the Election Time will not be eligible to make an Election for a Scrip Consideration Option. See Section 5.12 for further detail in relation to Ineligible Shareholders.



For information regarding how to make an Election to receive a Scrip Consideration Option, see Section 4.6.

If a Special Dividend is declared or determined, and paid, a Midway Shareholder who elects to receive a Scrip Consideration Option will also receive any Special Dividend that may be declared or determined, and paid by Midway in respect of each Midway Share held by that Midway Shareholder on the Special Dividend Record Date.

It is important to note that if a Midway Shareholder sells their Midway Shares before the Scheme Record Date, they will not receive the Scheme Consideration.

(b) **Scaleback Arrangements**

An Election to receive Scheme Consideration as Scrip Consideration is subject to:

- **Maximum Scrip Threshold:** the maximum RollCo Scrip available for allocation to Midway Shareholders under the Scheme is 49.99% of the issued capital in RollCo. Requests for RollCo Scrip in excess of the Maximum Scrip Threshold will be subject to the Scaleback Arrangements which will scale back the number of Class B Shares issued to each Scheme Shareholder on a pro-rata basis, with the balance of Scheme Consideration being satisfied by way of Cash Consideration; and
- **Minimum Scrip Threshold:** where Elections to accept Class B Shares as Scheme Consideration is less than 5% (in aggregate) of the total issued capital of RollCo, or such lesser percentage as notified by BidCo to Midway at least 2 Business Days prior to the date of the Scheme Meeting, Scrip Consideration will not be offered and all Midway Shareholders who elected Scrip Consideration as Scheme Consideration will receive All Cash Consideration.

The pro rata Scaleback Arrangements is to ensure that the total number of Class B Shares issued under the Scheme does not exceed 49.99% of the total shares on issue in RollCo as at the Implementation Date. In effect this means that a maximum of 49.99% of the total issued capital of RollCo is available to Midway Shareholders.

Midway will announce the indicative results of the Election process to the ASX, including an indication of whether the Scaleback Arrangements applies. The announcement is currently expected to be made on Wednesday, 22 January 2025. The final results of the Election process will only be known after the Scheme Record Date. If the final results differ from the results in the indicative announcement, Midway will release an update to ASX.

(c) **RollCo Shareholders' Deed**

Midway Shareholders who make a valid Election to receive a Scrip Consideration Option and receive Class B Shares will become subject to the RollCo Shareholders' Deed and be subject to the RollCo Constitution. Please refer to Section 7.5(c) for a summary of the rights and obligations attaching to Class B Shares under the RollCo Shareholders' Deed. A copy of the RollCo Shareholders' Deed is attached at Annexure D and a copy of the RollCo Constitution is attached at Annexure E.

## 5.8 Provision of the Scheme Consideration

(a) **Cash Consideration**

If the Scheme becomes Effective, all cash to be paid as part of the Scheme Consideration will be sent to Scheme Shareholders on the Implementation Date. Scheme Shareholders who have validly registered their bank account details with the Share Registry before the Scheme Record Date may have their Cash Consideration sent directly to their bank account. Otherwise, Scheme Shareholders will have their Cash Consideration sent by cheque to their address shown on the Midway Share Register, unless their address is in New

Zealand in which case payment will be held until a valid bank account has been nominated.

Midway Shareholders can review and update their bank account details online by visiting [www.computershare.com.au](http://www.computershare.com.au) and logging into the Investor Centre. Shareholders will need an account (or establish an account) to do this.

(b) **Class B Shares**

The Class B Shares to be provided as consideration under the Scrip Consideration Options will be issued on the Implementation Date. Scheme Shareholders who receive Scrip Consideration will receive notification of their holding of the Class B Shares in RollCo shortly after that date.

(c) **Eligibility**

It is important to note that you will only receive the Scheme Consideration if you are a Scheme Shareholder. You will be a Scheme Shareholder if you hold Midway Shares at the Scheme Record Date (currently expected to be 7:00pm (AEDT) on 11 February 2025) or such other time and date as Midway and BidCo agree in writing).

## 5.9 Conditions to the Scheme

The Scheme will not become Effective and you will not receive the Scheme Consideration unless all of the Conditions to the Scheme are satisfied or waived (if capable of waiver) in accordance with the Scheme Implementation Deed.

The Conditions to the Scheme are summarised in Section 10.10(a) of this Scheme Booklet and are set out in full in clause 3.1 of the Scheme Implementation Deed. These include approval by the Court and Midway Shareholders.

On 13 December 2024, Midway released an announcement to ASX which contained details of a major customer contractual default, expected receipt of insurance proceeds and an update to its expected full year earnings for FY25. Midway notes that these events have the potential to trigger a Material Adverse Change under the Scheme Implementation Deed. It is a Condition of the Scheme that no Material Adverse Change occurs in relation to Midway.

In accordance with its obligations under the Scheme Implementation Deed, Midway has given notice to BidCo of these events. BidCo has advised Midway that it will not take any action, or seek to enforce rights under clause 3 of the Scheme Implementation Deed solely as a consequence of the known circumstances of these notified events as disclosed in the ASX announcement of 13 December 2024. However, BidCo has also advised Midway that it reserves its rights to take action or enforce its rights to the extent that the impact of these notified events when aggregated with any other adverse events (should any arise) gives rise to a Material Adverse Change. BidCo has consented to the inclusion of this statement in the form and context in which it appears.

As at the Last Practicable Date, and except as disclosed above, none of the Midway Board nor BidCo are aware of any circumstances which would cause any Condition not to be satisfied

It is also important to note that BidCo has a right to terminate the Scheme Implementation Deed if a Special Dividend of \$0.3835 per Midway Share becomes incapable of being declared or determined, or Midway fails to publicly declare or determine that Special Dividend, before 8:00am on the Second Court Date (unless BidCo chooses to waive its exercise right). Please refer to Section 5.4 for more information about the Special Dividend.

## 5.10 If the Scheme does not become effective

If the Scheme does not proceed:

- Midway Shareholders will not receive the Scheme Consideration or the Special Dividend;
- unless Midway Shareholders choose to sell their Midway Shares on the ASX, Midway Shareholders will continue to hold their Midway Shares and will be

exposed to general risks as well as risks specific to the Midway Group, including those set out in Sections 8.2 and 8.3;

- In the absence of any alternative or Competing Proposal to the Scheme, Midway will continue as a stand-alone entity with management continuing to implement its current business plan and financial and operating strategies. Midway Shareholders will be exposed to general risks and risks relating to Midway's business, including those set out in Section 8.
- a Break Fee of up to \$1,556,589 (excluding any GST) may be payable by Midway to BidCo, or by BidCo to Midway, in certain circumstances. The Break Fee will not be payable solely because Midway Shareholders fail to approve the Scheme at the Scheme Meeting. Further information on the Break Fee is set out in Sections 10.10(e), 10.10(f) and 10.10(g);
- Midway will continue as a stand-alone entity listed on the ASX with management continuing to implement the business plan and financial and operating strategies it had in place prior to 14 November 2024, being the date of announcement of the Scheme Implementation Deed to the ASX; and the price of a Midway Share on the ASX will continue to be subject to market volatility and may fall, perhaps materially, in the absence of a Superior Proposal.

Prior to the Scheme Meeting, Transaction Costs will have been incurred, or will be committed, by Midway in relation to the Scheme. Some of those Transaction Costs have either already been paid or will be payable by Midway regardless of whether or not the Scheme is implemented. If the Scheme does proceed, additional costs will be incurred. See Section 1.6(d) for more details.

### 5.11 Fractional entitlements and rounding

Where the calculation of the number of Midway Shares that are subject to the Scaleback Arrangements would result in a Scheme Shareholder becoming entitled to receive Scrip Consideration in relation to a fraction of a share, then the fractional entitlement will be rounded to the nearest whole number, with any such fractional entitlement of less than 0.5 being rounded down to the nearest whole number, and any such fractional entitlement of 0.5 or more being rounded up to the nearest whole number.

### 5.12 Ineligible Shareholders

A Midway Shareholder whose Registered Address as shown on the Midway Register on the Scheme Record Date as a place outside Australia is an Ineligible Shareholder unless BidCo and Midway agree in writing that it is lawful and not unduly onerous or impracticable to issue Class B Shares to that Scheme Shareholder on the Implementation Date if the Scheme Shareholder so elects under the Scheme.

If you are an Ineligible Shareholder, you are not entitled to a Scrip Consideration Option. If you make an Election to receive a Scrip Consideration Option, your Election will be invalid and have no effect, and you will receive the Cash Consideration for all of your Midway Shares held on the Scheme Record Date if the Scheme becomes Effective.

### 5.13 Key steps in the Scheme

#### (a) Scheme Meeting

On 19 December 2024 the Court ordered that Midway convene the Scheme Meeting at which Midway Shareholders will be asked to approve the Scheme.

The terms of the Scheme Resolution to be considered at the Scheme Meeting are contained in the Notice of Scheme Meeting in Annexure F.

The Scheme will only become Effective and be implemented if it is:

- agreed to by the Requisite Majorities of Midway Shareholders at the Scheme Meeting, expected to be held at 11:00am (AEDT) Thursday 30 January 2025 at the offices of KPMG, Level 36, Tower 2, Collins Square, 727 Collins Street, Melbourne VIC 3008;
- approved by the Court at the Second Court Hearing; and

- the other Conditions to the Scheme referred to at Section 5.9 and 10.10(a) are satisfied or waived (if capable of waiver).

The **Requisite Majorities** are:

- a majority in number (more than 50%) of Midway Shareholders present and voting at the Scheme Meeting (whether in person, by proxy, by attorney or by a corporate representative); and
- at least 75% of the total number of votes cast on the Scheme Resolution.

The Court has the discretion to waive the first of these two requirements if it considers it appropriate to do so.

The Notice of Scheme Meeting, which includes the Scheme Resolution, is set out in Annexure F to this Scheme Booklet. The vote at the Scheme Meeting will be conducted by poll.

For further details on how to vote, please refer to Section 4 of this Scheme Booklet and the Notice of Scheme Meeting in Annexure F to this Scheme Booklet.

Voting is not compulsory. However, the Midway Board unanimously recommends that Midway Shareholders vote in favour of the Scheme in the absence of a Superior Proposal<sup>28</sup>, and subject to the Independent Expert continuing to conclude that the Scheme is in the best interests of Midway Shareholders. You are encouraged to attend and vote at the Scheme Meeting.

You should be aware that even if you do not vote, or vote against the Scheme, the Scheme may still be implemented if it is approved by the Requisite Majorities of Midway Shareholders and the Court. If this occurs, your Midway Shares will be transferred to BidCo and you will receive the Scheme Consideration.

The results of the Scheme Meeting will be available as soon as possible after the conclusion of the Scheme Meeting and will be announced to the ASX ([www.asx.com.au](http://www.asx.com.au)) once available.

(b) **Conditions**

As set out in Section 5.9, there are several Conditions which must be satisfied (or waived, although some are not able to be waived) before the Scheme can become Effective. These include approval by Midway Shareholders (at the Scheme Meeting) and approval by the Court (at the Second Court Hearing).

(c) **Court approval (at the Second Court Hearing)**

In the event that:

- the Scheme is agreed to by the Requisite Majorities of Midway Shareholders at the Scheme Meeting; and
- all Conditions (except Court approval of the Scheme) have been satisfied or waived (where capable of waiver),

then Midway will apply to the Court (on the Second Court Date) for orders approving the Scheme. The Second Court Date is currently expected to be 4 February 2024.

Each Midway Shareholder has the right to appear at the Second Court Hearing.

The Court may refuse to approve the Scheme or may approve the Scheme subject to conditions or variations, even if the Scheme is approved by the Requisite Majorities of Midway Shareholders voting at the Scheme Meeting.

<sup>28</sup> Subject to implementation of the Scheme, Managing Director and Chief Executive Officer of Midway, Mr Tony McKenna, may receive a cash payment of up to \$2,084,655 (see section 1.2 and footnote 7). The Midway Board (in the absence of Mr McKenna) considers that, despite this arrangement, it is appropriate for Mr McKenna to make a recommendation on the Scheme, given his role in the operation and management of the Midway Group. Mr McKenna also considers that it is appropriate for him to make a recommendation in relation to the Scheme.

**(d) Scheme Record Date**

Scheme Shareholders, being those Midway Shareholders on the Register on the Scheme Record Date, being 7:00pm (AEDT) on the fifth business day following the Effective Date, (currently expected to be Tuesday 11 February 2025) will be entitled to receive the Scheme Consideration in respect of the Scheme Shares they hold as at the Scheme Record Date.

**(1) Dealings on or prior to the Scheme Record Date**

For the purpose of determining which Midway Shareholders are eligible to participate in the Scheme, dealings in Midway Shares will be recognised only if:

- in the case of dealings of the type to be effected using CHESS, the transferee is registered on the Register as the holder of the relevant Midway Shares on or before the Scheme Record Date; and
- in all other cases, registrable transmission applications or transfers in respect of those dealings, or valid requests in respect of other alterations, are received by the Share Registry on or before the Scheme Record Date (and the transferee remains registered as at the Scheme Record Date).

For the purposes of determining entitlements under the Scheme, Midway will not accept for registration nor recognise any transfer or transmission applications or other request received in respect of Midway Shares received after the Scheme Record Date, or prior to the Scheme Record Date but not in a registrable or actionable form, as appropriate.

**(2) Dealings after the Scheme Record Date**

For the purpose of determining entitlements to the Scheme Consideration, Midway must maintain the Register in its form as at the Scheme Record Date (currently expected to be 7.00pm (AEDT) Tuesday, 11 February 2025) until the Scheme Consideration has been provided. The Register in this form will solely determine entitlements to the Scheme Consideration.

After the Scheme Record Date:

- all statements of holding for Midway Shares will cease to have effect as documents relating to title in respect of such Midway Shares; and
- each entry on the Register will cease to have effect except as evidence of entitlement to the Scheme Consideration in respect of the Midway Shares relating to that entry.

**(e) Effective Date**

If the Court approves the Scheme and all other Conditions have been satisfied or waived (where capable of waiver), the Scheme will become Effective on the date when a copy of the Court order approving the Scheme is lodged with ASIC. Midway will, on the Scheme becoming Effective, give notice of that event to ASX. This will be the last day for trading of Midway Shares on the ASX.

**(f) Implementation Date**

If the Scheme becomes Effective, it will be implemented on the Implementation Date. The Implementation Date is the fifth Business Day after the Scheme Record Date, currently expected to be Tuesday 18 February 2025.

By no later than the Business Day before the Implementation Date, BidCo must deposit (or will procure the deposit), in cleared funds, an amount equal to Aggregate Scheme Consideration to be paid as Cash Consideration payable to Scheme Shareholders into an Australian dollar denominated trust account with an authorised deposit-taking institution in Australia operated by or on behalf of Midway as trustee for those Scheme Shareholders

On the Implementation Date:

- The Cash Consideration will be paid by direct deposit into your Australian dollar denominated bank account, as advised to the Share Registry as at the Scheme Record Date. If you have not nominated an Australian dollar

denominated bank account, payment will be made by Australian dollar cheque sent by post to your registered address as shown on the Register unless your address is in New Zealand in which case payment will be held until a valid bank account has been nominated; and

- before 12.00pm (or such other time as BidCo and Midway may agree in writing), BidCo will issue the Scrip Consideration to each Scheme Shareholder entitled to receive Scrip Consideration as part of their valid Election to receive a Scrip Consideration Option under the Scheme and subject to the Scaleback Arrangements described in Section 5.7(b).

Immediately after the Scheme Consideration is paid or provided to Scheme Shareholders, the Scheme Shares will be transferred to BidCo without Scheme Shareholders needing to take any further action.

(g) **Deed Poll**

On 16 December 2024, BidCo and RollCo executed the Deed Poll pursuant to which BidCo has undertaken in favour of each Scheme Shareholder to provide each Scheme Shareholder with the Scheme Consideration to which they are entitled under the Scheme, subject to the Scheme becoming Effective.

A copy of the Deed Poll is contained in Annexure C.

(h) **Warranties by Scheme Shareholders in respect of their Midway Shares**

If the Scheme becomes Effective, each Scheme Shareholder including those who vote against the Scheme and those who do not vote, will be deemed to have warranted to Midway and BidCo and to the extent enforceable, to have appointed and authorised Midway as that Scheme Shareholder's agent and attorney to warrant to BidCo that all their Scheme Shares (including any rights and entitlements attaching to those Scheme Shares) will, at the date of transfer of them to BidCo under the Scheme, be fully paid and not subject to any encumbrances (including any "security interests" within the meaning of section 12 of the *Personal Property Securities Act 2009* (Cth)), that they have full power and capacity to sell and transfer their Scheme Shares (together with all rights and entitlements attaching to those Scheme Shares) to BidCo pursuant to the Scheme, and that they have no existing right to be issued any Midway Shares or any other Midway equity securities, options exercisable into Midway Shares, convertible notes or any other Midway equity securities. See clause 10.4(a) of the Scheme in Annexure B to this Scheme Booklet.

## 5.14 Delisting of Midway

On a date after the Implementation Date, Midway will apply:

- for termination of the official quotation of Midway Shares on ASX; and
- to have itself removed from the official list of ASX.

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# Information

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# about Midway

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## 6 Information about Midway

### 6.1 Introduction and business overview

#### (a) Introduction

Founded in 1980, Midway Limited is one of Australia's largest woodfibre processors and exporters with a strong and growing plantation carbon management business. It has been listed on the ASX since December 2016.

Midway's fibre is used in plastic replacement products and recyclable paper and packaging. The Company is building a plantation carbon management business to generate carbon abatement and emissions offsets solutions for landowners, emitters and investors

#### (b) Operations Overview

Midway has woodchip processing and exporting operations at five major port locations in key forestry areas around Australia including: Bell Bay, Tasmania; Portland and Geelong in Victoria; Brisbane, Queensland; and Melville Island in the Northern Territory's Tiwi Islands.

- **Geelong:** Midway's original asset that is co-located with head office. 13.6 hectares of freehold land adjacent to Geelong Port, with priority berth arrangements and with capacity to process and export up to 1.5 million GMT per annum of woodfibre. Contains static woodfibre mill infrastructure, mobile debarking for processing of softwood and three stockpiles including three reclaimers.
- **Tasmania:** woodfibre processing and export operations on leased land, with a site export capacity of greater than 600,000 GMT per annum of wood fibre. Midway has significantly invested in its Tasmanian operations across infrastructure, resource and customer demand including development of a new mill site at Bell Bay which commenced production in October 2022 with 80,000 tonne stockpile capacity.
- **Queensland Commodity Exports (QCE):** joint venture with GrainCorp who provide toll ship loading and own 10% of QCE. Midway provide woodfibre export services for South East Queensland and Northern NSW, with a lease on a four hectare site with the Port of Brisbane for processing, storing and loading. The site has up to 600,000 GMT per annum of softwood and hardwood export capacity. QCE entered into a 10-year lease in FY24 securing the Midway Group's position with export infrastructure at the Port of Brisbane.
- **Plantation Carbon Management:** Midway's plantation carbon division is a natural extension of its long-standing expertise in plantation management. It offers an end-to-end solution where Midway sources land, establishes plantations and manages all aspects of plantation carbon projects.
- **Plantation Management Partners - Tiwi Islands** - PMP manages the first rotation for a 30,000 hectare Tiwi Plantation Corporation forestry plantation project, providing forestry management and marketing services. There is a stockpile capacity of 60,000 tonnes and a 400,000 GMT per annum woodfibre export capacity. Midway is in the process of raising external capital for the establishment of a second rotation project.
- **South West Fibre (SWF):** 51 per cent owned joint venture with Mitsui with static mill chipping infrastructure at Myamyn, in the heart of the Green Triangle forestry region. Portside woodfibre receipt storage and loading facilities contracted with GrainCorp, with a woodfibre export capacity of up to 1.8 million GMT per annum.



Site	Ownership structure	Operating segment	Infrastructure	Stockpile capacity (GMT)	Export capacity (GMT)
Midway Geelong, Head office (MW)	100%	Woodfibre & plantation management	Owned	200,000	1,500,000
Midway Tasmania (MWT)	100%	Woodfibre	Owned and leased	80,000	>600,000
Queensland Commodity Exports (QCE)	Joint-venture Midway: 90% GrainCorp: 10%	Woodfibre	Leased	100,000	600,000
Plantation Management	100%	Plantation management and carbon	Third party management	n/a	n/a
Plantation Management Partners	SPJ JV interest	Woodfibre	Leased	60,000	400,000
South West Fibre (SWF)	Joint-venture Midway: 51% Mitsui & Co: 49%	Woodfibre	Leased	80,000	1,800,000
<b>Total across assets</b>	-	-	-	520,000	4,900,000

## 6.2 History

- Midway was established in 1980 by a number of Victorian hardwood sawmillers with the objective of establishing a viable export market for hardwood sawmill residues. Midway exported its first shipment of hardwood from Geelong, Victoria in 1986.
- In 1995, Midway acquired a Smorgon pine plantation comprising approximately 6,000 ha of softwood plantation on freehold land with the strategy of converting the plantation to hardwood. Softwood woodfibre exports commenced in 1996.
- In 1999, Midway acquired the Victree pine plantations estate of approximately 4,000 ha.
- In 2006, Midway acquired a major shareholding in Queensland Commodity Exports. Midway increased its interest in Queensland Commodity Exports to 90% in 2014.
- In 2007, Midway established South West Fibre, a woodfibre processor and exporter, with Mitsui.
- Midway Limited listed on the ASX in December 2016.
- In 2017, Midway acquired PMP.
- In 2022, Midway Limited disposed of its 17,000 ha plantation estate in Victoria.

## 6.3 Business Model and Strategy

Midway is one of Australia's largest woodfibre processors and exporters with a growing plantation and carbon management business. Midway is a supply chain manager and woodfibre exporter with competitive advantages that include:

- Port access that enables control of export points
- Strategic locations across Australia proximate to woodfibre supply sources

- Deep industry connections
- Plantation and carbon IP / adjacencies to market

Midway's business model relies on exporting woodfibre product to the paper mills of China and Japan. Midway's woodfibre product competes in a global marketplace. Midway's higher quality, higher priced Australian woodfibre competes with the product of producers predominantly based in Vietnam.

Midway's major customers are Chinese (e.g. Chenming, Nine Dragons, APP) and Japanese (e.g. Daio, Nippon, Oji) paper mills. Pricing is set on an annual basis by the lead customer. Midway woodfibre sales are denominated in USD. To manage currency fluctuations, Midway prudently hedges a significant proportion of its forward sales through foreign exchange hedging contracts. Midway continues to maintain and strengthen its business relationships (including by entering into strategic alliances with key suppliers).

The majority of Midway sales are made on an FOB basis. For CIF sales, to transport its product, Midway relies on vessel chartering. Vessels may be deferred or cancelled by customers from time-to-time. In circumstances where a customer defers or cancels a vessel, Midway will generally seek to find an alternative customer for that shipment of its product.

In May 2022, Midway commenced a strategic review and identified several priorities to be addressed:

- **Lifting operating performance:** in 2024, Midway achieved Geelong improvement through reconfiguring the woodchip operations and exporting a range of products including softwood. Midway also secured a long term lease for port-access at Port of Brisbane and completed the development of infrastructure in Tasmania.
- **Maximising value of assets:** asset sales since 2022 have positioned Midway with a strong balance sheet with the sale and settlement of Wandong estate for \$17.0m in 2022, the sale of the Plantation Estate to MEAG, and the sale of under-utilised land at Geelong Port to CHS Broadbent in November 2024.
- **Carbon growth:** Midway continues to strengthen its position in plantation carbon, having 3,150ha plantation carbon projects under management registered with the Clean Energy Regulator and managing over 10,000 plantable hectares for institutional investors as at the Last Practicable Date. Midway is currently in negotiations with River Capital to progress a 30,000ha second rotation on the Tiwi Islands. Midway has also been contracted to manage Rio Tinto's biofuel crop farming project for renewable diesel production.

## 6.4 Safety, health, sustainability and environment

Midway has established a sub-committee of the Midway Board to be responsible for Safety and Sustainability - the Safety and Sustainability Committee. Midway is audited once a year against its relevant ISO standards.

Midway has general environmental duties that require Midway to minimise risk of harm to human health or the environment from pollution or waste so far as reasonably practicable. Environmental management within Midway is shared between the central sustainability group and the operational business units. The general principle for determining accountability is:

- **Sustainability Group:** responsible for enabling business units to undertake environmental management in an effective and efficient manner.
- **Business Unit:** implementation of environmental management plans and systems. Business as usual tasks are the responsibility of business units undertaking the relevant activity (including, for example, facilitating site monitoring).

## 6.5 Tiwi Insurance Proceeds

As a result of fires on the Tiwi Islands, PMP, which is a 100% owned Subsidiary of Midway, is entitled to future insurance proceeds under a Voluntary Scheme Deed entered into by Tiwi Plantation Corporation (TPC), PMP and others.

An insurance claim for compensation by TPC has been made with respect to a total area of 1198 ha of burnt plantations. TPC has been advised by Comcover (the Australian Government's self-managed insurance fund) that the delegate has approved for payment an insurance claim made by TPC in the amount of \$7,922,831. An amount of \$1,687,153 has already been received by TPC and Midway has been advised that the balance of the insurance proceeds is expected in the near term. These proceeds, if and when received, are required to be distributed in accordance with the Voluntary Scheme Deed.

The order in which the payout is determined is subject to the order of priority set out in the Voluntary Scheme Deed of which PMP has the most prominent position. Midway expects that PMP's share of the total insurance proceeds is likely to be up to approximately \$6.5m (or \$5.2M after tax).

If the Scheme is implemented, these insurance proceeds will not be available, or otherwise distributed, to Midway Shareholders as part of the Scheme Consideration.

## 6.6 Midway Board and senior management

### (a) Board

As at the Last Practicable Date, Midway Board comprises the following Directors:

Name	Position
Gordon Davis	Independent, Non-Executive Chairman
Kellie Benda	Independent, Non-Executive Director
Nils Gunnensen	Non-Executive Director
Tom Gunnensen	Non-Executive Director
Leanne Heywood	Independent, Non-Executive Director
Anthony McKenna	Managing Director & Chief Executive Officer
Andy Preece	Independent, Non-Executive Director

### (b) Senior executive team

As at the Last Practicable Date, Midway's senior management comprises the following members:

Name	Position
Anthony McKenna	Managing Director & Chief Executive Officer
Michael McKenzie	Chief Financial Officer
Hamish Little	General Manager Plantations and Carbon
Stephen Roffey	General Manager - Marketing
Lachlan Spencer	Group Sustainability Manager
Adin Jull	General Manager Operations

## 6.7 Capital Structure

As at the Last Practicable Date, the capital structure of Midway was:

Type of Security	Number On Issue
<b>Ordinary shares</b>	87,336,222
Midway Options	721,436
Midway Performance Rights	1,914,288 <sup>29</sup>
<b>Fully Diluted Shares</b>	<b>89,971,946</b>

See Section 10.8 for further information on the intended treatment of Midway Rights (which include Midway Options and Midway Performance Rights) in connection with the Scheme.

Other than as described in this Section 6.7, there are no other securities on issue, and there are no offers or agreements to issue any securities, in Midway.

## 6.8 Substantial shareholders

As at the Last Practicable Date, the following persons have notified Midway of the fact that they hold substantial holdings (within the meaning of the Corporations Act) in Midway Shares.

Shareholder	Ordinary shares held	% of issued ordinary shares
Chebmont Pty Ltd	20,798,294	23.81
River Capital Pty Ltd <sup>30</sup>	16,936,033	19.39
Gregory McCormack And McCormack Timbers	9,804,599	11.23
Sandon Capital Pty Ltd	8,183,583	9.37

The shareholdings listed in this Section 6.8 are disclosed to Midway by the shareholders by substantial holding notices and change in director interest notices received by the Last Practicable Date. Information in regard to substantial holdings arising, changing or ceasing after Last Practicable Date or in respect of which Midway has not been advised or has not otherwise been disclosed, is not included above.

## 6.9 Recent Midway Share price performance

As at 13 November 2024, being the last trading day prior to the announcement of the entry into the Scheme Implementation Deed on 14 November 2024:

- the closing price of Midway Shares on ASX was \$0.765.
- the highest recorded daily closing price for Midway Shares on ASX in the previous 3 months was \$1.18 on 18 September 2024; and
- the lowest recorded daily closing price for Midway Shares on ASX in the previous 3 months was \$0.63 on 20 August 2024.

<sup>29</sup> As at the Last Practicable Date there were 1,914,288 Performance Rights on issue. In accordance with the terms of the SID, all will be cash settled by Midway prior to Implementation of the Scheme.

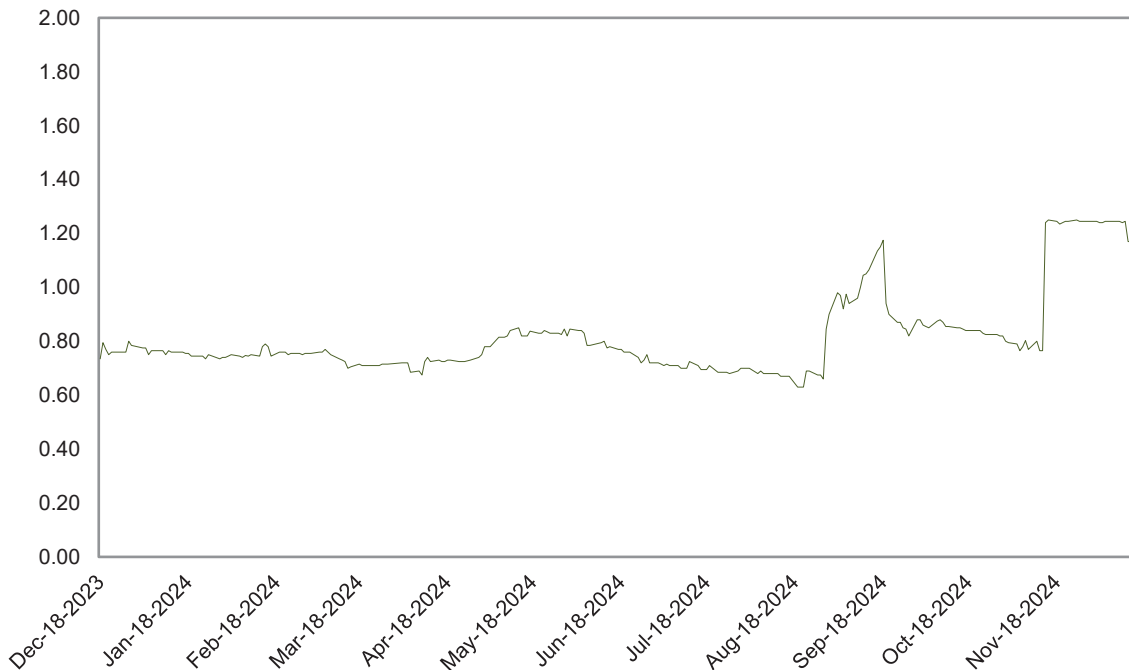
<sup>30</sup> As at the Last Practicable Date, River Capital has a direct shareholding of 8.17% plus their relevant interest in the ordinary shares held by Gregory McCormack and McCormack Timbers of 11.23% pursuant to the Voting Deeds. See Section 10.3 for more information about the Voting Deeds.

As at 16 December 2024, being the Last Practicable Date:

- (a) the closing price of Midway Shares on ASX was \$1.1675.
- (b) the highest recorded daily closing price for Midway Shares in the previous 3 months on ASX was \$1.250 on 15 November 2024; and
- (c) the lowest recorded daily closing price for Midway Shares in the previous 3 months on ASX was \$0.765 on each of 5 November 2024 and 12 November 2024.

The graph below shows Midway's share price performance over the last 12 months up to and including the Last Practicable Date:

Midway Limited (ASX:MWY) - Share Pricing



The current price of Midway Shares on ASX can be obtained from ASX's website ([www.asx.com.au](http://www.asx.com.au)).

### 6.10 Risks Relating to Midway's business

There are existing risks relating to Midway's business and an investment in Midway. These risks will not be relevant to Midway Shareholders if the Scheme becomes Effective (unless you receive Class B Shares by making a valid Election for a Scrip Consideration Option, in which case you will remain exposed to those risks described in Section 8).

If the Scheme does not become Effective, those risks continue to be relevant to Midway Shareholders. A summary of the key risks relating to Midway's business and an investment in Midway is set out in Section 8.

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## 6.11 Group Structure

The following entities are Subsidiaries of Midway:

<b>Controlled Subsidiaries</b>	<b>Principal Place of Business</b>	<b>Ownership interest on or after 30 June 2024</b> %	<b>Ownership interest on or 30 June 2023</b> %
Queensland Commodity Exports Pty Ltd	Australia	90	90
Midway Plantations Pty Ltd	Australia	100	100
Midway Properties Pty Ltd	Australia	100	100
Midway Tasmania Pty Ltd	Australia	100	100
Australian Carbon Products Pty Ltd	Australia	100	100
Plantation Management Partners Pty Ltd	Australia	100	100
Resource Management Partners Pty Ltd	Australia	100	100
Plantation Management Partners Pte Ltd	Singapore	100	100
Midway Logistics Pty Ltd	Australia	100	100
Midway Logistics Unit Trust	Australia	100	100
Bio Growth Partners (BGP)	Australia	100	100
<b>Equity Accounted Investments</b>	<b>Principal Place of Business</b>	<b>Ownership interest on or after 30 June 2024</b>	<b>Ownership interest on or 30 June 2023</b>
South West Fibre Pty Ltd	Australia	51%	51%

## 6.12 Historical financial information

This Section 6.12 contains the Midway Financial Information, which comprises:

- historical consolidated income statements of Midway for the years ended 30 June 2024 and 30 June 2023;
- historical consolidated statement of financial position of Midway as at 30 June 2024 and 30 June 2023; and
- historical consolidated statement of cash flows of Midway for the years ended 30 June 2024 and 30 June 2023.

The financial information in this Scheme Booklet is in an abbreviated form and does not contain all of the presentations and disclosures that are usually provided in an annual report and should therefore be read in conjunction with the financial statements of Midway for the respective periods, including the description of the significant accounting policies contained in those financial statements and the notes to those financial statements.

The information has been extracted from the audited financial reports of Midway for the years ended 30 June 2023 and 30 June 2024 which are available on the Midway's website at <https://www.midwaylimited.com.au/investor-centre/> or by visiting ASX's website at [www.asx.com.au](http://www.asx.com.au).

See Section 6.15 of this Scheme Booklet for details of where Midway's full financial reports, including all notes to those financial reports, can be found.

(a) **Midway historical consolidated income statements**

The historical consolidated income statements of Midway for the years ended 30 June 2024 and 30 June 2023 are summarised in the table below.

	<b>2024</b>	2023
	<b>\$'000</b>	\$'000
<b>Revenue and other income</b>		
Sales revenue	273,521	187,808
Other income	6,095	19,226
	<b>279,616</b>	<b>207,034</b>
<b>Less: expenses</b>		
Changes in inventories of finished goods and work in progress	(7,992)	14,156
Materials, consumables and other procurement expenses	(182,731)	(137,564)
Depreciation and amortisation expense	(8,426)	(6,318)
Employee benefits expense	(18,927)	(20,620)
Biological assets net fair value increment	(937)	151
Plantation management expenses	(8,152)	(3,995)
Freight and shipping expense	(29,428)	(24,897)
Repairs and maintenance expense	(6,777)	(9,865)
Impairment loss on non-current assets	(127)	(8,192)
Other expenses	(10,588)	(12,051)
	<b>(274,085)</b>	<b>(209,195)</b>
Finance expense	(4,134)	(6,493)
Finance income	2,548	1,726
Net finance expense	(1,586)	(4,767)
Share of net profits from equity accounted investments	(1,660)	2,386
<b>Profit before income tax expense</b>	<b>2,285</b>	<b>(4,542)</b>
Income tax expense	(1,307)	2,163
<b>Profit / (loss) for the period</b>	<b>978</b>	<b>(2,379)</b>
<i>Items that will not be reclassified to profit and loss</i>		
Revaluation of land fair value adjustment, net of tax	20,020	-
<i>Items that may be reclassified subsequently to profit and loss</i>		
Cash flow hedges - effective portion of changes in fair value, net of tax	2,543	4,492
Foreign operations – foreign currency translation differences	6	-
Equity accounted investees - share of OCI	-	-
Other comprehensive income for the period	22,569	4,492
<b>Total comprehensive income for the period</b>	<b>23,547</b>	<b>2,113</b>
<b>Profit is attributable to:</b>		
- Owners of Midway Limited	858	(2,803)
- Non-controlling interests	120	424
	<b>978</b>	<b>(2,379)</b>
<b>Total comprehensive income is attributable to:</b>		
- Owners of Midway Limited	23,427	1,689
- Non-controlling interests	120	424
	<b>23,547</b>	<b>2,113</b>
<b>Earnings per share for profit attributable to equity holders:</b>		
Basic earnings per share	<b>\$0.01</b>	-\$0.03
Diluted earnings per share	<b>\$0.01</b>	-\$0.03

(b) **Midway historical consolidated statement of financial position**

The historical consolidated statement of financial position of Midway as at 30 June 2023 and 30 June 2024 is set out below.

	2024 \$'000	2023 \$'000
<b>Current assets</b>		
Cash and cash equivalents	24,856	5,606
Receivables	45,423	27,567
Inventories	26,692	34,996
Biological assets	3,012	1,744
Other assets	4,116	5,234
Current tax receivable	215	
Asset held for sale	12,360	-
Derivative financial asset	1,111	-
<b>Total current assets</b>	<b>117,785</b>	<b>75,147</b>
<b>Non-current assets</b>		
Biological assets	3,225	6,730
Other Receivables	-	33,459
Investments accounted for using the equity method	11,745	13,405
Intangible assets	1,971	1,971
Loan receivables	-	17
Property, plant and equipment	64,220	44,554
Right of use lease assets	18,500	7,316
<b>Total non-current assets</b>	<b>99,661</b>	<b>107,452</b>
<b>Total assets</b>	<b>217,446</b>	<b>182,599</b>
<b>Current liabilities</b>		
Trade and other payables	17,627	16,707
Current tax payable	-	1,246
Borrowings	932	3,027
Lease liabilities	1,376	540
Strategy financial liability	8,237	9,151
Derivative financial liability	-	2,523
Provisions	4,162	4,451
<b>Total current liabilities</b>	<b>32,335</b>	<b>37,645</b>
<b>Non-current liabilities</b>		
Borrowings	3,460	3,598
Lease liabilities	18,094	4,349
Strategy financial liability	-	7,146
Provisions	89	139
Deferred tax liabilities	17,066	2,745
<b>Total non-current liabilities</b>	<b>38,709</b>	<b>17,977</b>
<b>Total liabilities</b>	<b>71,044</b>	<b>55,622</b>
<b>Net assets</b>	<b>146,402</b>	<b>126,977</b>
<b>Contributed Equity</b>		
Share capital	64,888	64,888
Reserves	116,898	91,926
Retained earnings	(37,211)	(31,544)
<b>Equity attributable to owners of Midway Limited</b>	<b>144,575</b>	<b>125,270</b>
Equity attributable to non-controlling interests	1,827	1,707
<b>Total equity</b>	<b>146,402</b>	<b>126,977</b>

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(c) **Midway historical consolidated statement of cash flows**

This historical consolidated statement of cash flows of Midway for the years ended 30 June 2024 and 30 June 2023 are summarised in the table below.

	2024	2023
	\$'000	\$'000
<b>Cash flow from operating activities</b>		
Receipts from customers	257,422	201,677
Payments to suppliers and employees	(239,647)	(212,624)
Interest received	637	504
Interest paid	(1,126)	(2,032)
Income tax (paid) / received	5,501	(241)
<b>Net cash provided by operating activities</b>	<b>22,787</b>	<b>(12,716)</b>
<b>Cash flow from investing activities</b>		
Payment for property, plant and equipment	(6,768)	(4,281)
Proceeds from sale of fixed assets	16,350	63,445
Proceeds from sale of plantations estate	7,651	36,459
Payment for non current biological assets	-	(6,094)
Acquisition of equity accounted investees	-	-
Income tax paid	(3,617)	(7,958)
<b>Net cash provided by investing activities</b>	<b>13,616</b>	<b>81,571</b>
<b>Cash flow from financing activities</b>		
Transfer from Term Deposit		
Repayment of Strategy financial liability	(9,548)	(27,395)
Principal repayment of lease liabilities	(3,977)	(4,850)
Dividends paid	(4,367)	-
Proceeds from bank borrowings	4,606	2,415
Repayment of bank borrowings	(5,976)	(36,625)
Proceeds from loan receivable	100	237
Redemption of term deposit	2,009	-
<b>Net cash used in financing activities</b>	<b>(17,153)</b>	<b>(66,218)</b>
<b>Reconciliation of cash</b>		
Cash at beginning of the financial period	5,606	2,969
Net increase/(decrease) in cash held	19,250	2,637
<b>Cash at end of financial period (net of overdrafts)</b>	<b>24,856</b>	<b>5,606</b>

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### 6.13 Material changes in financial position since 30 June 2024

Other than:

- payment of a fully franked special dividend of \$0.145 together with a fully franked \$0.016 ordinary dividend per Midway Share on 4 October 2024;
- completion of the land sale contract for the sale of 5.15ha of Midway's Geelong site for total sale proceeds of \$15.5 million;
- the expected receipt of up to approximately up to approximately \$6.5 million (or \$5.2 million after tax) of insurance proceeds as detailed in Section 6.5;
- Midway's announcement to the ASX on 13 December 2024 in which Midway advised that it expected its full year FY25 results to be at the lower end of the \$10 million - \$15 million EBITDA-S target average through the cycle;
- the accumulation of earnings in the ordinary course of trading;
- as disclosed in this Scheme Booklet or as otherwise disclosed to ASX by Midway; and
- in accordance with generally known market conditions,

within the knowledge of the Midway Board, the financial position of Midway has not materially changed since 30 June 2024, being the date of Midway's financial statements for the full year ended 30 June 2024 (released to ASX on 29 August 2024).

A copy of Midway's financial statements for the year ended 30 June 2024 are available free of charge on Midway's website (<https://www.midwaylimited.com.au/investor-centre/>) or on ASX's website ([www.asx.com.au](http://www.asx.com.au)) or by contacting the Shareholder Information Line on 1300 850 505 (within Australia) or +61 3 9415 4000 (outside Australia) between 8.15am and 5.00pm, Monday to Friday.

Midway has not provided any other financial outlook to the market.

Further information about Midway's financial performance is set out in the Independent Expert's Report which forms Annexure A to this Scheme Booklet.

### 6.14 Midway Directors' intentions

The Corporations Regulations require a statement by the Midway Directors of their intentions regarding Midway's business. If the Scheme is implemented, the Midway Board will be reconstituted on the Implementation Date in accordance with instructions from BidCo (subject to the Scheme Consideration having been paid by BidCo in accordance with the Scheme). It is for the new Midway Board to determine its intentions as to:

- the continuation of the business of Midway;
- any major changes, if any, to be made to the business of Midway; and
- the future employment of the present employees of Midway.

If the Scheme is implemented, BidCo will have 100 percent ownership and control of Midway. The current intentions of BidCo with respect to these matters are set out in Section 7.7.

If the Scheme is not implemented, the Midway Directors intend to continue to operate the Midway business in the ordinary course of the business of Midway.

### 6.15 Public information available for inspection

As a company listed on ASX and a disclosing entity under the Corporations Act, Midway is subject to regular reporting and disclosure obligations. Broadly, these require Midway to announce price sensitive information as soon as it becomes aware of the information, subject to exceptions for certain confidential information. Midway's recent announcements are available from [www.asx.com.au](http://www.asx.com.au). Further announcements concerning developments at Midway will continue to be made available on this website after the date of this Scheme Booklet.

Midway is required to prepare and lodge with ASIC and ASX both annual and half-yearly financial statements accompanied by a statement and report from the Midway Directors and an audit or review report. Copies of these and other documents lodged with ASIC may be obtained from or inspected at an ASIC office and on the Midway website <https://www.midwaylimited.com.au/investor-centre/>.

ASX maintains files containing publicly disclosed information about all companies listed on ASX. Information disclosed to ASX by Midway is available on ASX's website at [www.asx.com.au](http://www.asx.com.au).

Midway Shareholders may obtain a copy of:

- the annual financial report of Midway for the year ended 30 June 2024 (being the annual financial report most recently lodged with ASX and ASIC before lodgement of this Scheme Booklet with ASIC); and
- any continuous disclosure notice given to ASX by Midway since the lodgement with ASX and ASIC of the 30 June 2024 annual report for Midway referred to above and before lodgement of this Scheme Booklet with ASIC.

A list of announcements made by Midway to ASX from the date of the Scheme Implementation Deed on 14 November 2024 to the Last Practicable Date, is included below:

Date	Description of Announcement
13 December 2024	Market update
12 December 2024	Trading Halt
12 December 2024	Pause in Trading
2 December 2024	Becoming a substantial holder
29 November 2024	Notification regarding unquoted securities - MWY
28 November 2024	Transcript of AGM
28 November 2024	Results of AGM
28 November 2024	Chair's and CEO's presentations to AGM
15 November 2024	Change in substantial holding
14 November 2024	Scheme Implementation Deed with River Capital

## 6.16 Further information

For a summary of the risks associated with Midway, please refer to Section 8.

Information  

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about BidCo and  

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the BidCo Group  

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## 7 Information about BidCo and the BidCo Group

### 7.1 Introduction

This Section 7 contains the information concerning River Capital, BidCo and the BidCo Group (including RollCo). It also outlines how BidCo is funding the Scheme Consideration and its intentions in relation to Midway.

This Section 7 forms part of the BidCo Information. It has been prepared by BidCo unless stated otherwise and is the responsibility of BidCo. Midway and its officers and advisers do not assume any responsibility for the accuracy or completeness of this information.

### 7.2 Overview of River Capital

Established in 1996, River Capital is an investment firm focussed on compounding the capital of its principals, their families, and a select group of individual and family office investors. The firm takes a disciplined, long-term approach to investing in listed and unlisted companies in Australia and internationally. The Group currently manages approximately \$1 billion on behalf of investors.

Further information about River Capital is available on its website, [www.rivercapital.com.au](http://www.rivercapital.com.au).

### 7.3 Overview of BidCo

BidCo is a wholly owned Subsidiary of RollCo. Each member of the BidCo Group is directly or indirectly controlled by River Capital.

BidCo is a special purpose company that was incorporated on 11 November 2024 for the purpose of acquiring all of the Scheme Shares under the Scheme. BidCo is an unlisted proprietary Australian company limited by shares. Other than entry into the Scheme Implementation Deed and associated documents and taking any steps in connection with those documents and the Transaction, BidCo has not undertaken any trading or business activities and has no assets or liabilities. All of the shares in BidCo are owned by RollCo. If the Scheme becomes Effective, BidCo will hold all of the Scheme Shares on the Implementation Date.

As at the Last Practicable Date, Mr Joshua Ludski is the sole director of BidCo (whose brief profile is set out in Section 7.4(c)). On and from the Implementation Date, additional directors may be appointed to the board of BidCo pursuant to the constitution of BidCo.

### 7.4 Overview of RollCo

#### (a) Overview

RollCo is an unlisted Australian public company incorporated on 11 November 2024 and became the holder of all of the shares in BidCo on 11 November 2024. Other than entry into the RollCo Shareholders' Deed, Deed Poll and associated documentation and taking any steps contemplated by those documents and the proposed Transaction, RollCo has not undertaken any trading or business activities and has no assets (other than shares in BidCo) or liabilities.

#### (b) Capital structure

##### (i) Current and pre-implementation structure

As at the Last Practicable Date, there is only one Class A Share on issue in RollCo, which is held by River Capital Nominees Pty Ltd, a wholly owned subsidiary of River Capital.

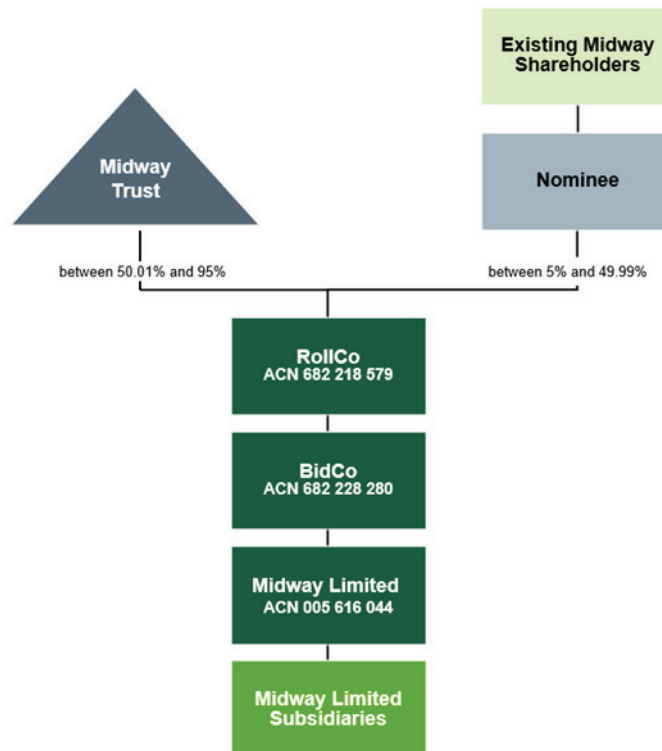
River Capital Nominees Pty Ltd will transfer the one Class A Share it holds to Midway Trust (which is a fund managed and/or advised by, and the trustee of which is, River Capital) prior to the Implementation Date. For further details please see Section 7.6(b)

Set out below is a high level structure diagram of the BidCo Group as at the Last Practicable Date:



**(ii) On and from the Implementation Date**

Set out below is an illustrative structure chart of the BidCo Group on and from the Implementation Date.



This is subject to reaching the Minimum Scrip Threshold.

If the Scheme is implemented, Scheme Shareholders will receive Cash Consideration unless they make a valid Election to receive a Scrip Consideration Option (and the other Conditions are satisfied – see Sections 8.5(a) and 10.10(a) for details).

Scheme Shareholders who make a valid Election to receive a Scrip Consideration Option will hold no more than 49.99% (in aggregate) of the issued capital in RollCo.

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(c) **Directors**

As at the Last Practicable Date, the directors of RollCo are Mr Joshua Ludski, Mr James Craig and Mr Tim Poole. Brief profiles of each of these directors are set out below. As at the Last Practicable Date, it is the BidCo Group's current intention that Michael Nossal will be appointed as an independent director of RollCo with effect on and from the Implementation Date. Michael Nossal's brief profile is set out below. As at the Last Practicable Date, the other directors of Midway after the Implementation Date have not been determined by BidCo.

The composition of the RollCo board may change on and from the Implementation Date in accordance with the RollCo Shareholders' Deed. For further information on the RollCo Shareholders' Deed, see section 7.5.

Director	Profile
Joshua Ludski	<p>Joshua Ludski leads River Capital Strategic Investments. Current directorships include The Cheesecake Shop and Cannatrek.</p> <p>Prior to joining River Capital, Joshua was a consultant at Bain &amp; Company, a global management consultancy, with a focus on Retail and Private Equity.</p> <p>Joshua holds a Bachelor of Laws and a Bachelor of Commerce from Monash University.</p>
James Craig	<p>James is an Executive Director at River Capital since 2011.</p> <p>James has extensive experience in corporate governance having joined multiple boards including the Chairman of the Australian Super investment committee, Deputy Chairman of ASX-listed Lifestyle Communities and Australian United Investment Co, as well as Chairman of Cell Care.</p> <p>James holds a Bachelor of Laws (Hons) from the University of Adelaide and a Master of Laws from the University of Melbourne.</p>
Tim Poole	<p>Tim Poole is a member of River Capital's Investment Committee.</p> <p>Tim is the Chairman of Aurizon Holdings Limited, Australia's largest rail freight operator. Previously, Tim was the Chairman of Reece Ltd, McMillan Shakespeare Limited and Lifestyle Communities Limited. He was formerly the Managing Director of Hastings Funds Management.</p> <p>Tim holds a Bachelor of Commerce from the University of Melbourne.</p>
Michael Nossal*	<p>Michael Nossal is the Non-Executive Chair of IGO Ltd since 2021.</p> <p>Michael is a senior mining executive with 35+ years' experience in business development, strategy and operations. He was previously the Chief Development Officer at Newcrest Mining and Executive General Manager Business Development at MMG Ltd, where he led significant growth initiatives. He has held other executive management and board positions at companies including WMC Resources, Lundin Gold, Nordgold, En+Group, UC Rusal, Normandy Mining, and others.</p> <p>Michael holds a Master of Business Administration from the Wharton School of the University of Pennsylvania.</p>

\* with effect on and from the Implementation Date.

(d) **Corporate governance**

The affairs of RollCo will be regulated under the RollCo Shareholders' Deed (including the Nominee Deed at Schedule 2 of that document) and the RollCo Constitution (set out in Annexure D and Annexure E respectively).

A summary of the key rights and obligations attaching to Class B Shares is set out in section 7.5(c) (although this summary is not exhaustive and Midway Shareholders should read these documents in full).

The RollCo Shares are not, and will not be for the foreseeable future be, quoted on any securities exchange. The corporate governance arrangements for RollCo will differ significantly from those that Midway currently has in place.

After the Implementation Date, RollCo is likely to adopt an approach to corporate governance appropriate for a closely held unlisted Australian public company limited by shares.

## 7.5 Class B Shares

### (a) Overview

The Scheme contemplates the acquisition of all Midway Shares such that on and from the Implementation Date, BidCo will hold 100% of the shares in Midway. Under the Scheme, Scheme Shareholders may receive the Cash Consideration for their Midway Shares or eligible Midway Shareholders may make a valid Election to receive a Scrip Consideration Option (excluding Ineligible Shareholders).

The Scrip Consideration Options comprise:

- All Scrip Consideration: Scrip Consideration for each Scheme Share held by a Scheme Shareholder who has made this Election;
- Mixed Consideration Option 1: Cash Consideration for each Scheme Share, in respect of 25% of the Scheme Shares, plus Scrip Consideration for each Scheme Share, in respect of the other 75% of the Scheme Shares, held by a Scheme Shareholder who has made this Election;
- Mixed Consideration Option 2: Cash Consideration for each Scheme Share, in respect of 50% of the Scheme Shares, plus Scrip Consideration for each Scheme Share, in respect of the other 50% of the Scheme Shares, held by a Scheme Shareholder who has made this Election; or
- Mixed Consideration Option 3: Cash Consideration for each Scheme Share, in respect of 75% of the Scheme Shares, plus Scrip Consideration for each Scheme Share, in respect of the other 25% of the Scheme Shares, held by a Scheme Shareholder who has made this Election,

in each case, subject to the qualifications below.

In each of the Scrip Consideration Options, the Scrip Consideration will be such number of Class B Shares as is equivalent to \$1.19 minus the amount of any Special Dividend that may be declared and paid per Midway Share held on the Special Dividend Record Date, subject to the Minimum Scrip Threshold, the Maximum Scrip Threshold and the operation of the pro rata Scaleback Arrangements if the Maximum Scrip Threshold is exceeded.

RollCo must only issue Scrip Consideration if valid Elections reach the Minimum Scrip Threshold. The Minimum Scrip Threshold is 5%, or such lesser percentage as notified by BidCo to Midway in writing, at least 2 Business Days before the Scheme Meeting, of the issued capital of RollCo as at the Implementation Date. Where the Minimum Scrip Threshold is not satisfied, Scheme Shareholders will receive All Cash Consideration for their Scheme Shares.

The Scrip Consideration is also subject to a pro rata scale back (pursuant to the Scaleback Arrangements) if valid Elections would result in the issue of Class B Shares representing more than 49.99% of the total issued capital of RollCo as at the Implementation Date, being the Maximum Scrip Threshold. Subject to any application of the Scaleback Arrangements, Scheme Shareholders who make an Election to receive Scrip Consideration will hold no more than 49.99% (in aggregate) of the issued capital of RollCo.

### (b) Illustrative examples

The following scenarios are illustrative only of the possible RollCo capital structure after the Implementation Date. Each of these scenarios is based on a number of assumptions and is unlikely to reflect the ultimate RollCo capital structure immediately after implementation of the Scheme.

The assumptions on which the illustrative examples are based include the following:



- that Midway will have 87,336,222 Midway Shares on issue at the Implementation Date all of which will be acquired by BidCo;
- a Special Dividend of \$0.3835 per Midway Share will be determined and paid;
- each Class A and Class B Share will have an issue price of \$0.8065, being the Cash Consideration less the amount of the Special Dividend of \$0.3835 per Midway Share;
- the Minimum Scrip Threshold is satisfied; and
- the total amount of the transaction costs of BidCo.

The actual outcome on implementation of the Scheme may differ from the assumptions made in this Section 7.5(b). This may result in changes to the illustrative ownership of RollCo on implementation of the Scheme.

**Scenario 1 – Midway Shareholders representing 5% of the post-implementation share capital in RollCo make valid Elections to receive a Scrip Consideration Option.**

**Illustrative RollCo capital structure**

RollCo Shares	Number (millions)	Percentage
Class A Shares	87.2	95%
Class B Shares	4.6	5%
<b>Total</b>	<b>91.8</b>	<b>100%</b>

**Sources and uses**

		A\$ (millions)
<b>Sources</b>	Cash provided by River Capital	70.3
	Aggregate Scrip Consideration	3.7
	<b>Total sources of funds</b>	<b>74.0</b>
<b>Uses</b>	Payment of Cash Consideration by BidCo	66.7
	Aggregate Scrip Consideration	3.7
	Payment of BidCo transaction costs and funding of initial liquidity	3.6
	<b>Total uses of funds</b>	<b>74.0</b>

**Scenario 2 – Midway Shareholders representing 25% of the post-implementation share capital in RollCo make valid Elections to receive a Scrip Consideration Option**

**Illustrative RollCo capital structure**

RollCo Shares	Number (millions)	Percentage
Class A Shares	68.8	75%
Class B Shares	23.0	25%
<b>Total</b>	<b>91.8</b>	<b>100%</b>

## Sources and uses

		A\$ (millions)
<b>Sources</b>	Cash provided by River Capital	55.5
	Aggregate Scrip Consideration	18.5
	<b>Total sources of funds</b>	<b>74.0</b>
<b>Uses</b>	Payment of Cash Consideration by BidCo	51.9
	Aggregate Scrip Consideration	18.5
	Payment of BidCo transaction costs and funding of initial liquidity	3.6
	<b>Total uses of funds</b>	<b>74.0</b>

**Scenario 3 – Midway Shareholders representing over 49.99% of the post-implementation share capital in RollCo make valid Elections to receive a Scrip Consideration Option, causing the Maximum Scrip Threshold of 49.99% of RollCo to apply (and triggering the Scaleback Arrangements)**

### Illustrative RollCo capital structure

RollCo Shares	Number (millions)	Percentage
Class A Shares	45.91	50.01%
Class B Shares	45.89	49.99%
<b>Total</b>	<b>91.8</b>	<b>100%</b>

## Sources and uses

		A\$ (millions)
<b>Sources</b>	Cash provided by River Capital	37.0
	Aggregate Scrip Consideration	37.0
	<b>Total sources of funds</b>	<b>74.0</b>
<b>Uses</b>	Payment of Cash Consideration by BidCo	33.4
	Aggregate Scrip Consideration	37.0
	Payment of BidCo transaction costs and funding of initial liquidity	3.6
	<b>Total uses of funds</b>	<b>74.0</b>

(c) **Summary of rights and obligations attaching to Class B Shares**

A summary of the key rights and obligations attaching to Class B Shares is set out below. This summary is not exhaustive. Eligible Midway Shareholders considering making a valid Election to receive a Scrip Consideration Option should read and understand the RollCo Shareholders' Deed, the RollCo Constitution and the Nominee Deed in full and seek their own independent advice before making a decision.

The RollCo Shareholders' Deed and the RollCo Constitution provide that the terms of the RollCo Shareholders' Deed will prevail in the event of any inconsistency between them.

Any defined terms in this Section that are not otherwise defined in this Scheme Booklet have the meanings given to them under the Shareholders Deed, Constitution or Nominee Deed (as applicable).

Topic	Overview
<b>Overview</b>	<p>Immediately following implementation of the Scheme, RollCo will have two classes of shares on issue, being Class A Shares and Class B Shares.</p> <p>Class A Shares will be held by the River Investors, unless otherwise agreed by River Capital. The Investor Shareholders will subscribe for Class A Shares to fund the Scheme Consideration, transaction costs, and funding of initial liquidity.</p> <p>As at the Last Practicable Date, no Class B Shares are on issue. Those Scheme Shareholders who make a valid Election to receive a Scrip Consideration Option will be issued Class B Shares (with these shares to be held by the Nominee) if the Scheme becomes Effective.</p> <p>The delineation between Class A Shares and Class B Shares in RollCo is solely for the purposes of identification. Class A Shares and Class B Shares are both ordinary shares and will have identical economic and voting rights.</p> <p>Class B Shares will be issued as fully paid shares in accordance with the terms of the Scheme and will rank equally in all respects with all other ordinary shares from the date of issue. However, the River Investors will have rights and obligations under the RollCo Shareholders' Deed that will be significantly more favourable to them than the rights and obligations of the Class B Shareholders.</p> <p>Given the number of shares held by the River Investors and the terms of the RollCo Shareholders' Deed, the River Investors will exercise effective control over RollCo and will have the ability to determine the timing and terms of any Exit (including through rights to appoint a majority of the RollCo Board, which will in turn control the management of RollCo).</p> <p>Any Class B Shares that are transferred to a River Investor will be automatically re-designated as Class A Shares. A Scheme Shareholder will not hold Class A Shares at any time (unless permitted by the Investor Shareholders).</p> <p>Following the implementation of the Scheme, RollCo may invite Managers to co-invest for any class of RollCo Shares and/or participate in a management equity plan. Managers who acquire RollCo Shares will be required to accede as a party to the RollCo Shareholders' Deed which will regulate the rights and obligations of those shareholders in relation to RollCo, in addition to the terms of any such management equity plan.</p> <p>River Capital may also be issued performance securities to reflect the arrangements set out further below under heading "Issue of Further RollCo Shares"</p> <p>Where the RollCo Shareholders' Deed and the RollCo Constitution deal with the same or similar topic differently, the RollCo Shareholders' Deed prevails in relation to that topic. For further details, see clause 33.11 of the RollCo Shareholders' Deed and rule 1.4 of the RollCo Constitution.</p>
<b>Power of attorney</b>	<p>Each Class B Shareholder (<b>Appointor</b>) appoints RollCo as its attorney to exercise certain rights under the RollCo Shareholders' Deed. Under the terms of the appointment, the attorney may:</p> <ol style="list-style-type: none"> <li>1 complete, execute and deliver any documentation, deed, instrument, notice, resolution or similar;</li> <li>2 give representations, warranties and indemnities as contemplated by clause 17.4 of the RollCo Shareholders' Deed and to execute and deliver the definitive documentation for a disposal of RollCo Shares in accordance with the RollCo Shareholders' Deed;</li> <li>3 negotiate, accept any offer or contract in respect of, and complete any disposal of, any RollCo Shares held by the Appointer which the Appointer is obliged to complete under the RollCo Shareholders' Deed;</li> <li>4 carry out any act, consent or agree to any matter, amend, vary or waive any provision or matter, make any determination and provide any notice or direction in connection with the RollCo Shareholders' Deed or any document entered into in connection with a transaction contemplated by the RollCo Shareholders' Deed;</li> </ol>

Topic	Overview
	<p>5 instruct and direct the Nominee under the RollCo Shareholders' Deed to take any actions, including to instruct such person to execute, under hand or under seal and deliver (conditionally or unconditionally) any document and/or to Dispose of any RollCo Shares;</p> <p>6 to call for, agree to short notice being provided in respect of, attend and speak at general meetings of, the Company (including any class meeting); and</p> <p>7 vote or grant a proxy in favour of any person to vote (or appoint an authorised representative to vote) on behalf of the Appointer (to the exclusion of the Appointer) at any meeting or class meeting of holders of Shares.</p> <p>For further details see clause 26.2 of the RollCo Shareholders' Deed.</p>
<b>Variation of class rights</b>	<p>The rights attaching to Class B Shares may be varied by a resolution of the RollCo Board, save that where a variation prejudices the Class B Shareholders in a manner that would discriminate against, or selectively and adversely affects their rights and obligations in a way that is disproportionate as compared to the Class A Shareholders, the variation of class rights must first be approved by a Required Resolution.</p> <p>RollCo (acting as attorney pursuant to section 26 of the RollCo Shareholders' Deed) may take any action, including giving directions to the Nominee or passing any resolution to effect the variation of class rights. Notice must be given to each Class B Shareholder within seven days of the resolution of the RollCo Board making such a variation.</p> <p>For further details see Schedule 2 and 3 of the RollCo Shareholders' Deed as well as rule 29.8 of the RollCo Constitution.</p>
<b>Dividends</b>	<p>Subject to the Corporations Act, a decision to pay, and the amount of, dividends will be at the sole discretion of the RollCo Board, taking into account (as the RollCo Board considers appropriate):</p> <ul style="list-style-type: none"> <li>retention of such reasonable and proper reserves for working capital requirements, possible future acquisitions, capital expenditure, debt amortisation or other actual or contingent liabilities or commitments of the Group;</li> <li>such dividend not resulting in a breach of any covenant or undertaking of any Group Company to any bank or financial institution; and</li> <li>the dividend policy for the Group, which policy will be determined by the Board from time to time, which will have regard to the Business Plan and Budget.</li> </ul> <p>Class A Shares and Class B Shares carry the same rights to dividends in RollCo noting that the RollCo Constitution allows RollCo to pay a dividend on one class of shares to the exclusion of another class (see rule 25.3).</p>
<b>Appointment of Directors</b>	<p>The RollCo Board must be constituted by a minimum of 5 directors and a maximum of 9 directors, unless otherwise determined by the RollCo Board.</p> <p>Each Shareholder will have a right to appoint one Director for each 20% of the shares held by it, and at least 3 Directors if total shareholding exceeds 50%. For example, a Shareholder owning 50% may appoint up to 3 directors and a Shareholder owning 25% may appoint 1 director.</p> <p>For Rolling Shareholders not having the right to appoint a Director in their own right, they may collectively appoint 1 director (provided their collective ownership exceeds 10%).</p> <p>In each case, the above rights to appoint a director are by written notice to the RollCo Board.</p> <p>Any person nominated as a proposed director of RollCo by Class B Shareholders must be approved by the Investor Shareholders (with such approval not to be unreasonably withheld or delayed) and must be suitably experienced and qualified and able to add value to the RollCo Board. This requires that the nominated proposed director:</p> <ul style="list-style-type: none"> <li>is not subject to any commercial or other conflict of interest in relation to the business or operations of RollCo (excluding any conflict arising</li> </ul>

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Topic	Overview
	<p>solely from the person holding or having a relevant interest (as defined in the Corporations Act) in any Class B Shares); and</p> <ul style="list-style-type: none"> <li>has the necessary knowledge, skills and expertise, having regard to RollCo's business, to serve as a director of RollCo and contribute to achievement of RollCo's business objectives.</li> </ul> <p>The appointment of the Class B Directors will be determined by a simple majority of Class B shares.</p> <p>For further details, see clause 4 of the RollCo Shareholders' Deed and rule 2 of the RollCo Constitution.</p>
<b>Appointment of Chair</b>	<p>The RollCo directors may appoint a chair (either on an ongoing basis, or at the relevant meeting).</p> <p>The chair does not get a casting vote. Accordingly, if an equal number of votes are for and against a matter, it will be decided in the negative.</p> <p>For further details, see clause 6.3 and 6.4(c) of the RollCo Shareholders' Deed and rules 11.4 and 11.6(b) of the RollCo Constitution.</p>
<b>Proposed board composition</b>	<p>The River Investors' intent is that after implementation of the Scheme, the RollCo Board will be comprised of:</p> <ul style="list-style-type: none"> <li>three Investor Directors (e.g., River representatives);</li> <li>one Independent Director;</li> <li>two Class B Directors (subject to ownership thresholds); and</li> <li>one or two other key executives/management.</li> </ul> <p>As at the Last Practicable Date, the River Investors' current intention is that Michael Nossal will be appointed as an independent director of RollCo with effect on and from the Implementation Date. Michael Nossal's brief profile is set out in Section 7.4(c). As at the Last Practicable Date, the other directors of RollCo have not been determined.</p> <p>For further details see clause 4 of the RollCo Shareholders' Deed.</p>
<b>RollCo Board quorum and voting</b>	<p>The quorum for a RollCo Board meeting will be two directors, of whom at least one must be an Investor Director and, to the extent a director has been appointed by Class B Shareholders, one must be a Class B Director.</p> <p>If a quorum is not present within 30 minutes of the time set for the meeting, the meeting is adjourned to the same time and place two business days later and quorum at that meeting will be at least one Investor Director.</p> <p>Each director will have one vote (with Investor Directors being able to also vote on behalf of any other Investor Director not in attendance at any particular meeting or is unable to vote on that resolution).</p> <p>Resolutions of the directors of RollCo are to be passed by simple majority, unless a different threshold is imposed by the Corporations Act or the RollCo Shareholders' Deed.</p> <p>Directors may pass a resolution without a meeting being held if all directors who would be capable of approving the relevant resolution at a meeting sign the same document (or a copy of the same document).</p> <p>For further details see clause 5 of the RollCo Shareholders' Deed.</p>
<b>RollCo Shareholder meetings and voting</b>	<p>The quorum for a meeting of RollCo Shareholders is any two shareholders, one of which must be an Investor Shareholder.</p> <p>If a quorum is not present within 30 minutes of the time set for the meeting, the meeting is adjourned to the same time and place five business days later and quorum at that meeting will be the shareholders present.</p> <p>Except in the case of any resolution which as a matter of law requires a special resolution or a Required Resolution as required under the RollCo Shareholders' Deed, questions arising at a general meeting are to be decided by simple majority.</p>

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Topic	Overview
	<p>RollCo Shareholders may pass a resolution without a general meeting being held if all RollCo Shareholders who would be capable of approving the relevant resolution at a general meeting sign the same document (or a copy of the same document).</p> <p>For further details see clause 6 of the RollCo Shareholders' Deed.</p>
<b>Meetings of Class B Shareholders</b>	<p>The provisions relating to meetings of RollCo Shareholders described above apply to meetings of Class B Shareholders, with the following changes:</p> <ul style="list-style-type: none"> <li>• any action or resolution in a Class B Shareholder Meeting will be approved by a simple majority of Class B Shareholders;</li> <li>• a quorum for a Class B Shareholder Meeting is constituted by the presence of two or more Class B Shareholders; and</li> <li>• only Class B Shareholders are permitted to vote at a Class B Shareholder Meeting or sign a written resolution in respect of resolutions to be considered at a Class B Shareholder Meeting.</li> </ul>
<b>Required Resolutions</b>	<p>RollCo will not be able to take steps to implement a course of action that requires a Required Resolution in order to proceed, unless that Required Resolution has been obtained. The relevant matters are:</p> <ul style="list-style-type: none"> <li>• issuing shares in RollCo other than as contemplated by the RollCo Shareholders' Deed;</li> <li>• undertaking a selective capital reduction or share buy back other than: <ul style="list-style-type: none"> <li>• in connection with a management equity plan;</li> <li>• in connection with any person ceasing to be employed by the Midway Group;</li> <li>• under clauses 17 (Exit), 18 Disposal of Small Holdings) and 19 (Events of Default) of the RollCo Shareholders' Deed;</li> </ul> </li> <li>• any action that discriminates against, or selectively and adversely affects, Class B Shareholders (in that capacity) disproportionately relative to the Investor Shareholders (including any amendment to the Constitution or variation to the rights attaching to RollCo Shares).</li> </ul> <p>For further details see clause 30.1 and Schedule 3 of the RollCo Shareholders' Deed.</p>
<b>Issue of further RollCo Shares</b>	<p>RollCo must not issue any shares unless the issue is on a pro-rata basis or otherwise permitted under the Shareholders Deed.</p> <p>The circumstances under which RollCo may issue shares are as follows:</p> <ul style="list-style-type: none"> <li>• issuing Class A Shares to fund transaction costs, in accordance with, or otherwise in connection with the Scheme, to repay debts or fund working capital of the Midway Group;</li> <li>• issue of Class B shares to Rolling Shareholders in connection with their election for scrip consideration under the scheme;</li> <li>• emergency funding (see below);</li> <li>• where issued to an employee, consultant, director or contractor or other person invited by the RollCo Board (<b>Manager</b>) as part of a management equity plan, or other equity agreement or arrangement, approved by the RollCo Board;</li> <li>• when issued to third parties as part of M&amp;A;</li> <li>• as part of a reorganisation which does not dilute any shareholder;</li> <li>• on an IPO; and</li> <li>• where it has been approved as a Required Resolution.</li> </ul> <p>If there is a shortfall following a pro-rata offer, shortfall shares will be issued to the shareholder(s) who elect to take up the shortfall.</p> <p>For further details see clause 11 of the Shareholders Deed.</p>

Topic	Overview
<b>Emergency Funding</b>	<p>The Investor Shareholder will be entitled to satisfy Midway's funding requirements in specified emergency scenarios relating to actual or pending insolvency or breach of banking covenants.</p> <p>In such a case, each non-funding shareholder will have an opportunity to participate for its pro-rata share of the emergency funding.</p>
<b>Restrictions on dealing</b>	<p>RollCo Shareholders (other than the Investor Shareholder) cannot create or permit to exist any encumbrance over all or any of its shares unless expressly permitted by the RollCo Shareholders' Deed or by the Investor Shareholders in writing.</p> <p>Similarly, no RollCo Shareholder (other than the Investor Shareholder) may dispose of any RollCo Share (including a beneficial interest in a RollCo Share), and the Board must not register any transfer of shares unless the disposal is:</p> <ul style="list-style-type: none"> <li>• a transfer to or from the Nominee in accordance with the RollCo Shareholders' Deed;</li> <li>• a transfer of emergency funding shares;</li> <li>• a transfer to one of the following: <ul style="list-style-type: none"> <li>○ in the case of any Shareholder, an Affiliate of that Shareholder;</li> <li>○ in the case of an Investor Shareholder and any Affiliate of an Investor Shareholder, a custodian as contemplated by clause 32 of the RollCo Shareholders' Deed.</li> <li>○ in the case of a Management Shareholder and in respect of shares held under a management equity plan, a person to whom a disposal may be made pursuant to the terms of the management equity plan.</li> </ul> </li> </ul> <p>(each a <b>Permitted Holder</b>);</p> <ul style="list-style-type: none"> <li>• required because a transferee is no longer a Permitted Holder;</li> <li>• as part of the exercise of a tag along right or drag along right (as described further below);</li> <li>• as part of an Exit;</li> <li>• as part of a disposal of a Small Holding (as described further below);</li> <li>• as a result of an event of default (as described further below);</li> <li>• pursuant to or in connection with a management equity plan; or</li> <li>• otherwise approved by the Investor Shareholders.</li> </ul> <p>For further details, see clauses 14, 15 and 16 of the RollCo Shareholders' Deed.</p>
<b>Tag along rights</b>	<p>If the Investor Shareholders intend to sell 60% or more of its Class A Shares to a third party buyer in a single transaction or series of related transactions and have not issued a drag along notice (or have withdrawn a drag along notice), the Class B Shareholders must be invited to sell the same proportion of their RollCo shares on terms that are not less favourable on an overall basis than the terms on which the Investor Shareholders are proposing to dispose of their shares (taking into account the relative rights of such shares under the RollCo Shareholders' Deed and the RollCo Constitution).</p> <p>Class B Shareholders have appointed RollCo as their attorney to perform certain actions under the tag along rights.</p> <p>For further details, see clause 15 of the RollCo Shareholders' Deed.</p>
<b>Drag along rights</b>	<p>If the Investor Shareholders and/or their Affiliates intend to sell more than 80% of its Class A Shares to a third party buyer, each other Shareholder may be required to sell the same proportion of their RollCo shares on terms that are no less favourable on an overall basis than the terms on which the Investor Shareholders are proposing to dispose of their shares (taking into account the relative rights of such shares under the RollCo Shareholders' Deed and the RollCo Constitution).</p>

Topic	Overview
	<p>Each Shareholder (not only Class B Shareholders) must do all things and execute such documentation as is reasonably necessary or required by the Investor Shareholders to effect the proposed sale. Shareholders have also appointed the Company as their attorney to undertake these actions under the drag along right.</p> <p>For further details, see clause 16 of the RollCo Shareholders' Deed.</p>
<b>Exit</b>	<p>The Investor Shareholders may, at any time, require RollCo to commence a process to determine whether an Exit can be achieved on terms acceptable to the Investor Shareholders.</p> <p>The Investor Shareholders will determine all matters related to the conduct and execution of a process for an Exit.</p> <p>All Shareholders (not only Class B Shareholders) must do all things and execute such documentation as is required by RollCo or the Investor Shareholders to effect the proposed Exit. Shareholders have also appointed the Company as their attorney to undertake any actions in connection with the exit facilitation provisions.</p> <p>An Exit may not necessarily involve all RollCo Shareholders having the right or ability to realise cash for their Shares, nor realise cash on the same terms as the Investor Shareholders (including any escrow restrictions or reinvestment requirements).</p> <p>For further details see clause 17 of the RollCo Shareholders' Deed.</p>
<b>Disposal of small holdings</b>	<p>At any time after the first anniversary of the Implementation Date, one or more Investor Shareholders or the RollCo Board may require Class B Shareholders that hold a Small Holding (<b>Small Shareholders</b>) to dispose of that Small Holding. A <b>Small Holding</b> is a shareholding in Class B Shares valued at less than \$10,000.</p> <p>The sale price for a Small Holding will be the fair market value of those shares as determined by the RollCo Board (or determined by a valuation process).</p> <p>Class B Shareholders must take all actions requested by the Board to give effect to the disposal of the Small Holding. Class B Shareholders have also appointed RollCo as their attorney to undertake actions to give effect to the sale of their Small Holding.</p> <p>For further details see clause 18 of the RollCo Shareholders' Deed.</p>
<b>Nominee arrangements</b>	<p>A Class B Shareholder must hold legal title to their Class B Shares through the Nominee. The Nominee arrangements may be imposed upon the issue of the Class B Shares or at any time after the Implementation Date.</p> <p>The intention of the nominee arrangements is that a Class B Shareholder will still have the rights and obligations as set out in this table, as if the Class B Shareholder was holding the Class B Shares directly. That is, the voting, economic and other interests of the Class B Shareholder is intended to be unaffected by the Class B Shares being held by the Nominee.</p> <p>Specifically, each Class B Shareholder will continue to have the benefit of, and be bound by, all the provisions of the RollCo Shareholders' Deed, which would have otherwise applied to that Class B Shareholder had it held legal title to its Class B Shares.</p> <p>The key terms of the nominee arrangements under the Nominee Deed and the RollCo Shareholders' Deed are as follows:</p> <ul style="list-style-type: none"> <li>• each Class B Shareholder will be a beneficial holder in relation to shares held by the Nominee as bare trustee on its behalf;</li> <li>• each Class B Shareholder will be able to instruct the Nominee to exercise voting rights or take other steps as the registered holder of shares on its behalf, and the Nominee also appoints each Class B Shareholder as an attorney for it to exercise voting rights attached to that Class B Shareholder's shares held by the Nominee as bare trustee on its behalf;</li> <li>• under the Nominee Deed, each Class B Shareholder who is a beneficial holder directs RollCo to pay dividends in respect of its</li> </ul>



Topic	Overview
	<p>Class B Shares directly to the Class B Shareholder as beneficial holder;</p> <ul style="list-style-type: none"> <li>the restrictions on encumbrances and disposals set out above continue to apply to the Class B Shareholders that are beneficial holders. However, a beneficial holder may transfer shares to a permitted transferee provided that the Board may require the Nominee hold legal title to the relevant shares as bare trustee on behalf of the transferee.</li> </ul> <p>The Class B Shareholders indemnify RollCo and the Nominee for, amongst other things, liabilities which RollCo and the Nominee incur arising out of or in connection the shares held by the Nominee on behalf of that Class B Shareholder as beneficial holder (subject to certain carve-outs).</p> <p>For further details see clause 22 of the RollCo Shareholders' Deed and the Nominee Deed.</p>
<b>Events of default</b>	<p>If a Shareholder (other than an Investor Shareholder) commits an event of default, their shares may be required to be disposed of in accordance with the terms of the RollCo Shareholders' Deed. The events of default are as follows:</p> <ul style="list-style-type: none"> <li>a non-permitted dealing or disposal of RollCo Shares (subject to a remedy period);</li> <li>a breach of a material obligation under the Transaction Documents (subject to a remedy period);</li> <li>a breach of any restraints given by the Shareholder (including under clause 24 of the RollCo Shareholders' Deed) by the Shareholder or its Relevant Manager;</li> <li>the Shareholder or its Relevant Manager being subject to an Insolvency Event;</li> <li>a person becoming a Shareholder or beneficial holder pursuant to a transfer of shares in breach of the RollCo Shareholders' Deed or the transferee ceases to be a Permitted Holder and does not comply with the provisions of the RollCo Shareholders' Deed to remedy the transfer;</li> <li>a non-permitted change in Control of the Shareholder; or</li> <li>the Shareholder or its Relevant Manager is guilty of a criminal offence in any jurisdiction which would, in the reasonable opinion of the Board materially affect the Business or the duties of it or its Relevant Manager in respect of the Business.</li> </ul> <p>The price for such shares disposed of will be an amount equal to 85% of the fair market value of those shares as determined by the RollCo Board (or determined by a valuation process).</p> <p>There is no ability for Class B Shareholders to acquire the Shares of Class A Shareholder in the event of default of a Class A Shareholder.</p> <p>For further details see clause 19 of the RollCo Shareholders' Deed.</p>
<b>Restraint</b>	<p>The RollCo Shareholders' Deed contains certain non-compete, non-solicit and non-interference restraints that will apply to certain RollCo Shareholders, including Class B Shareholders (and their affiliated managers).</p> <p>Under the restraint, each Restricted Person undertakes that it and its Affiliates will not, in the Restricted Area:</p> <ul style="list-style-type: none"> <li>become engaged or involved in any business which is the same or substantially similar to the Business, or competes with the Business;</li> <li>solicit, canvass, approach or accept an approach from any existing or identified prospective client or any supplier to, any Group Company or any other person with whom any Group Company has business dealings, for the purpose of persuading, encouraging or procuring that person to cease doing business with, or reduce or</li> </ul>

Topic	Overview
	<p>adversely change the nature of the business with or terms of the business with, a Group Company;</p> <ul style="list-style-type: none"> <li>disrupt or interfere with, or take any action which is reasonably likely to prejudice, damage or be harmful to, the relationship between any Group Company and any of their clients, referral providers or suppliers or any other person with whom any Group Company has significant business dealings;</li> <li>induce or encourage any employee of a Group Company to cease their employment with that Group Company, or employ or offer; or</li> <li>to employ any person who is employed by a Group Company or was so employed within a certain time period.</li> </ul> <p>The restraint is subject to certain exceptions and ends 36 months after the date which is the earlier of the date on which a person ceases to be a shareholder or ceased to be an employee, officer, director, contractor or consultant of a Group Company.</p> <p>For further detail please see clause 24 of the RollCo Shareholders' Deed.</p>
<b>Information rights and confidentiality</b>	<p>RollCo must ensure that the accounts of the group are audited annually by an auditor.</p> <p>RollCo must provide a copy of the latest audited financial statements of the Group on written request by a Class B Shareholder, within a reasonable time of the request.</p> <p>RollCo may request information about beneficial owners and controllers from Shareholders and such information must be provided within 5 business days of the request.</p> <p>Shareholders will be bound by certain confidentiality obligations under the RollCo Shareholders' Deed. For further detail see clause 9.3 and 27 of the RollCo Shareholders' Deed.</p>
<b>Amendment of the RollCo Shareholders' Deed</b>	<p>The RollCo Shareholders' Deed may be amended by the Investor Shareholders in writing from time to time.</p> <p>Any amendment to the RollCo Shareholders' Deed that would discriminate against, or selectively and adversely affect the rights and obligations of Class B Shareholders disproportionately relative to the Investor Shareholders must be approved by a Required Resolution.</p> <p>For further detail see clause 30.1 of the RollCo Shareholders' Deed.</p>

(d) **Different regulatory regime for Class B Shares**

A different regulatory regime will apply to Class B Shares as compared to Midway Shares at present. Class B Shares will be issued to Scheme Shareholders who make a valid Election to receive a Scrip Consideration Option (with these shares to be held by the Nominee) subject to the Minimum Scrip Threshold and the application of the Scaleback Arrangements. As RollCo is, and will be, an unlisted public company with less than 50 shareholders following implementation of the Scheme, neither the Listing Rules nor Australia's takeover regime under the Corporations Act will apply.

This means that investor protections currently available to Midway Shareholders in respect of their Midway Shares under the Listing Rules and Chapter 6 of the Corporations Act will not apply to those Scheme Shareholders who receive Scrip Consideration as a component of a Scrip Consideration Option.

A summary of some of the key types of investor protections that will no longer apply is set out in the table below. The summary is not exhaustive.

Relevant provisions	Position of Midway Shares	Position of Class B Shares
<b>Continuous Disclosure (Listing Rules – Chapter 3)</b>	This Chapter contains obligations on listed entities to immediately disclose material price sensitive information to the market.	Neither RollCo nor BidCo will have an obligation to disclose material price sensitive information following implementation of the Scheme.
<b>Securities (Listing Rules – Chapter 6)</b>	This Chapter provides that each class of equity security must be appropriate and equitable in the ASX's view. It also provides protections in relation to voting rights of holders of ordinary shares.	The terms of the Class B Shares are not subject to the ASX's approval.
<b>Changes in capital and share issues (Listing Rules – Chapter 7)</b>	This Chapter requires issuers who issue more than 15% of a listed entity's capital in a 12 month period to seek security holder approval, subject to certain exceptions. It also imposes limits on the ability of listed entities to issue shares under a rights issue, dividend or distribution plan or during a takeover unless prescribed conditions are met.	Holders of Class B Shares may be diluted without the approval of RollCo shareholders at a general meeting subject to the limitations set out in the Shareholders' Deed.
<b>Transactions with persons of influence (Listing Rules – Chapter 10) and related party transactions (Chapter 2E of the Corporations Act)</b>	These Chapters impose restrictions on persons in a position of influence, such as related parties, a subsidiary or a substantial holder, from entering into certain transactions with the listed entity unless certain conditions are met. In prescribed cases, transactions of this nature will require shareholder approval.	Transactions between RollCo, Midway and/or their related parties may not require shareholder approval, unless shareholder approval is required pursuant to Chapter 2E of the Corporations Act. The terms of the power of attorney granted by Class B Shareholders to RollCo allows RollCo to approve any transaction that would require member approval under Chapter 2E of the Corporations Act.
<b>Significant transactions (Listing Rules - Chapter 11)</b>	This Chapter requires a listed entity to obtain approval of shareholders in certain circumstances (and where required by the ASX), if it proposes to make a significant change to the nature or scale of activities	A significant change to the operations of RollCo and/or Midway will not require shareholder approval.
<b>Takeovers (Corporations Act – Chapter 6)</b>	<p>This Chapter sets out Australia's takeover law regime which is supplemented by ASIC regulatory guides, class orders and guidance notes issued by the Takeovers Panel.</p> <p>Chapter 6 prohibits a person from acquiring relevant interests in a listed company's shares where it would have the effect of causing the person's or someone else's voting power in the company to increase from 20% or below to above 20% or from a starting point of above 20% and below 90% unless an exception, such as a takeover bid or scheme of arrangement, applies.</p> <p>The takeover regime in Chapter 6 contains a range of rules designed to provide investors with sufficient time and detailed disclosure requirements</p>	<p>A person may acquire control of RollCo, BidCo or Midway in a manner that would have not been permitted had Chapter 6 of the Corporations Act applied, for example without making a takeover bid or proposing a scheme of arrangement.</p> <p>A person may acquire control of RollCo, BidCo or Midway in circumstances where less information was disclosed to Class B Shareholders or where less time was given to them to assess the offer put to them about the control transaction, than would have been permitted had Chapter 6</p>

Relevant provisions	Position of Midway Shares	Position of Class B Shares
	relating to a takeover bid so that they may assess the offer put to them by the bidder.  In addition, the takeover regime in Chapter 6 includes rules designed to provide for shareholders in a company which is the subject of a takeover to have an equal opportunity to participate in the offer and any takeover premium offered by the bidder.	of the Corporations Act applied.  A person may acquire control of RollCo, BidCo or Midway in a manner that does not give shareholders equal opportunity to participate in the offer and any takeover premium offered by the bidder.

## 7.6 Funding of the Scheme Consideration

### (a) Maximum Cash Consideration

If the Scheme is implemented, the Scheme Consideration payable to Scheme Shareholders under the Scheme will be satisfied by a combination of:

- the Cash Consideration; and
- a number of Class B Shares required to be issued as Scrip Consideration as a result of valid Elections for a Scrip Consideration Option.

Based on the number of Midway Shares on issue as at the Last Practicable Date:

- the maximum theoretical amount of Cash Consideration that BidCo may be required to pay to Scheme Shareholders under the Scheme is \$70,436,663 (**Maximum Cash Consideration**), although this amount will be less to the extent that eligible Scheme Shareholders have made valid Elections to receive Scrip Consideration; and
- the maximum number of Class B Shares that would be issued by RollCo (on the assumption that every Scheme Shareholder has made a valid Election to receive the All Scrip Consideration in respect of all of their Scheme Shares) is 45.89 million Class B Shares given the operation of the Scaleback Arrangements.

### (b) Cash funding arrangements

River Capital has established the Midway Trust to be the holder of Class A Shares in RollCo. The equity funding from the Midway Trust is primarily sourced from River's existing investors in funds managed and/or advised by River Capital (**Equity Funding**).

BidCo intends to fund the Cash Consideration with the proceeds of the Equity Funding.

BidCo's commitment to fund the Cash Consideration is supported by an Equity Commitment Letter from the River Capital Funds under which the River Capital Funds commit to provide BidCo an aggregate amount of up to \$70.4 million (**Equity Support**). The Equity Support will be relied upon only to the extent BidCo does not otherwise hold sufficient funds to satisfy payment of the Maximum Cash Consideration (including through the Equity Funding).

The Equity Support may only be used for the purpose of BidCo meeting its obligations to pay:

- part of the Cash Consideration under the Scheme; or
- the Break Fee payable to Midway,

in each case, when and if, those obligations become due in accordance with the relevant documents.

The Equity Funding and the Equity Support are sufficient to fund the Maximum Cash Consideration.

The obligation on the River Capital Funds to provide the Equity Support for the purpose of BidCo paying part of the Cash Consideration under the Scheme is conditional on the Scheme becoming Effective.

The River Capital Funds are obliged to provide the Equity Support for the purpose of BidCo paying the Break Fee where that fee is payable by BidCo under the Scheme Implementation Deed.

(c) **Scrip Consideration – Deed Poll**

BidCo and RollCo have entered into the Deed Poll to covenant in favour of the Scheme Shareholders to perform their respective obligations in relation to the Scheme. This includes the obligation to provide or procure the provision of the Scheme Consideration to the Scheme Shareholders in accordance with the terms of the Scheme, including to issue all Class B Shares the subject of valid Elections by the Scheme Shareholders under the terms of the Scheme (subject to the Scaleback Arrangements).

(d) **Reasonable basis**

On the basis of the arrangements outlined above, BidCo believes it has a reasonable basis for holding the view, and it does hold the view, that BidCo will be able to satisfy its obligations to fund the Scheme Consideration as and when it is due and payable under the terms of the Scheme

## 7.7 BidCo's intentions if the Scheme is implemented

If the Scheme is implemented, BidCo will become the holder of all of the Midway Shares on issue and, accordingly, Midway will become a wholly owned subsidiary of BidCo.

This Section 7.7 sets out certain elements of BidCo's current intentions in relation to Midway if the Scheme is implemented, including BidCo's intentions regarding:

- the continuation of the business of Midway or how Midway's existing business will be conducted;
- changes to the Midway Board and management team;
- any major changes to be made to the business of Midway, including any redeployment of any assets of Midway;
- the future employment of the present employees of Midway; and
- delisting of Midway from ASX,

in each case, after the Scheme is implemented.

The intentions set out in this Section 7.7 are statements of present intention only and have been formed on the basis of facts and information concerning Midway and the general business environment which are known to BidCo as at the Last Practicable Date.

If the Scheme is implemented, BidCo intends to undertake a detailed review of the business' assets and operations. BidCo will only make final decisions following the completion of its review of the business and based on the facts and circumstances at the relevant time. Accordingly, it is important to recognise that the statements set out in this Section 7.7 are statements of current intentions only, which may change as new information becomes available or as circumstances change.

(a) **Delisting**

If the Scheme becomes Effective, BidCo will direct or procure that Midway apply to the ASX to be removed from the ASX's official list after the Implementation Date and subsequently converted to a proprietary company limited by shares.

Following delisting, Midway Shareholders will no longer be able to acquire or trade in Midway Shares on ASX.

**Changes to constitution**

BidCo intends to replace Midway's constitution with a constitution appropriate for a proprietary company limited by shares (consistent with the intention expressed in Section 7.7(a) to convert Midway into a proprietary company limited by shares following implementation).

**(b) Business, operations and assets**

Subject to the findings of the post implementation review referred to in this Section 7.6, BidCo's current intention is to continue to operate the business substantially in its current form in the near term.

As noted above, BidCo intends to undertake a fulsome review of Midway's business and operations to determine the best way to operate the business going forward and provide this additional support. Any further decisions around the future of Midway's business and intentions for the Midway business will be made after, and informed by, the results of the review.

BidCo does not intend to redeploy any of Midway's fixed assets. Consistent with usual private equity practice, the River Investors may seek to exit their investment in Midway in the future. This is subject to prevailing market conditions, the business' performance and other factors which may be considered relevant at the time.

**(c) Midway Board**

Pursuant to clause 7.7 of the Scheme Implementation Deed, the Midway Board will be reconstituted with effect on and from the Implementation Date. As at the date of the Scheme Booklet, the directors of Midway after the Implementation Date have not been determined.

**(d) Employees**

Midway has a highly skilled and motivated front-line workforce delivering best-in-class products to its clients. BidCo intends to undertake a review of Midway's business post implementation to ensure Midway has the appropriate mix and level of employees and skills to enhance the business going forward and to enable the business to pursue growth opportunities available to it.

**(e) Arrangements with River Capital****Services fees**

The BidCo Group may enter into arrangements with River Capital (or one or more of its Related Bodies Corporate) in respect of time and resources that River Capital spends working with RollCo. Such work may include, but is not limited to, corporate administration, capital allocation strategy and execution supporting business planning and strategy, carbon strategy development and introduction to capital providers, capital structuring, overseeing director appointment and the timing and terms of any exit.

Any such arrangements shall be made on terms which are commercial and at arm's length and consistent with market practice in the context of private equity. The BidCo Group anticipates that the fees for services payable by the BidCo Group under such arrangements will be no more than \$1 million per year (excluding any amount in respect of GST).

**Other arrangements**

A fund managed and/or advised by River Capital may be issued performance securities entitling it to an economic interest equivalent to 20% of the fully diluted share capital of RollCo. The vesting of such securities will be conditional on RollCo achieving at least a 10% p.a. return (inclusive of dividends and other distributions) at an exit.

**7.8 Additional information about River Capital and the BidCo Group****(a) Interests in Midway Shares**

As at the Last Practicable Date, based on substantial holding disclosures lodged in relation to Midway, River Capital, BidCo and RollCo have a relevant interest in 16,936,033 Midway Shares arising:

- from 7,131,434 Midway Shares of which are held by JP Morgan Chase Nominees Australia for and on behalf of River Capital; and
- pursuant to the Voting Deeds. Under each Voting Deed, the Midway Shareholder who has executed the Voting Deed undertakes to

procure that Midway Shares they own or control are voted in favour of the Scheme. See Section 10.3 for more information.

The 7,131,434 Midway Shares referred to above are held on behalf of investors in existing funds managed and/or advised by River Capital. River Capital proposes that, subject to the Scheme becoming Effective, such Midway Shares will be transferred to BidCo under the Scheme in exchange for the Cash Consideration payable under the Scheme.

Neither River Capital, BidCo, nor RollCo will vote, or procure the voting of, the 7,131,434 Midway Shares referred to above at the Scheme Meeting.

(b) **Dealings in Midway Shares in previous four months**

Neither BidCo nor any of its Associates has provided, or agreed to provide, consideration for Midway Shares under any transaction or agreement during the period of four months before the date of this Scheme Booklet except for the Scheme Consideration which BidCo and RollCo have agreed to provide under the Scheme (as reflected in the Scheme Implementation Deed and Deed Poll).

(c) **No inducing benefits to holders of Midway Shares during previous four months**

Neither BidCo nor any of its Associates have, during the period of four months before the date of this Scheme Booklet, given, or offered to give, or agreed to give, a benefit to another person which was likely to induce the other person or an associate to:

- vote in favour of the Scheme; or
- dispose of Midway Shares,

where the same benefit was not offered to all Midway Shareholders under the Scheme.

As set out in Section 10.8, the Midway Equity Incentives will be treated in the manner set out in such section. BidCo does not consider that the holders of the Midway Equity Incentives have been given a benefit which is likely to induce them or an associate to vote in favour of the Scheme or dispose of their Midway Shares.

(d) **Benefits to Midway officers**

Neither BidCo nor any of its Associates will be making a payment or giving any other benefit to any current Midway Director, secretary or executive officer of Midway (or any of its Related Bodies Corporate) as compensation for the loss of, or consideration for or in connection with his or her retirement from, office in Midway (or any of its Related Bodies Corporate) as a result of the Scheme.

(e) **No interests of BidCo directors in Midway Shares**

As at the date of the Scheme Booklet, none of the directors of any BidCo Group Member have a relevant interest in any Midway Shares.

(f) **No other agreements or arrangements**

Other than the Voting Deeds, neither the Investor Shareholders, any BidCo Group Member nor their Associates have entered into or agreed any agreement or arrangement with a Midway Shareholder in connection, with or conditional on the outcome of, the Scheme.

(g) **Disclosure of fees and interests of certain people**

Other than as set out in this Scheme Booklet or pursuant to existing employment agreements, consulting arrangements or directorships, no:

- director or proposed director of RollCo; or
- person named in this Scheme Booklet as performing a function in a professional, advisory or other capacity in connection with the preparation or distribution of this Scheme Booklet,

holds, or held at any time during the last two years, any interests in:

- the formation or promotion of RollCo;

- property acquired or proposed to be acquired by RollCo in connection with its formation or promotion or the offer of Class B Shares under the Scheme; or
- the offer of Class B Shares under the Scheme.

(h) **Fees and benefits**

Other than as set out in this Scheme Booklet or pursuant to existing employment agreements, consulting arrangements or directorships, no one has paid or agreed to pay any amount, or given or agreed to give any benefit to a director, or proposed director, of RollCo:

- to induce them to become, or qualify as, a director of RollCo; or
- for services provided in connection with the formation or promotion of RollCo or the offer of Class B Shares under the Scheme.

## 7.9 No other material information

There is no information regarding BidCo, or its intentions regarding Midway or the business, assets or operations of Midway and funding of amounts payable in connection with the Scheme, that is material to the decision of a Midway Shareholder in relation to the Scheme, being information that is within the knowledge of any director of BidCo at the time of lodgement of this Scheme Booklet with ASIC, which is not disclosed in this Section 7 or elsewhere in this Scheme Booklet.



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# Risks

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## 8 Risks

### 8.1 Introduction

The Midway Board in its ordinary course of business assesses material risks associated with the operations of the Midway Group and takes steps to manage and mitigate them. The Midway Board considers that it is appropriate for Midway Shareholders, in considering the Transaction, to be aware that there are a number of risk factors which could materially adversely affect the future operating and financial performance of Midway, as well as the value of Midway Shares.

This Section 8 describes a number of key risks associated with:

- risks relating to the business and operations of Midway, including your current investment in Midway Shares (see Sections 8.2 and 8.3);
- risks relating to RollCo and Class B Shares (see Section 8.4); and
- risks relating to the Scheme (see Section 8.5).

The risks in Sections 8.2 and 8.3 relating to the business and operations of Midway will only apply to you if:

- you retain your Midway Shares in circumstances where the Scheme does not proceed; or
- you receive Class B Shares by making a valid Election for a Scrip Consideration Option in circumstances where the Scheme is implemented, which gives you an ongoing exposure to the business of Midway through RollCo (in which case, you will also be exposed to the risks in Section 8.4 relating to Class B Shares).

You will not be exposed to the risks in this Section 8 (other than the risks in Section 8.5(b) and 8.5(e)) if the Scheme is implemented and you receive the All Cash Consideration.

In deciding whether to vote in favour of the Scheme and whether to make an Election to receive a Scrip Consideration Option, Midway Shareholders should read this Scheme Booklet carefully and consider the following risk factors.

In addition, this Section 8 is a summary only and does not purport to list every risk that may be associated with an investment in Midway or RollCo now or in the future. There also may be additional risks and uncertainties not currently known to Midway which may have a material adverse effect on Midway's operating and financial performance and the value of Midway Shares. The occurrence or consequences of some of the risks described in this Section 8 may be partially or completely outside the control of Midway and BidCo or their respective directors and senior management teams.

These risks are general in nature and have been prepared without reference to the investment objectives, financial and taxation situation or particular needs of any particular Midway Shareholder or any other person. Before making any Election for a Scrip Consideration Option, you should have a sufficient understanding of these matters having regard to your own individual risk profile, portfolio strategy, investment objectives, financial circumstances and taxation position and consult with your professional advisers as to what risks may be relevant to your personal circumstances.

### 8.2 General Investment risk

Midway is exposed to a number of general risks that could materially adversely affect its assets and liabilities, financial position, profits, prospects and potential to make further distributions to Midway shareholders, and the price and/or value of Midway Shares. General risks that may impact on Midway or the market and/or or price for Midway Shares include the following:

- (a) change in investor sentiment and overall performance of the Australian and international stock markets;
- (b) changes in sentiment in credit markets;
- (c) changes in general consumer and business confidence, industry cycles and economic conditions including inflation, interest rates, exchange rates,

- commodity prices, employment levels, wage rates, energy prices, population growth and consumer demand;
- (d) variations in Midway's operating results;
- (e) loss of key personnel;
- (f) exchange rates, commodity prices, employment levels and consumer demand;
- (g) natural disasters, pandemics and catastrophes, whether on a global, regional or local scale;
- (h) changes in government fiscal, monetary and regulatory policies, including foreign investment and international sanctions; and
- (i) changes in accounting standards which affect the financial performance and position reported by Midway.

These factors may vary across the markets in which Midway and its Subsidiaries operate and have differing effects on different parts of Midway's business and therefore the price of Midway Shares. Some of these factors could affect the Midway Share price regardless of Midway's underlying operating performance.

### 8.3 Midway specific risks

#### (a) **Competition**

Midway operates in a sector that is subject to competition based on factors including price, woodfibre quality, supply volume, environmental and sustainability metrics, plantation development and carbon solutions. Actions by existing competitors, entry of new competitors, changing of client expectations or failure by Midway to meet changing market conditions could adversely impact Midway's competitive position, which may result in a decline in customer orders and margins of Midway, which may have a material adverse effect on its financial results.

#### (b) **Security of supply**

Midway relies on a number of suppliers to supply timber and other inputs to support its business model and objectives and therefore inability to access timber at the right time and on desirable terms could adversely impact Midway's sales volumes and therefore Midway's financial performance. Many of Midway's supply agreements are short term, typically of a term not exceeding one year.

The risk that Midway may not be able to secure the necessary timber supply to meet customer demand is influenced by:

- (i) whether plantation operators continue to grow plantation trees after the harvest of a rotation;
- (ii) the availability of supply at an acceptable price;
- (iii) competition from other plantation investors for the acquisition of plantations;
- (iv) competition from current and potential future rival competing woodchip exporters for the acquisition of plantation land or its offtake; and
- (v) competition from acquirers of plantation trees for alternative purposes, such as the production of biofuels.

In respect of Queensland Commodity Export Pty Ltd, which is 90% owned by Midway and is supplied with softwood sawmill residue, in addition to the above considerations, supply will also be influenced by the cyclical nature of the building industry, competition for purchase of softwood sawmill residue and the on-going viability of the relevant suppliers.

Additionally, South West Fibre Pty Ltd (**SWF**) sources the majority of its pulpwood from a key supplier under a contract due to expire on 31 December 2025. Should this agreement not be renewed or extended beyond its current term, SWF may need to source a new supplier of pulpwood. If it cannot do so,

there is a risk that SWF's revenue and profitability will be materially and adversely affected.

(c) **Customer demand and pricing**

Although Midway has long standing relationships with a number of its key customers, most sales are achieved on a short-term contractual basis (less than 1 year) and Midway is reliant on a relatively small number of customers and there can be no guarantee that these relationships will continue or, if they do continue, that these relationships will generate sales equal to or greater than those achieved historically.

There is a risk that Midway may lose customers or suffer from a decline in demand from customers for a variety of reasons, including general demand for Midway's products, performance of Midway's customers, market capacity of pulp production and macroeconomic conditions. Midway has to maintain its product quality and service otherwise there is a risk that on-going custom from customers may reduce or cease entirely. The loss of key customers, or a diminution in their custom, may materially and adversely impact Midway's revenue and profitability.

The price Midway can realise for its products is variable although it is generally fixed on a calendar year basis but is subject to a number of factors outside Midway's control, including changes in market demand and supply.

An inability to anticipate or respond to changes in the supply, demand and price landscape may have an adverse impact on Midway's financial performance (for example industry supply dynamics or changes in economic outlook and inflation).

In addition, Midway is party to a number of purchase contracts which contain minimum annual volume commitments to be met by Midway. There is the potential for delay damages / take or pay provisions to be imposed if these volume commitments are not met.

(d) **Contractual and counterparty risks**

As noted above, Midway derives a significant amount of revenue from a relatively small number of customers. The success of Midway's business is dependent on its ability to establish and maintain important client relationships and diversify the client base.

Any loss of one or more customers is likely to adversely affect the operating results of Midway and because many of Midway's contracts are short-term it is therefore exposed to external factors that may impact demand. The financial performance of Midway is also exposed to potential failure to perform by counterparties to its contractual arrangements. This may also lead to adverse financial consequences for Midway and there can be no guarantee that Midway would be able to recover the full amount of any loss through legal action or otherwise mitigate the loss through supply to third parties on similar terms.

In addition, the Transaction may cause contractual counterparties to reconsider their ongoing relationship with Midway and there can be no guarantee that in the future those counterparties will continue to be contractually bound by existing contracts or enter into new contracts with Midway.

(e) **Employee recruitment and retention**

Midway's ability to effectively conduct its business and execute its strategy depends upon the performance and expertise of its highly experienced staff. There is a risk that Midway may not be able to attract and retain key staff or be able to find effective replacements for staff who cease employment with Midway in a timely manner. The loss of staff, or any delay in their replacement, could impact Midway's ability to operate its business and implement its strategies.

There is also a risk that Midway will be unable to retain existing staff, or recruit new staff, on terms of retention that are as attractive to Midway as its historical and current arrangements. This would adversely impact employment costs and profitability.

**(f) Climate and environment**

Climate and weather present risk to Midway's business primarily in the form of unexpected weather volatility, fire, water security and woodfibre quality which could have an impact on Midway's production outcomes (yield and price), assets (own and third-party) and financial performance.

Midway could also suffer losses due to climate change. Climate change related impacts include physical risks from changing climatic conditions (including increased frequency and severity of fire, storms, floods, droughts and other catastrophic events and widespread health emergencies). A failure to respond to the potential and expected impacts of climate change may affect Midway's performance and could have wide ranging impacts for Midway's business, prospects, reputation, financial performance or financial condition.

Midway's operations are subject to various environmental laws and regulations, and a range of licences and permits are required for Midway to operate its operations.

If Midway is responsible for any environmental pollution or contamination or is found to be in breach of any of its licences or permits, Midway may incur substantial costs (including fines and remediation costs), its operations may be interrupted, and it may suffer reputational damage.

The loss of plantation resource and therefore supply due to fire is an ever-present industry risk.

**(g) Exposure to foreign exchange rates**

Midway has an Australian dollar presentation currency for reporting purposes. However, woodfibre is sold throughout the world based principally based on the U.S. dollar price, and a significant proportion of Midway's revenues will be realised in, or linked to, U.S. dollars. The Company is therefore exposed to fluctuations in foreign currency exchange rates.

**(h) Banking facilities**

Midway has a debt facility which is subject to various covenants. Factors such as a decline in Midway's operations and financial performance (including any decline arising from any adverse foreign exchange rate fluctuations) could lead to a breach of its banking covenants. Any breach or termination of any debt facility may negatively impact Midway's ability to obtain new or renew existing debt finance. If a breach occurs, Midway's financier may seek to exercise enforcement rights under the debt facility, including requiring immediate repayment, which may have a materially adverse effect on Midway's future financial performance and position.

Midway is also subject to the risk that it may not be able to refinance its existing bank facilities as and when they fall due, or that the terms available to Midway on refinancing will not be as favourable as the terms of its existing or future bank facilities.

**(i) Credit Risk**

Midway is exposed to certain credit risks from time to time which could cause financial loss to Midway if a customer or counterparty to a financial asset fails to meet its contractual obligations and arises principally from Midway's receivables from customers.

**(j) Product Quality**

Woodfibre quality is vital to Midway's ability to grow and sell high quality produce to meet the demands of its customers. If the quality of woodfibre were compromised or contaminated this could have an impact on Midway's ability to achieve desired price premiums and meet customer expectations.

Midway's woodfibre export contracts all contain standard non-contamination requirements. If product quality is compromised or contaminated the revenue stream generated by such investment could be compromised and/or Midway may be liable to compensate the relevant counterparty. This loss could have an adverse impact on the operations and financial performance and prospects of Midway.

**(k) Input Costs**

Midway's production costs are affected by the prices of commodities it consumes, uses or sells in its operations, and increases in labour rates. The prices of such commodities are influenced by supply and demand trends affecting the industry in general and other factors outside Midway's control. Increases in the price for materials consumed in Midway's business activities could materially adversely affect its results of operations and financial condition.

**(l) Australian Carbon Credit Units (ACCUs)**

Midway is exposed to volatility in future ACCU price and demand movements in connection with its carbon management activities. The Midway Group's future profit could be impacted if demand or pricing falls.

**(m) Vessel chartering** – There is a risk that Midway may not be able to finalise an export sale contract which in turn could render a vessel idle, or that a vessel cannot be chartered when needed, causing a potential shipment to be adversely impacted.**(n) Project delivery - CHSB**

Midway Group is party to a woodchip services agreement with GeelongPort Pty Limited (**GeelongPort**) under which GeelongPort provides woodchip outloading services to Midway Group at Corio Quay North No. 4 (**GeelongPort Woodchip Services Agreement**) together with a grain services agreement with GeelongPort under which, amongst other things, the GeelongPort ship loader at Corio Quay North No. 4 is to be modified so as to be able to outload grain (**Ship loader Modification Works**), and GeelongPort is to provide grain outloading services to the Midway Group (**GeelongPort Grain Services Agreement**).

Midway Group is party to an Access Deed and related documents with CHS Broadbent Pty Ltd (**CHSB**) under which, amongst other things, Midway Group is to provide grain outloading services to CHSB, and Midway Group and CHSB agree to bear the cost of the Ship loader Modification Works in their agreed proportions (**CHSB Access Deed**).

There is a risk that the costing of, contracting for and/or performance of the Ship loader Modification Works is delayed. If that delay is material or prolonged, there is a consequential risk:

- that Midway Group may not be able to enjoy the full benefit of the relief from Midway Group's take or pay obligations to GeelongPort under the GeelongPort Woodchip Services Agreement which is to be afforded to Midway Group under that agreement and/or the CHSB Access Deed in respect of or on account of grain outturn volumes; and
- of dispute, and potentially litigation, involving Midway Group and CHSB and/or GeelongPort.

There is also a risk that that current works to redevelop Midway's Geelong site are delayed or cost more than expected, which could adversely impact earnings.

**(o) People Safety**

Given the nature of the industry in which Midway operates, workers at Midway sites are at risk of workplace incidents. In addition to the potential for harm to any worker, the occurrence of workplace incidents has the potential to harm both the reputation and financial performance of Midway.

**(p) Geopolitical conditions**

Jurisdictions to which Midway exports may in the future experience unrest or major change to their government or political or legal systems. Additionally, the nature of the legal and regulatory systems in some of those jurisdictions can result in a lack of certainty regarding, and/or sudden and material changes to the interpretation and enforcement of local laws and regulations which could impact a number of facets of Midway's business including contractual

arrangements. More generally, there is a risk that global political developments may adversely affect market conditions and access.

(q) **Legal and regulatory compliance**

Changes in the legal landscape or government policy and regulation could have impacts on Midway's ability to deliver its strategic objectives. Regulatory areas which are of particular significance to Midway include carbon credits, employment, property and the environment, customs and tariffs, foreign investment, taxation and climate change. A failure to comply with laws or regulations could also have major negative reputational and financial outcomes for Midway.

(r) **Potential risk of litigation and disputes**

Midway may, from time to time, be involved in legal proceedings arising from the conduct of its businesses, including from customers, past and present employees, regulators, competitors, suppliers or neighbouring properties, for example in relation to property damage or contamination, personal injury, potential class actions (both securities class actions and consumer class actions) and environmental matters. The loss arising from such litigation may not be covered by insurance or the aggregate potential liability in respect of possible legal proceedings may exceed any insurance coverage. Any material legal proceedings could have a material adverse impact on Midway's financial performance and position.

Even if Midway was to ultimately prevail in the litigation, it could divert management's attention and resources from Midway's operations and business, and Midway could also suffer significant reputational damage which could have an adverse effect on Midway's business.

(s) **Loss of accreditation**

As owner and/or manager of plantations, Midway must comply with the laws and regulations relating to environmental management, including the management of natural fauna within plantations. These laws and regulations concern, amongst other things, water and soil movement, aerial spraying, the use of herbicides, pesticides and fertilisers, and koala control. Failure to comply with these requirements could cause reputational damage to Midway and negative financial outcomes.

(t) **General risks relating to business and operations**

The general risks outlined below may also affect Midway's financial performance, financial position, cash flows, distributions, growth prospects and share price:

- litigation and claims;
- inability to pay dividends or make distributions; and
- equity dilution.

As at the Last Practicable Date, and except as disclosed above, the Midway Directors are not aware of any current, impending or threatened litigation that may have a material impact on the business or financial position of Midway Group.

## 8.4 Risks specific to RollCo and the Class B Shares

This Section 8.4 sets out some of the key risks relating to Class B Shares which are known to BidCo as at the Last Practicable Date. These risks will only apply to Scheme Shareholders who receive Scrip Consideration.

Whether Scrip Consideration is appropriate will depend significantly on the characteristics and risk profile of each individual Midway Shareholder. It is important to understand that any investment in unlisted scrip in RollCo would represent a fundamentally different investment than your current investment in Midway.

(a) **Risks associated with an investment in RollCo post implementation of the Scheme**

Scheme Shareholders who make a valid Election for a Scrip Consideration Option should consider a number of risks that can be broadly classified as risks specific to an investment in Class B Shares post implementation of the Scheme and general risks relating to investing in unquoted securities.

These risks may, individually or in combination, have a material adverse effect on any one or more of RollCo's future financial performance, financial position, cash flows or, distributions and your ability to dispose of Class B Shares if you wish to do so and consequently, on the outcome of an investment in RollCo and the value of your Class B Shares.

You should read the Scheme Booklet in its entirety and specifically consider the factors contained within this Section 8.4 before making an Election to receive Scrip Consideration.

You should also carefully consider these factors in light of your personal circumstances and seek professional advice from your accountant, tax adviser, stockbroker, lawyer or other professional adviser before deciding whether to make an Election to receive Scrip Consideration. There is no guarantee that BidCo will achieve its stated objectives or any of its statements of current future intent as described in Section 7.7, or that any dividends or distributions will be paid to RollCo Shareholders post implementation of the Scheme.

You should note that this Section 8.4 is not an exhaustive list of the risks associated with an investment in RollCo post implementation of the Scheme. Further, many of these risks are outside the control of BidCo, or RollCo and either cannot be mitigated or can only be partially mitigated.

The risk factors that apply to an investment in RollCo post implementation of the Scheme are materially different from those that apply to your existing investment in Midway. For further information about the rights and obligations associated with Class B Shares see Section 7.5(c).

Despite the operating history of Midway, an investment in RollCo post implementation of the Scheme should be considered a speculative investment.

(b) **Risks specific to RollCo and Class B Shares post implementation of the Scheme**

(i) **Different regulatory regime**

Many of the protections available to shareholders of Australian listed companies are not available to shareholders of unlisted companies. For example, ASX listed companies are subject to continuous disclosure obligations under the Listing Rules.

As RollCo will be an unlisted Australian public company, Midway will be removed from the official list of the ASX following the Implementation Date and the Listing Rules will not apply to the acquisition of Class B Shares and information that may have required disclosure under the Listing Rules may not be available to holders of Class B Shares. There is a risk that, because of the different regulatory regime that applies to an investment in RollCo, RollCo Shareholders may not realise the outcome with respect to their investment that they intended, or which might have been available were their investment in a listed entity.

In addition, the takeover provisions in Chapter 6 of the Corporations Act will not apply to RollCo. For further details, please refer to Section 7.5(d) for further details of the difference in regulatory regimes.

(ii) **Lack of dividends**

The declaration and payment of any dividends will be at the sole discretion of the RollCo Board, subject to the Corporations Act. There is no intention, as at the date of the RollCo Shareholders' Deed, for any dividends to be declared or paid.



To the extent RollCo pays any dividends in the future, the level of franking on any dividends on Class B Shares will be affected by the level of RollCo's available franking credits and distributable profits. RollCo's level of franking credits may be affected by a wide range of factors, including its business performance, the jurisdictions in which Midway makes profits and pays tax and any other franked dividends it may receive (if any). RollCo's distributable profits may also be affected by a wide range of factors including its levels of earnings. The level of franking on any dividend may vary over time and dividends may be partially, fully or not franked. The value and availability of franking credits to a Class B Shareholder will depend on that Class B Shareholder's particular circumstances.

**(iii) Lack of liquidity**

RollCo is an unlisted company and will continue to be an unlisted company following implementation of the Scheme. As such, there is no active market for the sale and purchase of Class B Shares following implementation of the Scheme, nor is there expected to be any such market in the future.

There are also substantial restrictions on the ability for Class B Shareholders to transfer or sell their Class B Shares under the RollCo Shareholders' Deed.

The lack of liquidity associated with Class B Shares may affect the price that another person is willing to pay for those Class B Shares (even though the performance of RollCo and the Midway business might suggest the value of those Class B Shares is higher). See Section 7.5 for more information.

**(iv) Limited information rights**

Due to the difference in regulatory regimes applying to an investment in Midway Shares and an investment in Class B Shares, Class B Shareholders will receive more limited information in relation to RollCo than they currently receive as Midway Shareholders. For further details see Section 7.5(d).

Class B Shareholders will not receive reports such as remuneration reports or corporate governance reports and RollCo will not be required to comply with the extensive continuous disclosure obligations set out in Chapter 3 of the Listing Rules and section 674 of the Corporations Act.

**(v) RollCo Shareholders' Deed**

Midway Shareholders who receive Class B Shares under the Scheme will become bound by the RollCo Shareholders' Deed, which is intended to govern the relationship between investors in RollCo. River Capital will retain at least 50.01% of the issued capital in RollCo and will be the majority shareholder.

The RollCo Shareholders' Deed provides RollCo Shareholders with certain rights and obligations in connection with, amongst other things, the governance of RollCo and the disposal of shares and other securities in RollCo and includes a restraint on competition activities. A summary of the RollCo Shareholders' Deed is set out in Section 7.5(c) and a copy of that document is set out in Annexure D.

**(vi) Due diligence and reliance on information**

Before executing the Scheme Implementation Deed, BidCo and its advisers undertook due diligence in respect of the Midway Group and its business, based on information provided by Midway, for the purpose of assessing the acquisition of Midway and negotiating the Scheme Implementation Deed. Such investigations were carried out in a limited timeframe. BidCo is satisfied that it has sufficient information to proceed with the Scheme. BidCo has prepared the risks in this Section 8.4 on

the basis of information regarding Midway and its business that is known to BidCo.

There may be other risks associated with Midway and its business that are currently unknown to BidCo.

Additionally, there is a risk that the information currently available to BidCo in respect of Midway and its business may contain inaccuracies or have changed due to changes in the economy or other risk factors outside of the control of either the BidCo Group or Midway.

**(vii) Dilution**

RollCo may need to raise additional capital through the issue of new shares in the future in order to meet the operating and/or financing requirements of itself and Midway. RollCo is also likely to issue securities to its management team through the establishment of a management incentive scheme. Future capital raisings, equity funded acquisitions by the RollCo Group or issuance of shares to management undertaken in accordance with the RollCo Shareholders' Deed, may dilute the holdings of a particular Class B Shareholder relative to other RollCo Shareholders.

In the event that further equity funding is required, existing RollCo Shareholders may be offered to participate and, if they do not take up their proportional share of any pro rata issue of shares offered to them, have their stakes diluted relative to other RollCo Shareholders who elected to take up their proportional share of any pro rata issue. See Section 7.5 for further information.

**(viii) Limited rights as minority shareholders**

As Scheme Shareholders who receive Class B Shares under the Scheme will collectively have no more than a 49.99% interest in RollCo, they will be subject to risks that are inherent in minority shareholdings.

However, Class B Shareholders will have access to certain protections provided under the RollCo Shareholders' Deed, such as pre-emptive rights on the issue of new shares and the right to tag along in the event of a sale on terms that are no less favourable than the terms offered to the River Investors.

Furthermore, under the Corporations Act, there are remedies available to minority shareholders against minority oppression.

River Capital, as the holder of Class A Shares will be able to exercise majority voting power, and will be in a position to determine the outcome of most decisions relating to RollCo and the RollCo Group more generally. An individual Class B Shareholder or group of Class B Shareholders, acting together, will not be able to affect those matters relating to RollCo. Scheme Shareholders who receive the Class B Shares under the Scheme will therefore, in most cases, be subject to the decisions made by River Capital, as the holder of Class A Shares in relation to RollCo and the RollCo Group.

The RollCo Shareholders' Deed contains provisions under which Class B Shareholders may be compelled to transfer their Class B Shares. For example, the Shareholders' Deed includes a "drag along" provision, which allows River Capital, as the holder of Class A Shares, to require each Class B Shareholder to transfer their Class B Shares to the same transferee in certain circumstances.

**(ix) Exit**

Consistent with usual private equity practice, the River Investors may seek to 'exit' their investment in the Midway business in the future. This is subject to the River Investors' preferences, prevailing market conditions, the performance of the business and other factors which may be considered relevant at the time. As such, the time period for the Exit is currently unknown and is at the discretion of the River Investors.

There is no guarantee that Class B Shareholders will be able to sell their Class B Shares if a decision to Exit is not made by the River Investors. In particular, there will be no active market for the sale and purchase of Class B Shares following implementation of the Scheme and there are restrictions, in the RollCo Shareholders' Deed, on the ability of Class B Shareholders to sell or transfer their Class B Shares other than in very limited circumstances.

Conversely, there is no guarantee that Class B Shareholders will want to sell their Class B Shares at the same time as a decision to Exit is made by the River Investors. Despite this, if a decision to Exit is made, Class B Shareholders may be forced to sell their Class B Shares under the RollCo Shareholders' Deed. Class B Shareholders may not agree with the exit strategy adopted by RollCo or and may not receive the price and return on investment they expect. For further information about the exit rights of Class B Shareholders see Section 7.5 and clause 17 of the RollCo Shareholders' Deed.

**(x) Change of control**

Upon implementation of the Scheme, a change of control of Midway will occur. Certain material contracts to which a Midway Group Member is a party are subject to pre-emptive rights, review or termination upon a change of control. While BidCo is not aware of any counterparty that may wish to terminate a material contract, should any such contracts be terminated, the Midway Group Member would lose the benefit of the contract and may be unable to obtain similar terms upon entry into replacement contracts (should such replacement contracts be available).

**(xi) Transaction costs**

Midway and BidCo will incur transaction costs in connection with the Transaction. Both BidCo and Midway will pay transaction fees and other expenses related to the Scheme, including financial advisers' fees, filing fees, legal and accounting fees, regulatory fees and mailing costs. Some of these costs may be reduced by the Scheme not being implemented, while other costs may be incurred irrespective of the Scheme outcome.

**(xii) Scaleback Arrangements**

The Scaleback Arrangements (set out in greater detail at Section 5.7) will begin to apply once the Midway Shareholders holding in aggregate 49.99% of Midway shares on issue as at the date of the Scheme Booklet have made valid Elections to receive Scrip Consideration.

If the Scaleback Arrangements apply, then each Scheme Shareholder who has made a valid Election to receive Scrip Consideration, will receive the number of Class B Shares as Scrip Consideration reduced by the Scaleback Arrangements and will receive the Cash Consideration for each Midway share in respect of which Scrip Consideration is not issued.

**(xiii) Disposal of Small Holdings**

At any time after the first anniversary of the Implementation Date, one or more Investor Shareholders or the RollCo Board may require Class B Shareholders that hold a Small Holding (\$10,000 or less by value of Class B shares) to dispose of their shares at fair market value via buy-back, cancellation or transfer to the Investor. This may not meet the objective of the shareholder(s) or the price and return on investment they expect.

**(xiv) Arrangements with River Capital**

Fees may be payable to River Capital (or one or more of its Related Bodies Corporate) and/or performance securities may be issued to a fund managed and/or advised by River Capital to the extent the BidCo Group enters into the arrangements described in Section 7.7(e).

## 8.5 Risk relating to the Scheme

(a) **The Scheme is subject to various Conditions that must be satisfied or waived and there are termination rights in the Scheme Implementation Deed**

The Scheme is subject to various Conditions that must be satisfied or waived (if capable of waiver) in order for the Scheme to be implemented. These Conditions are summarised at Section 10.10(a) and are set out in full in clause 3.1 of the Scheme Implementation Deed. There can be no certainty, nor can Midway provide any assurance, that these conditions will be satisfied or waived (where applicable), or if satisfied or waived (where applicable), when that will occur. In addition, there are a number of other Conditions to the Scheme which are outside the control of Midway and BidCo, including, but not limited to:

- no Material Adverse Change, and no Prescribed Occurrence, occurring in relation to Midway;
- approval of the Scheme by the Requisite Majority of Midway Shareholders; and
- approval by the Court of the Scheme at the Court hearing to be held on the Second Court Date.

There is a risk that the Court may not approve the Scheme or may only be willing to approve the Scheme subject to conditions that Midway or BidCo are not prepared to accept. There is also a risk that some or all of the aspects of the Midway Shareholder and Court approvals require for the Scheme to proceed may be delayed.

In addition, each of Midway and BidCo has the right to terminate the Scheme Implementation Deed in certain circumstances. These termination rights are summarised in Sections 10.10(g) and 10.10(h) of this Scheme Booklet.

In particular, BidCo has the right to terminate the Scheme Implementation Deed if:

- Midway does not, or becomes incapable of, declaring or determining, and paying a Special Dividend of \$0.3835; or
- the cash balance of Midway Group falls below certain levels prior to the Implementation Date (as that would be a Prescribed Occurrence).

While Midway is not aware of any reason why these termination rights are likely to be triggered there are a number of risks and uncertainties associated with Midway's business (including those at Sections 8.2 and 8.3 above) which may have a material adverse effect on Midway's operating performance, cash balances and/or its ability to pay the Special Dividend.

Accordingly, there is no certainty that the Scheme Implementation Deed will not be terminated by either Midway or BidCo before the implementation of the Scheme.

If, for any reason, all of the Conditions are not satisfied (or, if applicable, waived) and the Scheme does not proceed, or otherwise if the Scheme Implementation Deed is terminated, the Midway Share price will continue to be subject to market volatility and, if no comparable proposal to the Scheme or a Superior Proposal is received by the Midway Board (or otherwise emerges), may fall, perhaps materially (see Section 1.3).

A Break Fee may also be payable by Midway in certain circumstances (see Section 10.10(e)).

(b) **Risks to Midway Shareholders associated with the Special Dividend**

The Midway Board may determine to declare and pay a partially franked Special Dividend of up to \$0.3835 per Midway Share.

Whether you will be able to receive the full benefit of any franking credits attached to the Special Dividend will depend on your individual tax status and specific circumstances. See Sections 5.4 for further information relating to the Special Dividend.

There is also a risk that the ATO may use certain powers under taxation law to deny a Midway Shareholder the benefit of the franking credits attached to the Special Dividend. Midway is seeking a ruling on behalf of the Midway Shareholders in relation to, among other things, whether the ATO will make a determination to deny access to the franking credits.

You should consult your own taxation adviser to determine the tax consequences relevant to your own specific circumstances.

As noted at Section 8.5(a) above, BidCo has a right to terminate the Scheme Implementation Deed if Midway has not publicly declared or determined to pay (or becomes incapable of doing so) the Special Dividend two Business Days prior to 8:00am on the Second Court Date. In such circumstances a Break Fee may be payable by Midway.

(c) **Risks if the Scheme is implemented**

If the Scheme is implemented, you will no longer be a Midway Shareholder and will forgo any future benefits that may result from being a Midway Shareholder. In particular, if the Scheme is implemented, you will not be able to participate in the future financial and share price performance of Midway, retain any exposure to Midway's business or assets or have the opportunity to share in any value that could be generated by Midway in the future (unless you choose to obtain indirect exposure to Midway's business through making an Election for a Scrip Consideration Option).

However, there is no guarantee as to Midway's future performance, or its future share price and financial performance, as is the case with all investments. Midway Shareholders may also consider that it would be difficult to identify or invest in alternative investments that have a similar investment profile to that of Midway, or may incur transaction costs in undertaking any new investment.

(d) **Implications if the Scheme is not implemented**

If the Scheme does not become Effective and is not implemented, or if the Scheme becomes Effective but is not implemented for any reason, Scheme Shareholders will not receive the Scheme Consideration and Midway will continue, in the absence of a Superior Proposal, to operate as a standalone entity and remain listed on the ASX.

Unless Midway Shareholders choose to sell their Midway Shares on the ASX, Midway Shareholders will continue to hold Midway Shares and will be exposed to both risks (including those set out in this Section 8) and potential future benefits in retaining exposure to Midway's business and assets.

If the Scheme is not implemented, the Midway Directors intend that Midway will continue its current strategic plans and will remain listed on the ASX. See Section 6.14 for further information on the strategy and intentions of Midway if the Scheme does not proceed.

While it is not possible to predict the future performance of Midway or the Midway share price, in deciding whether or not to vote in favour of the Scheme, you should have regard to the prospects of Midway on a stand-alone basis (that is, if the Scheme is not approved and implemented).

In addition, if the Scheme is not implemented:

- the benefits of the Scheme described in Section 1.4 of this Scheme Booklet will not be realised and the relevant potential disadvantages and risks of the Scheme described in Sections 8 of this Scheme Booklet will not arise; and
- as described in Section 1.6(d), Midway expects to pay an aggregate of approximately \$900,000 (excluding GST) in transaction costs in connection with the Scheme, being costs that have already been incurred as at the Last Practicable Date or are expected to be incurred even if the Scheme is not implemented (but excluding the Break Fee – see Section 10.10 for information on the circumstances in which the Break Fee may be payable).

(e) **Tax consequences for Scheme Shareholders**

If the Scheme becomes Effective and is implemented, there will be tax consequences for Scheme Shareholders which may include tax being payable. In addition, if paid by Midway, the actual value of any actual Special Dividend paid to each Midway Shareholder may be affected by the tax consequences applying to individual shareholders, given the use of franking credits depends on their personal tax circumstances.

For further detail regarding general Australian tax consequences of the Scheme, refer to Section 9 of this Scheme Booklet. The tax consequences may vary depending on the nature and characteristics of Scheme Shareholders and their specific circumstances. Accordingly, Midway Shareholders should seek professional tax advice in relation to their circumstances.

For personal use only

# Tax Implications

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# of the Scheme

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## 9 Tax implications of the Scheme

### 9.1 Introduction

This is a general summary of the Australian tax consequences of the Scheme and the Special Dividend for Midway Shareholders. This does not constitute tax advice and should not be relied upon as such. The comments set out below are relevant only to those Midway Shareholders who hold their Midway Shares on capital account for income tax purposes.

This summary is based upon the Australian law and administrative practice in effect at the Last Practicable Date, but it is general in nature and is not intended to be an authoritative or complete statement of the laws applicable to the particular circumstances of a Midway Shareholder. Midway Shareholders should seek independent professional advice in relation to their own particular circumstances.

The description does not address the Australian tax consequences for Midway Shareholders who:

- hold their Midway Shares for the purposes of speculation or in carrying on a business dealing in securities (for example, as trading stock or on revenue account for income tax purposes);
- acquired their Midway Shares pursuant to an employee share, option or rights plan;
- are subject to the taxation of financial arrangement rules in Division 230 of the ITAA 1997 in relation to gains and losses on their Midway Shares;
- may be under a legal disability (e.g. under the age of 18 at 30 June 2023 or 2024 (as applicable), bankrupt or declared legally incapable due to a mental condition) or subject to certain special tax rules, including insurance companies, partnerships, tax-exempt organisations or entities subject to the Investment Manager Regime under Subdivision 842-1 of the ITAA 1997 in respect of their Midway Shares;
- who are not Australian tax residents and who hold their shares at or through an Australian permanent establishment;
- made a choice under Subdivision 960-D of the ITAA 1997 to use a functional currency other than Australian dollars to calculate their Australian taxable income; or
- are taken to have acquired their Midway Shares before 20 September 1985.

Midway Shareholders who are tax residents of a country other than Australia (whether or not they are also residents, or are temporary residents, of Australia for income tax purposes) should take into account the tax consequences of the Scheme under the laws of their country of residence, as well as under Australian law.

### 9.2 ATO class ruling

Midway has applied to the ATO for a class ruling to confirm the key income tax implications of the Scheme and the Special Dividend for Midway Shareholders (**Class Ruling**).

The Class Ruling has not been finalised as at the date of the Scheme Booklet. Midway anticipates that the ATO will provide a draft of the Class Ruling prior to the Scheme becoming Effective.

When the final Class Ruling is published by the ATO, it will be available on the ATO website [www.ato.gov.au](http://www.ato.gov.au). It is anticipated that the Commissioner's views in the Class Ruling will be generally consistent with the description of the Australian tax consequences in this summary. However, it is possible that the Commissioner may reach a different conclusion. Accordingly, it is important that this summary be read in conjunction with the Class Ruling.



### 9.3 Midway Shareholders that are Australian residents

(a) **Capital gains tax (CGT)**

Under the Scheme, Midway Shareholders will dispose of their Midway Shares to BidCo in exchange for the Scheme Consideration. This disposal will constitute a CGT event A1 for Australian CGT purposes for Midway Shareholders. The time of the CGT event will be the Implementation Date.

(b) **Calculation of capital gain or capital loss**

Midway Shareholders will make a capital gain on the disposal of Midway Shares to the extent that the capital proceeds from the disposal of the Midway Shares are more than the cost base of those Midway Shares. Conversely, Midway Shareholders will make a capital loss to the extent that the capital proceeds are less than their reduced cost base of those Midway Shares.

To the extent Midway Shareholders receive Scrip Consideration for their Midway Shares and would otherwise have made a capital gain on disposal, those Midway Shareholders may access scrip for scrip roll-over relief (discussed further at 9.3(b)(iv) below).

(i) **Cost base**

The cost base of the Midway Shares generally includes the cost of acquisition and certain non-deductible costs of their acquisition and disposal. The reduced cost base of the Midway Shares is usually determined in a similar, but not identical, manner.

(ii) **Capital proceeds**

The capital proceeds received in respect of the disposal of each Midway Share should be the amount of the Scheme Consideration.

Midway anticipates that the capital proceeds for the disposal of Midway Shares should not include the Special Dividend.

This question of whether the capital proceeds include the Special Dividend will be addressed in the Class Ruling.

(iii) **Other issues related to the capital gain**

Midway Shareholders who are individuals, complying superannuation entities or trustees that have held (or are deemed to have held) their Midway Shares for at least 12 months before the Implementation Date (not counting the day of acquisition or disposal) may be entitled to reduce the amount of the capital gain (after application of carry forward and current year capital losses, if any) by the applicable CGT discount. If eligible, the applicable CGT discount for Midway Shareholders who are individuals or trustees is 50 per cent and 33 $\frac{1}{3}$  per cent for complying superannuation entities. The availability of the CGT discount for beneficiaries of a trust will depend on the particular circumstances of the beneficiaries.

There is no CGT discount available for Midway Shareholders that are companies or for Midway Shareholders who have held their Midway Shares for less than 12 months.

Capital gains (prior to any CGT discount) and capital losses of a taxpayer in an income year are aggregated to determine whether there is a net capital gain. Any net capital gain (as reduced by the CGT discount, if applicable) is included in assessable income and is subject to income tax. Capital losses may not be deducted against other income for income tax purposes, but may be carried forward to offset against future capital gains (subject to satisfaction of loss recoupment tests for certain taxpayers).

**(iv) Scrip for scrip roll-over relief**

Midway Shareholders can make an election to receive some or all of the Scheme Consideration as Scrip Consideration.

Midway Shareholders who would otherwise make a capital gain on the disposal of their Midway Shares under the Scheme may choose scrip for scrip roll-over relief under Subdivision 124-M of the ITAA 1997.

Midway Shareholders cannot choose to apply roll-over relief to the extent that they receive Cash Consideration or if they will make a capital loss on the disposal of their Midway Shares.

This question of whether the roll-over relief is available will be addressed in the Class Ruling.

**(c) Consequences of choosing scrip for scrip roll-over relief**

If a Midway Shareholder chooses roll-over relief under Subdivision 124-M, the capital gain that would otherwise be made on the disposal of their Midway Shares will be disregarded to the extent that the capital proceeds received are Class B Shares.

If roll-over relief is available and chosen, the first element of the cost base and reduced cost base of the Class B Shares should equal the Midway Shareholder's cost base and reduced cost base (respectively) of their Midway Shares for which scrip for scrip roll-over relief is applied.

The Class B Shares should be deemed to have been acquired at the time the Midway Shares were originally acquired. This will be relevant for the purposes of determining eligibility for the CGT discount for a subsequent disposal of Class B Shares.

The benefit of choosing scrip for scrip roll-over relief will depend upon the individual circumstances of each Midway Shareholder.

**(d) Choosing roll-over relief**

A Midway Shareholder will provide evidence of having made a choice to apply scrip for scrip roll-over relief by the way they prepare their income tax return.

**(e) Consequences if no scrip for scrip roll-over relief**

The disposal will constitute a CGT event A1 for Australian CGT purposes for Midway Shareholders who are ineligible to choose scrip for scrip roll-over relief, or do not to choose to apply scrip for scrip roll-over relief with respect to some or all of their shares. These shareholders should include the market value of the Class B Shares in the calculation of their capital proceeds from disposing of Midway Shares.

The first element of the cost base and reduced cost base of the Class B Shares should be equal to the market value of the Midway Shares on the Implementation Date.

The acquisition date of the Class B Shares should be the Implementation Date. This will be relevant for the purposes of determining whether a Midway Shareholder is eligible for the CGT discount in relation to a subsequent disposal of Class B Shares.

**(f) Taxation consequences of the Special Dividend**

Midway Shareholders who are Australian tax residents and who receive the Special Dividend should include the amount of the Special Dividend in their assessable income.

It is expected that the Special Dividend will be partially franked.

If certain requirements are met, the Midway Shareholders who receive the Special Dividend will be:

- required to include the amount of the attached franking credits in their assessable income; and

- entitled to a tax offset equal to the amount of franking credits attached to the Special Dividend.

These requirements include:

- the Midway Shareholder being a 'qualified person' in relation to the Special Dividend; and
- satisfaction of certain dividend franking integrity measures.

In order for a Midway Shareholder to be a 'qualified person' they must hold their Midway Shares 'at-risk' for a continuous period of not less than 45 days (not including the day of the share's acquisition or disposal) during a "prescribed period" in relation to the Special Dividend.

Midway Shareholders will not be treated as holding their Midway Shares 'at-risk' on any days on which Midway Shareholders held positions that reduced their exposure to gains and losses below 30 per cent, although those days do not break the continuity of the 'at-risk' period.

Midway Shareholders will cease to be considered to hold their shares 'at-risk' from the Scheme Record Date, which is expected to be 7.00pm (AEDT) on 11 February 2025.

As the Special Dividend is taken into account in determining the amount of the Scheme Consideration, the so-called 'related payments' rule will apply to Midway Shareholders. Where the related payments rule applies, the "prescribed period" is the period beginning on the 45th day before, and ending on the 45th day after, the day on which the shares become ex dividend. On the expectation that the Midway Shareholders will cease to hold their shares 'at-risk' from the Scheme Record Date, the period within which Midway Shareholders must hold their shares 'at risk' for a continuous period of 45 days is expected to be 25 December 2024 to 10 February 2024 (inclusive) in respect of the Special Dividend.

If you are an individual or complying superannuation entity and your tax liability for the income year is less than the amount of the franking credits attached to the Special Dividend, you may be entitled to a refund for the excess franking credits. This does not extend to companies.

## 9.4 Midway Shareholders that are non-residents of Australia

### (a) General

A Midway Shareholder who is not an Australian resident for Australian income tax purposes should only be subject to Australian CGT on the disposal of their Midway Shares if:

- the Midway Shareholder holds or held 10 per cent or more (together with its associates) of the Midway Shares (i.e. a 'non portfolio interest') at the time of the CGT event or throughout a 12 month period within 2 years preceding the CGT event; and
- more than 50 per cent of Midway's value is due to direct or indirect interests in 'taxable Australian real property' (as defined in the ITAA 1997). Taxable Australian real property generally refers to Australian land that is owned or leased.

Unless the above two conditions are satisfied, non-resident Midway Shareholders should disregard any Australian capital gain or loss from the disposal of their Midway Shares.

If you are a non-resident who holds a 'non-portfolio interest' in Midway, you should obtain independent advice as to the tax implications of sale, and whether any protection will be available under a relevant double tax treaty.

A non-resident Midway Shareholder who has previously been a resident of Australia and chose to disregard a capital gain or loss on ceasing to be a resident will be subject to Australian CGT consequences on disposal of the Midway Shares as set out in section 9.3.

Midway Shareholders who are not residents of Australia should not be subject to income tax in Australia in respect of the Special Dividend. As the Special Dividend will not be fully franked, such shareholders should receive the full amount of the Special Dividend net of any dividend withholding tax attributable to the unfranked portion of the dividend.

(b) **Foreign resident capital gains withholding tax**

The capital gains withholding tax regime may apply to the Midway Shareholders whose Midway Shares are subject to Australian CGT because they satisfy the two conditions outlined above at section 9.4(a).

BidCo's expectation is that less than 50 per cent of Midway's value is due to direct or indirect interests in 'taxable Australian real property' and, therefore, the capital gains withholding tax regime should not apply. However, BidCo, in cooperation with Midway, may seek to clarify the status of particular Midway Shareholders and require these Midway Shareholders to provide BidCo with either:

- a declaration that they are an Australian tax resident or that their Midway Shares are not an 'indirect Australian real property interest' (**Declaration Form**); or
- a notice of variation granted by the ATO varying the amount or rate of tax to be withheld (**Variation Notice**).

Unless a signed Declaration Form or Variation Notice is provided to BidCo for these particular Midway Shareholders, BidCo may withhold 12.5 per cent (or 15% if Treasury Laws Amendment Bill 2024: Foreign Resident Capital Gains Withholding Payments has been enacted and applies to increase the rate of withholding to 15%) of the Scheme Consideration payable to the Midway Shareholder and pay that amount to the Commissioner of Taxation.

BidCo has advised Midway that it expects to only contact a very limited number of non-resident Midway Shareholders and that if BidCo does not contact a non-resident Midway Shareholder then it will not withhold any amount under these provisions. Non-resident Midway Shareholders should consult with a professional tax adviser regarding their particular circumstances.

## 9.5 GST

Midway Shareholders should not be liable to GST in respect of a disposal of those Midway Shares. Midway Shareholders may be charged GST on costs they incur (such as adviser fees relating to their participation in the Scheme) that relate to the Scheme. The entitlement to claim input tax credits in relation to these costs (if any) may be restricted. Midway Shareholders that are GST registered should seek independent advice in relation to the impact of GST in their individual circumstances and recovery of input tax credits or reduced input tax credits on costs related to the Scheme.

## 9.6 Stamp duty

Under the proposed implementation steps, Midway Shareholders should not be liable for any Stamp Duty on the disposal of their Midway Shares and the issue of RollCo Shares.

For personal use only

Additional

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Information

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## 10 Additional information

### 10.1 Introduction

This Section sets out the statutory information required by section 412(1)(a) of the Corporations Act and Part 3 of Schedule 8 to the Corporations Regulations to be included in this Scheme Booklet, but only to the extent that this information is not otherwise disclosed in other Sections. This Section also includes additional information that the Midway Directors consider material to a decision on how to vote at the Scheme Meeting.

### 10.2 Capital structure of Midway

As at the Last Practicable Date, Midway has 87,336,222 issued ordinary shares, of which the BidCo Group has a Relevant Interest in 16,936,033 Midway Shares, being 19.39% of Midway Shares on issue. The Midway Shares in which BidCo Group, together with its Associates, has a Relevant Interest are held either directly or pursuant to various arrangements including the Voting Deeds described at Section 10.3.

In addition, Midway has issued:

- 1,914,288 Midway Performance Rights; and
- 721,436 Midway Options,

details of which are set out in Sections 10.8(b) and 10.8(c).

### 10.3 Summary of Voting Deeds

On or about 13 November 2024, each of the McCormack Entities entered into Voting Deeds in favour of BidCo to the effect that they will not dispose of their Midway Shares and will vote all of the Midway Shares held or controlled by them in favour of the Scheme and not to support any 'Competing Transaction' and will not vote in favour of, or accept into, any 'Competing Transaction'.

Each Voting Deed is on substantially similar terms. The Voting Deeds will automatically terminate if the Scheme Implementation Deed is terminated, the Independent Expert does not continue to conclude that the Scheme is in the best interests of Midway Shareholders or there is a superior proposal for Midway Shares that BidCo does not match under the Implementation Deed. Details of the Voting Deeds are attached to BidCo's change in substantial holder notice lodged with ASX on 15 November 2024, which can be obtained from the ASX website ([www.asx.com.au](http://www.asx.com.au)).

### 10.4 Voting Intention Statement

As announced to ASX 14 November 2024, Midway's largest shareholder, Chebmont Pty Ltd, which has a Relevant Interest in approximately 23.8% of Midway Shares has confirmed to Midway that it intends to vote all Midway Shares held or controlled by it in favour of the Scheme in the absence of a Superior Proposal and subject to the Independent Expert continuing to conclude that the Scheme is in the best interests of Midway Shareholders.

It is noted that Midway Directors Nils Gunnensen and Tom Gunnensen are directors of Chebmont Pty Ltd. Each of Messrs Nils and Tom Gunnensen have advised Midway that they do not own or control or otherwise hold a Relevant Interest in the Midway Shares held by Chebmont Pty Ltd.

### 10.5 Independent Expert

The Independent Expert has prepared the Independent Expert's Report set out in Annexure A of this Scheme Booklet advising as to whether, in its opinion, the Scheme is fair and reasonable and in the best interests of Midway Shareholders.

The Independent Expert has concluded that the Scheme overall is fair and reasonable and in the best interests of Midway Shareholders in the absence of a Superior Proposal. Midway Shareholders should also note that the Independent Expert has concluded that the Scrip Consideration is deemed NOT fair.

## 10.6 Interests of Midway Directors in Midway

As at the Last Practicable Date, the number of Midway Shares held by or on behalf of each of the Midway Directors is as follows:

Director	Midway Shares in which the Midway Director has a Relevant Interest	Percentage of issued share capital
Gordon Davis	90,000	0.103%
Kellie Benda	-	-
Nils Gunnersen	9,829	0.011%
Tom Gunnersen	-	-
Leanne Heywood	15,000	0.017%
Anthony McKenna	-	-
Andy Preece	-	-

Midway Directors, or entities controlled by them, who hold Midway Shares will be entitled to vote at the Scheme Meeting and, if the Transaction is implemented, will receive the Scheme Consideration for their Midway Shares along with the other Scheme Shareholders.

Each Midway Director intends to vote or procure the voting of their respective Midway Shares in favour of the Scheme at the Scheme Meeting in the absence of a Superior Proposal and the Independent Expert continuing to conclude that the Scheme is in the best interests of Midway Shareholders.

No Midway Director has acquired or disposed of a Relevant Interest in any Midway Shares during the four months before the date of this Scheme Booklet.

## 10.7 Interests of Midway Directors in Midway Rights

As at the Last Practicable Date, none of the Midway Directors have a Relevant Interest in any Midway Rights, except as follows:

Director	Details of Midway Rights held
Anthony McKenna	973,006 Midway Performance Rights 721,436 Midway Options

Please refer to Section 10.8 for details regarding the treatment of the Midway Rights if the Scheme becomes Effective.

In summary, as set out in that Section, Mr Anthony McKenna is entitled to be paid a cash amount of \$1,934,655 on the Implementation Date as consideration for the cancellation of his Midway Options and Midway Performance Rights. In addition, Mr McKenna will receive a one-off Transaction Bonus of \$150,000 if the Scheme is implemented. Midway Shareholders should have regard to the interests of Mr McKenna in the Midway Performance Rights set out in footnote 7 and Section 10.8 when considering their recommendation in favour of the Scheme.

Despite this interest in the outcome of the Scheme, Mr McKenna considers that, given the importance of the Scheme and his role as Managing Director and Chief Executive Officer, it is important and appropriate for him to also provide a recommendation to Midway Shareholders as part of the Board in relation to the Scheme.

The Midway Directors (excluding Mr McKenna) also consider that, notwithstanding these arrangements, it is appropriate for Mr McKenna to make such a recommendation, given the importance of the Scheme, his detailed knowledge of the Midway business, and his key role as the Managing Director of Midway.

No Midway Director has acquired or disposed of a Relevant Interest in any Midway Rights during the four months before the date of this Scheme Booklet.

## 10.8 Midway employee incentive arrangements

### (a) Overview of arrangements

As detailed in Midway's annual report for the year ended 30 June 2024, Midway operates the Long Term Incentive Plan under which Midway Rights are offered to executive directors and employees to provide a performance linked incentive component in the remuneration package of participants to align the interests of those participants with those of Midway Shareholders.

Under the Scheme Implementation Deed, Midway must take such action as is necessary to ensure that, by no later than the Scheme Record Date, all Midway Rights are dealt with in the manner agreed between Midway and BidCo and that all Midway Rights have vested in accordance with their terms, been exercised (if applicable), have any applicable restrictions removed (if applicable) and/or have been cash settled.

### (b) Midway Options

As at the Last Practicable Date, Midway had on issue 721,436 fully vested Midway Options all of which are held by Mr Anthony McKenna. Each Midway Option confers on Mr McKenna the right to receive one Midway Share subject to payment of the exercise price in respect of the Midway Option.

The Midway Options were agreed to be issued to Mr McKenna in or about July 2021 when he commenced employment with Midway. The exercise price of each Option is \$0.9339.

The proposed treatment of the performance rights in respect to Mr McKenna is set out in Section 10.8(e).

### (c) Midway Performance Rights

As at the Last Practicable Date, there were a total of 1,914,288 Midway Performance Rights on issue. The holders of these Midway Performance Rights are Managing Director and CEO, Anthony McKenna (as to 973,006 Midway Performance Rights) and the balance by other senior Midway executives.

The Midway Performance Rights were issued in CY2022, CY2023 and CY2024 have a nil exercise price and vest on 30 June 2025, 30 June 2026 and 30 June 2027 respectively.

Each Midway Performance Right confers on the relevant holder the right to receive one Midway Share, subject to the satisfaction of certain vesting conditions. Vesting is generally based on achieving a relative TSR milestone, which is based on Midway's TSR relative to a defined comparator group of companies over a 3-year performance period. The Midway Performance Rights are also subject to an ongoing employment condition.

The proposed treatment of the Midway Performance Rights is set out in Sections 10.8(d) and 10.8(e).

### (d) Intended treatment of Midway Performance Rights for employee participants in connection with the Scheme

In accordance with the plan rules of the Long Term Incentive Plan, the Midway Board will determine that, if the Scheme becomes Effective, the vesting conditions relating to all 941,282 unvested Midway Performance Rights held by employees (excluding Mr McKenna) will be waived, with such resulting vested Midway Performance Rights being automatically exercised prior to the Scheme Record Date, with each holder entitled to receive a cash payment equal to the aggregate of (a) the Cash Consideration for each vested Midway Performance Right held and (b) for each Midway Performance Rights issued in CY2022 and CY2023, an uplift factor to compensate each holder for the diminution in economic value of each Midway Share (and therefore the corresponding Midway Performance Right) as a consequence of the special dividends paid to Midway Shareholders in October 2024 (and in some cases, the special dividend paid in December 2023).



The Midway Board approved the methodology of the uplift taking into account the amount of each such special dividend and the volume weighted average price at which Midway ordinary shares traded on ASX during the five business days immediately prior to the ex-date for each special dividend. This methodology is explained in more detail in Section 10.8(e) below.

If the Scheme becomes Effective, the total amount payable to employee participants to cash settle the 941,282 Midway Performance Rights held by those employee participants will be \$1,292,800.

(e) **Intended treatment of Midway Rights for Mr Anthony McKenna in connection with the Scheme**

Midway Options

Pursuant to the Scheme Implementation Deed Midway has entered into an Option Cancellation Deed with Mr Anthony McKenna under which all 721,436 vested and "in the money" Midway Options (being Midway Options with an exercise price of \$0.9339 each) held by Mr McKenna will be cancelled with Mr McKenna entitled to receive a cash payment of \$0.516 per Option cancelled. This amount is equal to (a) the Cash Consideration less the exercise price of each vested Midway Option plus (b) an uplift amount to compensate Mr McKenna for the diminution in economic value of a Midway Share (and therefore the corresponding Midway Option) as a consequence of the special dividends paid to Midway Shareholders in December 2023 and October 2024.

The Midway Board (in the absence of Mr McKenna) approved the methodology of the uplift taking into account the amount of each such special dividend and the volume weighted average price at which Midway ordinary shares traded on ASX during the five business days immediately prior to the ex-date for each special dividend.

The Option Cancellation Deed is conditional upon the Scheme becoming Effective.

In accordance with the above, subject to the Scheme becoming Effective (and assuming there is no increase in the Scheme Consideration which would result in a corresponding increase in the consideration payable), Mr Anthony McKenna is entitled to be paid an aggregate cash amount of \$372,344 for all Midway Options held by him.

Midway Performance Rights

In accordance with the plan rules of the Long Term Incentive Plan, the Midway Board (in the absence of Mr Anthony McKenna) will determine that, if the Scheme becomes Effective, then the vesting conditions on all 973,006 unvested Midway Performance Rights held by Mr Anthony McKenna will be waived, with such resulting vested Midway Performance Rights being automatically exercised prior to the Scheme Record Date, with Mr McKenna entitled to receive a cash payment for each vested Midway Performance Right held, being a total cash amount of \$1,562,310.

This cash amount is equal to (a) the Cash Consideration for each Midway Performance Right plus (b) an 'uplift factor' (for Performance Rights issued in CY23 and CY24 ) to compensate Mr McKenna for the diminution in economic value of a Midway Share (and therefore the corresponding Midway Performance Right) as a consequence of the special dividends paid to Midway Shareholders in December 2023 and October 2024 plus (c) an amount equal to the cash equivalent of the value of 139,976 performance rights that were not issued, as intended, to Mr McKenna due to an error in the Midway 2022 Notice of Annual General Meeting. On 11 January 2023 the Midway Board resolved that these unissued performance rights would be settled by way of cash.

The rationale for the decision of the Midway Board to apply the 'uplift factor' referred to above, was as follows:

- On 22 December 2023, Midway paid a fully franked special dividend of \$0.05 per Midway Share. This dividend was funded from the proceeds of the sale of Midway's plantation estate.

- Whilst dividends paid from operating profits would ordinarily not justify an adjustment to convertible securities, the Midway Board (in the absence of Mr McKenna) took the view that an adjustment would be equitable and appropriate in this instance given the size of the dividend (relative to the Midway share price at the time), the source of the funding and the enduring impact of the plantation estate sale on the underlying value of Midway Shares.

- The Midway Board determined that the methodology for the uplift factor would be calculated as  $VWAP/(VWAP-SD)$ , where:

**VWAP** is the VWAP of Midway Shares over the 5 business days prior to the dividend ex-date; and

**SD** is the amount of the special dividend.

The uplift factor was then calculated as  $\$0.8758/(\$0.8758-\$0.05) = 1.0605$ .

- Similarly, on 04 October 2024, Midway paid a fully franked special dividend of \$0.145 per share. The uplift factor for the 4 October 2024 special dividend was calculated using the same formula as for the 22 December 2023 special dividend. The VWAP of Midway Shares over the 5 business days prior to the dividend ex-date, was \$1.1182. Therefore, the uplift factor was  $\$1.1182/(\$1.1182-\$0.145) = 1.1490$ .

One or both the uplift factors have been applied to Midway Rights held by Mr McKenna and other relevant Midway executives where appropriate (i.e. depending on when the relevant Midway Rights were issued) to determine the notional number of Midway Rights and therefore the cash settlement value of the Midway Rights to the relevant holders.

The Midway Board (in the absence of Mr McKenna) approved the methodology for the special dividend uplift taking into account the amount of each such special dividend and the volume weighted average price at which Midway ordinary shares traded on ASX during the five business days immediately prior to the "ex-date" for each special dividend.

For further information in relation to the exercise of the Board's discretion, see Section 10.8(g).

(f) **Other arrangements**

In recognition of the significant roles played by a number of Midway employees (including Managing Director and Chief Executive Officer, Mr Anthony McKenna) in connection with the ongoing operations of Midway's business and the Scheme, and the additional personal efforts required by those individuals to successfully implement the Scheme, certain executives (including Mr Anthony McKenna) will be paid a one-off transaction bonus if the Scheme is implemented (each, a **Transaction Bonus**), being approximately \$195,000 in aggregate.

As part of these arrangements, a cash payment of \$150,000 will be paid to Mr Anthony McKenna as a Transaction Bonus. No other Midway Directors will receive a Transaction Bonus.

The Midway Board (other than Mr McKenna who is not able to make a recommendation due to his interest in his own remuneration) considers that the proposed payment of the Transaction Bonus to Mr McKenna constitutes part of Mr McKenna's reasonable remuneration for the purposes of the related party provisions contained in Chapter 2E of the Corporations Act.

In reaching this conclusion the Midway Board had regard to a variety of factors including:

- performance by Mr McKenna against his STI remuneration targets for the year to date (which involve the exercise of Board discretion and this performance may not be recognised or paid by BidCo);
- recognition of Mr McKenna's increased workload and time commitment over an extended period (over and above that required for Midway's ordinary business requirements) which are, and have been, required for

securing a proposal for the acquisition of Midway, including soliciting alternative proposals, negotiating the terms and conditions of the Scheme, overseeing its expected implementation and associated issues; and

- market practice and the remuneration paid to persons in comparable positions.

While Midway's constitution places a cap on the aggregate fees payable to Directors (currently set at \$1,200,000 p.a as approved by Midway Shareholders at Midway's 2019 AGM), this cap does not apply to special exertion fees such as the Transaction Bonus.

(g) **Additional information about Midway Rights**

In exercising its discretion in relation to the vesting of the 941,282 unvested Midway Performance Rights held by employees, and the vesting of the 973,006 Midway Performance Rights held by Mr Anthony McKenna, on a change of control, the Midway Board considered Midway's performance, the impact of the Scheme on the ability to test performance hurdles, the need to incentivise key executives during and prior to implementation of the Scheme, performance by the relevant executive, fairness in relation to providing remuneration, employee retention risks and alternatives available to the Midway Board to take account of and address all risks and relevant matters.

Midway Shareholders should also note that that, in exercising its discretion, the Midway Board took into account the fact that the Midway Performance Rights proposed to be issued to Midway employees in CY2024 (including the 607,644 Midway Performance Rights approved by Midway Shareholders at Midway's 2024 Annual General Meeting will not proceed<sup>31</sup> if the Scheme is implemented and there can be no assurance that the BidCo Group will implement similar arrangements for those individuals if the Scheme is implemented.

The vesting of the Midway Performance Rights as a result of the exercise of the Midway Board's discretion, and corresponding cash settling of the Midway Performance Rights to Mr McKenna and other employees will not reduce the Scheme Consideration payable to Scheme Shareholders.

ASX has granted Midway a waiver of Listing Rule 6.23.2 to the extent necessary to permit the treatment of the Midway Rights in the manner set out in this Section 10.8.

## 10.9 Benefits and agreements

(a) **Interests of Midway Directors in BidCo or BidCo**

As at the date of this Scheme Booklet, no Midway Director has a Relevant Interest in any securities in BidCo, RollCo or any BidCo Group Member.

No Midway Director has acquired or disposed of a Relevant Interest in any securities in BidCo or BidCo during the four months before the date of this Scheme Booklet.

(b) **Interests of Midway Directors in contracts with a BidCo Group Member**

No Midway Director has any interest in any contract entered into by a BidCo Group Member.

(c) **Benefits in connection with retirement from office**

It is not proposed that any payment or other benefit be made or given to any director, secretary or executive officer of any Midway Group Member as compensation for loss of, or as consideration for, or in connection with their retirement from, office in a Midway Group Member as a result of the Scheme other than as set out in their existing employment agreement or as a result of them participating in the Scheme as a Midway Shareholder.

(d) **Agreements connected with or conditional on the Scheme**

<sup>31</sup> Other than 126,024 Midway Performance Rights issued to Midway's CFO, Michael McKenzie on 29 November 2024.

As noted above, Mr Anthony McKenna, Managing Director and Chief Executive Officer, holds 973,006 Midway Performance Rights and 721,436 Midway Options that will be dealt with in the manner set out in Section 10.8.

Other than as set out in Section 10.8, or otherwise disclosed in this Section 10:

- no Midway Director has any other interests in a contract entered into by a BidCo Group Member;
- there are no contracts or arrangements between a Midway Director and any person, including a BidCo Group Member in connection with or conditional on the outcome of the Scheme; and
- no BidCo Group Director has a material interest in relation to the Scheme other than in their capacity as a Midway Shareholder.

(e) **Benefits under the Scheme or from BidCo**

Except as disclosed in Section 10.8, none of the Midway Directors have agreed to receive, or are entitled to receive, any benefit from BidCo or RollCo or any of their Related Bodies Corporate, which is conditional on, or is related to, the Scheme.

(f) **Deeds of indemnity, insurance and access**

Midway has entered into deeds of indemnity, insurance and access with the directors of Midway, on customary terms. These deeds include terms that provide for Midway to indemnify each of its directors against any liability incurred by such persons in their capacity as a director, subject to certain exclusions.

Midway also pays a premium in respect of a directors and officers insurance policy for the benefit of the directors and executive officers of Midway. If the Scheme is Implemented, Midway may enter into an arrangement to provide insurance coverage for all current Midway Directors and officers for seven years from the Implementation Date. As at the Last Practicable Date, Midway expects that the premium for entry into such run-off arrangement will be approximately \$555,000. The entry into such arrangements by Midway is permitted by clause 6.10 of the Scheme Implementation Deed. In addition, under clause 7.8(a) of the Scheme Implementation Deed, BidCo must ensure that directors' and officers' run-off insurance cover for such directors and executive officers is maintained for a period of seven years from the Implementation Date.

## 10.10 Summary of Scheme Implementation Deed

On 13 November 2024, Midway and BidCo entered into a Scheme Implementation Deed under which Midway agreed to propose the Scheme. The Scheme Implementation Deed contains terms and conditions that are standard for these types of agreements, including in relation to the parties' obligations to implement the Scheme and Midway's obligation to conduct its business in a certain way during the Scheme process.

A summary of the key elements of the Scheme Implementation Deed is set out below. A full copy of the Scheme Implementation Deed was lodged with ASX on 14 November 2024 and can be obtained from [www.asx.com.au](http://www.asx.com.au) or from <https://www.midwaylimited.com.au/investor-centre/>.

(a) **Conditions**

Implementation of the Scheme is subject to the following Conditions which must be satisfied or waived (where capable of waiver) before the Scheme can be implemented:

- **Midway Shareholder approval:** Midway Shareholders approve the Scheme at the Scheme Meeting by the Requisite Majorities under section 411(4)(a) of the Corporations Act;
- **Independent Expert:** the Independent Expert issues an Independent Expert's Report which concludes that the Scheme is in the best interests of Midway Shareholders and does not publicly withdraw, qualify or change that opinion at any time prior to 8:00am on the Second Court Date;

- **ASIC and ASX:** By 8.00am on the Second Court Date, ASIC and the ASX issue or provide all consents, waivers, relief or approvals as are necessary or which Midway and BidCo agree in writing (acting reasonably) are desirable to implement the Scheme and such consents, approvals, waivers, relief or approvals have not been withdrawn, cancelled, revoked or adversely amended;
- **No Restraints:** no law, rule, regulation, restraining order, preliminary or permanent injunction or other preliminary or final decision, order or decree is made by a court of competent jurisdiction or Government Agency, which restrains, prohibits or impedes (or could reasonably be expected to restraint, prohibit or impede) implementation of the Scheme is in effect as at 8:00am on the Second Court Date;
- **Midway Rights:** all steps required to be taken in respect of the Midway Rights in accordance with the Scheme Implementation Deed by 8:00am on the Second Court Date;
- **CBA Facilities:** Before 8:00am on the Second Court Date:
  - the CBA Facilities remain in full force and effect as at the date of the Scheme Implementation Deed, with no 'defaults', 'event of default', 'review events' or acceleration of repayment or any other similar events or rights in favour of CBA, and no circumstances which could give rise to any such events or rights in favour of CBA exist; and
  - CBA has provided written consent to the change of control or ownership of any Midway Group Member that will arise from the implementation of the Scheme, in a form satisfactory to BidCo (acting reasonably) and such consent is not withdrawn, cancelled or revoked.
- **No Prescribed Occurrences:** no Prescribed Occurrence occurs before 8:00am on the Second Court Date;
- **No Material Adverse Change:** no Material Adverse Change occurs before 8:00am on the Second Court Date; and
- **Court approval:** the Court approves the Scheme in accordance with paragraph 411(4)(b) of the Corporations Act at the Second Court Date;

Satisfaction of the Conditions by Midway and BidCo is subject to both parties using their reasonable endeavours. Full details of the Conditions and the ability of each of Midway and BidCo to rely on the various Conditions and the provisions relating to satisfaction or waiver of these Conditions are set out in Clause 3 of the Scheme Implementation Deed.

As at the Last Practicable Date, and as detailed in Section 5.9, Midway is not aware of any reason why the Conditions will not be satisfied.

(b) **Business restrictions**

The Scheme Implementation Deed requires that Midway and each Midway Group Member conducts its business in the ordinary and usual course and consistent with past practice, in accordance with all applicable laws and otherwise in accordance with all regulatory permits, licences and authorisations that are binding on the Midway Group. Further, Midway is required to notify BidCo of breaches of material contracts and where Midway becomes subject to litigation with a claim amount of \$250,000 or more.

In addition, subject to some exceptions, the Group must not undertake or agree to undertake certain activities without BidCo's consent. These include:

- entering into any lines of business or other activities in which Midway Group is not currently engaged;
- writing down any of its assets by more than \$100,000 per individual asset or more than \$500,000 in aggregate, other than as required by applicable accounting standards or law;

- entering into or materially amending or terminating any contracts other than with another member of the Midway Group that could reasonably be expected to generate revenue of more than \$750,000 in any 12 month period or that would otherwise impact Midway Group's EBITDA by an amount of \$400,000 or more;
- incurring or committing to any capital expenditure, financial indebtedness, liability (whether actual or contingent), or foregoing any revenue, for one or more related items or amounts of in aggregate more than \$500,000;
- entering into or materially amending or terminating any contract that restricts Midway's ability to compete, contemplates expenditure by Midway Group in excess of \$400,000 in any 12-month period (except as expressly contemplated by the Budget) or has a term of more than 1 year;
- entering into a new material employment contract or materially amending or terminating a material employment contract:
  - where the total remuneration exceeds \$200,000 per annum or where the employee is a member of Midway's executive leadership team;
  - where the total employment costs payable to those potential or existing employees exceeds or would exceed \$750,000 per annum (in aggregate);
- accelerating the rights of any director or employee to compensation or benefits of any kind, or amends in any material respect the terms of any long-term incentive plan;
- paying or agreeing to pay any of its directors or employees a bonus, termination payment or any other increase in fees or benefits, including a 'golden parachute';
- entering into any enterprise bargaining agreement;
- paying or incurring transaction costs in excess of agreed limits;
- making any loans, advances or capital contributions to, or investments in, any other person;
- entering a related party transaction (other than a related party which is a member of the Midway Group) as defined in section 228 of the Corporations Act;
- being in default under an agreement or arrangement which is material in the context of Midway Group;
- settling or offering to settle any legal proceedings, claim, and like proceeding where the settlement amount exceeds \$100,000;
- accepting as a compromise, less than the full compensation due to it, or waives any right or a debt owed to any Midway Group Member, where the financial impact in excess of \$100,000 (individually or in aggregate);
- changing any accounting policy applied by them to report their financial position other than any change in policy required by a change in accounting standards;
- obtaining or applying for any new regulatory authorisations, licences or permissions;
- taking or failing to take actions which will result in any regulatory authorisations, licences or permissions being suspended, modified, revoked or not renewed where such suspension, modification, revocation or non-renewal would materially impact the ability to carry on the business of the relevant Midway Group Member;

- taking or failing to take any action that constitutes, or that could reasonably be expected to result in or otherwise give rise to, a Prescribed Occurrence; or
- authorises, procures, commits or agrees to do any of the foregoing matters.

However, Midway is permitted to take any actions:

- expressly required or expressly permitted by the Scheme Implementation Deed or the Scheme;
- which have been consented to in writing by BidCo;
- which have been Fairly Disclosed to BidCo or in a document lodged with ASX in the previous 24 month period;
- required to reasonably and prudently respond to an emergency or disaster (including a situation giving rise to a risk of personal injury or damage to property);
- required by any applicable law or regulation, or by an order, injunction or undertaking of a court or Government Agency, or by generally accepted accounting standards or generally accepted accounting principles or any contractual obligation of any Midway Group Member;
- in connection with the utilisation of the Midway Group's existing debt facilities, for the purpose of funding part or all of the Special Dividend; or
- which is undertaken in response to a Competing Proposal (as permitted).

(c) **Exclusivity**

The Scheme Implementation Deed contains certain exclusivity arrangements in favour of BidCo, which are in line with market practice and apply during the Exclusivity Period. Those arrangements include:

- **No talk:** Midway must not participate in any negotiations or discussions with any person in relation to, or that may lead to, a Competing Proposal;
- **No shop:** Midway must not solicit or invite any Competing Proposal or any enquiries, proposals, discussions or negotiations in relation to, or that may lead to, a Competing Proposal;
- **No due diligence:** Midway must not facilitate or permit any person (other than BidCo) to undertake due diligence investigations in respect of Midway in connection with such person formulating, developing or finalising a Competing Proposal;
- **Notification:** If Midway is approached in relation to a Competing Proposal, or a proposed or potential Competing Proposal, Midway must notify BidCo within 48 hours of such approach. The notice must provide details of the identity of the relevant person making or proposing the Competing Proposal and the material terms of any such Competing Proposal (including price, consideration, conditions precedent, structure, timing, break fee, financing and due diligence requirements);
- **Provision of non-public information:** Midway must promptly provide BidCo with a copy or a written statement (as applicable) of any non-public information relating to a Midway Group Member, or any of their businesses and operations made available or received by any person in connection with such person formulating, developing or finalising, or assisting in the formulation, development or finalisation of, a Competing Proposal and which has not been provided to BidCo and is not privileged information of that person; and
- **Matching right:** Midway is prohibited from entering into an agreement to undertake a Competing Proposal unless Midway has given BidCo

at least five Business Days following receipt of notification of a Competing Proposal to provide a matching or Superior Proposal to the terms of the Competing Proposal.

Midway is not required to comply with the no talk, notification and no due diligence provisions in the Scheme Implementation Deed if the Midway Board determines, after consultation with its advisers, and receiving written advice from such advisers, that complying with those provisions would be likely to constitute a breach of the fiduciary or statutory duties owed by the Midway Directors.

These exclusivity arrangements are set out in full in clause 11 of the Scheme Implementation Deed.

(d) **Representations and Warranties**

The Scheme Implementation Deed contains customary representations and warranties given by each of Midway and BidCo to each other.

These representations and warranties are set out in Schedule 3 (in the case of Midway) and Schedule 4 (in the case of Bidco) of the Scheme Implementation Deed.

(e) **Break Fee in favour of BidCo**

In accordance with Australian market practice, Midway has agreed to pay BidCo a cash reimbursement fee of \$1,556,589 (excluding GST) (**Midway Break Fee**), in the following circumstances:

- any Midway Director publicly:
  - withdraws or adversely changes their recommendation or voting intention; or
  - makes any public statement to the effect that the Scheme is not, or is no longer, recommended,

except where the Independent Expert concludes in the Independent Expert's Report that the Scheme is not in the best interests of Midway Shareholders (except where the reason for that conclusion is a Competing Proposal) or Midway validly terminates the Scheme Implementation Deed;
- a Competing Proposal is made or announced by a Third Party, and, within 12 months thereafter:
  - a Competing Proposal is completed, implemented, or consummated;
  - a Third Party acquires control of, or merges with, Midway; or
  - a Third Party acquires voting power of (or an economic interest in) 50% or more of the Midway Shares or acquires or obtains an economic interest in all or a substantial part of the assets of Midway;
- Midway enters into any agreement with a third party in respect of a Competing Proposal pursuant to which a third party, Midway or both agree to undertake, implement or give effect to a Competing Proposal;
- BidCo has terminated the Scheme Implementation Deed for a material breach of the Scheme Implementation Deed or a material breach of a Midway Representation and Warranty contained in the Scheme Implementation Deed; or
- at any time prior to the Second Court Date, a third party acquires a relevant Interest in 50% or more of the Midway shares under a transaction that is or has become wholly unconditional or otherwise acquires (either alone or in aggregate) control of Midway.



In addition, a reduced Midway Break Fee of \$519,650 is payable by Midway to BidCo in the circumstances set out in Section 10.10(g) below.

The Midway Break Fee is not payable if the Scheme does not proceed merely because Midway Shareholders do not vote in favour of the Scheme in sufficient numbers to satisfy the legal requirements.

For full details of the Midway Break Fee, see clause 12 of the Scheme Implementation Deed.

(f) **Break Fee in favour of Midway**

BidCo has agreed to pay Midway a cash reimbursement fee of \$1,556,589 (excluding GST) (**BidCo Break Fee**) if Midway validly terminates the Scheme Implementation Deed for a material breach, by BidCo of the Scheme Implementation Deed, or for a material breach of a representation or warranty by BidCo contained in the Scheme Implementation Deed, which BidCo fails to remedy.

(g) **Termination Right for failure to pay Special Dividend**

In addition to the Conditions and general termination rights discussed above, BidCo has the right to terminate the Scheme Implementation Deed before 8:00am on the Second Court Date, in circumstances where a Special Dividend of \$0.3835 in aggregate per Midway Share:

- becomes incapable of being declared or determined and paid in accordance with the Scheme Implementation Deed or any agreement made between the parties in writing; or
- has not been publicly declared or determined to be paid by Midway to Midway Shareholders by the date which is 2 Business Days before that time.

Midway must pay BidCo a reduced Break Fee of \$519,650 (excluding GST) in that event.

For full details of the Break Fee, see clause 12 of the Scheme Implementation Deed.

(h) **Termination**

Either party may terminate the Scheme Implementation Deed:

- where a Condition is not satisfied or waived;
- where there is a material breach of the Scheme Implementation Deed which is not remedied within 20 Business Days;
- where there is a breach of a representation or warranty given by the other which is not remedied within 10 Business Days;
- if Midway Shareholders do not approve the Scheme at the Scheme Meeting by the Requisite Majorities; or
- if the Scheme is not Effective by the End Date.

In general terms (and subject to certain exceptions), BidCo may also terminate the Scheme Implementation Deed if:

- Midway enters into an arrangement in relation to the implementation of a Competing Proposal; or
- any Midway Director withdraws or adversely changes their Director's recommendation or voting intentions, makes any public statement which is inconsistent with the Director's recommendation or Voting intentions or otherwise supports a Competing Proposal; or

Midway may also terminate the Scheme Implementation Deed if a majority of Midway Directors publicly fail to recommend the Scheme, withdraws or adversely changes their recommendation, or recommends a Competing Proposal as permitted under the Scheme Implementation Deed.

## 10.11 Tiwi 2R Project

### Background and process

In 2017 Midway acquired PMP (a wholly owned subsidiary of Midway). PMP had been appointed by Tiwi Plantations Corporation Pty Ltd (**TPC**) to manage the plantation estate on Melville Island of predominately Acacia mangium on behalf of the traditional landowners. Melville Island, the largest of the Tiwi Islands, is situated c.80km off the north coast of Darwin.

It is proposed by PMP to continue plantation forestry on Melville Island by establishing a second rotation of Eucalyptus pellita on the ex-Acacia mangium areas (**2R Project**).

In 2019, Midway and the TPC signed a Heads of Agreement to work towards implementing the 2R Project. Midway's model, and its go to market strategy, was to fund the 2R Project by the forward sale of ACCUs to cover project costs and via equity funding from third party investor(s). PMP unsuccessfully sought equity investors / partners to fund the 2R Project in both 2022 and 2023. In early 2024 Midway appointed external financial advisers to again test the market. This process included dialog with over 18 potential equity partners including various banks and prominent resource and petroleum companies. Interested parties, including River Capital, submitted NBIOs for the 2R Project.

### Current status and indicative terms

In August 2024 TPC gave Midway and PMP approval to pursue a potential transaction with a lead equity investor, together with River Capital (as a minority partner) to fund the 2R Project. In November 2024 the lead investor gave notice to Midway that it did not wish to proceed further.

Midway subsequently entered into exclusivity arrangements with River Capital in relation to the 2R Project. The 2R Project remains subject to binding transaction documentation, satisfaction of various conditions precedent, including traditional landowner consent, River Capital Investment Committee approval and is also subject to the necessary equity funding being raised.

The 2R Project, if it proceeds, is planned to commence in 2025 with establishment to occur progressively over a 10-year period, averaging approximately 3,000 hectares of planting per annum for a total plantation estate of 30,130 net planted hectares. It is intended that the 2R Project be registered as a carbon sequestration project under the Australian Government's Carbon Farming Initiative 'Plantation Forestry' method.

It is contemplated that funding for the 2R Project will be sourced from a combination of third-party funds and pre-sales of ACCUs. If the 2R Project proceeds, it is currently proposed that Midway (or PMP) will hold a subordinated minority interest (subject to a 5 year lock-up) in the project, will earn management fees for plantation management services, a marketing fee for any timber sales, together with a minority share in the ACCUs (if there are any) generated by the 2R Project. Midway does not expect any material returns from the 2R Project in the next 5 years.

As noted in Section 6.14, if the Scheme is implemented, BidCo will have 100 percent ownership and control of Midway and it will be for BidCo to determine whether to proceed with the 2R Project and, if so, how it will be funded. The current intentions of BidCo with respect to Midway are set out in Section 7.7.

If the Scheme is not implemented, the Midway Directors intend to continue to pursue the 2R Project with River Capital.

## 10.12 ASX Waivers

ASX has granted Midway a waiver of ASX Listing Rule 6.23.2 to the extent necessary to permit the treatment of the Midway Rights as set out in Section 10.8(d) and 10.8(e).

## 10.13 Consents, disclosures and fees

### (a) Consents

This Scheme Booklet contains statements made by, or statements said to be based on statements made by:

- BidCo in respect of the BidCo Information only; and
- BDO as the Independent Expert.

Each of those persons named above has consented to the inclusion of each statement it has made in the form and context in which the statements appear and has not withdrawn that consent at the date of this Scheme Booklet.

The following parties have given and have not, before the time of registration of this Scheme Booklet with ASIC, withdrawn their consent to be named in this Scheme Booklet in the form and context in which they are named:

- PwCS as financial advisers to Midway;
- BDO Corporate Finance Australia Pty Ltd as the Independent Expert
- Nicholson Ryan Lawyers Pty Ltd as legal adviser to Midway; and
- Computershare Investor Services Pty Limited as the Share Registry.

### (b) Disclosures and responsibility

Further, each person named in Section 10.13(a):

- has not authorised or caused the issue of this Scheme Booklet;
- does not make, or purport to make, any statement in this Scheme Booklet or any statement on which a statement in this Scheme Booklet is based, other than:
  - BidCo in respect of the BidCo Information only and the references to the BidCo Information in the form and context in which they appear and its consent to be named in this Scheme Booklet in the form and context in which it is named;
  - BDO Corporate Finance Australia Pty Ltd, in relation to its Independent Expert's Report; and
- to the maximum extent permitted by law, expressly disclaims all liability in respect of, makes no representation regarding, and takes no responsibility for, any part of this Scheme Booklet other than a reference to its name and the statement (if any) included in this Scheme Booklet with the consent of that party as specified in this Section 10.13(b).

### (c) Fees

Each of the persons named in Section 10.13 as performing a function in a professional, advisory or other capacity in connection with the Scheme and the preparation of this Scheme Booklet, will be entitled to receive professional fees charged in accordance with their normal basis of charging.

If the Scheme is implemented, Midway expects to pay approximately \$2,600,000 (excluding GST) in transaction costs and expenses, in aggregate. This includes advisory and legal fees, the Independent Expert's fees, ASIC fees, registry, printing and mailing costs and expenses associated with convening and holding the Scheme Meeting. Of this, approximately \$900,000 (excluding GST) in transaction costs and expenses, in aggregate, will be incurred regardless of whether the Scheme becomes Effective and is implemented (this figure excludes any Break Fee that may become payable by Midway to BidCo).

## 10.14 Deed Poll

BidCo has entered into the Deed Poll in favour of the Midway Shareholders under which BidCo has undertaken to deposit the Scheme Consideration into the Trust Account if the Scheme becomes Effective.

The Deed Poll may be relied upon by any Midway Shareholder despite the fact that they are not a party to it and each Midway Shareholder appoints Midway as its agent to enforce their rights under the Deed Poll against BidCo.

## 10.15 Registration of this Scheme Booklet

This Scheme Booklet was registered with ASIC as required by sections 411(2)(b) and 412(6) of the Corporations Act.

## 10.16 No unacceptable circumstances

The Midway Board believes that the Scheme does not involve any circumstances in relation to the affairs of Midway that could reasonably be characterised as constituting 'unacceptable circumstances' for the purposes of Section 657A of the Corporations Act.

## 10.17 Foreign jurisdictions

The release, publication or distribution of this Scheme Booklet in jurisdictions other than Australia may be restricted by law or regulation in such other jurisdictions and persons outside of Australia who come into possession of this Scheme Booklet should seek advice on and observe any such restrictions. Any failure to comply with such restrictions may constitute a violation of applicable laws or regulations. Midway disclaims all liabilities to such persons who contravene these laws.

Midway Shareholders who are nominees, trustees or custodians are encouraged to seek independent advice as to how they should proceed.

No action has been taken to register or qualify this Scheme Booklet or any aspect of the transaction in any jurisdiction outside of Australia.

This Scheme Booklet has been prepared in accordance with the laws of Australia and the information contained in this Scheme Booklet may not be the same as that which would have been disclosed if this Scheme Booklet had been prepared in accordance with the laws and regulations of a jurisdiction outside of Australia. This Scheme Booklet does not constitute an offer of Class B Shares in any place which, or to any person whom, it would not be lawful to make such an offer.

If an Ineligible Shareholder elects to receive a Scrip Consideration Option, that Election will be invalid and have no effect and that person will receive the Cash Consideration for all of their Midway Shares held on the Scheme Record Date unless BidCo and Midway agree otherwise in writing that it is lawful and not unduly onerous or impractical to issue Class B Shares to that Scheme Shareholder under the Scheme.

## 10.18 Supplementary information

If, between the date of lodgement of this Scheme Booklet for registration by ASIC and the Effective Date, Midway becomes aware that:

- a material statement in this Scheme Booklet is false or misleading;
- there is a material omission from this Scheme Booklet;
- a significant change affecting a matter in this Scheme Booklet has occurred; or
- a significant new matter has arisen which would have been required to be included in this Scheme Booklet if it had arisen before the date of lodgement of this Scheme Booklet for registration by ASIC,

Midway will prepare a supplementary document to this Scheme Booklet.

The form which the supplementary document may take, and whether a copy will be sent to each Midway Shareholder, will depend on the nature and timing of the new or changed

circumstances and may include Midway doing one or more of the following (that Midway, in its absolute discretion, considers appropriate):

- making an announcement to the ASX;
- placing an advertisement in a prominently published newspaper which is circulated generally throughout Australia;
- emailing (for those who have opted for email communications) or posting the supplementary document to Midway Shareholders to their email/postal address shown on the Midway Share Register; and/or
- posting a statement on the Midway website at <https://www.midwaylimited.com.au/investor-centre/>,

In all cases, the supplementary document will be available from Midway's website at <https://www.midwaylimited.com.au/investor-centre/> and from the ASX website at [www.asx.com.au](http://www.asx.com.au).

#### **10.19 Other information material to the making of a decision in relation to the Scheme**

Except as set out in this Scheme Booklet, so far as the Midway Directors are aware, there is no other information material to the making of a decision in relation to the Scheme, being information that is within the knowledge of any Midway Director, at the time of lodging this Scheme Booklet with ASIC for registration, which has not previously been disclosed to Midway Shareholders.

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# Glossary and --- Interpretation ---

## 11 Glossary and interpretation

### 11.1 Glossary

The meanings of the terms used in this Scheme Booklet are set out below:

Term	Meaning
<b>ACCU</b>	an Australian Carbon Credit Unit issued by the Clean Energy Regulator in accordance with section 147 of the <i>Carbon Credits (Carbon Farming Initiative) Act 2011</i> (Cth).
<b>AEDT</b>	Australian Eastern Daylight Time.
<b>Aggregate Cash Consideration</b>	the aggregate of the Cash Consideration payable to Scheme Shareholders under the Scheme (taking into account all valid Elections and the terms of the Scheme).
<b>All Cash Consideration</b>	the Cash Consideration for each Scheme Share held by a Scheme Shareholder.
<b>All Scrip Consideration Option</b>	an Election by a Midway Shareholder to receive Scrip Consideration for all the Scheme Shares held by that Midway Shareholder.
<b>ASIC</b>	Australian Securities and Investments Commission.
<b>Associate</b>	has the meaning given in Division 2 of Part 1.2 of the Corporations Act.
<b>ASX</b>	ASX Limited (ACN 008 624 691) and, where the context requires, the financial market that it operates.
<b>ASX Listing Rules or Listing Rules</b>	the official listing rules of ASX.
<b>ATO</b>	the Australian Taxation Office.
<b>BDO</b>	BDO Corporate Finance Australia Pty Ltd ACN 050 038 170
<b>BidCo</b>	RCM BidCo Pty Ltd ACN 682 228 280
<b>BidCo Board</b>	the board of directors of BidCo.
<b>BidCo Director</b>	a member of BidCo Board

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Term	Meaning
<b>BidCo Group</b>	BidCo, its holding companies and each of its subsidiaries (excluding at any time, Midway and its Subsidiaries to the extent that Midway and its Subsidiaries are subsidiaries of BidCo at that time) and a reference to a “ <b>BidCo Group Member</b> ” or a “ <b>member of the BidCo Group</b> ” is to BidCo or any of its Subsidiaries from time to time (excluding, at any time, Midway and its Subsidiaries to the extent that Midway and its Subsidiaries are subsidiaries of BidCo at that time)..
<b>BidCo Information</b>	any information contained in: <ol style="list-style-type: none"> <li>1 The entire contents of Section 7 (Information about BidCo and RollCo);</li> <li>2 The contents of Section 8.4 (Risks specific to RollCo); and</li> <li>3 Section 2 (Frequently asked questions), to the extent that the question expressly cross-refers to any of the Sections in items 1–2 above.</li> </ol> The BidCo Information does not include the Independent Expert’s Report and the Midway Information.
<b>BidCo Representations and Warranties</b>	the representations and warranties given by BidCo as set out in Schedule 4 to the Scheme Implementation Deed.
<b>Break Fee</b>	has the meaning given in Section 10.10(d) & (f).
<b>Business Day</b>	a day that is not a Saturday, Sunday or a public holiday or bank holiday in Melbourne, Victoria.
<b>Cash Balance</b>	the aggregate of all cash and cash equivalents, comprising cash at bank and short term deposits (in each case held by a financial institution in the name of, and on behalf of, a Midway Group Member).
<b>Cash Consideration</b>	an amount of \$1.19 for each Scheme Share as adjusted in accordance with clause 5.3 of the Scheme Implementation Deed (if applicable).
<b>CBA</b>	Commonwealth Bank of Australia (ABN 28 123 123 124).
<b>CBA Facilities</b>	the facilities provided by the CBA pursuant to the CBA Facility Agreement.
<b>CBA Facility Agreement</b>	the Facility Agreement between, amongst others, the CBA and Midway dated 17 October 2023, as amended on 1 December 2023.
<b>CGT</b>	capital gains tax.
<b>CHESS</b>	Clearing House Electronic Subregister System.

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Term	Meaning
<b>Class A Share</b>	a share in the capital of RollCo which is designated as a Class A Share and has the rights set out in the RollCo Constitution and the RollCo Shareholders' Deed.
<b>Class A Shareholder</b>	a holder of Class A Shares.
<b>Class B Share</b>	a share in the capital of RollCo which is designated as a Class B Share (having the same voting and economic rights as other fully paid ordinary shares in RollCo on the terms set out in the RollCo Constitution and the RollCo Shareholders' Deed).
<b>Class B Director</b>	a director nominated by the Class B Shareholders pursuant to the RollCo Shareholders' Deed.
<b>Class B Shareholder</b>	a holder of Class B Shares.
<b>Class Ruling</b>	the meaning given to that term in Section 9.
<b>Competing Proposal</b>	<p>any expression of interest or intent, proposal, offer from a Third Party in respect of any actual, proposed or potential transaction, agreement or arrangement which if entered into or completed substantially in accordance with its terms:</p> <p>1 would mean or result in a Third Party (either alone or together with one or more other parties) directly or indirectly:</p> <ul style="list-style-type: none"> <li>• acquiring Control of, or merging with, Midway or any Midway Group Member which holds all or a substantial part of a material part of Midway Group;</li> <li>• acquiring or having a right to acquire a legal, beneficial or economic interest (including an economic interest by way of an equity swap, contract for difference or similar transaction or arrangement) or a Relevant Interest or Voting Power in 15% or more of the Midway Shares; or</li> <li>• acquiring, becoming the holder of or having a right to acquire or an economic interest in all or a substantial part of the business, or any of the material assets, of Midway Group (where a material asset of Midway Group will include rights in respect of assets representing 10% or more of the value of Midway Group's total assets),</li> </ul> <p>whether by way of takeover bid, members' or creditors' scheme of arrangement, shareholder approved acquisition, capital reduction or distribution, buy-back, sale or purchase of shares, other securities or assets, assignment of assets and liabilities, incorporated or unincorporated joint venture, dual-listed company (or other synthetic merger), deed of company arrangement, any debt for equity arrangement or other transaction or arrangement; or</p> <p>2 would otherwise result in the Scheme not being able to be implemented or the implementation of the Transaction being materially adversely affected.</p>

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Term	Meaning
<b>Condition</b>	a condition precedent contained in clause 3.1 of the Scheme Implementation Deed.
<b>Control</b>	<p>in relation to a corporation:</p> <ol style="list-style-type: none"> <li>1 the ability to control, directly or indirectly, the composition of the board of directors of the corporation;</li> <li>2 the ability to exercise or control the exercise of the rights to vote in relation to more than 50% of the voting shares or other form of voting equity in the corporation;</li> <li>3 the ability to dispose or exercise control over the disposal of more than 50% of the shares or other form of equity in the corporation; or</li> <li>4 the capacity to determine, directly or indirectly, the outcome of decisions about the financial and operating policies of the corporation.</li> </ol>
<b>Corporations Act</b>	the <i>Corporations Act 2001</i> (Cth).
<b>Corporations Regulations</b>	the <i>Corporations Regulations 2001</i> (Cth).
<b>Court</b>	the Federal Court of Australia (Victorian Registry) or such other court of competent jurisdiction under the Corporations Act agreed to in writing by Midway and BidCo.
<b>Declaration Form</b>	has the meaning given to that term in Section 9.4(b).
<b>Deed Poll</b>	the deed poll executed by BidCo and RollCo in favour of Scheme Shareholders, under which BidCo and RollCo covenant in favour of the Scheme Shareholders to perform their obligations under the Scheme, a copy of which is set out in Annexure C.
<b>Disclosure Letter</b>	a letter identified as such provided by Midway to BidCo and countersigned by BidCo on or prior to entry into the Scheme Implementation Deed.
<b>Disclosure Materials</b>	<ol style="list-style-type: none"> <li>1 the documents and information (including, for the avoidance of doubt, information and responses to questions or requests for information from BidCo and its Representatives provided by Midway or its Representatives via the "Q&amp;A" function) contained in the online electronic data room entitled "Project Centre" administered by Ansarada to which BidCo and its Representatives were given access prior to the date of this deed which could be accessed at <a href="https://dataroom.ansarada.com/mvc/ccadz9lxevia%7C164442/8096897/spa/documents">https://dataroom.ansarada.com/mvc/ccadz9lxevia%7C164442/8096897/spa/documents</a>, an electronic copy of which has been provided to BidCo by Midway or its Representatives on or before the date of this deed; and</li> <li>2 the Disclosure Letter.</li> </ol>

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Term	Meaning
<b>EBITDA</b>	earnings before interest, tax, depreciation and amortisation calculated in accordance with the accounting policies and practices applied by Midway as at the date of the Scheme Implementation Deed.
<b>Effective</b>	when used in relation to the Scheme, the coming into effect, under section 411(10) of the Corporations Act, of the order of the Court made under section 411(4)(b) of the Corporations Act in relation to that Scheme.
<b>Effective Date</b>	with respect to the Scheme, the date on which the Scheme becomes Effective.
<b>Election</b>	<ol style="list-style-type: none"> <li>1 an All Scrip Election Consideration Option;</li> <li>2 Mixed Consideration Option 1;</li> <li>3 Mixed Consideration Option 2; or</li> <li>4 Mixed Consideration Option 3.</li> </ol>
<b>Election Form</b>	the form of election under which an eligible Midway Shareholder is offered the opportunity to make an Election, sent to Midway Shareholders with this Scheme Booklet and includes any replacement or substitute form of election provided by or on behalf of Midway.
<b>Election Time</b>	7:00pm on the date which is five Business Days before the date of the Scheme Meeting or such other date as agreed in writing between BidCo and Midway, which is expected to be 20 January 2024.
<b>End Date</b>	<p>the later of:</p> <ol style="list-style-type: none"> <li>1 the date that is 6 months after the date of the Scheme Implementation Deed; and</li> <li>2 such other date and time agreed in writing between BidCo and Midway.</li> </ol>
<b>Equity Commitment Letter</b>	the binding, executed commitment letter addressed to BidCo and RollCo, with a copy to Midway, from the River Capital Funds dated 13 November 2024.
<b>Exclusivity Period</b>	the period until the earlier of the End Date and the termination of the Scheme Implementation Deed.
<b>Exit</b>	an asset sale, a share sale or an initial public offering in relation to RollCo Shares as contemplated in the RollCo Shareholders Deed.
<b>Fairly Disclosed</b>	in relation to a matter, such matter being disclosed in sufficient detail to enable a reasonable person experienced in M&A transactions to identify the nature and scope of the relevant matter.

Term	Meaning
<b>First Court Date</b>	the day on which an application made to the Court for an order under section 411(1) of the Corporations Act directing Midway to convene the Scheme Meeting is first heard, with such hearing being the <b>First Court Hearing</b> .
<b>FY23</b>	the financial year ended 30 June 2023.
<b>FY24</b>	the financial year ended 30 June 2024.
<b>FY25</b>	the financial year ending 30 June 2025.
<b>Government Agency</b>	any foreign or Australian government or governmental, semi-governmental, administrative, fiscal or judicial body, department, financial or other regulator or supervisory authority, commission, authority, tribunal, agency or entity, or any minister of the Crown in right of the Commonwealth of Australia or any state, or any other federal, state, provincial, local or other government, whether foreign or Australian.
<b>GST</b>	a goods and services tax or similar value added tax levied or imposed under the GST Law.
<b>GST Law</b>	has the meaning given to it in the <i>A New Tax System (Goods and Services Tax) Act 1999</i> (Cth).
<b>Ineligible Shareholder</b>	a Scheme Shareholder whose address as shown in the Register (as at the Scheme Record Date) is in a place outside Australia, unless Midway and BidCo agree in writing that it is lawful and not unduly onerous or impracticable to issue Class B Shares to that Scheme Shareholder on the Implementation Date if the Scheme Shareholder so elects under the Scheme.
<b>Implementation Date</b>	with respect to the Scheme, the fifth Business Day, or such other Business Day as BidCo and Midway agree, following the Scheme Record Date for the Scheme.
<b>Independent Expert</b>	BDO
<b>Independent Expert's Report</b>	the report prepared by the Independent Expert dated 17 December 2024 set out in Annexure A.
<b>Insolvency Event</b>	<p>the occurrence of any one or more of the following events in relation to any person:</p> <ol style="list-style-type: none"> <li>1 an order is made, that it be wound up, declared bankrupt or that a provisional liquidator or receiver and manager be appointed, and the order is not withdrawn, struck out or dismissed within 15 Business Days of it being made;</li> </ol>

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Term	Meaning
	<p>2 a liquidator or provisional liquidator is appointed;</p> <p>3 an administrator is appointed to it under sections 436A, 436B or 436C of the Corporations Act;</p> <p>4 a Controller (as defined in section 9 of the Corporations Act) is appointed to it or any of its assets;</p> <p>5 a receiver is appointed to it or any of its assets;</p> <p>6 it enters into an arrangement or composition with one or more of its creditors, or an assignment for the benefit of one or more of its creditors, in each case other than to carry out a reconstruction or amalgamation while solvent;</p> <p>7 it proposes a winding-up, dissolution or reorganisation, moratorium, deed of company arrangement or other administration involving one or more of its creditors;</p> <p>8 is, or states that it is, unable to pay all its debts as and when they become due and payable within the meaning of the Corporations Act;</p> <p>9 a deregistration notice is issued under sections 601AA or 601AB of the Corporations Act;</p> <p>10 a writ of execution is levied against it or a material part of its property; or</p> <p>11 anything occurs under the law of any jurisdiction outside Australia which has a substantially similar effect to any of the events set out in the above paragraphs of this definition.</p>
<b>Investor Shareholder</b>	the meaning given in the "Parties" section of the RollCo Shareholders' Deed, and includes a Permitted Holder (as defined in the RollCo Shareholders' Deed) of such person, and is to be read having regard to clause 22 of the RollCo Shareholders' Deed.
<b>Last Practicable Date</b>	16 December 2024.
<b>Long Term Incentive Plan</b>	the rules of the Midway Long Term Incentive Plan adopted by Midway under which certain eligible persons were issued Midway Rights.
<b>Material Adverse Change</b>	<p>a matter, event, change, condition, circumstance or thing (including a one-off or non-recurring event which includes for the avoidance of doubt, the loss or likely loss of a Key Material Contract) that occurs, is announced or becomes known to BidCo after the date of this deed (<b>Specified Event</b>) where that matter, event, change, condition, circumstance or thing has, has had, or is reasonably likely to have, either individually, or when aggregated with any other Specified Events, the effect of:</p> <p>1 diminishing the consolidated EBITDA of Midway Group taken as a whole for any financial year by \$2,500,000 or more against what it would reasonably be expected to have been but for that Specified Event; or</p> <p>2 diminishing the consolidated net assets of Midway Group, taken as a whole (calculated in accordance with the accounting policies and practices applied by Midway as at the date of this deed) by \$11 million or more against what it would reasonably be expected to have been but for that Specified Event,</p> <p>in each case, other than those matters, events, changes, conditions, circumstances or things:</p>

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Term	Meaning
	<p>3 expressly required or expressly permitted by this deed or the Scheme including, for the avoidance of doubt, payment of the Special Dividend in accordance with this deed, or is otherwise approved, consented to or requested by BidCo in writing;</p> <p>4 Fairly Disclosed:</p> <ul style="list-style-type: none"> <li>• in the Disclosure Materials; or</li> <li>• in a document lodged with ASX in the 24 month period prior to the date of this deed and which is publicly available;</li> </ul> <p>5 relating to costs and expenses incurred by Midway associated with the Scheme process or the Transaction which do not exceed 5% of the estimate of the Transaction Costs set out in the Disclosure Letter (excluding for this purpose, any third party costs and expenses incurred by the Midway Group associated with any Takeovers Panel proceedings in respect to the Midway Group or Midway's engagement with or response to any Competing Proposal);</p> <p>6 arising from:</p> <ul style="list-style-type: none"> <li>• general economic, political or business conditions, including changes or disruptions to, or fluctuations in, domestic or international financial markets or exchange rates (to the extent that the effect of the change, disruption, or fluctuation is not materially disproportionate to Midway relative to other participants in the same industry in which Midway operates);</li> <li>• acts of terrorism, outbreak or escalation of war (whether or not declared), major hostilities, or natural disaster; or</li> <li>• changes to accounting standards or policies or the interpretation of them, applicable laws or policies of a Government Agency in Australia (to the extent that the effect of the change is not materially disproportionate to Midway relative to other participants in the same industry),</li> </ul> <p>provided that, for the purposes of paragraph (4) the potential loss of a Key Material Contract may not be considered to be Fairly Disclosed for the purposes of paragraph (4).</p> <p>For the purposes of determining whether a Material Adverse Change has occurred, the parties must take into account any insurance, contribution or indemnification proceeds received by a Midway Group Member.</p>
<b>Maximum Scrip Threshold</b>	49.99% of the total issued share capital of RollCo as at the Implementation Date.
<b>McCormack Entities</b>	Gregory McCormack and Jocelyn McCormack, McCormack timbers Pty Ltd and McCormack Timber Holdings Pty Ltd
<b>Meeting Record Date</b>	the date and time for determining eligibility to vote at the Scheme Meeting, currently expected to be 7.00pm (AEDT) Tuesday, 28 January 2025.
<b>Midway</b>	Midway Limited (ACN 005 616 044).
<b>Midway Board</b>	the board of directors of Midway.

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Term	Meaning
<b>Midway Director or Your Director</b>	any director of Midway comprising part of the Midway Board.
<b>Midway Financial Information</b>	has the meaning given in Section 6.12.
<b>Midway Group</b>	Midway and each of its Related Entities and a reference to a Midway Group Member, Midway or a member of the Midway Group is to Midway or any of its Related Entities.
<b>Midway Information</b>	the information contained in this Scheme Booklet, other than the BidCo Information and the information contained in Annexure A.
<b>Midway Option</b>	an option over an unissued Midway Share (on a one for one basis) granted under the Long Term Incentive Plan, and which is subject to payment of the relevant exercise price.
<b>Midway Performance Right</b>	a right granted under the Long Term Incentive Plan to acquire a Midway Share subject to the terms of such plan (and any associated offer letter).
<b>Midway Representations and Warranties</b>	the representations and warranties given by Midway as set out in Schedule 3 to the Scheme Implementation Deed.
<b>Midway Rights</b>	any rights to Midway Shares issued under employee incentive arrangements of Midway (including Midway Options and Midway Performance Rights).
<b>Midway Share</b>	a fully paid ordinary share in the capital of Midway.
<b>Midway Shareholder</b>	each person who is registered in the Register as a holder of Midway Shares.
<b>Midway Trust</b>	River Capital as trustee for River Capital Midway Trust.
<b>Minimum Scrip Threshold</b>	5%, or such lesser percentage as notified by BidCo to Midway in writing at least three Business Days prior to the date of the Scheme Meeting, of the total issued capital of RollCo as at the Implementation Date.
<b>Mixed Consideration</b>	Mixed Consideration Option 1, Mixed Consideration Option 2 and Mixed Consideration Option 3 (as the case may be).

Term	Meaning
<b>Mixed Consideration Option 1</b>	<ol style="list-style-type: none"> <li>the Cash Consideration for each Scheme Share, in respect of 25% of the Scheme Shares; plus</li> <li>Scrip Consideration for each Scheme Share, in respect of the other 75% of the Scheme Shares,</li> </ol> <p>held by a Scheme Shareholder who has made a Mixed Election Option 1.</p>
<b>Mixed Consideration Option 2</b>	<ol style="list-style-type: none"> <li>the Cash Consideration for each Scheme Share, in respect of 50% of the Scheme Shares; plus</li> <li>the Scrip Consideration for each Scheme Share, in respect of the other 50% of the Scheme Shares,</li> </ol> <p>held by a Scheme Shareholder who has made a Mixed Election Option 2.</p>
<b>Mixed Consideration Option 3</b>	<ol style="list-style-type: none"> <li>the Cash Consideration for each Scheme Share, in respect of 75% of the Scheme Shares; plus</li> <li>the Scrip Consideration for each Scheme Share, in respect of the other 25% of the Scheme Shares,</li> </ol> <p>held by a Scheme Shareholder who has made a Mixed Election Option 3.</p>
<b>Net Working Capital</b>	<p>an amount equal to the Midway Group's Working Capital Assets (as defined in the Scheme Implementation Deed) less Working Capital Liabilities (as defined in the Scheme Implementation Deed) of the consolidated Midway Group calculated on a consistent basis with Midway's audited financial statements for the period ended 30 June 2024, including any Midway Group consolidated adjustments, but excluding any balances attributable to any of Bio Growth Partners Pty Ltd, Midway Logistics Pty Ltd, RMP Pty Ltd, PMP Pte Ltd and PMP Pty Ltd.</p>
<b>Net Working Capital Peg</b>	\$21,690,289
<b>Nominee</b>	<p>an independent third party trustee company appointed by RollCo from time to time under the Nominee Deed to hold Class B Shares on bare trust pursuant to the terms of the Nominee Deed and the RollCo Shareholders' Deed.</p>
<b>Nominee Deed</b>	<p>the deed between the Nominee and RollCo in a form which is set out in Schedule 2 of the RollCo Shareholders' Deed.</p>
<b>Notice of Scheme Meeting</b>	<p>the notice of meeting relating to the Scheme Meeting which is contained in Annexure F.</p>
<b>PMP</b>	<p>Plantation Management Partners Pty Ltd.</p>
<b>Prescribed Occurrence</b>	<p>the occurrence of any of the following on or after the date of the Scheme Implementation Deed and before 8.00am on the Second Court Date:</p> <ol style="list-style-type: none"> <li>Midway converting all or any of its shares into a larger or smaller number of shares;</li> </ol>

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Term	Meaning
	<p>2 Midway resolving to reduce its share capital in any way or reclassifying, combining, splitting or redeeming or repurchasing directly or indirectly any of its shares;</p> <p>3 Midway:</p> <ul style="list-style-type: none"> <li>• entering into a buy-back agreement in respect of its shares; or</li> <li>• resolving to approve the terms of a buy-back agreement in respect of its shares under the Corporations Act;</li> </ul> <p>4 a Midway Group Member issuing shares or Midway Rights, or granting an option over its shares, or agreeing to make such an issue or grant such an option other than:</p> <ul style="list-style-type: none"> <li>• to a Midway Group Member;</li> <li>• the issue of shares upon exercise, conversion or vesting of a Midway Right in accordance with its terms; or</li> <li>• in connection with the treatment of the Midway Rights as contemplated by clause 9 of the Scheme Implementation Deed;</li> </ul> <p>5 Midway varying, changing or amending the terms of any Midway Rights (or agreeing to do any of the foregoing), other than as contemplated by clause 9 of Scheme Implementation Deed;</p> <p>6 a Midway Group Member issuing or agreeing to issue securities convertible into shares (including any issue or agreement to issue performance rights);</p> <p>7 a Midway Group Member making any change to its constitution;</p> <p>8 any Midway Group Member paying, agreeing to pay, declaring or distributing any distribution, dividend, bonus, special payment or other share of its profits or assets to holders of Midway Shares, other than:</p> <ul style="list-style-type: none"> <li>• to another Midway Group Member; and</li> <li>• the Special Dividend;</li> </ul> <p>9 a Midway Group Member disposing, or agreeing to dispose, of the whole, or a material part, of the business or property of Midway Group;</p> <p>10 an Insolvency Event occurs in relation to a Midway Group Member;</p> <p>11 a Midway Group Member creating, granting or agreeing to create or grant an Encumbrance over the whole, or a substantial part, of Midway Group's business or property or over a material asset of Midway Group other than in the ordinary course of business;</p> <p>12 a Midway Group Member disposing, or agreeing to dispose, of shares held in any other Midway Group Member;</p> <p>13 a Midway Group Member acquires, disposes of, agrees to acquire or agrees to dispose of, any securities, business, asset, entity or undertaking in a single or series of related transactions, the value of which exceeds \$500,000, to any person other than another Midway Group Member;</p> <p>14 a Midway Group Member does anything that would result in a change to the membership of the Midway tax consolidated group, being the consolidated group of which Midway is the head company. 'Consolidated group' and 'head company' have the meaning given to them in the Tax Act;</p> <p>15 the Cash Balance of Midway Group, on a consolidated basis is less than (or it is reasonably expected that the Cash Balance of Midway Group, on a consolidated basis, at the Implementation Date will be less than):</p> <ul style="list-style-type: none"> <li>• \$38,642,303 (or less than \$33,493,449 after allowing for payment by Midway of unpaid Transaction Costs and the payments to be made by Midway as contemplated by clause 9 of the Scheme</li> </ul>

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Term	Meaning
	<p>Implementation Deed) and the Net Working Capital is less than the Net Working Capital Peg; or</p> <ul style="list-style-type: none"> <li>• \$38,642,303 (or less than \$33,493,449 after allowing for payment by Midway of unpaid Transaction Costs and the payments to be made by Midway in accordance with clause 9 of the Scheme Implementation Deed) and the amount of the Cash Balance shortfall is not represented by Net Working Capital in excess of the Net Working Capital Peg;</li> </ul> <p>16 a Midway Group Member incurs, or agrees to incur, Financial Indebtedness in excess of \$100,000 (individually or other than in the ordinary course of business in aggregate) other than any payment required by law or as expressly permitted under and in accordance with clause 10 of the Scheme Implementation Deed; or</p> <p>17 any Midway Group Member authorises, procures or commits or agrees to do any of the foregoing matters,</p> <p>Provided that a Prescribed Occurrence will not include any matter:</p> <ol style="list-style-type: none"> <li>1 expressly required or expressly permitted by the Scheme Implementation Deed.</li> <li>2 to the extent it is Fairly Disclosed in the Disclosure Materials;</li> <li>3 which BidCo has approved in writing</li> <li>4 required by law or by an order of a court or Government Agency; or</li> <li>5 Fairly Disclosed in a document lodged with ASX by Midway, in the 24 month period prior the date of this deed and which is publicly available.</li> </ol>
<b>Proxy Form</b>	the proxy form which accompanies this Scheme Booklet.
<b>PwCS</b>	PricewaterhouseCoopers Securities Ltd, ABN 54 003 311 617
<b>Register</b>	the register of members of Midway maintained by or on behalf of Midway in accordance with section 168(1) of the Corporations Act.
<b>Related Body Corporate</b>	has the same meaning given to it in the Corporations Act.
<b>Related Entity</b>	<p>In respect of a person:</p> <ol style="list-style-type: none"> <li>1 a related body corporate of a party (within the meaning given in section 50 of the Corporations Act); and</li> <li>2 any other person that directly, or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with such party; the term "control" (including the terms "controlling", "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 voting securities, by contract, or otherwise.</li> </ol>
<b>Relevant Interest</b>	the meaning given in sections 608 and 609 of the Corporations Act.

Term	Meaning
<b>Required Resolution</b>	<ol style="list-style-type: none"> <li>1 a resolution passed at a meeting of the shareholders of RollCo with at least 75% of votes cast in favour; or</li> <li>2 a written resolution passed in accordance with clause 6.6 of the RollCo Shareholders' Deed by RollCo Shareholders together holding at least 75% of the RollCo Shares which carry the right to vote at any general meeting of RollCo.</li> </ol>
<b>Requisite Majorities</b>	has the meaning given in Section 4.2.
<b>River Capital</b>	River Capital Pty Ltd ACN 073 531 469.
<b>River Capital Funds</b>	<ol style="list-style-type: none"> <li>1 River Capital as trustee for River Capital Founders Fund; and</li> <li>2 River Capital as trustee for River Capital Dividend Plus Fund.</li> </ol>
<b>River Investors</b>	Midway Trust and, if applicable, other funds or investment vehicles managed by River Capital (including the River Capital Funds) who subscribe for Class A Shares.
<b>RollCo</b>	RCM RollCo Ltd ACN 682 218 579.
<b>RollCo Board</b>	the board of directors of RollCo.
<b>RollCo Constitution</b>	the constitution of RollCo in the form agreed in writing by BidCo and Midway as set out in Annexure E.
<b>RollCo Group</b>	RollCo and each of its Subsidiaries and each of its or their interests in joint ventures or other entities (including trusts), from time to time.
<b>RollCo Share</b>	an issued share or security of any class in the capital of RollCo.
<b>RollCo Shareholder</b>	a person that is a registered holder of a RollCo Share from time to time.
<b>RollCo Shareholders' Deed</b>	the shareholders' deed in relation to RollCo to be entered into by the RollCo Shareholders amongst others, on the terms agreed by BidCo and Midway, in the form of Annexure D.
<b>RollCo Register</b>	the register of members of RollCo maintained by or on behalf of RollCo in accordance with section 168(1) of the Corporations Act.
<b>Scaleback Arrangements</b>	the scaleback arrangements set out in clause 4.6 of the Scheme Implementation Deed.

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Term	Meaning
<b>Scheme or Scheme of Arrangement</b>	the proposed scheme of arrangement pursuant to Part 5.1 of the Corporations Act between Midway and Scheme Shareholders in respect of all Scheme Shares, substantially in the form set out in Annexure B, subject to any alterations or conditions made or required by the Court under section 411(6) of the Corporations Act.
<b>Scheme Booklet</b>	this document, including any annexures.
<b>Scheme Consideration</b>	<p>in respect of each Scheme Share, the consideration payable to Scheme Shareholders under the Scheme, being:</p> <ol style="list-style-type: none"> <li>1 All Cash Consideration;</li> <li>2 All Scrip Consideration; or</li> <li>3 Mixed Consideration,</li> </ol> <p>depending on the valid Elections made and subject to the Minimum Scrip Threshold, the Scaleback Arrangements and the terms of the Scheme.</p>
<b>Scheme Implementation Deed</b>	the scheme implementation deed between BidCo, Midway and BidCo dated 13 November 2024. A summary is set out in Section 10.10 and a full copy can be obtained from the Midway investor website at <a href="https://www.midwaylimited.com.au/investor-centre/">https://www.midwaylimited.com.au/investor-centre/</a> .
<b>Scheme Meeting</b>	the meeting of Midway 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.
<b>Scheme Record Date</b>	is currently expected to be 7:00pm on Tuesday, 11 February 2025, or such other date as may be agreed in writing between Midway and BidCo or as may be required by ASIC or ASX.
<b>Scheme Resolution</b>	the resolution to approve the Scheme to be considered by Midway Shareholders at the Scheme Meeting, as set out in the Notice of Scheme Meeting in Annexure F.
<b>Scheme Share</b>	a Midway Share on issue as at the Scheme Record Date.
<b>Scheme Shareholder</b>	a person who holds one or more Midway Shares recorded in the Register as at the Scheme Record Date.
<b>Scrip Consideration</b>	one (1) Class B Share for each Scheme Share in respect of which a valid Election is made in accordance with the Scheme.
<b>Scrip Consideration Options</b>	<p>in respect of a Scheme Shareholder (depending on the Elections made by the Election Time and subject to the Minimum Scrip Threshold, the Scaleback Arrangements and the terms of the Scheme).</p> <ol style="list-style-type: none"> <li>1 All Scrip Consideration;</li> <li>2 Mixed Consideration Option 1;</li> </ol>

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Term	Meaning
	<p>3 Mixed Consideration Option 2;</p> <p>4 Mixed Consideration Option 3; or</p> <p>as applicable.</p>
<b>Second Court Date</b>	the first day on which an application made to the Court for an order pursuant to section 411(4)(b) of the Corporations Act approving the Scheme is heard, or if the application is adjourned for any reason, the date on which the adjourned application is heard or scheduled to be heard with such hearing being the <b>Second Court Hearing</b> .
<b>Section</b>	a section of the Scheme Booklet.
<b>Share Registry</b>	Computershare Investor Services Pty Limited.
<b>Shareholder Information Line</b>	1300 850 505 from within Australia and +61 3 9415 4000 from outside Australia between 8.30am and 5.00pm (AEDT), Monday to Friday.
<b>Special Dividend</b>	a dividend in the amount of up to \$0.3835 in aggregate per Midway Share which may be declared or determined and paid by Midway in accordance with clause 5 of the Scheme Implementation Deed.
<b>Special Dividend Record Date</b>	the record date for the Special Dividend (if any), as determined by the Midway Directors in their sole discretion, currently expected to be 7.00pm (AEDT) on Friday, 7 February 2025
<b>Subsidiary</b>	has the same meaning as given in section 46 of the Corporations Act.
<b>Superior Proposal</b>	<p>a bona fide Competing Proposal in writing which the Midway Board, acting in good faith and in order to satisfy what the Midway Board considers to be its fiduciary and statutory duties, and after taking written advice from its external legal advisers, determines:</p> <ol style="list-style-type: none"> <li>1 is reasonably capable of being valued and completed, taking into account all aspects of the Competing Proposal, including the consideration (and the value, nature, liquidity and attractiveness of any scrip based consideration), conditions, the identity, reputation and financial condition of the person making the Competing Proposal, and all relevant legal, regulatory and financial matters, certainty and any other matters affecting the probability of the relevant Competing Proposal being completed in accordance with its terms; and</li> <li>2 would, if completed substantially in accordance with its terms, be more favourable to Midway Shareholders than the Scheme or than any proposal subsequently notified to Midway by BidCo after the date of this deed (as the case may be).</li> </ol>
<b>Third Party</b>	a person other than BidCo and its Associates.

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Term	Meaning
<b>Transaction</b>	the proposed acquisition by BidCo, in accordance with the terms and conditions of the Scheme, of all of the Midway Shares through the implementation of the Scheme.
<b>Transaction Bonus</b>	is defined in Section 10.8(f).
<b>Transaction Costs</b>	investment banking, financial adviser, legal, accounting, share registry, Independent Expert and other fees and costs payable to advisers and/or third-party service providers, incurred by any Midway Group Member in respect of, or as a result of, the Transaction and in each case exclusive of GST.
<b>Trust Account</b>	the trust account operated by or on behalf of Midway to hold the Aggregate Cash Consideration on trust for the purpose of paying the Aggregate Cash Consideration to the Midway Shareholders in accordance with the Scheme.
<b>TSR</b>	Total Shareholder Return.
<b>Voting Deed</b>	a voting deed poll by each of the McCormack Entities in favour of BidCo each dated on or about 13 November 2024, details of which were released by BidCo to the ASX on 15 November 2024 and <b>Voting Deeds</b> means each of them.
<b>VWAP</b>	volume weighted average price.

## 11.2 Interpretation

In this Scheme Booklet:

- (a) words of any gender include all genders;
- (b) words importing the singular include the plural and vice versa;
- (c) an expression importing a person includes any company, partnership, joint venture, association, corporation or other body corporate and vice versa;
- (d) a reference to a Section or annexure, is a reference to a Section of or annexure of, to this Scheme Booklet as relevant;
- (e) a reference to any legislation includes all delegated legislation made under it and amendments, consolidations, replacements or re-enactments of any of them;
- (f) headings and bold type are for convenience only and do not affect the interpretation of this Scheme Booklet;
- (g) a reference to time is a reference to Sydney, New South Wales time;
- (h) a reference to dollars, \$, A\$, AUD, cents, ¢ and currency is a reference to the lawful currency of the Commonwealth of Australia;
- (i) an accounting term is a reference to that term as it is used in accounting standards under the Corporations Act, or, if not inconsistent with those standards, in accounting principles and practices generally accepted in Australia; and

- (j) the words "include", "including", "for example" or "such as" when introducing an example, do not limit the meaning of the words to which the example relates to that example or examples of a similar kind.

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Annexure A

**Independent Expert's Report**

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# Midway Limited

Independent Expert's Report

17 December 2024

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Australia

## FINANCIAL SERVICES GUIDE

Dated: 17 December 2024

This Financial Services Guide (FSG) helps you decide whether to use any of the financial services offered by BDO Corporate Finance Australia Pty Ltd (BDO Corporate Finance, we, us, our).

The FSG includes information about:

- Who we are and how we can be contacted
- The services we are authorised to provide under our Australian Financial Services Licence, Licence No: 247420
- Remuneration that we and/or our staff and any associates receive in connection with the financial services
- Any relevant associations or relationships we have
- Our complaints handling procedures and how you may access them.

### FINANCIAL SERVICES WE ARE LICENSED TO PROVIDE

We hold an Australian Financial Services Licence which authorises us to provide financial product advice to retail and wholesale clients about securities and certain derivatives (limited to old law securities, options contracts, and warrants). We can also arrange for customers to deal in securities, in some circumstances. Whilst we are authorised to provide personal and general advice to retail and wholesale clients, we only provide *general* advice to retail clients.

Any general advice we provide is provided on our own behalf, as a financial services licensee.

### GENERAL FINANCIAL PRODUCT ADVICE

Our general advice is typically included in written reports. In those reports, we provide general financial product advice that is prepared without taking into account your personal objectives, financial situation or needs. You should consider the appropriateness of the general advice having regard to your own objectives, financial situation and needs before you act on the advice. Where the advice relates to the acquisition or possible acquisition of a financial product, you should also obtain a product disclosure statement relating to the product and consider that statement before making any decision about whether to acquire the product.

### FEES, COMMISSIONS AND OTHER BENEFITS THAT WE MAY RECEIVE

We charge fees for providing reports. These fees are negotiated and agreed to with the person who engages us to provide the report. Fees will be agreed on an hourly basis or as a fixed amount depending on the terms of the agreement. In this instance, the Company has agreed to pay us \$90,000 for preparing the Report.

Except for the fees referred to above, neither BDO Corporate Finance, nor any of its directors, employees, or related entities, receive any pecuniary benefit or other benefit, directly or indirectly, for or in connection with the provision of general advice.

All our employees receive a salary. Our employees are eligible for bonuses based on overall company performance but not directly in connection with any engagement for the provision of a report.

### REFERRALS

We do not pay commissions or provide any other benefits to any person for referring customers to us in connection with the reports that we are licensed to provide.

### ASSOCIATIONS AND RELATIONSHIPS

BDO Corporate Finance is a member firm of the BDO network in Australia, a national association of separate entities (each of which has appointed BDO (Australia) Limited ACN 050 110 275 to represent it in BDO International). The general financial product advice in our report is provided by BDO Corporate Finance and not by BDO or its related entities. BDO and its related entities provide services primarily in the areas of audit, tax, consulting, and financial advisory services.

We do not have any formal associations or relationships with any entities that are issuers of financial products. However, you should note that we and BDO (and its related entities) might from time to time provide professional services to financial product issuers in the ordinary course of business.

### COMPLAINTS RESOLUTION

We are committed to meeting your needs and maintaining a high level of client satisfaction. If you are unsatisfied with a service we have provided you, we have avenues available to you for the investigation and resolution of any complaint you may have.

To make a formal complaint, please use the Complaints Form. For more on this, including the Complaints Form and contact details, see the [BDO Complaints Policy](#) available on our website.

BDO Corporate Finance is a member of AFCA (Member Number 11843). Where you are unsatisfied with the resolution reached through our Internal Dispute Resolution process, you may escalate this complaint to the Australian Financial Complaints Authority (AFCA) using the below contact details:

Australian Financial Complaints Authority  
GPO Box 3, Melbourne VIC 3001  
Email: [info@afca.org.au](mailto:info@afca.org.au)  
Phone: 1800 931 678  
Fax: (03) 9613 6399  
Interpreter service: 131 450  
Website: <http://www.afca.org.au>

### COMPENSATION ARRANGEMENTS

BDO Corporate Finance and its related entities hold Professional Indemnity insurance for the purpose of compensating retail clients for loss or damage suffered because of breaches of relevant obligations by BDO Corporate Finance or its representatives under Chapter 7 of the Corporations Act 2001. These arrangements and the level of cover held by BDO Corporate Finance satisfy the requirements of section 912B of the Corporations Act 2001.

### CONTACT DETAILS

You may provide us with instructions using the details set out at the top of this FSG or by emailing - [cf.ecp@bdo.com.au](mailto:cf.ecp@bdo.com.au)

## Table of contents

1.	Introduction	1
2.	Summary and opinion	2
3.	Scope of the Report	5
4.	Outline of the Scheme	7
5.	Profile of Midway	10
6.	Profile of River Capital, BidCo and RollCo	24
7.	Economic analysis	26
8.	Industry analysis	29
9.	Valuation approach adopted	33
10.	Valuation of a Midway share prior to the Scheme	35
11.	Valuation of the Cash and Scrip Consideration	55
12.	Is the Scheme fair?	60
13.	Is the Scheme reasonable?	62
14.	Conclusion	65
15.	Sources of information	65
16.	Independence	65
17.	Qualifications	66
18.	Disclaimers and consents	66

Appendix 1 - Glossary and copyright notice

Appendix 2 - Valuation Methodologies

Appendix 3 - Comparable Companies used in Trading Multiples Analysis

Appendix 4 - Comparable Companies used in Transaction Multiples Analysis

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17 December 2024

The Directors  
Midway Limited  
10 The Esplanade  
North Shore Victoria 3214

Dear Directors

## INDEPENDENT EXPERT'S REPORT

### 1. Introduction

On 14 November 2024, Midway Limited ('Midway' or 'the Company') announced that it had entered into a binding Scheme Implementation Deed ('SID') with RCM BidCo Pty Ltd ('BidCo'), an entity owned and controlled by funds managed and advised by River Capital Pty Ltd (together, 'River Capital'), for the acquisition of all the shares in Midway by way of scheme of arrangement ('the Scheme').

Under the terms of the Scheme, each Midway shareholder will receive cash consideration of \$1.19 for every Midway share held under the Scheme ('Cash Consideration'). The Cash Consideration is inclusive of a partially franked special dividend expected to be paid of \$0.3835 per Midway share ('Special Dividend'). The Cash Consideration payable by River Capital will be reduced by the cash amount of any such Special Dividend paid.

Midway shareholders may also elect to receive their consideration in scrip (or a combination of cash and scrip), with the scrip consideration comprising unlisted scrip in the RCM RollCo Ltd ('RollCo') ('Scrip Consideration'). RollCo is an unlisted newly incorporated Australian entity, which will indirectly own 100% of the issued capital in Midway if the Scheme is implemented. Availability of the Scrip Consideration is subject to a minimum 5% interest threshold, that is, if elections made result in Midway shareholders holding, in aggregate, at least 5% of the total issued capital of RollCo as at the Scheme Implementation Date ('Minimum Scrip Threshold'). If the Minimum Scrip Threshold is not satisfied, all Midway shareholders will receive all Cash Consideration. A scale back mechanism will apply if elections made by eligible Midway shareholders result in Midway shareholders holding, in aggregate, more than 49.99% interest in the total issued capital in RollCo on the implementation of the Scheme ('Maximum Scrip Threshold').

Following the implementation of the Scheme Midway will become a wholly-owned subsidiary of RollCo and will no longer be listed on the Australian Securities Exchange ('ASX').

All currencies are quoted in Australian Dollars unless otherwise stated.

On 28 November a draft of our Report was provided for factual accuracy, as a result of this review and subsequent events updates were made in respect of information relating to the Tiwi Insurance Proceeds and the default of a major customer as disclosed in Section 5.5 and Section 10.1.7.

## 2. Summary and opinion

### 2.1 Requirement for the report

The directors of Midway have requested that BDO Corporate Finance Australia Pty Ltd ('BDO') prepare an independent expert's report ('our Report') to express an opinion as to whether the Scheme is in the best interests of the shareholders of Midway ('Shareholders').

Our Report is prepared pursuant to Section 411 of the *Corporations Act 2001* (Cth) ('Corporations Act' or 'the Act') and is to be included in the Scheme Booklet for Midway to assist Shareholders in their decision whether to approve the Scheme.

### 2.2 Approach

Our Report has been prepared having regard to Australian Securities and Investments Commission ('ASIC') Regulatory Guide 60 'Schemes of arrangements' ('RG 60'), Regulatory Guide 111 'Content of expert reports' ('RG 111') and Regulatory Guide 112 'Independence of experts' ('RG 112').

In arriving at our opinion, we have assessed the terms of the Scheme as outlined in the body of this report. We have considered:

- How the value of a Midway share prior to the Scheme (on a controlling interest basis) compares to the consideration being offered, with regard to the ability of Midway Shareholders to elect for either:
  - the Cash Consideration, being \$1.19 cash per Share; or
  - the Scrip Consideration, being a share in RollCo (on a minority interest basis, and subject to the Minimum and Maximum Scrip Thresholds) and receipt of the Special Dividend; or
  - a mix of both the Cash and Scrip Consideration (also subject to the Minimum and Maximum Scrip Thresholds)
- The likelihood of an alternative offer being made to Midway
- Other factors which we consider to be relevant to the Shareholders in their assessment of the Scheme
- The position of Shareholders should the Scheme not proceed.

### 2.3 Opinion

We have considered the terms of the Scheme as outlined in the body of this Report and have concluded that, in the absence of an alternative offer, the Scheme is fair and reasonable and in the best interests of Shareholders.

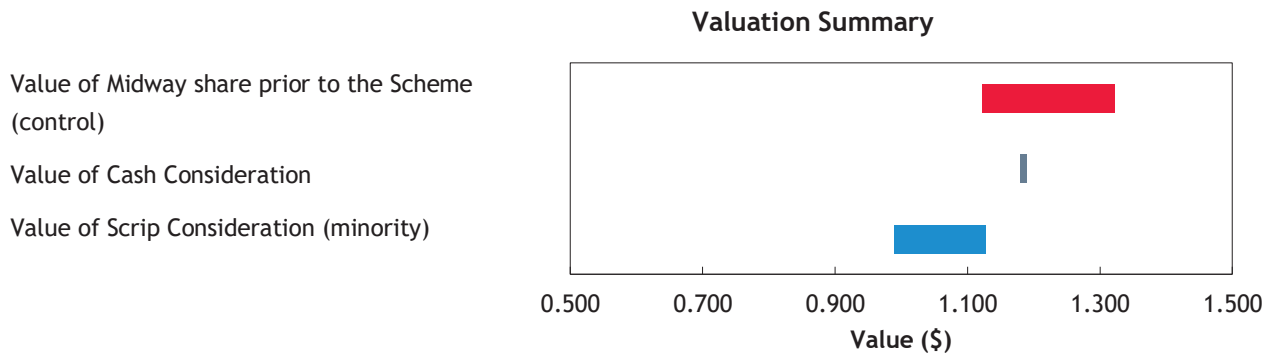
### 2.4 Fairness

In Section 12, we determined how the value of the consideration offered under the Scheme compares to the value of a Midway share as detailed below.

	Ref	Low \$	High \$
Value of a Midway share prior to the Scheme (controlling interest basis)	10	1.12	1.32
Value of the Cash Consideration	11.1	1.19	1.19
Value of the Scrip Consideration (minority interest basis)	11.2	0.99	1.13

Source: BDO analysis

Our valuation range is graphically presented below:



Source: BDO analysis

### Cash Consideration

We observe from the above that the value of the Cash Consideration is within our assessed value of a Midway share prior to the Scheme on a controlling interest basis. Therefore, we consider that for Shareholders who choose to receive the full Cash Consideration for their shares, the Scheme is fair.

### Scrip Consideration

We note from the above table that the value of the Scrip Consideration is generally lower than the value of a Midway share prior to the Scheme on a controlling interest basis, although we note the high end of our assessed Scrip Consideration is within our assessed valuation range of a Midway share prior to the Scheme.

Given that our valuation of the Scrip Consideration was performed similarly to the value of Midway shares prior to the Scheme, we attribute the difference in value to:

- The value of a RollCo share is assessed on a minority interest, whilst the value of Midway shares prior to the Scheme are assessed on a controlling interest basis
- Applying a discount for lack of marketability of 10% to reflect the increased liquidity risk associated with Midway shares becoming unlisted shares in RollCo
- The deduction of cash relating to the settlement of Midway Options and Rights and increased Scheme transaction costs
- The higher level of sustainable earnings due to the reduction in corporate overheads associated with RollCo no longer being listed on the ASX.

The value of the Scrip Consideration includes the benefit of the Special Dividend of \$0.3835 per share and the value of a share in RollCo ranging between \$0.61 and \$0.74 per share, on a minority interest basis.

Despite the overlapping ranges pre and post the Scheme for the Scrip Consideration, the underlying assets of the entity remain unchanged. Consequently, fairness needs to be assessed on a like-for-like basis, resulting in the Scrip Consideration being deemed not fair.

We consider that Midway shareholders who elect to receive the Scrip Consideration or a mix of Cash and Scrip Consideration do so despite the alternative offer of full Cash Consideration, which provides value certainty. On the basis that Shareholders act rationally and in their self-interests, we believe that any election to receive shares in RollCo may be driven by speculations on the future value of RollCo or other motivations such as:

- Confidence in potential value increases to the operations of Midway under private equity ownership
- Speculated value uplift from strategic changes, especially in the growing carbon plantation management division within the PCM business
- Wanting continued exposure to the woodfibre and plantation management industry through their ownership in RollCo shares
- Having a positive outlook on the industries in which RollCo operates.

These motivations are investor-specific and we have no reasonable grounds to reflect these within our valuation assessment above, which has been performed in accordance with RG 111 and RG 170 ‘Prospective Financial Information’.

### Conclusion on fairness

Our fairness opinion was formed by considering that the Cash Consideration, which represents the default Scheme consideration to be received by Midway Shareholders, is fair.

We note that Midway Shareholders may elect to receive a mix of Cash Consideration and Scrip Consideration. Despite the overlapping ranges pre and post the Scheme for the Scrip Consideration, the underlying assets of the entity remain unchanged. Consequently, fairness needs to be assessed on a like-for-like basis, resulting in the Scrip Consideration being deemed not fair. However, given that the receipt of Scrip Consideration is an election for each Shareholder, we consider that overall, the Scheme is fair and note that Shareholders may elect for the Scrip Consideration based on their individual views and considering the individual circumstances outlined above and reasonableness factors below (further detailed in Section 13).

### 2.5 Reasonableness

We have considered the analysis in Section 13 of this Report, in terms of the following:

- Advantages and disadvantages of the Scheme.
- Other considerations, including the position of Shareholders if the Scheme does not proceed and the consequences of not approving the Transaction.

In our opinion, the position of Shareholders if the Scheme is approved is more advantageous than the position if the Scheme is not approved. Accordingly, in the absence of any other relevant information and/or an alternate proposal we consider that the Scheme is reasonable for Shareholders.

The advantages are summarised below:

ADVANTAGES			
Section	Advantages	Applicable to Cash Consideration?	Applicable to Scrip Consideration?
13.3	The Scheme is fair	✓	×
13.3	Certainty of value	✓	×
13.3	Scheme consideration includes a partially franked Special Dividend	✓	✓

ADVANTAGES			
Section	Advantages	Applicable to Cash Consideration?	Applicable to Scrip Consideration?
13.3	Retained exposure to the Midway operations	×	✓
13.3	Optionality of Cash Consideration and Scrip Consideration	✓	✓

DISADVANTAGES			
Section	Disadvantages	Applicable to Cash Consideration?	Applicable to Scrip Consideration?
13.4	Loss of exposure to Midway's operations	✓	×
13.4	Shareholders will be further diluted in RollCo	×	✓

Other key matters we have considered include:

Section	Description
13.1	Alternative offer
13.2	Transaction costs and break fees
13.2	Potential decline in Midway share price
13.2	Post dividend consideration

## 3. Scope of the Report

### 3.1 Purpose of the Report

The Scheme is to be implemented pursuant to Section 411 of the Corporations Act ('Section 411'). Part 3 of Schedule 8 to the *Corporations Regulations 2001* ('Regulations') prescribes the information to be sent to shareholders in relation to schemes of arrangement pursuant to Section 411 of the Corporations Act.

An independent expert's report must be obtained by a scheme company if:

- There is one or more common directors; or
- The other party to the scheme holds 30% or more of the voting shares in the scheme company.



The expert must be independent and must state whether or not, in his or her opinion, the proposed scheme is in the best interest of the members of the company subject of the scheme and set out the reasons for that opinion.

There are no common directors between Midway and River Capital, nor is there any party to the Scheme that holds 30% or more of the scheme company, being Midway. Accordingly, there is no requirement for this report pursuant to Section 411. Notwithstanding the fact that there is no requirement to engage an independent expert to report on the Scheme, the directors of Midway have requested that BDO prepare this report as if it were an independent expert's report pursuant to Section 411 and to provide an opinion as to whether the scheme is in the best interests of Shareholders.

The requirement for an independent expert's report is also a condition precedent in the SID, which states that, for the Scheme to proceed, the independent expert must conclude that the Scheme is in the best interests of Shareholders.

### 3.2 Regulatory guidance

Neither the Corporations Act nor the Regulations defines the term 'in the best interests of'. In determining whether the Scheme is in the best interests of Shareholders, we have had regard to the views expressed by ASIC in RG 111. This regulatory guide provides guidance as to what matters an independent expert should consider to assist security holders to make informed decisions about transactions.

A key matter under RG 111 that an expert needs to consider when determining the appropriate form of analysis is whether or not the effect of the transaction is comparable to a takeover bid and is therefore representative of a change of 'control' transaction.

In the circumstance of a scheme that achieves the same outcome as a takeover bid, RG 111 suggests that the form of the analysis undertaken by the independent expert should be substantially the same as for a takeover. Independent expert reports required under the Act in the circumstance of a takeover are required to provide an opinion as to whether or not the takeover bid is 'fair and reasonable'. While there is no definition of 'fair and reasonable', RG 111 provides some guidance as to how the terms should be interpreted in a range of circumstances.

RG 111 suggests that an opinion as to whether transactions are fair and reasonable should focus on the purpose and outcome of the transaction, that is, the substance of the transaction rather than the legal mechanism to effect the transaction.

Schemes of arrangement pursuant to Section 411 can encompass a wide range of transactions. Accordingly, 'in the best interests' must be capable of a broad interpretation to meet the particular circumstances of each transaction. This involves a judgment on the part of the expert as to the overall commercial effect of the transaction, the circumstances that have led to the transaction and the alternatives available. The expert must weigh up the advantages and disadvantages of the proposed transaction and form an overall view as to whether shareholders are likely to be better off if the proposed transaction is implemented than if it is not. This assessment is the same as that required for a 'fair and reasonable' assessment in the case of a takeover. If the expert would conclude that a proposal was 'fair and reasonable' if it was in the form of a takeover bid, the expert will also be able to conclude that the scheme is in the best interests of shareholders. An opinion of 'in the best interests' does not imply the best possible outcome for shareholders.

### 3.3 Adopted basis of evaluation

RG 111 states that a transaction is fair if the value of the offer price or consideration is equal to or greater than the value of the securities subject of the offer. This comparison should be made assuming a knowledgeable and willing, but not anxious, buyer and a knowledgeable and willing, but not anxious, seller acting at arm's length. Further to this, RG 111 states that a transaction is reasonable if it is fair. It might also be reasonable if despite being 'not fair' the expert believes that there are sufficient reasons for security holders to accept the offer in the absence of any higher bid.

Having regard to the above, BDO has completed this comparison in three parts:

- A comparison between the value of a Midway share including a premium for control and the value of the consideration being offered to Shareholders, having regard to Shareholders' ability to elect for either the Cash Consideration, the Scrip Consideration (a share in RollCo on a minority interest basis) or a mix of both (fairness - see Section 12 'Is the Scheme Fair?')
- An investigation into other significant factors to which Shareholders might give consideration, prior to approving the Scheme, after reference to the value derived above (reasonableness - see Section 13 'Is the Scheme Reasonable?')
- A consideration of whether the Scheme is in the best interests of Shareholders.

RG 111 states that if a transaction is fair and reasonable then the expert can conclude that the transaction is in the best interests of shareholders. If a transaction is not fair but reasonable an expert can still conclude that the transaction is in the best interests of shareholders. If a transaction is neither fair nor reasonable then the expert would conclude that the transaction is not in the best interests of shareholders.

This assignment is a Valuation Engagement as defined by Accounting Professional & Ethical Standards Board professional standard APES 225 'Valuation Services' ('APES 225').

A Valuation Engagement is defined by APES 225 as follows:

*'an Engagement or Assignment to perform a Valuation and provide a Valuation Report where the Member is free to employ the Valuation Approaches, Valuation Methods, and Valuation Procedures that a reasonable and informed third party would perform taking into consideration all the specific facts and circumstances of the Engagement or Assignment available to the Member at that time.'*

This Valuation Engagement has been undertaken in accordance with the requirements set out in APES 225.

## 4. Outline of the Scheme

On 14 November 2024, Midway announced that it had entered into a SID with BidCo, an entity owned and controlled by funds managed and advised by River Capital, under which BidCo will acquire all the shares in Midway by way of scheme of arrangement.

Under the terms of the Scheme, each Midway shareholder will have the election to receive either the:

- Cash Consideration of \$1.19 for each Midway share; or
- Scrip Consideration, comprising an unlisted share in RollCo (subject to the Minimum Scrip Threshold of 5% and Maximum Scrip Threshold of 49.99%) and receipt of the Special Dividend expected to be paid of \$0.3835 per Midway share; or
- A mix of Cash and Scrip Consideration subject to the Minimum Scrip Threshold of 5% and Maximum Scrip Threshold of 49.99%.

Importantly, if the Minimum Scrip Threshold is not satisfied, all Midway shareholders will receive all Cash Consideration. Furthermore, if a Midway Shareholder does not make an election to receive either Cash Consideration, Scrip Consideration or a mix of Cash and Scrip, they will receive Cash Consideration. Therefore, it can be said that the Cash Consideration represents the standard or default consideration.

#### 4.1 Conditions precedent

Consideration for implementation of the Scheme include various customary conditions, including but not limited to:

- The Independent Expert concluding (and continuing to conclude) that the Scheme is in the best interests of Midway Shareholders
- No material adverse change to Midway and no prescribed occurrences (as defined in the SID)
- All Midway performance rights ('Rights') and options ('Options') are dealt with in accordance with the SID
- Approval of Midway Shareholders and the Court
- Other customary conditions.

#### 4.2 Special Dividend

The Cash Consideration is inclusive of a partially franked Special Dividend of \$0.3835 per Midway share expected to be paid, at Midway's discretion. The Special Dividend is expected to be funded from Midway's existing available cash (as determined by Midway) or funded by debt, subject to certain conditions outlined in Clause 10 of the SID. The Company expects approximately \$0.30 per share of the Special Dividend will be fully franked with the remaining balance \$0.08 per share being unfranked.

The payment of the Special Dividend may provide Midway Shareholders who can utilise the benefit of franking credits with an additional expected benefit of approximately \$0.13 per Midway share, subject to their marginal tax rate and individual circumstances. It is noted that there will be no reduction to the Cash Consideration for franking credits attached to the Special Dividend (if any).

The Cash Consideration payable by River Capital will be reduced by the cash amount of any such Special Dividend. Should a Midway Shareholder elect to receive Scrip Consideration, they will also receive the Special Dividend.

The Scheme is also subject to a termination right in favour of BidCo if Midway is unable, or fails, to pay the Special Dividend in full. That is, if the Special Dividend is not determined by Midway or Midway determines a special dividend of less than \$0.3835 per Midway share then (at the absolute discretion of BidCo) either:

- The Cash Consideration may be increased by the corresponding amount such that cash payments received by Midway Shareholders who participate in both the Special Dividend and the Scheme (other than those who make a valid election to receive Scrip Consideration) will be \$1.19; or
- BidCo may elect to terminate the SID (in which case the Scheme will not proceed and Midway Shareholders will not receive the \$1.19 Cash Consideration). Midway may also be required to pay BidCo a break fee further detailed in Section 4.5.

Based on the number of shares outstanding in Midway of 87,336,222, the payment of the Special Dividend will result in cash outflow of approximately \$33.5 million. As at 31 October 2024 (the latest balance sheet available to us), the Company had \$39.7 million in cash and cash equivalents.

### 4.3 Scrip Consideration option

Midway Shareholders who elect to receive their consideration as Scrip Consideration will receive unlisted Class B shares in RollCo, which is an unlisted newly incorporated Australian entity that will indirectly own 100% of the issued capital in Midway if the Scheme is implemented. Midway Shareholders who receive fully paid ordinary shares in RollCo will become parties to the RollCo shareholder's deed, with proposed key terms contained in the SID and the Scheme Booklet.

Midway Shareholders may elect to receive either:

- Scrip Consideration for 100% of the Midway shares they hold that are subject to the Scheme; or
- Scrip Consideration for between 25% and 75%, (increments are 25%, 50% and 75%) of the Midway shares they hold that are subject to the Scheme, with the remaining balance to be exchanged for Cash Consideration.

Availability of the Scrip Consideration is subject to the Minimum Scrip Threshold of 5%, that is, if elections made result in Midway shareholders holding, in aggregate, at least 5% of the total issued capital of RollCo as at the Scheme Implementation Date. If the Minimum Scrip Threshold is not satisfied, all Midway Shareholders will receive all Cash Consideration.

In addition, a scale back mechanism will also apply if elections made by eligible Midway Shareholders exceed the Maximum Scrip Threshold, that is, the elections made by Midway Shareholders result in them holding, in aggregate, more than 49.99% interest in the total issued capital in RollCo on the implementation of the Scheme. Further detail on the scale back mechanism is outlined in Section 6.10 of the SID and 5.7(b) of the Scheme Booklet.

### 4.4 Midway Options and Rights

As at the date of the announcement of the Scheme, Midway has issued a total of:

- 689,954 2023 plan Rights vesting in June 2025 ('FY23 Rights')
- 1,098,310 2024 plan Rights vesting in June 2026 ('FY24 Rights')
- 721,436 Options ('the Options').

The Company also expects to issue 126,024 Rights vesting in June 2027 ('FY25 Rights') prior to the implementation of the Scheme.

In accordance with the conditions precedent of the SID, the Board of Midway has resolved that subject to shareholder approval of the Scheme, the Midway Rights and Options will vest and be cash settled immediately following the Scheme being effective. Details of the treatment of the Midway Options and Rights are outlined in the table below.

Midway Options and Rights	No. of Options/Rights	Vested and cash settled (\$)
FY23 Rights	689,954	1,203,411
FY24 Rights	1,098,310	1,501,730
FY25 Rights*	126,024	149,969
Unlisted options expiring on 1 July 2026 with an exercise price of \$0.9339	721,436	372,344
<b>Total</b>	<b>2,635,724</b>	<b>3,227,454</b>

Source: Midway Management.

\*Expected to be issued prior to the implementation of the Scheme, but not subject to the Scheme proceeding.

The total settlement consideration for the Midway Options and Rights will be \$3,227,454.

## 4.5 Transaction Bonus

If the Scheme is implemented, the Company will pay a one-off transaction bonus to a number of Midway employees, including the Company's Managing Director and Chief Executive Officer, Mr Tony McKenna (each, a 'Transaction Bonus'). The Transaction Bonus totals approximately \$195,000 in aggregate, with \$150,000 to be paid to Mr Tony McKenna. No other Midway Director will receive a Transaction Bonus.

## 4.6 Break fee

The SID provides for a break fee of up to \$1,556,589 to be payable by Midway to River Capital, or a reverse break fee of up to \$1,556,589 to be paid to Midway, in certain circumstances specified in the SID. The SID also contemplates a reduced break fee of \$519,650 in the specific circumstances set out in clause 15.1(d) of the SID.

We note failure by Midway Shareholders to approve the Scheme will not trigger an obligation for Midway to pay the break fee.

Refer to the SID (announced on 14 November 2024) and the Scheme Booklet for the full set of circumstances under which the break fee is payable by either party.

## 4.7 Delisting of Midway

On the date after the implementation of the Scheme, Midway will apply for termination of the official quotation of Midway shares on the ASX and be removed from the official list of the ASX.

# 5. Profile of Midway

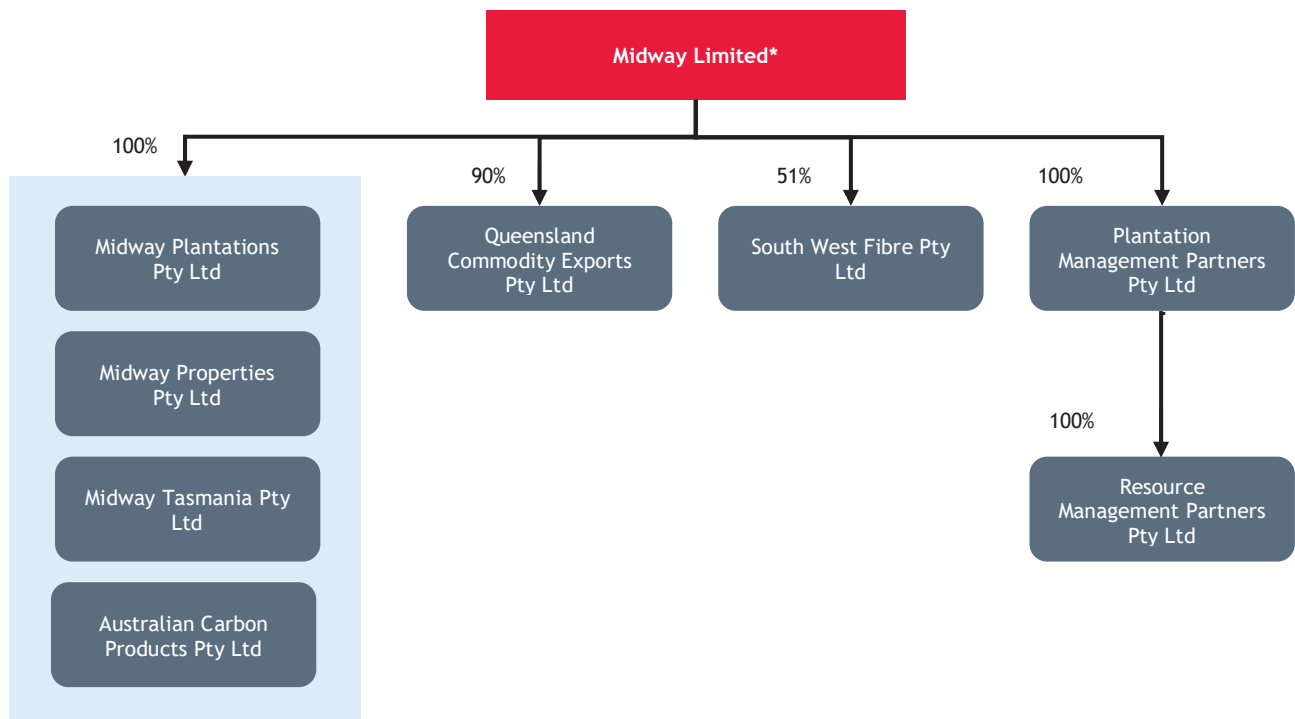
## 5.1 Company overview

Founded in 1980, Midway is an Australian woodfibre, plantation and carbon management business, serving customers based in Australia, China, Japan and Southeast Asia. Midway's headquarters are located in North Shore, Victoria, with operations located across multiple states and territories in Australia including Victoria, Queensland, Tasmania, and the Northern Territory. In December 2016, the Company listed on the ASX.

The current board of directors and key management personnel of Midway are:

- Gordon Davis - Independent Non-Executive Chair
- Kellie Benda - Independent Non-Executive Director
- Nils Gunnerson - Non-Executive Director
- Tom Gunnerson - Non-Executive Director
- Leanne Heywood - Independent Non-Executive Director
- Andy Preece - independent Non-Executive Director
- Anthony McKenna - Managing Director and Chief Executive Officer
- Michael McKenzie - Chief Financial Officer.

Midway’s corporate structure is set out in the chart below.



Source: Midway Overview Presentation dated August 2024, provided by Midway Management.

\*The organisational structure above does not include: Midway Logistics Pty Ltd, Midway Logistics Unit Trust, Bio Growth Partners (BGP), or Plantation Management Partners Pte Ltd. As at the date of our Report, these entities have no recorded activity.

Midway’s business activities across each of its subsidiaries can be aggregated in terms of the Company’s reportable segments being: Woodfibre, Plantation and Carbon Management (‘PCM’), and Ancillary. Whilst the Ancillary reporting segment aggregates costs that are not individually significant, the Company’s key business activities are conducted in Woodfibre and PCM. Further details on these business segments are set out in the following sections.

## 5.2 Woodfibre

Midway’s Woodfibre business began in 1980 as a collection of Victorian sawmillers seeking a market for sawmill residue waste. Since inception, the business has grown to cover the end-to-end wood fibre value chain, including:

- Timber sourcing
- Harvesting and haulage
- Woodchip processing
- Marketing and export (including stockpiling, port operations and shipping).

Midway woodchip sales currently consist of eight species to 11 customers, exporting from six load ports in Australia to destinations in China, Japan and Southeast Asia. In financial year 2024 (‘FY24’), two thirds of exports were directed to customers in China, with under one third directed to customers in Japan. Exports to Southeast Asia represent a relatively new destination market.

Woodfibre produced by Midway is predominantly used in recyclable paper and packaging, replacement products for plastic, and substitutes for coal-fired power generation. Woodchip sales are underpinned by five key operating facilities, which are summarised in the sections below.

### Midway Geelong

Midway Geelong ('MW Geelong') comprises 13.6 hectares ('ha') of land adjacent to the Geelong Port. Processing capacity is rated up to 1.5 million green metric tonnes ('GMT') of woodfibre per annum ('pa'). Infrastructure consists of a static wood fibre mill (for hardwood), a mobile debarking and chipping line (for softwood), three stockpile reclaimers, and stockpile capacity of 200,000 GMT pa. MW Geelong also houses head office functions for Midway's PCM business.

Following an unconditional contract for land sale at the Geelong site (detailed further in Section 5.5 of our Report), Midway conducted works to reconfigure the processing infrastructure to maximise productivity. The site refurbishment included a newly developed log truck site entry point, concrete chip pad, and log storage area. Further development included sealed pavements within the woodfibre operations area, configuration of primary site loop assistant, a new weighbridge to accommodate larger 40 metre log trucks, and the construction of an operations office.

### QCE Brisbane

Operating under the Company's subsidiary, Queensland Commodity Exports Pty Ltd, QCE Brisbane was established as the sole woodfibre exporter to Australian customers located in Southeast Queensland and Northern New South Wales. Operations at QCE Brisbane comprise a woodchip production, storage and loading facility sitting within a 4 ha area leased from the Port of Brisbane. Processing and export capacity is rated up to a combined 600,000 GMT pa for hardwood and softwood, whilst stockpiling is rated up to 100,000 GMT.

Midway holds a 90% equity interest in QCE Brisbane, with the remaining 10% held by GrainCorp. GrainCorp is responsible for providing toll ship loading services for the facility.

### South West Fibre Portland

Operating through the Company's subsidiary, South West Fibre Pty Ltd, South West Fibre Portland ('SWF Portland') is a joint venture with Mitsui & Co. Limited ('Mitsui') and is located in Myamyn, Victoria. Midway holds a 51% equity interest in SWF Portland with Mitsui holding the other 49%. The facility at Myamyn houses a static wood fibre mill having a capacity rated at 1.2 million GMT pa, complemented by in field chipping, and upstream chip and log storage. With a woodfibre storage capacity of 80,000 GMT, the overall export capacity at SWF Portland is rated at 1.8 million GMT pa. Raw material supply is underpinned by agreements with various bluegum plantation owners. At the port of Portland, GrainCorp is responsible for the provision of woodfibre receipt, storage and loading facilities.

### Plantation Management Partners Tiwi Islands

Operating through the Company's subsidiary, Plantation Management Partners Pty Ltd, Plantation Management Partners Tiwi Islands ('PMP Tiwi Islands') operates the 30,000 ha Tiwi Plantation Corporation forestry plantation project involving the establishment of acacia mangium, which represents the first rotation for the project ('Tiwi 1R Project'). Midway is responsible for the provision of forestry management and marketing services, by which the Company earns fees. The Tiwi 1R Project exports acacia mangium woodchips through Port Melville in the Tiwi Islands. Stockpiling capacity for the facility is rated at 60,000 GMT, whilst export capacity totals 400,000 GMT pa.

Following the Tiwi 1R Project the Company intends to establish a second rotation plantation project involving eucalyptus pellita on sites where the acacia mangium stock was previously harvested ('Tiwi 2R Project'). The plantation estate for Tiwi 2R is expected to cover around 30,000 ha progressively over a 10-year period, averaging approximately 3,000 ha of planting per annum. It is intended that the Tiwi 2R Project will be registered as a carbon sequestration project under the Australian Government's Carbon Farming Initiative 'Plantation Forestry' method.

In August 2024, the Company, together with River Capital were in discussions with a potential investor to provide equity funding for project. In November 2024, the potential investor informed the Company that it did not wish to proceed further with equity funding. Subsequently, the Company entered into exclusivity arrangements with River Capital in relation to the Tiwi 2R Project. Further development of the project remaining subject to binding transaction documentation, various conditions precedent (including landowner consent), approval from the investment committee of River Capital, and further equity funding.

Having regard to the requirements further development, if it is determined that the project proceeds, the Tiwi 2R Project is anticipated to commence in 2025, with establishment of the plantation to occur over a 10-year period. If the Tiwi 2R Project proceeds, Midway (or PMP) will hold a subordinated minority interest (subject to a 5 year lock-up) in the project, will earn management fees for plantation management services, a marketing fee for any timber sales, together with a minority share in the Australian Carbon Credit Units ('ACCUs') (if there are any) generated by the project. Midway does not expect any material returns from the Tiwi 2R Project in the next 5 years. The Tiwi 2R Project is discussed further in Section 5.3 of our Report below, with further information contained in Section 10.11 of the Scheme Booklet.

### Midway Tasmania

Operating through the Company's subsidiary, Midway Tasmania Pty Ltd, Midway Tasmania comprises a processing and export facility established at Bell Bay, Tasmania. Production at Bell Bay commenced in October 2022, and comprises plantation hardwood, plantation softwood, and hardwood regrowth thinnings. The facility holds an 80,000 GMT stockpile capacity with total export capacity estimated to be 600,000 GMT pa. Recent works at Bell Bay included newly developed infrastructure and establishment of resource and contractor crews, to facilitate a market for Tasmanian Certified Eucalyptus Regrowth Thinnings.

## 5.3 Plantation and carbon management

Plantation management involves the provision of silviculture services. Assets for the business encompass plantation land and trees. Complementary to plantation management is carbon management, a relatively new business line established by the Company to explore new opportunities in carbon abatement and emissions reduction through the provision of plantation management services and expertise.

From FY23 onwards, the Company considers PCM as a single reporting segment. A summary of the current activities for Midway's PCM services are set out in the table below.



Key Activity	Detail
Plantation management for institutional investors	Midway currently manages 10,127 ha of plantation projects for institutional investors. A key account is held with MEAG (a subsidiary of the German financial services company Munich Re, Group). Under this arrangement, Midway manages the Heytesbury and Otways Plantation Estate, an estate that covers a total area of 17,000 ha in the Southwest region of Victoria. In addition to generating plantation management fees, the Company also holds offtake agreements with MEAG for hardwood log supply. The log supply supports the operations of the Company's Geelong processing and export facility.
Decarbonisation pilot project	Midway is currently engaged by Rio Tinto, to develop a decarbonisation pilot project to explore the use of plantation oil seed for the production of biodiesel.
Land registration with the CER	Midway currently has 4,000 ha of plantation carbon projects registered with the Clean Energy Regulator ('CER'), largely for third parties.

ACCUs	<p>In order to further expand business activities involving ACCUs, the Company is currently offering landowners a forward sale of ACCUs and a pre-payment opportunity to fund the establishment projects.</p> <p>One such example is the Tiwi 2R Project, which we set out in Section 5.2 of our Report. The Company intends to register the Tiwi 2R Project as a carbon sequestration project under the Australian Government's Carbon Farming Initiative, 'Plantation Forestry Method'. Under the Tiwi 2R Project, the Company is seeking an economic model that earns the Company fees for plantation management services, marketing fees for timber sales, and a minority share in ACCUs. Management have outlined uncertainty around the Tiwi 2R Project, pending equity financing in addition to the satisfaction of other project-related conditions. As such, Management have advised no material earnings are expected for the Tiwi 2R Project until at least five years.</p> <p>It is noted that Midway has not received any ACCUs for the Company's plantation forestry projects as the first of these projects are less than 12 months old. Though Midway holds an active Australian Nation Registry of Emissions Units ('ANREU') account, which supports the issuance, holding, transfer, and acquisition of ACCUs.</p>
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As a continually evolving business, the Company anticipates that key customers for the plantation carbon projects will include:

- Institutional investors
- Landowners and agricultural enterprises
- Corporates and emitters
- Governments
- Traditional landowners
- Other suppliers, contractors and participants in the value chain.

#### 5.4 Key customer contracts

Midway's major customers are Chinese (e.g. Chenming, Nine Dragons, APP) and Japanese (e.g. Daio, Nippon, Oji) paper mills. Pricing is set on an annual basis by the lead customer. Most Midway sales are denominated in USD. To manage currency fluctuations, Midway prudently hedges a significant proportion of its forward sales through foreign exchange hedging contracts and continues to maintain and strengthen its business relationships (including by entering into strategic alliances with key suppliers).

To transport its product, Midway relies on vessel chartering. Vessels may be deferred or cancelled by customers from time-to-time. In circumstances where a customer defers or cancels a vessel, Midway will generally seek to find an alternative customer for that shipment of its product. Shipments are negotiated on either a free-on-board ('FOB') or cost, insurance and freight ('CIF') basis. Under CIF contractual terms, the Company is subject to freight and shipping expenses. Whilst under FOB, those expenses are borne by the customer. For future exports, the Company is looking to move towards a greater share of shipments under a FOB basis.

## 5.5 Recent corporate events

### Customer contract default - Chenming

On 13 December 2024, the Company announced that its major customer, Shandong Chenming Paper Holdings Limited ('Chenming'), had defaulted on its woodchip supply contracts entered into with the Company. Chenming had recently announced that it was overdue on some of its debts and bank accounts have been frozen, which resulted in Chenming shutting down approximately 70% of its production capacity.

Chenming failed to produce letters of credit to Midway in relation to two contracted woodchip shipments around the date of the announcement. The Company has since sold those shipments to other customers and do not expect Chenming to produce the letters of credit for the final two shipments under contract.

The Company announced that due to the Chenming development, forecast earnings for FY25 are expected to be at the lower end of the targeted range of \$10 million to \$15 million.

### Tiwi insurance proceeds

On 13 December 2024, the Company announced that it expects to receive cash payments of up to approximately \$5.2 million (after tax) from Tiwi Plantation Corporation ('TPC'). The \$5.2 million cash payment relates to an insurance claim made by TPC in relation to fires at the Tiwi Islands that occurred in 2023. The cash payments will be received under a Voluntary Scheme Deed that the Company had entered into with TPC in 2018. The Voluntary Scheme Deed entitles the Company to receive a share of future insurance proceeds received by TPC.

### Special and ordinary dividend paid in October 2024

On 29 August 2024, the Company declared a fully franked ordinary dividend of 1.6 cents per Midway share from the Company's FY24 earnings and a fully franked special dividend 14.5 cents per Midway share. The ordinary and special dividends were paid on 4 October 2024.

### Land sale for grain terminal development

On 27 November 2023, Midway announced that the Company had entered into a land sale Memorandum of Understanding ('MoU') with CHS Broadbent ('CHSB') for a grain terminal development, under which Midway will sell a 5.15 ha property at the Company's North Shore site in Geelong Victoria at a price of \$15.5 million.

On 5 March 2024, the Company announced that it had signed an unconditional contract with CHSB in relation to the land sale MoU ('CHSB Asset Sale'). At the acquired site, CHSB is set to build and operate an 80,000 metric tonne grain storage and export terminal. As at the date of the announcement, the Company had received a 10% deposit for the sale. Simultaneously, a lease agreement had been signed

between Midway and CHSB to enable CHSB access to the site until settlement of the agreement. The CHSB Asset Sale subsequently settled on 13 November 2024.

The CHSB Asset Sale helped to realise the value of the Company's land at its North Shore site with a fair value uplift of \$28.6 million in FY24. Additionally, CHSB will contribute to the Company's contractual obligation to deliver fixed tonnages of grain and woodchip product to Geelong Port under their take-or-pay arrangement with Geelong Port, thereby reducing the Company's exposure to additional ship loader costs relating to delivery volume shortfalls.

### Special dividend and refinancing of debt facilities

On 29 November 2023, the Company announced a 5.0 cent fully franked special dividend to be paid out of the net proceeds made on the sale of a plantation estate in South-West Victoria (detailed in subsequent paragraph). On the same date, the Company announced that the Company had refinanced its banking facilities with the Commonwealth Bank, which comprised a trade finance facility allowing drawings of up to \$35 million against inventory and debtors.

### Sale of plantation land in South-West Victoria

In May 2022, the Company had signed contracts for the sale of 17,000 ha of existing plantation estate (encompassing the Heytesbury and Otways Plantation Project), located within the central and south-west regions of Victoria ('the Plantation Estate Sale'). The Plantation Estate Sale was made to a special purpose vehicle ('SPV') managed by MEAG, a wholly owned subsidiary of the German financial services company, Munich Re Group, for approximately \$154 million.

As part of the Plantation Estate Sale, the SPV is to engage the Company through its subsidiary, Midway Plantations Pty Ltd, to manage the combined assets under the sale agreement. Additionally, the Company would purchase hardwood logs from the SPV plantation estate at arms-length commercial terms for the next two rotations, in order to secure supply for the MW Geelong processing and export facility. The wood fibre supply volume at MW Geelong would also be supported by new hardwood greenfield plantations in South-West Victoria, planned over an approximate five-year period from the announcement made in May 2022.

On 5 October 2022, the Company had announced that the Foreign Investment Review Board ('FIRB') had approved the Plantation Estate Sale, as well as the SPV's further purchase of plantation land in South West Victoria, as announced in the May 2022 announcement. In September 2024, the Company had received the final tranche of payment in relation the Plantation Estate Sale.

### Exit from logistics business in Western Australia

On 1 April 2022, the Company had announced that it had decided to wind down and exit its logistics business in Western Australia. The Company had initially purchased the Western Australian logistics business in October 2018, with the Company citing operational difficulties introduced by COVID-19. The full exit from the logistics business was achieved in the 2023 financial year ('FY23').

### Wandong property sale

On 31 March 2022, the Company announced the sale of several plantation properties to an investor for \$17 million. The plantation properties are located around Wandong, 50 kilometres north of Melbourne. As part of the sale agreement, the Company entered into a forestry right for tree crops located on the properties.

## 5.6 Historical statements of financial position

Statement of Financial Position	Audited as at 30-Jun-22 \$'000	Audited as at 30-Jun-23 \$'000	Audited as at 30-Jun-24 \$'000
<b>CURRENT ASSETS</b>			
Cash and cash equivalents	2,969	5,606	24,856
Receivables	10,774	27,567	45,423
Inventories	20,772	34,996	26,692
Biological assets	2,697	1,744	3,012
Other assets	8,583	5,234	4,116
Current tax receivable	-	-	215
Assets held for sale	314	-	12,360
Derivative financial asset	-	-	1,111
<b>TOTAL CURRENT ASSETS</b>	<b>46,109</b>	<b>75,147</b>	<b>117,785</b>
<b>NON-CURRENT ASSETS</b>			
Biological assets	45,238	6,730	3,225
Other Receivables	7,395	33,459	-
Investments accounted for using the equity method	11,019	13,405	11,745
Intangible assets	1,971	1,971	1,971
Loan receivables	604	17	-
Property, plant and equipment	134,781	44,554	64,220
Right of use lease assets	10,058	7,316	18,500
<b>TOTAL NON-CURRENT ASSETS</b>	<b>211,066</b>	<b>107,452</b>	<b>99,661</b>
<b>TOTAL ASSETS</b>	<b>257,175</b>	<b>182,599</b>	<b>217,446</b>
<b>CURRENT LIABILITIES</b>			
Trade and other payables	20,653	16,707	17,627
Current tax payable	1,698	1,246	-
Borrowings	21,029	3,027	932
Lease liabilities*	-*	540	1,377
Strategy financial liability	6,908	9,151	8,237
Derivative financial liability	8,940	2,523	-
Provisions	3,702	4,451	4,162
<b>TOTAL CURRENT LIABILITIES</b>	<b>62,930</b>	<b>37,645</b>	<b>32,335</b>
<b>NON-CURRENT LIABILITIES</b>			
Borrowings	20,872	3,598	3,460
Lease liabilities*	4,990	4,349	18,094
Strategy financial liability	32,717	7,146	-
Provisions	151	139	89
Deferred tax liabilities	10,717	2,745	17,066
<b>TOTAL NON-CURRENT LIABILITIES</b>	<b>69,447</b>	<b>17,977</b>	<b>38,709</b>
<b>TOTAL LIABILITIES</b>	<b>132,377</b>	<b>55,622</b>	<b>71,044</b>
<b>NET ASSETS</b>	<b>124,798</b>	<b>126,977</b>	<b>146,402</b>
<b>CONTRIBUTED EQUITY</b>			
Share capital	64,888	64,888	64,888
Reserves	87,368	91,926	116,896
Accumulated losses	(28,741)	(31,544)	(37,209)

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Statement of Financial Position	Audited as at 30-Jun-22 \$'000	Audited as at 30-Jun-23 \$'000	Audited as at 30-Jun-24 \$'000
Equity attributable to owners of Midway Limited	123,515	125,270	144,575
Equity attributable to non-controlling interests	1,283	1,707	1,827
<b>TOTAL EQUITY</b>	<b>124,798</b>	<b>126,977</b>	<b>146,402</b>

Source: Midway's financial statements for the years ended 30 June 2024, 30 June 2023, and 30 June 2022.

\*Lease liabilities as at 30 June 2022 were reported within borrowings in the Company's annual report. BDO has presented the full balance of lease liabilities in non-current liabilities to present the financial statements on a like-for-like basis.

## Commentary on historical statements of financial position

- Cash and cash equivalents increased by \$19.3 million from \$5.6 million as at 30 June 2023 to \$24.9 million as at 30 June 2024. During this period, the Company recorded \$257.4 million in cash receipts from customers and \$16.4 million in proceeds received from the sale of fixed assets, which were offset by \$239.6 million in cash payments made to suppliers and employees.
- Receivables increased by a total of \$17.9 million, from \$27.6 million as at 30 June 2023 to \$45.4 million as at 30 June 2024. An increase in the Company's receivables position was predominantly due to an \$11.2 million increase in deferred settlement income and a \$5.2 million increase in accrued income. The deferred settlement income is in relation to the Plantation Estate Sale with MEAG and as at 30 June 2024, totalled \$35.0 million.
- Inventories of \$26.7 million as at 30 June 2024 comprised \$24.2 million in finished goods (woodfibre product) and \$2.5 million in work in progress.
- Assets held for sale totalled \$12.4 million as at 30 June 2024 primarily relating to land under the CHSB Asset Sale, which was recorded at fair value. As at 30 June 2023, assets held for sale were nil.
- Biological assets totalling \$6.2 million as at 30 June 2024 comprise plantation hardwood and softwood held at fair value. Changes in the carrying amount for biological assets are underpinned by asset movements from harvested timber and new plantings, as well as fair value movements driven by changes in volumes, prices and markets. In FY24, the Company recorded a net decrease of \$2.2 million in value of biological assets attributed to harvested timber valued at \$1.3 million and a net fair value loss of \$0.9 million.
- Investments accounted for using the equity method relates to the Company's 51% equity interest in the South West Fibre Pty Ltd joint venture. The Company's equity investment decreased by the \$1.7 million loss in the joint venture entity in FY24 from \$13.4 million as at 30 June 2023 to \$11.7 million as at 30 June 2024.
- Intangible assets were recorded at \$2.0 million as at 30 June 2024 and solely relate to goodwill arising from the acquisition of the Company's subsidiaries.
- Property, plant and equipment ('PP&E') increased by \$19.7 million, from \$44.6 million as at 30 June 2023 to \$64.2 million as at 30 June 2024. The increase in the Company's PP&E was attributable to a \$28 million upward revaluation of freehold land and \$9.8 million in additions to buildings, plant and equipment. Offsetting this increase in PP&E additions was \$12.4 million in land (in relation to the CHSB Asset Sale) reclassified as assets held for sale. As at 30 June 2024, the PP&E balance predominantly comprised of free hold land recorded at \$32.6 million and plant and equipment recorded at \$19.5 million.

- The Company's Strategy Financial Liability balance (current and non-current balance) decreased by \$8.1 million, from \$16.3 million as at 30 June 2023 to \$8.2 million as at 30 June 2024. The Strategy Financial Liability relates to a plantation estate sale made in 2016 and represents the carrying amount of Midway's contractual obligation for the repurchase of trees in accordance with the contractual harvest profile pursuant to the sale agreement. We note that this liability has been settled in full in September 2024.
- Current borrowings decreased by \$2.1 million, from \$3.0 million as at 30 June 2023 to \$0.9 million as at 30 June 2024. Current borrowings as at 30 June 2023 comprised \$1.0 million in bank loans and \$2.0 million in hire purchase liabilities. In FY24, the Company paid down the entirety of its bank loan position and reduced its hire purchase liability position by \$1.1 million.
- Non-current borrowings decreased by \$0.1 million, from \$3.6 million as at 30 June 2023 to \$3.5 million as at 30 June 2024. Non-current liabilities as at 30 June 2024 comprised solely of hire purchase liabilities.

## 5.7 Historical statements of profit or loss and other comprehensive income

Statement of Profit or Loss and Other Comprehensive Income	Audited for the year ended 30-Jun-22*	Audited for the year ended 30-Jun-23*	Audited for the year ended 30-Jun-24
	\$'000	\$'000	\$'000
<b>Continuing operations</b>			
<b>Revenue and other income</b>			
Sales revenue	193,597	187,493	273,521
Other income	4,129	18,337	6,095
<b>Total income</b>	<b>197,726</b>	<b>205,830</b>	<b>279,616</b>
<b>Less Expenses</b>			
Changes in inventories of finished goods and work in progress	5,379	14,156	(7,992)
Materials, consumables and other procurement expenses	(130,602)	(137,133)	(182,731)
Employee benefits expense	(15,926)	(20,561)	(18,927)
Biological assets net fair value increment/(decrease)	6,490	151	(937)
Plantation management expenses	(80)	(3,995)	(8,152)
Freight and shipping expense	(40,945)	(24,897)	(29,428)
Repairs and maintenance expense	(5,334)	(9,648)	(6,777)
Impairment loss	(98)	(8,192)	(127)
Other expenses	(10,548)	(11,551)	(10,588)
Share of net profit/(loss) from equity accounted investments	1,036	2,386	(1,660)
<b>Earnings before interest, tax depreciation and amortisation (EBITDA)</b>	<b>7,098</b>	<b>6,546</b>	<b>12,297</b>
Depreciation and amortisation expense	(6,803)	(6,041)	(8,426)
<b>Earnings before interest and tax (EBIT)</b>	<b>295</b>	<b>505</b>	<b>3,871</b>
Finance expense	(13,731)	(6,470)	(4,134)
Finance income	(8)	1,716	2,548
<b>Profit/(loss) before income tax expense</b>	<b>(13,444)</b>	<b>(4,249)</b>	<b>2,285</b>
Income tax expense benefit/(expense)	4,375	2,061	(1,307)
<b>Profit/(loss) for the period from continuing operations</b>	<b>(9,069)</b>	<b>(2,188)</b>	<b>978</b>
<b>Discontinued operations</b>			

Statement of Profit or Loss and Other Comprehensive Income	Audited for the year ended 30-Jun-22*	Audited for the year ended 30-Jun-23*	Audited for the year ended 30-Jun-24
	\$'000	\$'000	\$'000
Profit/(loss) for the period from discontinued operation	(3,809)	(191)	-
<b>Profit/(loss) for the period</b>	<b>(12,878)</b>	<b>(2,379)</b>	<b>978</b>
<i>Items that will not be reclassified to profit and loss</i>			
Revaluation of land fair value adjustment, net of tax	9,832	-	20,020
<i>Items that may be reclassified subsequently to profit and loss</i>			
Cash flow hedges effective portion of changes in fair value, net of tax	(4,749)	4,492	2,543
Foreign operations - foreign currency translation differences	-	-	6
Equity accounted investees - share of OCI	95	-	-
<b>Other comprehensive income</b>	<b>5,178</b>	<b>4,492</b>	<b>22,569</b>
<b>Total comprehensive income/(loss) for the period</b>	<b>(7,700)</b>	<b>2,113</b>	<b>23,547</b>
<b>Profit/(loss) attributable to:</b>			
Owners of Midway Limited	(12,973)	(2,803)	858
Non-Controlling Interests	95	424	120
	<b>(12,878)</b>	<b>(2,379)</b>	<b>978</b>
<b>Total comprehensive income attributable to:</b>			
Owners of Midway Limited	(7,801)	1,689	23,427
Non-Controlling Interests	101	424	120
	<b>(7,700)</b>	<b>2,113</b>	<b>23,547</b>

Source: Midway's financial statements for the years ended 30 June 2024, 30 June 2023, 30 June 2022.

\*Statements of profit or loss and other comprehensive income for the years ended 30 June 2023 and 30 June 2022 are presented for the discontinued operations of the Midway logistics business. Therefore, presentations may differ from the Company's FY24 annual report.

## Commentary on historical statements of profit or loss and other comprehensive income

- Sales revenue increased by 45.9% from \$187.5 million in FY23 to \$273.5 million in FY24. The uptick in revenue was largely driven by:
  - Strong performance in MW Geelong due to targeted supply acquisition, favourable exchange rates and a stronger headline price achieved for Eucalyptus Globulus
  - QCE Brisbane performing strongly on favourable softwood prices in the first half of FY24
  - Midway Tasmania increasing its volumes by 284k GMT to 579k GMT as the mill was fully commissioned and increased its nameplate capacity.

Offsetting the strong FY24 performance was a lower than expected SWF performance, which had lower sales volumes compared to previous years. The lower SWF performance in FY24 was attributed to marketing challenges of Eucalyptus Globulus, which is the highest cost product sold at Portland.

- Sales revenue and other income can be segmented to its aforementioned reporting segments: Woodfibre, PCM and the balance relating to eliminations. The segmentation analysis for sales revenue and other income across the assessed period is set out in the table below.

	Audited for the year ended 30-Jun-22 \$'000	Audited for the year ended 30-Jun-23 \$'000	Audited for the year ended 30-Jun-24 \$'000
<b>Total income by reporting segment</b>			
<b>Income by reporting segment</b>			
Woodfibre	190,548	230,701	288,973
PCM	12,642	10,657	12,723
Eliminations	(5,464)	(35,528)	(22,080)
<b>Total income</b>	<b>197,726</b>	<b>205,830</b>	<b>279,616</b>
<b>% of total income</b>			
Woodfibre	96%	112%	103%
PCM	6%	5%	5%
Eliminations	(3%)	(17%)	(8%)
<b>Total</b>	<b>100%</b>	<b>100%</b>	<b>100%</b>

Source: Midway's financial statements for the years ended 30 June 2024, 30 June 2023, 30 June 2022.

The segmented analysis above shows that Midway's operations are largely underpinned by the performance of its Woodfibre division.

- The composition of other income across the assessed period is set out in the table below.

	Audited for the year ended 30-Jun-22 \$'000	Audited for the year ended 30-Jun-23 \$'000	Audited for the year ended 30-Jun-24 \$'000
<b>Other income detail</b>			
Plantation management fees	127	685	1,659
SWF operating fee	1,145	1,657	857
Profit on sale of assets (plantation land)	-	12,465	-
Other	2,857	4,419	3,579
<b>Total other income</b>	<b>4,129</b>	<b>19,226</b>	<b>6,095</b>

Source: Midway's financial statements for the years ended 30 June 2024, 30 June 2023, 30 June 2022.

The SWF operating fee relates to a 1.5% operating royalty payable by South West Fibre Pty Ltd to the Company. It is noted that the 1.5% operating royalty is payable each to Midway and Mitsui.

Profit on sale of assets in FY23 relates to the Plantation Estate Sale to MEAG.

- Material expenses incurred by the Company include materials, consumables and other procurement expenses, freight and shipping expenses and employee benefits expenses. An analysis of the expense items as a percentage of total income is outlined below.

	Audited for the year ended 30-Jun-22 \$'000	Audited for the year ended 30-Jun-23 \$'000	Audited for the year ended 30-Jun-24 \$'000
<b>Material expenses</b>			
<b>Income</b>			
Sales revenue	193,597	187,493	273,521
Other income	4,129	18,337	6,095
<b>Total income</b>	<b>197,726</b>	<b>205,830</b>	<b>279,616</b>
<b>Material expenses summary</b>			
Materials, consumables and other procurement expenses	130,602	137,133	182,731



Material expenses	Audited for the year ended 30-Jun-22	Audited for the year ended 30-Jun-23	Audited for the year ended 30-Jun-24
	\$'000	\$'000	\$'000
Employee benefits expense	15,926	20,561	18,927
Plantation management expenses	80	3,995	8,152
Freight and shipping expense	40,945	24,897	29,428
Repairs and maintenance expense	5,334	9,648	6,777
Other expenses	10,548	11,551	10,588
<b>Subtotal</b>	<b>203,435</b>	<b>207,785</b>	<b>256,603</b>
<b>Material expenses as % of total income</b>			
Materials, consumables and other procurement expenses	66%	67%	65%
Employee benefits expense	8%	10%	7%
Plantation management expenses	0%	2%	3%
Freight and shipping expense	21%	12%	11%
Repairs and maintenance expense	3%	5%	2%
Other expenses	5%	6%	4%

Source: Midway's financial statements for the years ended 30 June 2024, 30 June 2023, 30 June 2022.

In FY24, materials, consumables, and other procurement expenses were recorded at 65% of total income down from 67% in the year prior, whilst freight and shipping expense comprised 11% of total income in FY24 down from 12% in FY23 and 21% in FY22. These lower expenses as a percentage of income were primarily driven by improved margins at MW Geelong. As advised by the management of Midway ('Management'), margins at Geelong have been driven in part by a drier log feed, noting that the Company purchases feedstock on a GMT basis (inclusive of moisture content), whilst selling woodchip product on a bone-dry metric tonne ('BDMT') basis (exclusive of moisture content).

With respect to freight and shipping expenses, Management note that greater share of FY23 and FY24 revenue was derived through FOB-contract sales (which exclude the cost of freight) contributing to a declining share of freight and shipping cost as compared to FY22.

- The Company recorded an \$8.2 million impairment loss in FY23 relating to the impairment of a long term trade receivable in the Company's subsidiary Plantation Management Partners Pty Ltd of \$7.8 million and an impairment of a slow-moving spare parts inventory of \$0.4 million.
- The share of net profit or loss from equity accounted investments relates to the Company's 51% equity interest in its operating subsidiary South West Fibre Pty Ltd. In FY24, the Company's share of SWF net loss amounted to \$1.7 million.
- Earnings before interest, tax, depreciation and amortisation ('EBITDA') in FY24 was recorded at \$12.3 million up from \$6.5 million in FY23. The uptick in EBITDA was driven by a stronger revenue performance observed through higher FY24 woodchip prices (particularly for Eucalyptus Globulus, a high cost product) and a favourable foreign exchange rate environment. Additionally, the Company observed improved margins at MW Geelong, which were achieved by a reconfiguration of the Geelong site and strategic purchases of feedstock (including the purchase of drier feedstock as discussed above). On reconfigurations at the Geelong site, Management note that this work has underpinned greater utilisation of the site, increased production throughput and a more diversified product suite (including the sale of softwood products), all of which have contributed to improved margins.

EBITDA in FY23 was adversely impacted by the Company's long standing foreign exchange contracts in the first half of FY23. In the second half of FY23, a weak international pulp and paper market, at a time when new pulp paper mill capacity was coming on stream, resulted in high inventories and a slow-down in production. Chinese customers responded by deferring the majority of their 2023 contracted woodfibre shipments, resulting in pressures on volumes and margins in the Midway's woodfibre business. This compounded existing challenges experienced in the first half of labour cost pressures, elevated fuel prices and weather events impacting plantations.

EBITDA margins in FY22 were constrained due to the adverse global market conditions including power cuts in China in the first half of FY22, disruption due to COVID-19 on the labour market and supply chains, as well as increased freight costs. These impacts were partially offset by improved sales prices secured for the second half of FY22.

EBITDA margins (as a percentage of total income) are outlined in the table below.

EBITDA	Audited for the year ended 30-Jun-22 \$'000	Audited for the year ended 30-Jun-23 \$'000	Audited for the year ended 30-Jun-24 \$'000
<b>Total income</b>	<b>197,726</b>	<b>205,830</b>	<b>279,616</b>
EBITDA	7,098	6,546	12,297
<i>EBITDA Margin</i>	3.6%	3.2%	4.4%

Source: Midway's financial statements for the years ended 30 June 2024, 30 June 2023, 30 June 2022.

We note EBITDA across the assessed period relate to continuing operations only and exclude the Midway logistics business, which the Company exited fully in FY23.

## 5.8 Capital structure

The share structure of Midway as at 21 November 2024 is outlined below:

	Number
Total ordinary shares on issue	87,336,222
Top 20 shareholders	64,888,289
Top 20 shareholders - % of shares on issue	74.30%

Source: Midway share registry data as at 21 November 2024.

The range of shares held in Midway as at 21 November 2024 is as follows:

Range of shares held	No. of ordinary shareholders	No. of ordinary shares	Percentage of issued shares (%)
1 - 1,000	282	129,533	0.15%
1,001 - 5,000	283	830,969	0.95%
5,001 - 10,000	170	1,312,969	1.50%
10,001 - 100,000	279	8,908,488	10.20%
100,001 - and over	63	76,154,263	87.20%
<b>TOTAL</b>	<b>1,077</b>	<b>87,336,222</b>	<b>100.00%</b>

Source: Midway share registry data as at 21 November 2024.

The ordinary shares held by the most significant shareholders as at 21 November 2024 are detailed below:

Name	No. of Ordinary Shares	Percentage of Issued Shares (%)
Chebmont Pty Ltd	20,798,294	23.81%
Gregory McCormack and McCormack Timbers	9,804,599	11.23%
Sandon Capital Pty Ltd	8,183,583	9.37%
River Capital	7,131,434	8.17%
<b>Subtotal</b>	<b>45,917,910</b>	<b>52.58%</b>
Others	41,418,312	47.42%
<b>Total ordinary shares on Issue</b>	<b>87,336,222</b>	<b>100.00%</b>

Source: Midway share registry data as at 21 November 2024.

As announced on 14 November 2024, Midway's largest shareholders, Chebmont Pty Ltd and Gregory McCormack and associated entities have confirmed their intentions to vote in favour of the Scheme.

The Options and Rights on issue in Midway as at 21 November 2024 are outlined below:

Midway Options and Rights	No. of Options/Rights
FY23 Rights*	689,954
FY24 Rights*	1,098,310
Unlisted options expiring on 1 July 2026 with an exercise price of \$0.9339	721,436
<b>Total</b>	<b>2,635,724</b>

Source: Midway share registry data as at 21 November 2024.

\*Performance rights vest on the condition a) employee maintains continuous employment over the performance period; and b) the percentage of performance right that will vest at the end of the performance period will depend on Midway's total shareholder return ('TSR') over the performance period, relative to a comparator group of companies in the S&P/ASX300 Index.

In addition, the Company expects to issue 126,024 FY25 Rights prior to the implementation of the Scheme. As outlined in Section 4.4, the Midway Options and Right will be cash settled if the Scheme becomes effective.

## 6. Profile of River Capital, BidCo and RollCo

### 6.1 Overview of River Capital

River Capital is a privately owned investment management firm with a focus on compounding the capital of its principals, their families, and a select group of individual and family office investors. River Capital was founded in 1996 by Barry and Suzi Carp and is based in South Yarra, Victoria.

River Capital adopts a long-term investment approach and selectively invests in listed and unlisted Australian and international companies. As at the date of our Report, River Capital manages approximately \$1 billion on behalf of investors, through three main investment funds comprising:

- Founders Fund: comprising 15-20 listed equity opportunities with a focus on strong management led growth equity and investments for which management considered to be undervalued on purchase.
- Dividend Plus Fund: comprising 8 to 15 stocks with stable and defensive cash flow profiles and consequently consistent semi-annual distributions to investors.

- Strategic Investments Fund: comprising 15+ private market deals ranging from investment sizes of \$20 million to \$100 million.

## 6.2 Key Management Personnel

The key management of River Capital include:

- James Stuart Craig - Executive Chairman
- Barry Carp - Co-Founder and Managing Director
- Suzi Carp - Co-Founder and Executive Director
- Paul Samuel Cowan - Executive Director and Chief Operating Officer

## 6.3 Portfolio of Investments

River Capital is industry agnostic in its investment approach with the following known portfolio investments and sectors (sourced from S&P Capital IQ) outlined in the table below:

Portfolio Company/Investment	Primary Industry
Aspire2 Group Limited	Education Services
The Cheesecake Shop Pty Ltd	Food Retail
Pacific Current Group Limited	Asset Management

Source: S&P Capital IQ

## 6.4 BidCo and RollCo

BidCo is a special purpose company that was incorporated on 11 November 2024 for the purpose of acquiring all of the Scheme Shares under the Scheme. BidCo is an unlisted Australian proprietary company.

RollCo is an unlisted Australian public company and is the shareholder of all of the shares in BidCo. RollCo is the entity through which those Midway Shareholders who make a valid Election to receive a Scrip Consideration Option will receive their RollCo Shares.

Neither BidCo nor RollCo have undertaken any trading or business activities to date and have no assets or liabilities. Further details on BidCo and RollCo are available in Section 7 of the Scheme Booklet.

## 6.5 Intentions of BidCo and River Capital

BidCo plans to conduct a thorough review of Midway's business and operations following the implementation of the Scheme to determine the best course of action moving forward. This review will inform any future decisions regarding Midway's business operations, although BidCo currently intends to maintain the business substantially in its current form.

If the Scheme is successful, BidCo will arrange for Midway to be delisted from the ASX and removal from the ASX's official list. This transition will also involve replacing Midway's current constitution with one suitable for a proprietary company limited by shares. During this period, BidCo does not intend to redeploy any of Midway's fixed assets.

The Midway Board will be reconstituted following the implementation of the Scheme with the new directors to be determined. BidCo will also review the workforce to ensure the appropriate mix of skills and employees to support future growth opportunities. Additionally, BidCo may enter into service fee

arrangements with River Capital and River Capital may be issued performance securities based on certain conditions.

Provided the Scheme is implemented, BidCo intend to enter into arrangements with River Capital in respect of time and resources that River Capital will spend working with RollCo.

Further details of the current intentions of BidCo in relation to Midway if the Scheme is implemented are set out in Section 7.7 of the Scheme Booklet.

## 7. Economic analysis

Midway primarily operates within Australia and is therefore exposed to the risks and opportunities of the Australian market. As such, we have presented an analysis of the Australian economy to the extent that it relates to considerations for our assessment. We have also presented an analysis of the Chinese economy to the extent that Midway's major customers are Chinese and the industry in which Midway operates in is exposed to the risks and opportunities of the Chinese market.

### 7.1 Australia

At the November 2024 Monetary Policy Decision meeting, the Reserve Bank of Australia ('RBA') left the cash rate unchanged at 4.35%. Since the November 2023 meeting, the RBA has kept interest rates at the highest level since April 2022, in line with the post-COVID-19 deflationary policy. The current monetary policy is aimed at returning inflation to the RBA's target of 2-3% within a reasonable timeframe, noting that indicators such as a strengthening of the labour market and growing labour and non-labour costs pose upside risks to inflation. For the year ended September 2024, the trimmed mean consumer price index ('CPI') was 3.5%, as forecast, but still above the 2.5% midpoint of the inflation target. In line with the September 2024 Statement of Monetary Policy, the RBA's forecasts indicate that inflation will not return sustainably to the midpoint of the target until 2026.

The inflation forecast reflects resilient consumer demand, combined with the RBA's assessment that the economy is weaker than previously forecast based on less capacity to meet economic demand. In addition, indicators of household consumption and economic activity appear to be slowing with a gradual rise in the unemployment rate, which is at 4.1% in September 2024, up from the trough of 3.5% in late 2022.

Economic recovery appears to be slower than estimated headlined by disruptions to the economic position of Australia's main trading partner. In China, property woes have led to weaker consumption and commodity prices such iron ore. Public authorities in China have responded to the weak outlook for economic activity by implementing more expansionary policies, although the impact of these measures remains to be seen. In the United States, growth has been robust however there remains uncertainty about the inflation and growth outlook following the re-election of Donald Trump.

Based on the most recent data, household and public consumption led to a strengthening of domestic demand, although the net effect of import growth and softer exports have had a negative effect on gross domestic product ('GDP') growth. For the year ended June 2024, GDP growth was 1.0%, which is lower than the forecast outcome from May 2024 of 1.2%.

Since late 2022, equity prices in Australia have continued to increase, following suit from the United States equity market. The rise in equity prices has largely been driven by increased expectations of future earnings growth, most notably in the technology sector, although in the recent weeks, markets have seen significant pullbacks due to lower than expected earnings of some large technology companies and

scepticism over the convertibility of investment in artificial intelligence into earnings. More recently, global equities were significantly set back by a rise in interest rates by the Bank of Japan as the policy setters looked to support a struggling Yen, causing a sell off of both Japanese and global equities, including in Australia.

Among other major economies around the world, the rebound from the COVID-19 pandemic waned throughout 2022 which contributed to a significant slowdown in the global economy. In Australia, as in many advanced economies, persistent systemic inflation and energy prices have weighed on demand. For the remainder of 2024, it is anticipated that GDP growth in Australia's key trading partners will continue to fall below expectations.

## Outlook

The economic outlook remains highly uncertain, and according to the RBA, recent data indicates that the process of returning inflation to target is unlikely to be smooth and may take longer than previously expected. To date, medium-term inflation expectations have been consistent with the inflation target and the RBA emphasised the importance of this remaining the case. While headline inflation has declined substantially, the RBA still consider underlying inflation, which is more indicative of inflation momentum, to be too high. Services price inflation remains high, as observed overseas, but it is expected to gradually decline as domestic inflationary pressures moderate and growth in labour and non-labour costs ease.

Conditions in the labour market are expected to further ease to align broadly with full employment conditions that can be sustained over time without contributing to inflationary pressures in the coming years. Nominal wage growth is expected to remain strong in the near term and then gradually decline in line with labour market easing.

Economic growth in Australia is forecast to remain subdued as earlier interest rate hikes and inflation continue to weigh on consumption, albeit at a gradual pace. Growth is expected to gradually increase from late 2024 as inflation declines and household income pressure eases. However, the full impact of policy tightening on household consumption is uncertain and seems to be lagging behind. Household consumption is expected to experience growth to levels seen pre-pandemic by around mid-2025 supported by increases in real income growth due to tax cuts and declining inflation.

Considering that economic growth of Australia's trading partners has been slower than expected, domestic growth expectations have been pushed out. However, there remains a high level of uncertainty around the Chinese economic outlook and the implications of the conflicts in Ukraine and the Middle East, which may have significant implications for supply chains.

Source: [www.rba.gov.au](http://www.rba.gov.au) Statement by the Reserve Bank Board: Monetary Policy Decision dated 5 November 2024 and prior periods, Statement on Monetary Policy November 2024 and prior periods, Minutes of the Monetary Policy Meeting of the Reserve Bank Board 24 September 2024 and prior periods.

## 7.2 China

### Overview

After a period of unstable growth following the COVID-19 pandemic, China's economy is slowly showing signs of stabilisation. The International Monetary Fund ('IMF') projects a GDP growth of 4.8% for 2024, followed by a slight slowdown to 4.5% in 2025. This adjustment in the forecast is driven primarily by the continued challenges in the global economy, including softer external demand and weaker-than-expected growth in the property sector. The forecast also reflects the slower pace of recovery in domestic consumption and investment, as well as ongoing geopolitical uncertainties. It is prudent to note that these forecasts were made prior to the US President Elect Donald Trump announcing intentions to impose tariffs

on Chinese imports and therefore the forecast has not been adjusted to reflect the economic impact of the proposed policies

Despite these challenges, capital spending in infrastructure and manufacturing is expected to provide a buffer, while net exports could continue to drag on growth due to weaker external demand. In the long term, structural reforms, particularly in rebalancing the economy towards greater consumption, will be crucial to sustaining growth beyond 2025.

### Inflation and employment

In 2023, China's CPI increased by only 0.2%, according to the IMF. This marked the lowest growth in three years and reflected deflationary pressures, largely attributed to an oversupply of pork, which caused a significant drop in pork prices, over 30% year-on-year.

As a result of these deflationary pressures, The World Bank anticipates that inflation will gradually rise in the coming years. According to the IMF, the forecast for CPI in 2024 is 1.0%, driven primarily by the ongoing recovery in demand for services, which has been a key contributor to higher inflationary pressures. This recovery in consumer spending is expected to continue to stabilise inflation, with CPI reaching 2.0% by 2025. China's labour market has continued to improve, with unemployment rates falling to 5.1% in October 2024, from a peak of 5.6% in February 2023.

China's recovery has contributed to a decline in youth unemployment, with youth unemployment rates falling to 17.6% in September 2024, after reaching greater than 20% June 2023. This improvement follows several months of high youth unemployment, which had been exacerbated by the post-pandemic labour market challenges. Moreover, the employment gains have largely been within the low-skill services sector and consequently, have not translated proportionately to income growth. Wage growth in China for 2023 was recorded at 6.8%, with a slight increase expected for 2024, projected to reach 7%. However, both figures remain below pre-pandemic levels of above 8%.

### Currency movements

The Chinese exchange rate regime has undergone gradual reform since the move away from a fixed exchange rate in 2005. Capital outflows combined with broader strengthening of the US dollar caused a weakening of the Chinese yuan ('RMB') in 2023. Similarly in 2024, the RMB depreciated against the US dollar on a trade-weighted basis despite a large current account surplus. Around the date of our Report, the RMB has fallen by approximately 4% to 5% against the US dollar from the highs earlier in the year, reflecting broader global economic trends, including the tightening US monetary policy and global investor sentiment towards the dollar. The weaker RMB will aid Chinese exporters amid soft global demand.

### Outlook

Following the election of Donald Trump to President Elect and the Republican Party holding majority of the House in early November 2024, the RMB fell to the weakest level against the US dollar in nearly four months. Currency markets devalued the RMB based on the prospective policies of the Republican Party which include the proposal for heightened trade tensions between the US and China, in addition to a 10% tariff on Chinese goods. During Donald Trump's first term, the RMB weakened approximately 5% following initial tariffs imposed by the US in 2018 and a further 1.8% due to a fracturing of trade relations.

Domestically, China's economic outlook faces a number of significant challenges headlined by diminishing returns on investments and raising debt burdens placing widespread strain. Based on the most recent IMF forecasts, China's GDP growth is expected to reach 4.8% in 2024, followed by a modest decline to 4.5% in 2025. Total non-financial sector debt is anticipated to reach a record 344% of GDP for 2024, constraining

investment-led growth and signalling structural vulnerabilities. Additionally, slower per capita growth, geopolitical tensions and supply chain fragmentations are curtailing China's access to critical technologies and dampening export demand.

Source: International Monetary Fund, Reuters, The World Bank and BDO analysis.

## 8. Industry analysis

Midway's operations comprise its Woodfibre and PCM businesses. Therefore, we have presented an industry analysis on the relevant sectors in which the Company operates, to the extent that it relates to considerations for our assessment.

### 8.1 Woodfibre

The woodfibre industry in Australia derives its products, more commonly known as woodchips, from hardwood and softwood plantations and regrowth hardwood forests. Plantation hardwood woodchips in Australia are mainly sourced from eucalyptus globulus and nitens due to the high-quality pulp that is produced. Softwood woodchips are derived primarily from radiata pine and Caribbean pine, and are used to produce newsprint, tissue, and cardboard. Hardwood regrowth native woodchips are sourced from man-made native forests, although there has been a shift in its importance within the woodfibre industry due to environmental scrutiny and regulation, which has led to a reduction in its proportion of overall supply.

The woodfibre industry in Australia is heavily export-dominated, with consumption led by China and Japan, and a small portion of woodchips consumed domestically. Based on data from IBISWorld, the majority of Australian woodfibre industry's revenue comes from exporting, with China consuming the largest portion due to its growing pulp and paper manufacturing sector, which relies heavily on imported woodchips.

The woodfibre industry experiences demand correlation with the health of the overall global paper market, which is in turn influenced by global economic factors. Chinese domestic and export trade, being the largest consumer of imported woodchips, plays a critical role in influencing demand. Increased competition from lower-cost producing regions such as Vietnam and Thailand over the past 15 years has led to a reduction in woodchip demand from Australia. Woodfibre demand is heavily influenced by the underlying prices and trade volumes of pulp and paper.

Leading up to 2019, the export woodfibre industry steadily increased overall volumes due to growing import demand from China, leading to production and capacity growth. During 2020, due to the COVID-19 pandemic, industry volumes fell by over 10%. The decline was attributed to lockdown measures in major import countries leading to economic slowdown, a general decline in global demand for non-staple end products, and global supply chain disruptions. From 2021 through to 2023, the international woodfibre industry rebounded to above pre-COVID levels.

#### Outlook

Over the next five years, based on information from IBISWorld, the Australian woodfibre industry is expected to grow at an annualised rate of 1.9%, bringing its total value to approximately \$2 billion by the end of 2029.

Projected growth is expected to be underpinned by continued expansion in Chinese and Indonesian pulp and paper industry. A more favourable pricing environment might be seen due to the higher demand. However, competition from low-cost producers like Vietnam may continue to exert downward pressure



on prices, particularly in the commodity-grade woodchip market. In addition, as these forecasts were prepared prior to US President Elect Donald Trump's election win, the impact that proposed US tariffs on Chinese imports may have on the forward-looking growth of the woodfibre industry and the wider pulp and paper industry is yet to be quantified.

## 8.2 Plantation and Carbon Management

### History

The Australian softwood plantation resource was largely established in the 20-year period from the 1960s through to the end of the 1980s. This early expansion was driven by Federal Government initiatives and State Government support in place at the time aimed at expanding the nation's softwood estate. Most of the new plantations were established in Victoria, New South Wales and Queensland.

In the 1990's, the rate of expansion of the PCM industry declined, with greenfield establishments declining steadily since the 2000's. More recently, there has been minimal new softwood plantations established over the last 10 years.

Australia's hardwood plantation estate expanded rapidly from the mid-1990s. This expansion was supported by the easing of wood chip export regulations and the rise in Managed Investment Schemes ('MIS'), both of which increased the attractiveness of hardwood plantation investment in short rotation pulpwood crops. Hardwood plantations were being mainly established in Tasmania, Victoria and Western Australia, although the collapse of several MIS companies from 2008 saw hardwood establishment rates decline as rapidly as they had risen. Some areas of hardwood plantation have since been reverted back to agricultural land uses, reflective of assessed higher and better use in agricultural pursuits. Over the last 10 years, hardwood greenfield plantation establishments have mirrored that of softwood plantations.

### Plantation management

The plantation management industry in Australia can generally be divided into two key sectors based on species grown and products produced, being short rotation hardwood plantations, which have an approximate rotation of 10 to 12 years, used for pulp and paper products, and long rotation softwood species, with an approximate rotation of 25 to 30 years, used for housing and structural applications. With the restriction and therefore decline in native forest harvesting throughout Australia, there is also an emerging need for the establishment and management of 25 to 40 year long rotation hardwood plantations to produce dense, durable wood that suits a variety of high-strength applications such as appearance grade timber and flooring.

Plantation management involves a range of specialised services aimed at optimising the growth and quality of timber as well as economic returns. These services are crucial in the early stages of establishing a plantation, helping investors and landowners make informed decisions about which species to plant based on local conditions and market demands. Throughout the lifecycle of the plantation, management companies monitor tree health, implement pest control measures, and for longer rotations carry out pruning and thinning to ensure optimal growth and timber characteristics.

Sustainable forestry techniques are closely linked to certification standards like the Forest Stewardship Council ('FSC') and the Programme for the Endorsement of Forest Certification ('PEFC'), increasingly sought after by both international and domestic markets.

## Carbon management

The increasing importance of carbon sequestration from plantations through the recognition of plantation forestry within the Emissions Reduction Fund ('ERF'), and the rejuvenated policy settings for emissions reduction have had a profound impact on expected returns and therefore tree crop investment decision making. Understanding carbon management is increasingly becoming as important as understanding forestry stand management for plantation managers across Australia. Many companies now have dedicated carbon management resources working within or alongside their forest management teams.

In 2016 the Safeguard Mechanism was introduced by the Australian Government as part of its policy to reduce emissions from Australia's industrial facilities emitting in excess of 100,000 tonnes of carbon dioxide equivalent ('tCO<sub>2</sub>-e') per year. In 2023 the Safeguard Mechanism was reformed so the emissions baselines for each facility decreases by 4.9% each year until 2030. Beyond 2030 an indicative annual decline rate has been set at 3.2% from 2030-31 to 2049-50. These will be formally set in five-year blocks with decline rates for 2030-31 to 2034-35 set by 1 July 2027. This process will continue to achieve the policy goal of net zero emissions by 2050.

If a facility exceeds its baseline, it can purchase and surrender ACCUs or Safeguard Mechanism Credits ('SMC's) to offset their excess emissions. Conversely, facilities that reduce emissions below their baseline can earn SMCs, which can be sold to other facilities that need to offset their emissions.

The ACCU Scheme, formerly known as the ERF, is the market mechanism used by the Australian Government to reduce national carbon emissions. Participants with registered projects can claim ACCUs in the crediting period determined for the project based on various carbon abatement Methods approved by the CER.

Participants with registered projects can apply to claim carbon credit units in the crediting period determined for the project. The participants need to prepare and submit reports in defined reporting periods during the project where they estimate and report the abatement achieved. ACCU's can only be issued to a project once a report is received and assessed. Each ACCU issued represents tCO<sub>2</sub>-e stored or avoided by a project.

ACCUs can either be sold via the ERF auction process, directly into the spot market or via a negotiated settlement with counterparty in a bi-lateral sale. Spot market or bi-lateral trades reflect increasing interest of corporates seeking to report carbon offsets, often for either meeting corporate targets or as part of meeting carbon emissions targets set by regulators. On 29 July 2024, the ASX launched its Environmental Futures Exchange. It offers futures contracts for ACCUs, large-scale generation certificates and New Zealand emission units. This provides a new pathway for market participants to secure long-term supply in line with their corporate goals and compliance obligations, albeit still in relatively early stages of development.

ACCU projects are subject to permanence obligations, which means they must be maintained for a nominated period of either 25 or 100 years post the reporting period which affects the amount of ACCUs issued for the specific project.

Timber plantations maybe eligible to participate in the scheme under certain circumstances. There are currently four pathways to register a plantation under the ERF, with the potential to generate ACCUs, which are as follows:

- Schedule 1 - The establishment of new plantations on cleared agricultural land
- Schedule 2 - The conversion of short rotation plantations to long rotation plantations
- Schedule 3 - Continuing plantation activities in lieu of conversion to cleared land

- Schedule 4 - The creation of a permanent (non-harvest) forest

Eligibility under the four pathways is dependent upon several criteria that endeavour to ensure projects genuinely add to Australia's carbon pool and would not have occurred in the carrying out of normal forestry activities. The requirement for projects to be new specifies that project must not have commenced prior to registration with the CER. Critically for new plantation investments under the Schedule 1 pathway, this means that proponents must be able to demonstrate that investment is contingent on successful registration within the ERF.

Similarly for plantation projects under the Schedule 2 pathway, the conversion of plantations from a short-rotation (typically hardwood plantation) to a long-rotation regime must be able to demonstrate existing and prior management practice based on a pulp log regime and that the site is suited to growing softwoods, that will be subject to a long-rotation management regime of thinning, pruning and longer establishment and harvest cycle.

To achieve registration under Schedule 3, the project must be able to demonstrate that the land will not be replanted to plantation following harvesting of the existing crop due to the high cost of land, or a better financial opportunity being practically available to convert the land to agricultural enterprises. The Schedule 3 approach is relatively new, being passed in 2021. It relies on a proponent being able to prove a counter-factual case - that is if a plantation is not eligible to generate and monetise carbon credits the land will revert to cleared agricultural land. The CER has provided guidance on how this assessment maybe presented by proponents. However given this Schedule is in early days of administration, there is a degree of uncertainty in terms of how the CER, who administer the scheme, will apply evidentiary thresholds to project proposals.

### Outlook

The outlook for Australia's PCM industry is positive, as demand for sustainably sourced timber continues to grow. The construction sector, particularly residential building, is expected to be a key driver of this demand, with timber increasingly preferred over materials like steel and concrete due to its environmental advantages. In 2024-25, industry revenue is expected to reach \$4.0 billion, with future growth anticipated as timber finds more uses in construction and furniture manufacturing. With Plantation Management being a constituent of the wider Forestry industry, annualised growth of approximately 1.5% is expected through to 2030.

Ongoing Federal Government support for plantation establishment, including grants and financial incentives, is likely to stimulate further investment, although challenges remain around land availability and securing investor confidence. As native forest logging faces tighter restrictions, plantation timber will become even more central in meeting Australia's timber needs, especially in softwood, which offers quicker returns and greater flexibility in response to market fluctuations. Despite these encouraging trends, the industry continues to face risks from climate variability, with extreme weather events consistently threatening plantation health and productivity. This has led to many plantation managers to consider species diversification and invest in drought-tolerant and fire-resistant tree varieties.

Source: IBIS World, CER, Department of Climate Change, Energy, the Environment and Water, BDO Analysis.

## 9. Valuation approach adopted

There are a number of methodologies which can be used to value a business or the shares in a company. The principal methodologies which can be used are as follows:

- Capitalisation of future maintainable earnings ('FME')
- Discounted cash flow ('DCF')
- Quoted market price basis ('QMP')
- Net asset value ('NAV')
- Market based assessment

A summary of each of these methodologies is outlined in Appendix 2 of our Report.

Different methodologies are appropriate in valuing particular companies, based on the individual circumstances of that company and available information.

### 9.1 Valuation of a Midway share prior to the Scheme

In our assessment of the value of a Midway share prior to the Scheme, we have chosen to employ the following methodologies:

- FME methodology based on the Company's EBITDA, with the application of a capitalisation multiple derived from comparable listed companies and comparable transactions. The value derived from the comparable listed company trading multiples reflects a minority interest value, whereas the comparable transaction multiples pertain to control transactions (greater than 20%) and therefore represent multiples on a controlling interest basis. We applied a control premium adjustment to the enterprise value ('EV') of Midway assessed using the trading multiples approach in order to assess the value of Midway on a control basis.
- QMP methodology, which represents the value that a Shareholder may receive for a Midway share if it were sold on market prior to the announcement of the Scheme. The value derived from this methodology reflects a minority interest value, therefore a control premium adjustment is applied to this value.
- NAV methodology based on Midway's assets and liabilities as at 30 June 2024, adjusted for material movements in the net asset position of Midway to 31 October 2024, which is the latest date for which management accounts were available.

We have chosen these methodologies for the following reasons:

- The FME methodology is most commonly applicable to profitable businesses with steady growth histories and forecasts, regular capital expenditure requirements and non-finite lives. This methodology places a value on the Company by estimating the likely FME and capitalising the FME at an appropriate rate which reflects business outlook, business risk, investor expectations, future growth prospects and other entity specific factors.
- We have adopted the FME methodology to value the Company on a group level, as we note the consolidated entity to have a history of positive EBITDA, albeit subject to volatility, which allows for the capitalisation multiple to be applied. In adopting the FME methodology, we have adopted the EV to EBITDA multiple, derived from comparable companies and transactions, which have been adjusted for various factors. The FME methodology using the EV/EBITDA multiple derives the EV of Midway. We have then made the necessary adjustments required to convert the total EV into an

equity value. Although Midway has two main segments that are reported on, Woodfibre and PCM, these operations are significantly related with significant adjustments required to view them on a standalone basis. We have determined that it is more appropriate to value the Company as a whole reflecting the nature of the operations. The PCM segment aids with generating logs from its plantations under management, which are processed by Woodfibre, illustrating Midway's end-to-end management and export capabilities, which are part of its business model. Further PCM lacks a standalone earnings history of profitability, we are of the view that the market would value Midway as a consolidated entity as if the PCM business was separated from the Woodfibre business would need to replicate a number of activities undertaken by PCM that would reduce EBITDA, the separation of PCM would involve making a number of assumptions for which we would not have a reasonable basis.

- We have used the QMP methodology because the shares of Midway are listed on the ASX, therefore reflecting the value a shareholder will receive for a share sold on the market. This implies that there is a regulated and observable market for Midway shares being traded. However, for the QMP methodology to be considered appropriate as a primary methodology, the shares should be liquid, and the market should be fully informed of the Company's activities. As discussed in Section 10.2, we do not consider the trading in Midway shares to be liquid. Consequently, we have used the QMP approach only as a cross check to our primary valuation methodology, being the FME methodology.
- We consider the NAV methodology to be a relevant methodology to adopt as Midway holds a significant value of net assets (\$146 million as at 30 June 2024). These assets and liabilities largely comprise PP&E, cash and cash equivalents, inventory and other investments. However, as NAV typically represents a floor value for businesses with stable earnings, we have used it as a tertiary cross check.
- We considered using a DCF valuation approach for valuing Midway shares pre Scheme, particularly for the Company's PCM business for ACCU generation. We note the carbon management projects are less than 12 months old and are yet to commence generating positive cash flows. Future cash flows face risks such as ACCU pricing, regulatory changes, contract risk, and agricultural risk, and for some of these assumptions we do not have a reasonable basis under RG 170 'Prospective Financial Information'. As such, we considered there to be insufficient reasonable grounds to rely on a DCF valuation approach for the valuation of Midway with regard to its PCM business segment and hence determined an FME methodology more appropriate for valuing Midway's stable Woodfibre business.

## 9.2 Valuation of the Cash and Scrip Consideration

We have assessed the value of the Cash and Scrip Consideration offered under the Scheme, using the following methodologies:

- The value of the Cash Consideration is valued at \$1.19, inclusive of the payment of the Special Dividend but excluding the value of any franking credits that the individual Midway Shareholder may be eligible to receive
- The value of the Scrip Consideration relates to the value of a share in RollCo, which we considered to be approximated by the value of Midway on a minority interest basis under our FME methodology discussed in Section 9.1 above with additional adjustments for:
  - An increased level of sustainable EBITDA driven by a lower corporate overhead cost base associated with the Company no longer being listed on the ASX
  - Discount for reduced marketability due to lower liquidity after ASX delisting.

## 10. Valuation of a Midway share prior to the Scheme

### 10.1 Future maintainable earnings value

When performing an FME valuation we must determine what the future maintainable earnings of Midway are and then determine an appropriate capitalisation multiple to apply to these earnings.

In calculating future maintainable earnings, the figure selected should represent what is presently sustainable. Any anticipated growth in earnings is factored in via the capitalisation rate. We have reviewed the unadjusted financial information based on the audited financial statements of Midway for FY22, FY23, and FY24 as a basis for our FME assessment.

We have also considered the Company's forecast income statement for the year FY25 ('FY25F'), which was provided to us and is based on the FY25 Budget prepared by Management and approved by the Midway Board. The FY25F forecast incorporates the unaudited management accounts for the period from 1 July 2024 to 31 October 2024, being the latest date for which management accounts were available. It is noted that the FY25F income statement is not publicly disclosed; therefore, we have not included it in our Report and have relied on it only to the extent that it informs our assessment of future maintainable earnings and its alignment with Management's views.

We made adjustments to the historical earnings of Midway for the following items to assess the normalised earnings for Midway:

- Non-recurring or one-off items such as profit on sale of assets
- Non-operating revenues and expenses
- Unrecorded items
- Abnormal or non-commercial transactions.

#### 10.1.1. Normalised earnings

The objective of normalising earnings is to determine the underlying profitability expected to be maintained by Midway. Our adjustments are limited to those adjustments identified through a review of the detailed financial statements and discussions with Management.

Our normalisation adjustments are set out below:

\$ 000's		FY22	FY23	FY24
Reported EBITDA (continuing operations)		7,098	6,546	12,297
Normalisation adjustments				
Net fair value movement of biological assets	A	(6,490)	(151)	937
Insurance (fire)	B	-	(93)	-
Profit/loss on sale of assets	C	(1,943)	(12,465)	-
Impairment loss on assets	D	98	8,192	127
Transaction costs incurred	E	2,326	829	805
<b>Normalised EBITDA</b>		<b>1,089</b>	<b>2,858</b>	<b>14,166</b>

Source: BDO analysis

The following normalisation adjustments were made to EBITDA for Midway. We consider EBITDA to be an appropriate measure of profitability to compare against competitors in the market as it reflects operating earnings before the influence of the capital expenditure profile and funding of the business. This is important for businesses in the woodfibre and plantation management industries where capital asset

expenditure and profile can vary significantly. Further, it removes the impact of different accounting policies relating to depreciation and leasing.

### Reported EBITDA

For the historical financial period from FY22 to FY24, we considered the reported EBITDA figures of Midway as outlined in Section 5.7. We note that this reported EBITDA does not include the discontinued operations of Midway logistics, which was separated in the statement of profit or loss and other comprehensive income.

#### a) Net fair value movement of biological assets

As outlined in Section 5.6, the Company's biological assets are held at fair value with the net increases or decreases in fair value recognised in the statement of profit or loss and other comprehensive income. We considered it reasonable to apply a normalisation adjustment to historical EBITDA for the deduction of these fair value movements. This on the basis that they are non-operational in nature.

#### b) Insurance (fire)

In FY23, Midway received \$93k in insurance proceeds in connection with a fire at one of its plantation. We considered it reasonable to apply a normalisation adjustment to EBITDA for the deduction of these proceeds on the basis that these proceeds are one-off in nature.

#### c) Profit/loss on sale of assets

In FY22 and FY23, the Company recorded profit on the sale of its land assets primarily relating to the sale of Wandong and Kerrisdale in FY22 and the Plantation Estate Sale to MEAG in FY23. We considered it reasonable to apply a normalisation adjustment to historical EBITDA for the deduction of these profit/losses. This on the basis that they are one-off in nature.

#### d) Impairment loss on assets

In FY23, the Company recorded an \$8.2 million impairment loss comprising \$7.8 million in bad debts expenses and \$0.4 million in a write down on inventories. Similarly, in FY22 and FY24, the Company recorded impairment losses of \$98k and \$127k, respectively. We considered it reasonable to apply a normalisation adjustment to historical EBITDA for the addback of these impairment expenses. This on the basis that they are one-off in nature.

#### e) Transaction costs incurred

Over the historical period, the Company has incurred a significant level of transaction costs relating for key developments such as the Wandong property sale, the CHSB Asset Sale, the Plantation Asset Sale, the Midway logistics exit and currently the Scheme. We considered it reasonable to apply a normalisation adjustment for these transaction costs on the basis they are non-operational and non-recurring in nature.

### 10.1.2. Calculating future maintainable earnings

In calculating future maintainable earnings, we have considered the historical levels of normalised earnings to determine an estimated future maintainable earnings position for Midway. The purpose of this is to derive a sustainable level of profitability that we consider to be achievable in the future.

In determining our assessed range of future maintainable earnings, we considered the following:

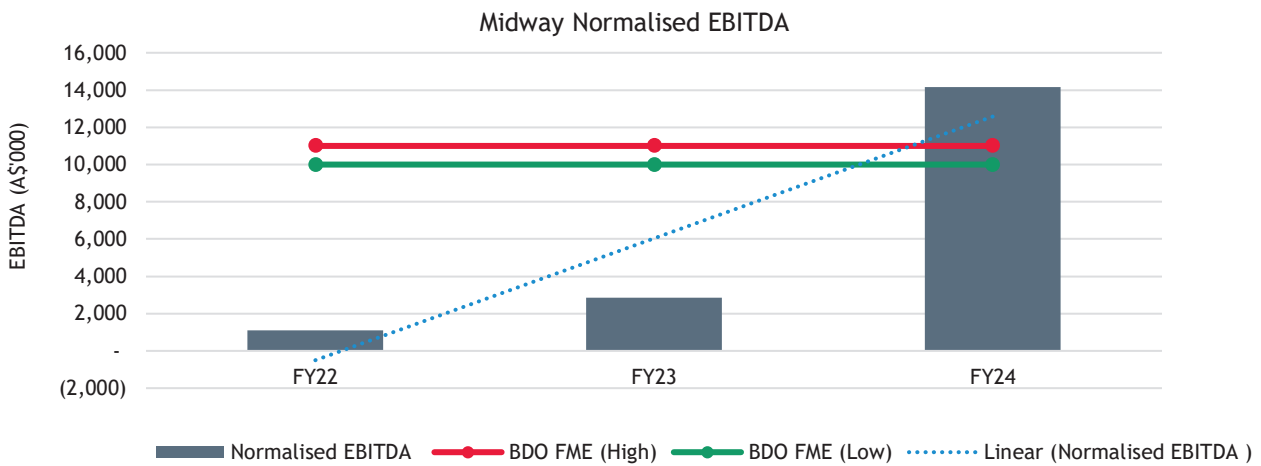
- EBITDA in FY22 was adversely impacted by trade restrictions in China due to COVID-19, post-COVID supply chain disruptions, and rising fuel and labour costs. With FY22 sales prices set in the previous year, the Company faced reduced margins and export volumes as it was unable to pass on these increased costs to customers.
- FY23 EBITDA was impacted by a decrease in revenue performance despite high export volumes. Total export volumes were 1.99 million GMT in FY23, slightly higher than FY22 and FY24. However, sales revenue fell to \$187.5 million, down from \$193.6 million in FY22 and \$273.5 million in FY24 due to a 19% reduction in hardwood woodchip demand in China. The slowdown in China's construction industry and a shift to domestic woodchip production further contributed to this drop. A recovery was observed in FY24, bolstered by new and upgraded mill capacity in China and Indonesia.
- FY24 saw an increase in EBITDA margin due to improved revenue performance and cost management. Although export volumes were 4% lower than FY23, sales revenue rose by 46%, driven by a recovery in woodchip prices. Pulp prices, correlated to woodchip prices, were significantly higher in FY24 compared to FY23. The Company secured elevated prices for Eucalyptus Globulus for the first half of 2025, expecting continued demand recovery from 2023 to 2028, with a forecasted supply-demand deficit for woodchips.
- FY24 EBITDA margin also benefited from the reconfiguration of the MW Geelong site, leading to reduced material and procurement expenses relative to income. These expenses totalled 67% of sales revenue in FY24, down from 73% in FY23. This redevelopment enables strategic purchases and a diversified product suite, supporting future margin performance.

Given these factors, greater weight is placed on FY24 EBITDA to derive a sustainable earnings level for Midway. We have reduced reliance on FY22 and FY23 performance due to the unique supply and demand shocks and cost pressures during those years, however, we consider their inclusion in our assessment to still be appropriate to reflect the volatility of Midway's earnings to industry and market conditions over the longer term.

As discussed above, we have also considered the Company's budget for FY25 to the extent that it informs our assessment of future maintainable earnings and its alignment with Management's views. This includes consideration for the Company's announcement on 13 December 2024 relating to Chenming's default on its woodchip supply contracts, as detailed in Section 5.5 of our Report. We note Management expects the Chenming development to result in FY25 earnings being at the lower end of the \$10 million to \$15 million EBITDA range (normalised). Furthermore, Management expects a slight erosion in revenue performance in the second half of FY25F due to a decrease in Eucalyptus Globulus export prices.



Therefore, we estimate future maintainable earnings (EBITDA) to range between \$10.0 million and \$11.0 million. This conclusion is illustrated graphically below:



Source: BDO analysis

### 10.1.3. Calculation and application of an earnings multiple

#### Trading multiples

We selected a group of publicly listed companies deemed similar to Midway, based on their operations and exposure to comparable end-user markets and risks. Due to the limited number of such comparable companies listed on the ASX, we expanded our selection to include internationally listed companies primarily operating in the paper and forest products industry, located in Japan, Canada, and other countries. Given the specialised nature of Midway’s operations, we acknowledge that the identified ‘most comparable companies’ are not identical. Majority of the comparable companies are involved in the production of pulp and paper products, which are further down the supply chain compared to Midway’s operations. This is attributed to the woodfibre production and export industry largely comprising smaller, unlisted players. However, we consider that the companies identified are reasonably comparable to Midway and are therefore suitable for deriving an earnings multiple.

The value derived from the comparable listed company trading multiples reflects a minority interest value, whereas the comparable transaction multiples pertain to control transactions (greater than 50%) and therefore represent multiples on a controlling interest basis. The comparable companies are detailed in Appendix 3. Additionally, we considered earnings multiples from recent transactions involving comparable business sales, as detailed in Appendix 4.

In determining an appropriate earnings multiple to apply to Midway, the following factors were considered:

- economic factors (e.g. economic growth, inflation, interest rates) affecting the market in which Midway operates
- strategic attractions of Midway - its particular strengths and weaknesses, market position, strength of competition and barriers to entry
- relationship with and dependence on key clients
- stability and quality of earnings

- the asset backing of the underlying business
- dependence on suppliers, customers and key personnel
- the future prospects for the operations of Midway
- the structural and regulatory framework
- share market conditions.

We reviewed the resultant multiples (observable for publicly listed companies) and adjusted these for variations in the factors above between Midway and the comparable companies.

For the identified comparable companies, we have also obtained next twelve month ('NTM') earnings estimates (based on consensus estimates in S&P Capital IQ), if available, to assess forward earnings data. This is in addition to historical last twelve month ('LTM') EBITDA, which is based on the most recent audited/reviewed financial information. We have confirmed that LTM and NTM EBITDA are presented with the inclusion of the impact of AASB 16: Leases ('AASB 16') and are therefore appropriate to be applied to our assessed FME, which also incorporates the impact of AASB 16.

The table below sets out the earnings multiples of the comparable companies and also sets out the average earnings multiples.

Exchange ticker	Company name	Country	Market Cap 31-Oct-24 (\$m)	EV as at 31-Oct-24 (\$m)	Hist. EBITDA LTM (\$m)	Forec. EBITDA NTM (\$m)	Historical multiple EV/EBITDA	Forecast multiple EV/EBITDA
TSX:WFG	West Fraser Timber Co. Ltd.	Canada	11,039	10,355	867	1,357	11.9	7.6
TSE:3861	Oji Holdings Corporation	Japan	5,598	13,923	1,576	1,897	8.8	7.3
ENXTLS:NVG	The Navigator Company, S.A.	Portugal	4,162	5,415	878	987	6.2	5.5
TSE:3865	Hokuetsu Corporation	Japan	2,577	3,414	257	316	13.3*	10.8
JSE:SAP	Sappi Limited	South Africa	2,467	4,580	663	1,186	6.9	3.9
TSX:CFP	Canfor Corporation	Canada	2,151	2,767	(298)	226	N/A	12.2
BME:ENC	ENCE Energía y Celulosa, S.A.	Spain	1,154	1,691	271	302	6.2	5.6
NYSE:RYAM	Rayonier Advanced Materials Inc.	United States	800	1,863	310	332	6.0	5.6
NasdaqGS:MERC	Mercer International Inc.	Canada	664	2,764	181	413	15.2*	6.7
KLSE:TAANN	Ta Ann Holdings Berhad	Malaysia	656	618	120	129	5.2	4.8
TSX:ADN	Acadian Timber Corp.	Canada	356	458	27	27	17.0*	16.7
TSE:3864	Mitsubishi Paper Mills Limited	Japan	215	976	113	-	8.6	N/A
TSE:3877	Chuetsu Pulp & Paper Co., Ltd.	Japan	161	480	122	-	3.9	N/A
TSX:CFX	Canfor Pulp Products Inc.	Canada	70	147	35	56	4.2	2.6
	<b>Mean</b>		<b>2,291</b>	<b>3,532</b>	<b>366</b>	<b>516</b>	<b>8.7</b>	<b>7.5</b>
	<b>Median</b>		<b>977</b>	<b>2,314</b>	<b>219</b>	<b>309</b>	<b>6.9</b>	<b>6.2</b>
	<b>Mean (excl. outliers)</b>		<b>2,588</b>	<b>3,892</b>	<b>423</b>	<b>588</b>	<b>6.8</b>	<b>6.1</b>
	<b>Median (excl. outliers)</b>		<b>1,154</b>	<b>1,863</b>	<b>271</b>	<b>302</b>	<b>6.2</b>	<b>5.6</b>

Source: Capital IQ and BDO analysis

\*Historical EV/EBITDA multiples considered to be observable outliers.

The observed LTM EV/EBITDA multiples range from 3.9x to 17.0x, with a mean of 8.7x and a median of 6.9x. We consider the trading multiples of Hoketsu Corporation, Mercer International Inc., and Acadian

Timber Corp to be outliers, particularly in respect of the level of gearing with respect to Mercer and Acadian's enterprise value predominately comprises of standing timber. Excluding these outliers, the revised mean and median LTM EV/EBITDA multiples are 6.8x and 6.2x, respectively.

NTM EV/EBITDA multiples, which reflect forward earnings, show a mean of 6.1x and a median of 5.6x, excluding outliers. NTM multiples are generally lower than LTM multiples across the companies in the dataset. Given that our FME range is based on historical performance and Management forecasts, we considered it appropriate to factor in both NTM and LTM EV/EBITDA multiples in our assessed multiple range.

We identified ENCE Energia y Celulosa S.A. ('**ENCE Energia**') and The Navigator Company S.A. ('**Navigator**') as the most comparable to Midway. Despite their diversification, both companies engage in the production and sale of eucalyptus hardwood kraft pulp. ENCE Energia also provides forest land management services and generates carbon credits through its energy division. The LTM EV/EBITDA multiples for ENCE Energia and Navigator were both 6.2x, while their NTM multiples were 5.6x and 5.5x, respectively. This suggests an EBITDA multiple range of 5.5x to 6.2x for the most comparable companies, which is supported by the mean and median multiples of the wider dataset, excluding outliers.

To determine an appropriate EV/EBITDA multiple range for Midway, we accounted for the size disparity between Midway and the comparable companies, especially focusing on ENCE Energia and Navigator. Smaller companies typically attract a valuation discount compared to larger entities due to higher business risk concentration.

Midway has a relatively small market capitalisation (\$70 million as at 31 October 2024) and EV compared to the comparable companies in our analysis. Therefore, we have determined an EBITDA multiple range of 4.00x to 4.75x for Midway on a minority interest basis. The range implies a size discount of 23% to 27% from the multiple range of 5.5x to 6.2x associated with ENCE Energia and Navigator which we do not deem to be unreasonable considering their significantly higher market capitalisation of c. \$1.2 billion and \$4.2 billion, respectively.

### Transaction multiples (cross-check)

As a cross-check to our assessed EV/EBITDA multiple, we have also considered completed transactions where we consider the target to be broadly comparable with Midway. The identified comparable transactions and implied EV/EBITDA multiple are outlined in the table below.

Transaction close date	Target	Acquirer	% acquired	EV (\$m)	EBITDA (\$m)	Implied EV/EBITDA multiple
17/05/2024	Timber Technologies, LLC	Star Equity Holdings, Inc.	100%	36.1	8.2	4.4
23/06/2021	Cali Bamboo, LLC	Victoria PLC	100%	137.0	18.2	7.5
29/03/2021	Timberwood Panels Pty Ltd	Big River Group Pty Ltd	100%	30.3	6.0	5.1
18/09/2015	REA Vipingo Plantations Limited	R.E.A. Trading Limited	79%	52.1	13.3	3.9
06/11/2013	Kadant Canada Corp.	Kadant AES Canada, Inc.	100%	54.8	7.1	7.7
					Mean	5.7
					Median	5.1

Source: S&P Capital IQ and BDO analysis

Given the above transaction multiples represent multiples paid to obtain control, we expect them to be higher than our assessed multiple on a minority interest basis. Therefore, we consider the transaction multiples to broadly support our assessed EV/EBITDA multiples for Midway on a minority interest basis.

#### 10.1.4. Enterprise value of Midway on a minority interest basis

The application of our assessed multiple to our future maintainable earnings is summarised in the table below:

Enterprise value of Midway	Low	High
Future maintainable earnings (\$m)	10.0	11.0
Assessed EBITDA multiple	4.00x	4.75x
<b>Enterprise value of Midway (minority interest) (\$m)</b>	<b>40.0</b>	<b>52.3</b>

Source: BDO analysis

We note the value above assesses the EV of Midway on a minority interest basis. Therefore, we have applied a control premium to the value above to derive the EV of Midway on a controlling interest basis. Our assessment of an appropriate control premium is outlined in Section 10.1.5.

#### 10.1.5. Control premium

We have reviewed the control premiums on completed transactions, paid by acquirers of ASX-listed companies over the 10-year period from October 2014 to October 2024. In assessing the appropriate sample of transactions from which to determine an appropriate control premium, we have excluded transactions where an acquirer obtained a controlling interest (20% and above) at a discount (i.e., less than a 0% premium) and at a premium in excess of 100%. We have removed these transactions because we consider it likely that the acquirer in these transactions would be paying for special value and/or synergies in excess of the standard premium for control. Whereas the purpose of this analysis is to assess the premium that is likely to be paid for control, not specific value to the acquirer.

We have summarised our findings below:

Year	Number of Transactions	Average Deal Value (\$m)	Average Control Premium (%)
2024	39	1,037	28.28
2023	35	421	27.41
2022	39	3,199	23.39
2021	28	1,095	35.17
2020	16	368	40.43
2019	29	4,166	32.83
2018	26	1,572	30.07
2017	24	1,169	36.75
2016	28	490	38.53
2015	28	948	33.53
2014	35	395	38.31

Source: Bloomberg and BDO analysis

The mean and median of the entire data sets comprising control transactions for ASX-listed companies are set out below:

Entire Data Set Metrics	Average Deal Value (\$m)	Average Control Premium (%)
Mean	1,396.90	32.36
Median	134.96	28.21

Source: Bloomberg and BDO analysis

In arriving at an appropriate control premium to apply, we note that observed control premiums can vary due to the:

- Nature and magnitude of non-operating assets
- Nature and magnitude of discretionary expenses
- Perceived quality of existing management
- Nature and magnitude of business opportunities not currently being exploited
- Ability to integrate the acquiree into the acquirer's business
- Level of pre-announcement speculation of the transaction
- Level of liquidity in the trade of the acquiree's securities.

The table above indicates that the long-term average control premium by acquirers of ASX-listed companies is approximately 32.36%. However, in assessing the transactions included in the table above, we noted that control premiums appeared to be positively skewed.

In population where the data is skewed, the median often represents a superior measure of central tendency compared to the mean. We note that the median announced control premium over the assessed period was approximately 28.21% for ASX-listed companies.

Based on the above, we consider an appropriate premium for control to be between 25% and 30%.

#### 10.1.6. Enterprise value of Midway on a controlling interest basis

The application of the control premium to the enterprise value of Midway on a minority interest basis is summarised in the table below:

Enterprise value of Midway	Low	High
Enterprise value of Midway (minority interest) (\$m)	40.0	52.3
Control premium	25%	30%
<b>Enterprise value of Midway (controlling interest) (\$m)</b>	<b>50.0</b>	<b>67.9</b>

Source: BDO analysis

Based on the enterprise value of Midway on a controlling interest basis ranging between \$50.0 million and \$67.9 million, and our assessed FME of \$10.0 million and \$11.0 million (in Section 10.1.2), the implied EV/EBITDA multiple on a controlling basis ranges between 5.0 times to 6.2 times, which we note is supported by our transaction multiples cross check in Section 10.1.3.

#### 10.1.7. Equity value of Midway on a controlling interest basis

We have converted the EV of Midway to an equity value by applying the following adjustments:

##### a) Add cash and cash equivalents

We have added the latest cash and cash equivalents balance of Midway, which has been sourced from management accounts as at 31 October 2024 (detailed further in Section 10.3). We have obtained bank statements to verify the cash balance of \$39.7 million as at 31 October 2024 in order to establish reasonable grounds for reliance on the unaudited financial information.

Additionally, we have also deducted the cash and cash equivalents allocated for transaction costs related to the Scheme, regardless of whether the Scheme proceeds. As outlined in Section 1.6(d) of the Scheme Booklet, these costs amount to \$0.9 million.

We note that we have not deducted the cash and cash equivalents balance for the \$3.2 million to be paid in connection with the settlement of Midway Options and Rights (see Section 4.4 for further details). This is on the basis that the cash settlement for the Midway Options and Rights is only subject to the Scheme becoming effective, whereas we are assessing the value of a Midway share prior to the Scheme. However, we have considered the potential dilutive impact from the exercise of the Midway Options and Rights in our equity valuation assessment.

We also note we have not reflected the cash inflow from the settlement of the CHSB Asset Sale, which settled on 13 November 2024. This is due to 31 October 2024 being the latest balance date for which Management accounts are available, which we have verified based on Company bank statements. However, we note we have been able to reflect the settlement value of the CHSB Asset Sale by adding back the CHSB Asset value of \$12.4 million as further detailed below.

#### **b) Deduct net debt**

We have deducted Midway's net debt, which as at 31 October 2024, solely relate to hire purchase liabilities of \$4.4 million. We note that as at 31 October 2024, all other interest bearing liabilities have been paid.

#### **c) Deduct minority interest in QCE Brisbane**

As our EV was assessed on the consolidated earnings of Midway (inclusive of the 10% non-controlling interest in QCE Brisbane), we considered it reasonable to deduct the EV by the book value of the minority interest attributable to QCE Brisbane, which as at 30 June 2024 (being the latest date available), had an assessed book value of \$1.8 million. We note that based on an average profit of \$0.2 million attributable to the non-controlling interest (from FY22 to FY24), this represents a price to earnings ratio of 9.0 times, which we do not consider to be unreasonable.

#### **d) Add surplus assets - CHSB Assets**

Based on our analysis of the Company's assets and liabilities as at 31 October 2024, we identified the assets held for sale of \$12.4 million relating to the CHSB Asset Sale as surplus to the business. No surplus liabilities were identified.

We note the sale of land to CHSB helped to realise the value of the Company's land at its North Shore site with a fair value uplift of \$28.6 million in FY24. Additionally, CHSB will contribute to the Company's contractual obligation to deliver fixed tonnages of grain and woodchip product to Geelong Port under their take-or-pay arrangement with Geelong Port, thereby reducing the Company's exposure to additional freight costs relating to delivery volume shortfalls.

The sale of land to CHSB is considered to have no direct impact on historical and forecast earnings as Management have indicated that the Company can maintain its current export capacity with the remaining land it still owns. The potential long-term benefit to Midway is a reduction in future freight costs payable under contract for any delivery volume shortfalls, although this is not anticipated to be realised in full in the short term.

### e) Add surplus assets - Tiwi insurance proceeds

As set out in Section 5.5, PMP Tiwi Islands is entitled to future insurance proceeds under a Voluntary Scheme Deed entered into by TPC and others. On 13 December 2024 the Company announced the expectation that it would receive cash payments of up to approximately \$5.2 million (after tax) under the TPC insurance claim, therefore we have added the receivable amount as a surplus asset in our adjustments.

### Equity value of Midway (Undiluted)

The calculation from EV to equity value is summarised in the following table.

Equity value of Midway		Low \$m	High \$m
Enterprise value of Midway (controlling interest)		50.0	67.9
Add: Cash and cash equivalents at 31 October 2024	A	39.7	39.7
Less: Transaction costs to be paid even if Scheme does not proceed	A	(0.9)	(0.9)
Less: Net business debt	B	(4.4)	(4.4)
Less: Minority interest in QCE Brisbane	C	(1.8)	(1.8)
Add: Surplus assets - CHSB Assets	D	12.4	12.4
Add: Surplus assets - Tiwi Insurance Proceeds	E	5.2	5.2
<b>Equity value of Midway (controlling interest and undiluted) (\$m)</b>		<b>100.1</b>	<b>118.1</b>

Source: BDO analysis

Based on the above, the FME value of a Midway share on an undiluted basis is between \$1.15 and \$1.35, on a controlling interest basis, as set out below.

Value of a Midway share (undiluted)		Low \$	High \$
Equity value of Midway (controlling interest) (\$m)		100.1	118.1
Divide by: Number of shares outstanding		87,336,222	87,336,222
<b>Value of a Midway share (controlling interest and undiluted)</b>		<b>1.15</b>	<b>1.35</b>

Source: BDO analysis

### Equity value of Midway (Diluted)

Based on the undiluted value of a Midway share of \$1.15 to \$1.35, we consider that the Midway Options (which have an exercise price of \$0.9339) will be in the money and the FY23 and FY24 Rights will vest.

Therefore, our conclusion on the value of Midway share is based on the diluted value of a Midway share calculated as follows:

Equity value of Midway (diluted)	Low \$m	High \$m
Equity value of Midway (undiluted)	100.1	118.1
Add: Cash received from exercise of options*	0.7	0.7
<b>Equity value of Midway</b>	<b>100.8</b>	<b>118.7</b>
Divide by: Number of shares outstanding**	89,845,922	89,845,922
<b>Value of a Midway share (controlling interest and diluted)</b>	<b>1.12</b>	<b>1.32</b>

Source: BDO analysis

\*Calculated based on 721,436 Midway Options exercised at \$0.9339 per Option, resulting in cash proceeds of \$0.7 million.

\*\*Calculated based on number of shares outstanding in Midway of 87,336,222 with the addition of 2,509,700 Options and Rights vested and exercised.

Based on the above, we conclude the value of a Midway share on a controlling interest is between \$1.12 and \$1.32.



## 10.2 Quoted market price valuation

To provide a comparison to the valuation of Midway in Section 10.1, we have also assessed the QMP of a Midway share.

The quoted market value of a company's shares is reflective of a minority interest. A minority interest is an interest in a company that is not significant enough for the holder to have an individual influence in the operations and value of that company.

RG 111.43 suggests that when considering the value of a company's shares for the purposes control transaction, the expert should consider a premium for control. An acquirer could be expected to pay a premium for control due to the advantages they will receive should they obtain 100% control of another company. These advantages include the following:

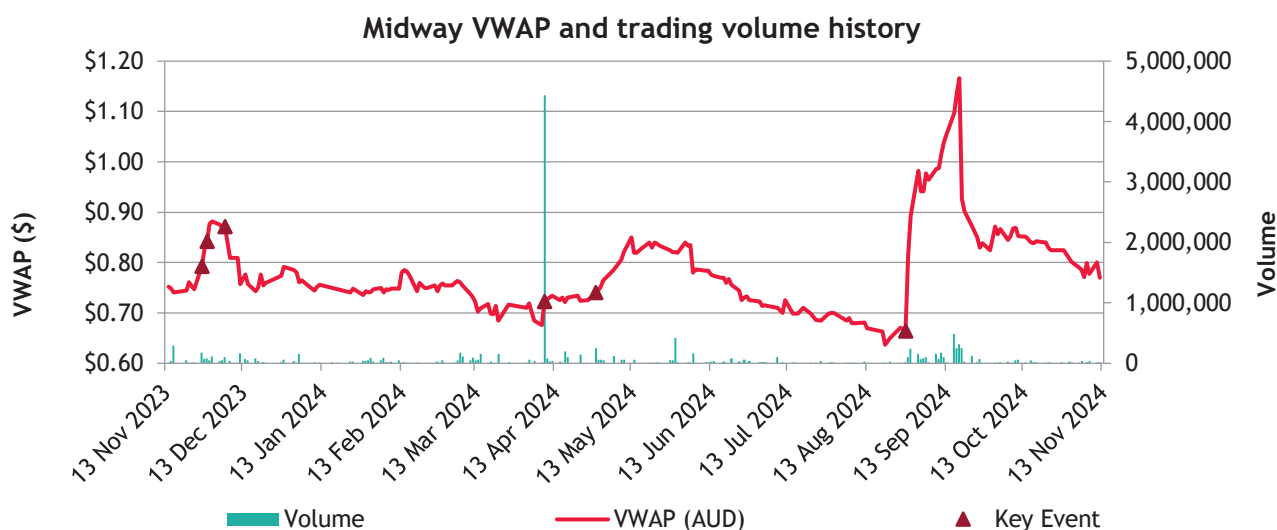
- Control over decision making and strategic direction
- Access to underlying cash flows
- Control over dividend policies
- Access to potential tax losses.

Therefore, our calculation of the QMP of a Midway share including a premium for control has been prepared in two parts. The first part is to calculate the QMP of a Midway share on a minority interest basis. The second part is to add a premium for control to the minority interest value to arrive at a QMP value that includes a premium for control.

### Minority interest value

Our analysis of the QMP of a Midway share is based on the pricing prior to the announcement of the Scheme. This is because the value of a Midway share after the announcement may include the effects of any change in value as a result of the Scheme. However, we have considered the value of a Midway share following the announcement when we have considered reasonableness in Section 13.

Information on the Scheme was announced to the market on 14 November 2024. Therefore, we have assessed the QMP of a Midway share (based on the Volume Weighted Average Price ('VWAP') of Midway shares sourced from S&P Capital IQ) over the period from 14 November 2023 to 13 November 2024. The following chart provides a summary of the VWAP movements and trading volume over the 12 months to 13 November 2024, which was the last trading day prior to the announcement.



Source: S&P Capital IQ and BDO analysis

The daily VWAP of a Midway share over the period from 14 November 2023 to 13 November 2024 ranged from a low of \$0.64 on 20 August 2024 to a high of \$1.17 on 18 September 2024. The largest day of single trading over the assessed period was 9 April 2024, when 4,436,900 shares were traded.

During this period a number of announcements were made to the market. The key announcements are set out below:

Date	Announcement
27-Nov-23	Land Sale for Grain Terminal Development
29-Nov-23	Special Dividend and Refinancing of Debt Facilities
6-Dec-23	Notification regarding unquoted securities - MWY
11-Apr-24	Becoming a substantial holder - River Capital
29-Apr-24	Market Update - Trading Conditions and Forecast Earnings
29-Aug-24	Dividend/Distribution
29-Aug-24	Appendix 4E and FY24 Statutory Accounts

Source: S&P Capital IQ, ASX and BDO analysis

On 27 November 2023, Midway announced that the Company had entered into a land sale MoU with CHSB for a grain terminal development, under which Midway will sell a 5.15 Ha property at the Company's North Shore site in Geelong Victoria at a price of \$15.5 million. On the date of the announcement, the VWAP of Midway shares increased 6.1% to \$0.79, before increasing by a further 10.6% over the subsequent three-day trading period to \$0.88.

On 29 November 2023, Midway announced a \$0.05 fully franked special dividend paid out of the net proceeds of the sale of the plantation estate as well as the Company's successful refinancing of its banking facilities with Commonwealth Bank. On the date of the announcement, the VWAP of Midway shares increased 1.9% to \$0.84, before increasing by a further 4.0% over the subsequent three-day trading period to \$0.88.

On 6 December 2023, Midway issued a notification for the issue of 1.04 million performance rights in the Company to key management personnel, Mr. Anthony McKenna and Mr. Michael McKenzie. On the date of the announcement, the VWAP of Midway shares increased 0.3% to \$0.87, before decreasing by 13.1% over the subsequent three-day trading period to \$0.76.

On 11 April 2024, two days after the largest day of single trading on 9 April on which 4.44 million shares were traded, Midway announced the notice of initial substantial holder relating to River Capital. River Capital purchased a 6.86% voting interest in the Company, totalling 5.99 million shares. On 9 April 2024, the VWAP of Midway shares increased 6.9% to \$0.72, before increasing by a further 1.6% over the subsequent three-day trading period to \$0.73.

On 29 April 2024, Midway announced a market update on the Company's trading conditions and forecast earnings, outlining an FY24 EBITDA (excluding significant items) ranging between \$10 million to \$15 million. On the date of the announcement, the VWAP of Midway shares increased 2.1% to \$0.74, before increasing by a further 3.3% over the subsequent three-day trading period to \$0.77.

On 29 August 2024, Midway released the Company's FY24 financial results, which among other items, highlighted FY24 EBITDA (excluding significant items) of \$14.2 million. On the same date, Midway declared a fully franked ordinary dividend of 1.6 cents per Midway share from the Company's FY24 earnings and a fully franked special dividend 14.5 cents per Midway share. The ordinary and special dividends were announced to be paid on 4 October 2024. On the date of the announcement, the VWAP of Midway shares

increased by 22.4% to \$0.81, before increasing by a further 15.7% over the subsequent three-day trading period to \$0.94.

To provide further analysis of the QMP of a Midway share, we have also considered the VWAP for 1 week-, 1 month-, 3 month-, 6 month-, 9 month- and 12 month-periods to 13 November 2024.

Period before 13 November 2024	VWAP (AUD)
1 Week	\$0.7832
1 Month	\$0.8091
3 Months	\$0.9745
6 Months	\$0.9028
9 Months	\$0.8013
12 Months	\$0.7974

Source: S&P Capital IQ and BDO analysis

The above VWAPs are prior to the date of the announcement of the Scheme, to avoid the influence of any movements in the price of Midway shares that have occurred since the Scheme was announced. However, we note that the VWAP for 3 month-, 6 month-, 9 month- and 12 month-periods were impacted by the ordinary and special dividends declared on 29 August 2024 and paid on 4 October 2024.

An analysis of the volume of trading in Midway shares for the twelve months to 13 November 2024 is set out below:

Month	Volume	Turnover (\$)	Shares Outstanding	Volume per Shares Outstanding	Monthly VWAP
November 2024 (to 13)	172,800	135,807	87,336,220	0.20%	\$0.7859
October 2024	343,570	290,175	87,336,220	0.39%	\$0.8446
September 2024	2,506,360	2,577,322	87,336,220	2.87%	\$1.0283
August 2024	460,180	375,635	87,336,220	0.53%	\$0.8163
July 2024	298,530	210,268	87,336,220	0.34%	\$0.7043
June 2024	574,500	396,748	87,336,220	0.66%	\$0.6906
May 2024	1,011,210	818,792	87,336,220	1.16%	\$0.8097
April 2024	5,517,980	3,995,978	87,336,220	6.32%	\$0.7242
March 2024	974,580	708,769	87,336,220	1.12%	\$0.7273
February 2024	522,290	390,831	87,336,220	0.60%	\$0.7483
January 2024	470,380	354,559	87,336,220	0.54%	\$0.7538
December 2023	856,130	689,162	87,336,220	0.98%	\$0.8050
November 2023	1,069,450	825,630	87,336,220	1.22%	\$0.7720
<b>Total</b>	<b>14,777,960</b>	<b>11,769,675</b>	<b>87,336,220</b>	<b>16.92%</b>	<b>\$0.7964</b>

Source: S&P Capital IQ and BDO analysis

This table indicates that Midway shares display a low level of liquidity, with 16.92% of the Company's issued capital being traded in the twelve month period to 13 November 2024. We note this includes the month of April 2024, in which a total 5.52 million shares were traded, representing 6.32% of the Company's issued capital. The high volume of trade in April 2024 was largely in relation to the purchase of shares by River Capital to become a substantial shareholder in the Company. Excluding the month of April as an outlier, the monthly average trading volume per shares outstanding was 0.88%.

RG 111.86 states that for the quoted market price methodology to be an appropriate methodology there needs to be a 'liquid and active' market in the shares and allowing for the fact that the quoted price may

not reflect their value should 100% of the securities not be available for sale. We consider the following characteristics to be representative of a liquid and active market:

- Regular trading in a company’s securities.
- Approximately 1% of a company’s securities are traded on a weekly basis.
- The spread of a company’s shares must not be so great that a single minority trade can significantly affect the market capitalisation of a company.
- There are no significant but unexplained movements in share price.

A company’s shares should meet all of the above criteria to be considered ‘liquid and active’, however, failure of a company’s securities to exhibit all of the above characteristics does not necessarily mean that the value of its shares cannot be considered relevant.

In the case of Midway, we consider the shares to display a low level of liquidity on the basis that less than 1% securities have been traded monthly on average (excluding the outlier month of April 2024). Therefore, we consider our QMP valuation to be a useful secondary cross check method only.

Our assessment is that a range of values for a Midway share based on market pricing, after disregarding post-announcement pricing, is between \$0.75 to \$0.85. This is based on the closing VWAP of Midway shares of \$0.77 on the trading day prior to the announcement (13 November 2024), with further consideration for the 1 week and 1 month VWAPs to 13 November 2024 of \$0.78 and \$0.81, respectively.

### QMP including control premium

Applying our assessed control premium in Section 10.1.5 to Midway’s quoted market share price results in the following QMP value including a premium for control:

QMP valuation of a Midway share	Low	High
	\$	\$
QMP	0.75	0.85
Control premium	25%	30%
<b>QMP valuation including a premium for control</b>	<b>0.94</b>	<b>1.11</b>

Source: BDO analysis

Therefore, our valuation of Midway share based on the QMP methodology and including a premium for control is between \$0.94 and \$1.11.

### 10.3 Net asset valuation of Midway

The value of Midway's net assets is reflected in our valuation below:

Statement of Financial Position	Note	Audited as at 30-Jun-24 \$'000	Adjusted Balance Low \$'000	Adjusted Balance High \$'000
<b>CURRENT ASSETS</b>				
Cash and cash equivalents	A	24,856	38,790	38,790
Receivables	B	45,423	12,662	12,662
Inventories	C	26,692	36,257	36,257
Biological assets		3,012	3,012	3,012
Other assets		4,116	4,116	4,116
Current tax receivable		215	215	215
Assets held for sale	D	12,360	12,360	12,360
Derivative financial asset	E	1,111	-	-
<b>TOTAL CURRENT ASSETS</b>		<b>117,785</b>	<b>107,413</b>	<b>107,413</b>
<b>NON-CURRENT ASSETS</b>				
Biological assets		3,225	3,225	3,225
Investments accounted for using the equity method	F	11,745	-	11,084
Intangible assets	G	1,971	-	-
Property, plant and equipment	D	64,220	64,220	64,220
Right of use lease assets	D	18,500	18,500	18,500
<b>TOTAL NON-CURRENT ASSETS</b>		<b>99,661</b>	<b>85,945</b>	<b>97,029</b>
<b>TOTAL ASSETS</b>		<b>217,446</b>	<b>193,358</b>	<b>204,442</b>
<b>CURRENT LIABILITIES</b>				
Trade and other payables	C	17,627	19,955	19,955
Borrowings	H	932	932	932
Lease liabilities	H	1,377	1,377	1,377
Strategy financial liability	I	8,237	-	-
Provisions		4,162	4,162	4,162
<b>TOTAL CURRENT LIABILITIES</b>		<b>32,335</b>	<b>26,426</b>	<b>26,426</b>
<b>NON-CURRENT LIABILITIES</b>				
Borrowings	H	3,460	3,460	3,460
Lease liabilities	H	18,094	18,094	18,094
Provisions		89	89	89
Deferred tax liabilities		17,066	17,066	17,066
<b>TOTAL NON-CURRENT LIABILITIES</b>		<b>38,709</b>	<b>38,709</b>	<b>38,709</b>
<b>TOTAL LIABILITIES</b>		<b>71,044</b>	<b>65,135</b>	<b>65,135</b>
<b>NET ASSETS</b>		<b>146,402</b>	<b>128,223</b>	<b>139,306</b>
Deduct non-controlling interest	J	(1,827)	(1,827)	(1,827)
<b>NET ASSETS (attributable to Midway)</b>		<b>144,575</b>	<b>126,396</b>	<b>137,479</b>
Number of shares outstanding			87,336,222	87,336,222
<b>Value per Midway share (undiluted) (\$)</b>			<b>1.45</b>	<b>1.57</b>

Source: BDO analysis, Midway's audited financial statements for the year ended 30 June 2024, Management accounts as at 31 October 2024.

We note based on management accounts provided by Management that there has not been a significant change in the net assets of Midway from the audited balance as at 30 June 2024 apart from those we have adjusted based on the management accounts as at 31 October 2024, and other information provided by Management. The table above indicates that the net asset value of a Midway share on an undiluted basis is between \$1.45 and \$1.57.

The following adjustments were made to the net assets of Midway as at 31 October 2024 in arriving at our valuation.

#### a) Cash and cash equivalents

Management has provided us with the 31 October 2024 management accounts showing \$39.7 million in cash and cash equivalents, which we have verified through the review of bank statements for October.

It is noted that the increase in cash and cash equivalents of \$14.8 million from 30 June 2024 was predominantly due to the receipt of the final tranche of payment related to the Plantation Estate Sale in September 2024, amounting to \$35.0 million (previously held in receivables as at 30 June 2024, see Section 5.5 for further details). This increase was offset by cash outflows for the payment of special and ordinary dividends in October 2024, as well as funding general working capital requirements.

Additionally, we have deducted cash and cash equivalents for transaction costs to be paid in connection with the Scheme, regardless of whether the Scheme proceeds. As outlined in Section 1.6(d) of the Scheme Booklet, these costs total \$0.9 million. However, we have not deducted \$3.2 million payable for the settlement of Midway Options and Rights (see Section 4.4 for further details) as this cash outflow is contingent upon the Scheme becoming effective.

Therefore, for our NAV assessment, we have adopted a cash and cash equivalents balance of \$38.8 million.

#### b) Receivables

Receivables of \$45.4 million as at 30 June 2024 comprised \$35.0 million in deferred settlement income relating to the Plantation Estate Sale with MEAG. The final tranche of payments was received by the Company in September 2024, corresponding to a decrease in receivables of \$38.0 million to \$7.5 million as at 31 October 2024.

As at 30 June 2024, the TPC insurance claim payments were deemed to be a contingent asset and therefore not recognised in net assets of the Company. As set out in Section 5.5, the Company expects to receive approximately \$5.2 million (after tax) from the proceeds under the TPC insurance claim, therefore receivables have been increased by \$5.2 million to reflect this amount.

Therefore, we have adopted a receivables balance of \$12.7 million for our NAV assessment.

#### c) Inventories and trade and other payables

Inventories as at 30 June 2024 totalled \$26.7 million, increasing to \$36.3 million as at October 2024. This adjustment has been made due to the significant movement in this balance. Management has indicated that the inventory build-up to October 2024 was mostly funded by the Company's cash reserves, with the remaining costs reflected in the increase in the Company's payables balance. Consequently, we have also reflected an increase in trade and other payables of \$2.3 million, bringing the total to \$20.0 million as at 31 October 2024, based on management accounts.

#### d) Assets held for sale, PP&E and Right of use assets

The balance of assets held for sale, PP&E, and right of use assets, totalling \$95.1 million as at 30 June 2024, remained largely unchanged as at 31 October 2024. Notably, \$32.6 million of the PP&E balance and \$12.4 million of the assets held for sale (totalling \$45 million) are attributed to the value of the Company's freehold land at its North Shore Site.

The valuation of the North Shore land at \$45.0 million, as at 30 June 2024, was conducted by an independent valuer and is based on market value. Thus, we find it reasonable to rely on this valuation for our NAV assessment.

The remaining balance of \$50.1 million pertains to right of use assets, plant and equipment and buildings. For the purpose of our NAV assessment, we have assumed the book value of these items reflects their fair value.

#### e) Derivative financial asset

Derivative financial assets of \$1.1 million as at 30 June 2024 relate to the Company's cash flow hedge instruments primarily relating to foreign exchange forward contracts. We considered it more conservative to assume that an acquirer of the Company would not be able to realise the full value of the derivative financial asset on the basis that the derivative position varies subject to market conditions. Therefore, we have adjusted the balance to nil for our NAV assessment.

#### f) Investments accounted for using the equity method

Investments accounted for using the equity method pertain to Midway's 51% stake in the SWF Portland joint venture. This investment is initially recorded at cost with Midway's share of the joint venture's profit or loss reflected in the Company's financial statements.

For our NAV assessment, we determined a fair value of this investment is best represented by a range, from nil to the value of Midway's 51% interest in the net assets of the SWF Portland joint venture.

Our assessed value of nil for the SWF Portland joint venture is on the basis that the earnings contribution of the entity is negative, which has been incorporated in our assessment of sustainable earnings. In an orderly realisation of the net assets of Midway, we consider a joint venture entity with negative earnings contribution to be ascribed a nil value.

The high end of our range assumes that, in an orderly sale of the joint venture's assets, Midway would realise 51% of the net asset value. Management has provided the balance sheet for the SWF Portland joint venture as at 31 October 2024, showing a net asset balance of \$21.7 million. By applying the 51% interest on a pro rata basis, we calculated a value of \$11.1 million for the investment, which has been included in our NAV assessment.

#### g) Intangible assets

Intangible assets of \$2.0 million as at 30 June 2024 relate to goodwill arising from the acquisition of subsidiaries, measured at cost less accumulated impairment losses. This balance was unchanged as at 31 October 2024. We have reduced this value to nil on the basis that this value would not be realised on the sale of the Company's net assets.

#### h) Borrowings and Lease liabilities

The balance of borrowings and lease liabilities totalling \$23.9 million as at 30 June 2024 remained largely unchanged as at 31 October 2024. Therefore, we have not adjusted for the balance of borrowings and lease liabilities at 30 June 2024.

#### i) Strategy financial liability

As outlined in Section 5.6, the strategy financial liability relates to a plantation estate sale made in 2016 and represents Midway's contractual obligation for the repurchase of trees in accordance with the contractual harvest profile pursuant to the sale agreement.

In September 2024, the Company settled its contractual obligations relating to the strategy financial liability contributing to a nil balance as at 31 October 2024. Therefore, we have reduced the value of the strategy financial liability to nil.

#### j) Non-controlling interest

Non-controlling interest of \$1.8 million as at 30 June 2024 relate to the residual 10% interest in QCE Brisbane, which the Company does not own. For the purpose of our NAV assessment, we have deducted the value of the non-controlling interest to reflect the net asset interest attributable to the Company only.

#### NAV on a diluted basis

Based on the undiluted value of a Midway share of \$1.45 to \$1.57, we consider that the Midway Options (which have an exercise price of \$0.9339) will be in the money and the FY23 and FY24 Rights will vest.

Therefore, our conclusion on the value of Midway share is based on the diluted value of a Midway share calculated as follows:

NAV of Midway (diluted)	Low \$m	High \$m
NAV of Midway (undiluted)	126.4	137.5
Add: Cash received from exercise of options*	0.7	0.7
<b>NAV of Midway</b>	<b>127.1</b>	<b>138.2</b>
Divide by: Number of shares outstanding**	89,845,922	89,845,922
<b>Value of a Midway share (controlling interest and diluted)</b>	<b>1.41</b>	<b>1.54</b>

Source: BDO analysis

\*Calculated based on 721,436 Midway Options exercised at \$0.9339 per Option, resulting in cash proceeds of \$0.7 million.

\*\*Calculated based on number of shares outstanding in Midway of 87,336,222 with the addition of 2,509,700 Options and Rights vested and exercised.

Based on the above, we conclude the value of a Midway share on a controlling interest is between \$1.41 and \$1.54.



## 10.4 Conclusion on the value of a Midway share prior to the Scheme

The results of the valuations performed are summarised in the table below:

Valuation of a Midway Share	Low	High
	\$	\$
FME (Section 10.1)	\$1.12	\$1.32
QMP (Section 10.2)	\$0.94	\$1.11
NAV (Section 10.3)	\$1.41	\$1.54
<b>Concluded value of a Midway share</b>	<b>\$1.12</b>	<b>\$1.32</b>

Source: BDO analysis

We note from our analysis of the quoted market price of a Midway share in Section 10.2, that only 16.92% of the Company's current issued capital was traded in the 12 months prior to the announcement of the Scheme. This level of trading represents a low level of liquidity in Midway shares and therefore we consider our QMP valuation to be a useful secondary cross check method only. Notwithstanding this, we note the high end of our QMP valuation is within the range of our FME valuation and therefore is broadly supportive of our FME valuation.

Although typically deemed to be a floor value for a business with a history of positive earnings, we note our NAV assessment of \$1.41 to \$1.54 per Midway share to be higher than our FME valuation. We have assessed potential reasons for this as follows:

- The NAV typically represents the orderly realisation of assets, with fair market value determined as the amount distributable to entity holders after settling all liabilities, including realisation costs and taxation charges. This assumes an orderly wind-up of the entity.
- A significant portion of the Company's net assets is attributed to its North Shore land, valued at \$45.0 million, and other plant and equipment, which have a carrying value of \$50.1 million. Management has indicated that realising the value of these net assets would require considerable time due to a very limited pool of potential buyers for the Company's assets. This low probability of realising asset values in an orderly transaction has been evidenced by the Company's past strategic reviews.
- The Company has previously adopted a methodical approach to asset realisation, particularly with its plantation land, selling parcels over time to convert these assets to cash and distribute proceeds to Shareholders.
- The limited buyer pool for plantation land and assets is supported by the scarce number of comparable transactions in the industry, as analysed in Section 10.1.3. The fragmented nature of the industry, comprising many smaller operators and landowners, contributes to this limited buyer pool.
- Given the substantial time required to liquidate assets, a liquidity discount is applicable to the Company's NAV. Although there is limited comparable information for benchmarking such a discount, it is implied that when compared to our FME valuation range of \$1.12 to \$1.32, the liquidity discount would range between 16.4% to 26.1%.
- Further evidence of a liquidity discount is demonstrated by the historical disparity between the Company's market capitalisation and its net asset position. This is based on information sourced from S&P Capital IQ, noting that the market capitalisation is also subject to low liquidity and active trading levels.

	30-Jun-22 \$'000	30-Jun-23 \$'000	30-Jun-24 \$'000
<b>Net assets of Midway (book value)</b>	<b>124,798</b>	<b>126,977</b>	<b>144,575</b>
Market capitalisation (S&P Capital IQ)	64,629	63,319	62,882
<b>Market capitalisation (with 30% control premium)</b>	<b>84,017</b>	<b>82,314</b>	<b>81,747</b>
<i>Discount of market capitalisation (control) on net assets</i>	<i>(32.7%)</i>	<i>(35.2%)</i>	<i>(43.5%)</i>

Source: Midway's financial statements for the years ended 30 June 2024, 30 June 2023, and 30 June 2022, S&P Capital IQ, BDO Analysis

Therefore, we considered our NAV assessment to be appropriate as a tertiary crosscheck only.

We elected to use our FME valuation methodology presented in Section 10.1 as our primary valuation method as it is based on reliable financial inputs from Midway's audited financial accounts, management accounts and other financial and non-financial information provided by Management. Furthermore, we consider the earnings profile of Midway to be suitable for a FME valuation.

Based on the results above we consider the value of a Midway share on a controlling interest basis to be between \$1.12 and \$1.32.

## 11. Valuation of the Cash and Scrip Consideration

### 11.1 Value of the Cash Consideration

Under the Scheme, should Shareholders elect to receive the Cash Consideration in full, the value of the Cash Consideration is \$1.19 for every share in Midway that they hold. This value includes the payment of the Special Dividend but does not include the incremental benefit of any franking credits that the individual Shareholder may be eligible for.

We note that if the Minimum Scrip Threshold is not satisfied, all Midway shareholders will receive all Cash Consideration. Therefore, it can be said that the Cash Consideration represents the standard or default consideration.

### 11.2 Value of the Scrip Consideration

When assessing non-cash consideration in control transactions, RG 111.31 suggests that a comparison should be made between the value of the securities being offered (allowing for a minority discount) and the value of the target entity's securities, assuming 100% of the securities are available for sale. This comparison reflects the fact that:

- the acquirer is obtaining or increasing control of the target
- the security holders in the target will be receiving scrip constituting minority interests in the combined entity.

RG 111.32 suggests that if we use the quoted market price of securities to value the offered consideration, then we must consider and comment on:

- the depth of the market for those securities
- the volatility of the market price
- whether or not the market value is likely to represent the value if the takeover bid is successful.

As RollCo will not be a listed entity, its securities will not be quoted on a tradeable market, therefore, RG 111.32 is not relevant to our assessment.

Under RG 111.34 it is noted that if, in a scrip bid, the target is likely to become a controlled entity of the bidder, the bidder's securities can also be valued using a notionally combined entity. In the case of the Scheme, the bidder company is a special purpose vehicle incorporated for the purpose of acquiring the shares in Midway. Therefore, we consider the notionally combined entity is represented by the existing operations of Midway itself.

However, it should still be noted that the accepting holders are likely to hold minority interests in that combined entity (49.99% of RollCo). Therefore, we have assessed the value of a share in RollCo on a minority interest basis.

### 11.2.1. FME of RollCo

As RollCo represents the existing operations of Midway within an unlisted special purpose vehicle entity, we consider the value of RollCo to be best approximated by the FME valuation of Midway (on a minority interest basis) assessed in Section 10.1, with the following adjustments:

- An increased level of sustainable EBITDA driven by a lower corporate overhead cost base associated with the Company no longer being listed on the ASX
- Discount for reduced marketability due to lower liquidity after ASX delisting.

#### Normalised earnings

The normalised earnings of Midway are adjusted to exclude corporate overheads related to its listing on the ASX. This adjustment is made because RollCo will not incur the same level of corporate costs associated with being a listed entity on the ASX.

\$ 000's		FY22	FY23	FY24
	Normalised EBITDA of Midway (Section 10.1.1)	1,089	2,858	14,166
	Add back: Corporate expenses associated with ASX-listing	A	1,598	1,502
	Normalised EBITDA of RollCo	2,687	4,360	15,536

Source: BDO analysis

#### a) Corporate expenses associated with ASX-listing

Historical and forecast corporate expenses associated with Midway being listed on the ASX were added back in determining the level of earnings. This was determined based on discussions with Management and include:

- ASX listing expenses
- Director fees
- Director related expenses
- Directors and Officers insurance

We note however that the add back of these costs in total does not consider any additional management fees that RollCo may be subject to under ownership of River Capital. We have not quantified these additional corporate expenses on the basis we have reasonable grounds to do so, however, we have considered this when assessing the future maintainable earnings of RollCo.

Based on the above and by applying similar reasoning on our determination of a sustainable earnings position for Midway assessed in Section 10.1.1, we estimated a future maintainable earnings (EBITDA) to be in the range of \$11.5 million to \$12.5 million for RollCo.

### Enterprise value of RollCo

The enterprise value of RollCo on a minority interest basis is assessed in the table below

Enterprise value of RollCo (minority interest basis)		Low	High
Future maintainable earnings (\$m)		11.5	12.5
Assessed EBITDA multiple - see Section 10.1	<b>A</b>	4.00x	4.75x
<b>Enterprise value of RollCo (minority interest) (\$m)</b>		<b>46.0</b>	<b>59.4</b>
<i>Apply: Discount for lack of marketability and other factors</i>	<b>B</b>	10.0%	10.0%
<b>Enterprise value of RollCo (minority interest) (\$m)</b>		<b>41.4</b>	<b>53.4</b>

Source: BDO analysis

#### a) Assessed EBITDA multiple

As detailed in Section 10.1.3, we assessed an EBITDA multiple range, on a minority interest basis, to range between 4.00x to 4.75x for Midway. We considered this range to be reasonable for the valuation of RollCo on the basis that it reflects the same operations.

#### b) Discount for lack of marketability and other factors

Practitioners, academics and tax courts generally agree that when valuing illiquid securities, the application of a discount for lack of marketability ('DLOM') is appropriate. However, the magnitude of the discount is unclear with various empirical studies concluding vastly different results:

- Early restricted stock studies suggest the DLOM was 20% - 45%
- Recent studies suggest the value declined to 25% and below
- Largest discounts were found among over-the-counter non-reporting companies, with well over 50% of the transactions showing discounts in excess of 30%.

The DLOM observed in restricted stock studies may be impacted by a range of factors including:

- Size of distributions or dividends
- Revenue growth and stability
- Earnings growth and stability
- Product risk/industry risk
- Trading volatility
- Length of the restriction period.

Given the above considerations, a 20% DLOM would typically apply where securities exhibit significant illiquidity or challenges in marketability. It is important to note, as outlined in Section 10.2, that Midway shares at listing already experienced low liquidity due to limited trading activity. Conversely, we consider that RollCo will continue to have strong access to capital, predominantly from River Capital, which we believe would have the capacity to effectively purchase other shareholders' interests. This mitigates the severity of the decrease in marketability following Midway's delisting from the ASX upon implementation of the Scheme.

Therefore, after evaluating these factors, we have applied a lower discount of 10%. This reflects a more tailored and realistic assessment of the liquidity risk associated with Midway shares becoming unlisted shares in RollCo.

### Equity value of RollCo and value of Scrip Consideration

We have assessed the value of the Scrip Consideration to be between \$0.99 and \$1.13 as set out below. This comprises the value of a RollCo share of between \$0.61 and \$0.74, on a minority interest basis, and the payment of the Special Dividend of \$0.3835.

Equity value of RollCo (minority interest)	Low \$m	High \$m
Enterprise value of RollCo (minority interest)	41.4	53.4
Add: Cash and cash equivalents	A 39.7	39.7
Less: Unpaid Scheme transaction costs	A (2.6)	(2.6)
Less: Cash paid for settlement of Midway Options and Rights	A (3.4)	(3.4)
Less: Cash paid for Special Dividend*	A (33.5)	(33.5)
Less: Net business debt	B (4.4)	(4.4)
Less: Minority interest in QCE Brisbane	C (1.8)	(1.8)
Add: Surplus assets - CHSB Assets	D 12.4	12.4
Add: Surplus assets - Tiwi Insurance Proceeds	E 5.2	5.2
<b>Equity value of RollCo (minority interest)</b>	<b>52.9</b>	<b>65.0</b>
Divide by: Number of shares outstanding	87,336,222	87,336,222
<b>Value of a RollCo share (minority interest) (\$)</b>	<b>0.61</b>	<b>0.74</b>
Add: Special Dividend (\$)	0.3835	0.3835
<b>Value of the Scrip Consideration (\$)</b>	<b>0.99</b>	<b>1.13</b>

Source: BDO analysis

\*Calculated as a \$0.3835 Special Dividend paid for 87,336,222 shares held in Midway.

#### a) Add cash and cash equivalents

As undertaken in Section 10.1.7, we have added the latest cash and cash equivalents balance of Midway, which has been sourced from management accounts as at 31 October 2024 (detailed further in Section 10.3). We have obtained bank statements to verify the cash balance of \$39.7 million as at 31 October 2024 in order to establish reasonable grounds for reliance on the unaudited financial information.

We have also deducted the cash and cash equivalents for total transaction costs of \$2.6 million to be paid in connection with the implementation of the Scheme following 31 October 2024.

In addition, we deducted the cash and cash equivalents balance for the \$3.2 million to be paid in connection with the settlement of Midway Options and Rights (see Section 4.4 for further details) as these costs will be payable upon the Scheme becoming effective. We have also deducted the Transaction Bonus payable to employees, totalling approximately \$0.2 million.

Finally, we also deducted the cash payment relating to payment of the Special Dividend, which based on \$0.3835 per Midway share and 87,336,222 shares outstanding, results in a dividend payment of \$33.5 million.

**b) Deduct net debt**

We have deducted Midway's net debt, which as at 31 October 2024, solely relate to hire purchase liabilities of \$4.4 million. We note that as at 31 October 2024, all other interest bearing liabilities have been paid.

**c) Deduct minority interest in QCE Brisbane**

As undertaken in Section 10.1.7, we considered it reasonable to deduct the EV by the book value of the minority interest attributable to QCE Brisbane, which as at 30 June 2024 (being the latest date available), had an assessed book value of \$1.8 million.

**d) Add surplus assets - CHSB Assets**

As undertaken in Section 10.1.7, we have added the assets held for sale of \$12.4 million relating to the CHSB Asset Sale as surplus to the Business. No surplus liabilities were identified.

**e) Add surplus assets - Tiwi insurance proceeds**

As undertaken in Section 10.1.7, we have added the TPC insurance proceeds of \$5.2 million (after tax) expected to be received by the Company.

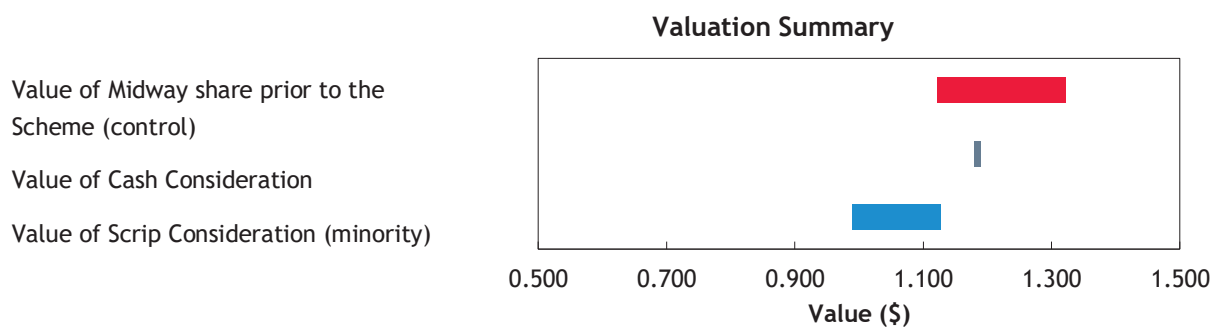
## 12. Is the Scheme fair?

The value of a Midway share prior to the Scheme on a controlling interest basis, the value of the Cash Consideration, and the value of the Scrip Consideration are compared below:

	Ref	Low \$	High \$
Value of a Midway share prior to the Scheme (controlling interest basis)	10	1.12	1.32
Value of the Cash Consideration	11.1	1.19	1.19
Value of the Scrip Consideration (minority interest basis)	11.2	0.99	1.13

Source: BDO analysis

The above valuation ranges are graphically presented below



Source: BDO analysis

### Cash Consideration

We observe from the above table that the value of the Cash Consideration is within our assessed value of a Midway share prior to the Scheme on a controlling interest basis. Therefore, we consider that for Shareholders who choose to receive the full Cash Consideration for their shares, the Scheme is fair.

### Scrip Consideration

We note from the above table that the value of the Scrip Consideration is generally lower than the value of a Midway share prior to the Scheme on a controlling interest basis, although we note the high end of our assessed Scrip Consideration is within our assessed valuation range of a Midway share prior to the Scheme.

Given that our valuation of the Scrip Consideration was performed similarly to the value of Midway shares prior to the Scheme, we attribute the difference in value to:

- The value of a RollCo share is assessed on a minority interest, whilst the value of Midway shares prior to the Scheme are assessed on a controlling interest basis
- Applying a discount for lack of marketability of 10% to reflect the increased liquidity risk associated with Midway shares becoming unlisted shares in RollCo
- The deduction of cash relating to the settlement of Midway Options and Rights and increased Scheme transaction costs
- The higher level of sustainable earnings due to the reduction in corporate overheads associated with RollCo no longer being listed on the ASX.

The value of the Scrip Consideration includes the benefit of the Special Dividend of \$0.3835 per share and the value of a share in RollCo ranging between \$0.61 and \$0.74 per share, on a minority interest basis.

Despite the overlapping ranges pre and post the Scheme for the Scrip Consideration, the underlying assets of the entity remain unchanged. Consequently, fairness needs to be assessed on a like-for-like basis, resulting in the Scrip Consideration being deemed not fair.

We consider that Midway shareholders who elect to receive the Scrip Consideration or a mix of Cash and Scrip Consideration do so despite the alternative offer of full Cash Consideration, which provides value certainty. On the basis that Shareholders act rationally and in their self-interests, we believe that any election to receive shares in RollCo may be driven by speculations on the future value of RollCo or other motivations such as:

- Confidence in potential value increases to the operations of Midway under private equity ownership
- Speculated value uplift from strategic changes, especially in the growing carbon plantation management division within the PCM business
- Wanting continued exposure to the woodfibre and plantation management industry through their ownership in RollCo shares
- Having a positive outlook on the industries in which RollCo operates.

These motivations are investor-specific and we have no reasonable grounds to reflect these within our valuation assessment above, which has been performed in accordance with RG 111 and RG 170 'Prospective Financial Information'.

### Conclusion on fairness

Our fairness opinion was formed by considering that the Cash Consideration, which represents the default Scheme consideration to be received by Midway Shareholders, is fair.

We note that Midway Shareholders may elect to receive a mix of Cash Consideration and Scrip Consideration. Despite the overlapping ranges pre and post the Scheme for the Scrip Consideration, the underlying assets of the entity remain unchanged. Consequently, fairness needs to be assessed on a like-for-like basis, resulting in the Scrip Consideration being deemed not fair. However, given that the receipt of Scrip Consideration is an election for each Shareholder, we consider that overall, the Scheme is fair and note that Shareholders may elect for the Scrip Consideration based on their individual views and considering the individual circumstances outlined above and reasonableness factors outlined in Section 13.



### 13. Is the Scheme reasonable?

We have considered the analysis below, in terms of the following:

- Advantages and disadvantages of the Scheme
- Other considerations, including the position of Shareholders if the Scheme does not proceed and the consequences of not approving the Transaction.

In our opinion, the position of Shareholders if the Scheme is approved is more advantageous than the position if the Scheme is not approved. Accordingly, in the absence of any other relevant information and/or an alternate proposal we consider that the Scheme is reasonable for Shareholders.

#### 13.1 Alternative offer

We are unaware of any alternative offer that might offer the Shareholders of Midway a premium over the value resulting from the Scheme.

#### 13.2 Consequences of not approving the Scheme

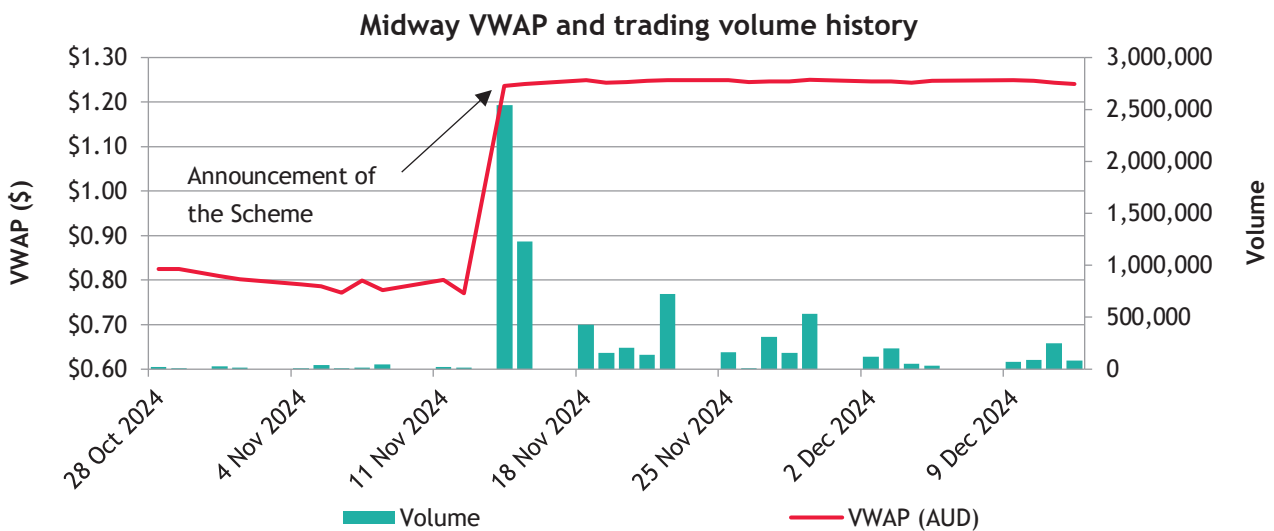
**Midway shareholders will still incur transaction costs and the break fee may be payable to BidCo**

If the Scheme is not implemented, Midway will still incur an estimated \$0.9 million in transaction costs with no achieved outcome. In addition, Midway may be required to pay the break fee of up to \$1.6 million to BidCo depending on the circumstances under which the Scheme does not proceed.

We note the break fee is not payable by Midway as a result in itself of Midway not obtaining the requisite approval level from Shareholders. Refer to the SID for the complete set of circumstances under which the break fees are payable by Midway and BidCo.

#### Potential decline in Midway share price

We have analysed movements in the value of a Midway since the Scheme was announced by analysing the Company’s VWAP. A graph of Midway’s VWAP and trading volume leading up to, and following the announcement of the Scheme is set out below.



Source: S&P Capital IQ

The VWAP of a Midway share from 28 October 2024 to 12 December 2024 ranged from a low of \$0.77 on 12 November 2024 to a high of \$1.25 on 29 November 2024.

The Scheme was announced on 14 November 2024. On the date that the Scheme was announced, the VWAP for a Midway share was \$1.24, up from a VWAP of \$0.77 on the previous trading day. On that day, 2,539,140 shares were traded, representing approximately 2.91% of Midway’s current issued capital. We note that over the following three days, the VWAP of a Midway share remained at \$1.24.

Given the above analysis it is possible that if the Scheme is not approved then the VWAP of a Midway share may decline to pre-announcement levels.

### 13.3 Advantages of approving the Scheme

We have considered the following advantages in our assessment of whether the Scheme is reasonable. We have separated this between the advantages that are applicable to the receipt of Cash Consideration and Scrip Consideration.

Advantage	Cash Consideration	Scrip Consideration
The Scheme is fair.	As set out in Section 12, the Cash Consideration is fair.  RG 111 states that an offer is reasonable if it is fair.	Despite the overlapping ranges pre and post the Scheme for the Scrip Consideration, the underlying assets of the entity remain unchanged. Consequently, fairness needs to be assessed on a like-for-like basis, resulting in the Scrip Consideration being deemed not fair.  However, as outlined in Section 12, we still determined the Scheme overall to be fair.
Certainty of value	Shareholders who elect to receive Cash Consideration have certainty of value of \$1.19 per Midway share. This is inclusive of the Special Dividend value of \$0.3835 per share.	N/A
Scheme consideration includes a partially franked Special Dividend.	The payment of the Special Dividend (if determined by the Midway Board) may provide Midway Shareholders who can utilise the benefit of franking credits with an additional expected benefit of approximately \$0.13 per Midway share, subject to their marginal tax rate and individual circumstances. As the Special Dividend is payable on both the Cash and Scrip Considerations, this advantage is applicable to both the Cash and Scrip Consideration	

Advantage	Cash Consideration	Scrip Consideration
Retained exposure to Midway's operations	N/A	Shareholders who elect to receive Scrip Consideration will retain an interest in Midway's operations through their Class B shares in RollCo. This may suit the individual investors' preferences and portfolios.

Optionality of Cash Consideration and Scrip Consideration.

The Scheme consideration provides eligible Midway Shareholders with the optionality of electing for Cash Consideration or Scrip Consideration based on their individual preferences and objectives.

### 13.4 Disadvantages of approving the Scheme

We have considered the following disadvantages in our assessment of whether the Scheme is reasonable. We have separated this between the disadvantages that are applicable to the receipt of Cash Consideration and Scrip Consideration.

Disadvantage	Cash Consideration	Scrip Consideration
Lose exposure to Midway operations.	If the Scheme is implemented, Shareholders who receive Cash Consideration will lose exposure to Midway's business operations and will be unable to participate in the future upside growth of Midway, especially in relation to the PCM division, which represents a strategic opportunity of the business.	N/A
Shareholders will be further diluted in RollCo.	N/A	Shareholders who elect to receive Scrip Consideration will be further diluted in the RollCo entity, with the maximum interest that can be held by existing Midway Shareholders capped at 49.99% in RollCo.

## 14. Conclusion

We have considered the terms of the Scheme as outlined in the body of this Report and have concluded that, in the absence of an alternative offer, the Scheme is fair and reasonable and in the best interests of Shareholders.

## 15. Sources of information

This report has been based on the following information:

- Draft Scheme Booklet on or about the date of this report
- Audited financial statements of Midway for the years ended 30 June 2022, 30 June 2023 and 30 June 2024
- Midway share registry information
- Organisational structure information
- S&P Capital IQ
- Bloomberg
- IBIS World
- Reserve Bank of Australia
- International Monetary Fund
- Reuters
- Clean Energy Regulator
- Department of Agriculture, Fisheries and Forestry
- Department of Climate Change, Energy, the Environment and Water
- Information in the public domain
- Discussions with Directors and Management of Midway.

## 16. Independence

BDO Corporate Finance Australia Pty Ltd is entitled to receive a fee of \$90,000 (excluding GST and reimbursement of out of pocket expenses). The fee is not contingent on the conclusion, content or future use of this Report. Except for this fee, BDO Corporate Finance Australia Pty Ltd has not received and will not receive any pecuniary or other benefit whether direct or indirect in connection with the preparation of this report.

BDO Corporate Finance Australia Pty Ltd has been indemnified by Midway in respect of any claim arising from BDO Corporate Finance Australia Pty Ltd's reliance on information provided by Midway, including the non-provision of material information, in relation to the preparation of this report.

Prior to accepting this engagement BDO Corporate Finance Australia Pty Ltd has considered its independence with respect to Midway and BidCo and any of their respective associates with reference to ASIC Regulatory Guide 112 'Independence of Experts'. In BDO Corporate Finance Australia Pty Ltd's opinion it is independent of Midway, and BidCo, and their respective associates.

Neither the two signatories to this report nor BDO Corporate Finance Australia Pty Ltd, have had within the past two years any professional relationship with Midway, or their associates, other than in connection with the preparation of this report.

A draft of this report was provided to Midway and its advisors for confirmation of the factual accuracy of its contents. No significant changes were made to this report as a result of this review.

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## 17. Qualifications

BDO Corporate Finance Australia Pty Ltd has extensive experience in the provision of corporate finance advice, particularly in respect of takeovers, mergers and acquisitions.

BDO Corporate Finance Australia Pty Ltd holds an Australian Financial Services Licence issued by the Australian Securities and Investments Commission for giving expert reports pursuant to the Listing rules of the ASX and the Corporations Act.

The persons specifically involved in preparing and reviewing this report were Adam Myer and Martin Emilson of BDO Corporate Finance Australia Pty Ltd. They have significant experience in the preparation of independent expert reports, valuations and mergers and acquisitions advice across a wide range of industries in Australia and were supported by other BDO staff.

Adam Myers is a Fellow of Chartered Accountants Australia & New Zealand and a member of the Joint Ore Reserves Committee. Adam's career spans over 25 years in the audit and corporate finance areas. Adam is a CA BV Specialist and has considerable experience in the preparation of independent expert reports and valuations in general for companies in a wide number of industry sectors.

Martin Emilson has almost two decades of valuation experience (having worked in Sweden, the UK, the US, the Middle East, and Australia at a global accounting firm), Martin joined BDO in Melbourne in 2019. Martin has undertaken numerous assignments involving valuations, independent expert reports, and purchase price allocations for a broad range of clients in sectors such as infrastructure, renewables, automotive, energy, manufacturing, services, travel and hospitality, healthcare, construction, financial services, and technology media and telecommunications.

## 18. Disclaimers and consents

This report has been prepared at the request of Midway for inclusion in the Scheme Booklet which will be sent to all Midway Shareholders. Midway engaged BDO Corporate Finance Australia Pty Ltd to prepare an independent expert's report to consider if the Scheme is in the best interests of Shareholders

BDO Corporate Finance Australia Pty Ltd hereby consents to this report accompanying the above Scheme Booklet. Apart from such use, neither the whole nor any part of this report, nor any reference thereto may be included in or with, or attached to any document, circular resolution, statement, or letter without the prior written consent of BDO Corporate Finance Australia Pty Ltd.

BDO Corporate Finance Australia Pty Ltd takes no responsibility for the contents of the Scheme Booklet other than this report.

We have no reason to believe that any of the information or explanations supplied to us are false or that material information has been withheld. It is not the role of BDO Corporate Finance Australia Pty Ltd acting as an independent expert to perform any due diligence procedures on behalf of the Company. The Directors of the Company are responsible for conducting appropriate due diligence in relation to the Scheme. BDO Corporate Finance Australia Pty Ltd provides no warranty as to the adequacy, effectiveness, or completeness of the due diligence process.

The opinion of BDO Corporate Finance Australia Pty Ltd is based on the market, economic and other conditions prevailing at the date of this report. Such conditions can change significantly over short periods of time.

The forecasts provided to BDO Corporate Finance Australia Pty Ltd by Midway and its advisers are based upon assumptions about events and circumstances that have not yet occurred. Accordingly, BDO Corporate Finance Australia Pty Ltd cannot provide any assurance that the forecasts will be representative of results that will actually be achieved. We note that the forecasts provided do not include estimates as to the effect of any future emissions trading scheme should it be introduced as it is unable to estimate the effects of such a scheme at this time.

With respect to taxation implications it is recommended that individual Shareholders obtain their own taxation advice, in respect of the Scheme, tailored to their own particular circumstances. Furthermore, the advice provided in this report does not constitute legal or taxation advice to the shareholders of Midway, or any other party.

The statements and opinions included in this report are given in good faith and in the belief that they are not false, misleading or incomplete.

The terms of this engagement are such that BDO Corporate Finance Australia Pty Ltd is required to provide a supplementary report if we become aware of a significant change affecting the information in this report arising between the date of this report and prior to the date of the meeting or during the offer period.

Yours faithfully

**BDO CORPORATE FINANCE AUSTRALIA PTY LTD**



**Adam Myers**  
Director



**Martin Emilson**  
Director

# Appendix 1 - Glossary of Terms

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Reference	Definition
AASB 16	Australian Accounting Standards Board 16: Leases
ACCU	Australian Carbon Credit Unit
the Act	<i>Corporations Act 2001</i> (Cth)
AFCA	Australian Financial Complaints Authority
ANREU	Australian Nation Registry of Emission Units
APES 225	Accounting Professional & Ethical Standards Board professional standard APES 225 'Valuation Services'
ASIC	Australian Securities and Investments Commission
ASX	Australian Securities Exchange
BDMT	bone-dry metric tonne
BDO	BDO Corporate Finance Australia Pty Ltd
BDO Corporate Finance	BDO Corporate Finance Australia Pty Ltd
CAC	Carbon Abatement Contract
Cash Consideration	The Cash Consideration of \$1.19 for every Midway share held under the Scheme
CER	Clean Energy Regulator
Chenming	Shandong Chenming Paper Holdings Limited
CHSB	CHS Broadbent
CHSB Asset Sale	An unconditional contract between the Company and CHSB for the sale of land, entered into on 5 March 2024
CIF	Cost, insurance and freight basis of delivery
the Company	Midway Limited
Corporations Act	<i>Corporations Act 2001</i> (Cth)
CPI	Consumer price index
DCF	Discounted Future Cash Flows
DLOM	Discount for lack of marketability
EBITDA	Earnings before interest, tax, depreciation and amortisation
ENCE Energia	ENCE Energia y Celulosa S.A.
ERF	Energy Reduction Fund

Reference	Definition
EV	Enterprise Value
FIRB	Foreign Investment Review Board
FME	Future Maintainable Earnings
FOB	Free-on-board basis of delivery
FSC	Forest Stewardship Council
FSG	Financial Services Guide
FY23	The year ended 30 June 2023
FY23 Rights	689,954 2023 plan Rights vesting in June 2025
FY24 Rights	1,098,310 2024 plan Rights vesting in June 2026
FY25 Rights	126,024 2025 plan Rights vesting in June 2027, prior to the implementation of the Scheme
FY25F	The forecast income statement for the year ended 30 June 2025
GDP	Gross Domestic Product
GDP	Gross domestic product
GMT	green metric tonnes
ha	hectares
IMF	International Monetary Fund
LTM	Last twelve months
Management	Management of Midway
Maximum Scrip Consideration	A scale back mechanism will apply if elections made by eligible Midway shareholders result in Midway shareholder holding, in aggregate, more than 49.99% interest in RollCo
Midway	Midway Limited
Minimum Scrip Threshold	The availability of Scrip Consideration is subject to Midway shareholder holding, in aggregate, a minimum 5% interest in RollCo
MIS	Managed Investment Schemes
Mitsui	Mitsui & Co. Limited
MoU	<i>Memorandum of Understanding</i>
MW Geelong	Midway Geelong
NAV	Net Asset Value
Navigator	The Navigator Company S.A.
NTM	Next twelve months



Reference	Definition
Options	All Midway options
our Report	This Independent Expert's Report prepared by BDO
pa	per annum
PCM	Plantation and carbon management
PEFC	Programme for Endorsement of Forest Certification
the Plantation Estate Sale	Signed contracts for the sale of 17,000 ha of existing plantation estate made to a SPV management by MEAG
PMP Tiwi Islands	Plantation Management Partners Tiwi Islands Pty Ltd
PP&E	Property, plant and equipment
QMP	Quoted market price
RBA	the Reserve Bank of Australia
Regulations	Corporations Regulations 2001
RG 111	Content of expert reports (March 2011)
RG 112	Independence of experts (March 2011)
RG 60	ASIC Regulatory Guide 60 "Schemes of arrangements"
Rights	All Midway performance rights
River Capital	River Capital Pty Ltd
RMB	Chinese yuan
RollCo	RCM RollCo Ltd, the entity that will hold 100% of the issued capital of Midway
the Scheme	The Scheme Implementation Deed entered into by Midway Limited and RCM BidCo Pty Ltd for the acquisition of all shares in Midway Limited by way of a scheme of arrangement
Scrip Consideration	The scrip consideration comprising of unlisted scrip in RCM RollCo Ltd
Section 411	Section 411 of the Corporations Act
Shareholders	Shareholders of Midway Limited
SID	Scheme Implementation Deed
SMC	Safeguard Mechanism Credits
Special Dividend	A partially franked special dividend expected to be of \$0.38 per Midway share
SPV	Special purpose vehicle
SWF Portland	South West Fibre Portland Pty Ltd
T2R	Second rotation of TPCFP

Reference	Definition
tCO <sub>2</sub> -e	tonnes of carbon dioxide equivalent
the Act	Corporations Act 2001 (Cth)
Tiwi 1R Project	The first rotation project involving the establishment acacia mangium at PMP Tiwi Islands
Tiwi 2R Project	The establishment of a second rotation of eucalyptus pellita on areas previously harvested for acacia mangium at PMP Tiwi Islands
TPC	Tiwi Plantation Corporation
TPCFP Project	Tiwi Plantation Corporation forestry plantation project
Transaction Bonus	A \$195,000 aggregated bonus paid to the Company's Managing Director and Chief Executive Officer and a number of Midway employees
TSR	Total shareholder return
Valuation Engagement	An Engagement or Assignment to perform a Valuation and provide a Valuation Report where the Valuer is free to employ the Valuation Approaches, Valuation Methods, and Valuation Procedures that a reasonable and informed third party would perform taking into consideration all the specific facts and circumstances of the Engagement or Assignment available to the Valuer at that time.
VWAP	Volume Weighted Average Price

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 Australia

# Appendix 2 - Valuation Methodologies

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Methodologies commonly used for valuing assets and businesses are as follows:

## 1 *Net asset value*

Asset based methods estimate the market value of an entity's securities based on the realisable value of its identifiable net assets. Asset based methods include:

- Orderly realisation of assets method
- Liquidation of assets method
- Net assets on a going concern method

The orderly realisation of assets method estimates fair market value by determining the amount that would be distributed to entity holders, after payment of all liabilities including realisation costs and taxation charges that arise, assuming the entity is wound up in an orderly manner.

The liquidation method is similar to the orderly realisation of assets method except the liquidation method assumes the assets are sold in a shorter time frame. Since wind up or liquidation of the entity may not be contemplated, these methods in their strictest form may not be appropriate. The net assets on a going concern method estimates the market values of the net assets of an entity but does not take into account any realisation costs.

Net assets on a going concern basis are usually appropriate where the majority of assets consist of cash, passive investments or projects with a limited life. All assets and liabilities of the entity are valued at market value under this alternative and this combined market value forms the basis for the entity's valuation.

Often the FME and DCF methodologies are used in valuing assets forming part of the overall net assets on a going concern basis. This is particularly so for exploration and mining companies where investments are in finite life producing assets or prospective exploration areas.

These asset based methods ignore the possibility that the entity's value could exceed the realisable value of its assets as they do not recognise the value of intangible assets such as management, intellectual property and goodwill. Asset based methods are appropriate when an entity is not making an adequate return on its assets, a significant proportion of the entity's assets are liquid or for asset holding companies.

## 2 *Quoted market price basis*

A valuation approach that can be used in conjunction with (or as a replacement for) other valuation methods is the quoted market price of listed securities. Where there is a ready market for securities such as the ASX, through which shares are traded, recent prices at which shares are bought and sold can be taken as the market value per share. Such market value includes all factors and influences that impact upon the ASX. The use of ASX pricing is more relevant where a security displays regular high volume trading, creating a liquid and active market in that security.

## 3 *Capitalisation of future maintainable earnings*

This method places a value on the business by estimating the likely FME, capitalised at an appropriate rate which reflects business outlook, business risk, investor expectations, future growth prospects and other entity specific factors. This approach relies on the availability and analysis of comparable market data.

The FME approach is the most commonly applied valuation technique and is particularly applicable to profitable businesses with relatively steady growth histories and forecasts, regular capital expenditure requirements and non-finite lives.

The FME used in the valuation can be based on net profit after tax or alternatives to this such as earnings before interest and tax or earnings before interest, tax, depreciation and amortisation. The capitalisation rate or 'earnings multiple' is adjusted to reflect which base is being used for FME.

#### **4 Discounted future cash flows**

The DCF methodology is based on the generally accepted theory that the value of an asset or business depends on its future net cash flows, discounted to their present value at an appropriate discount rate (often called the weighted average cost of capital). This discount rate represents an opportunity cost of capital reflecting the expected rate of return which investors can obtain from investments having equivalent risks.

Considerable judgement is required to estimate the future cash flows which must be able to be reliably estimated for a sufficiently long period to make this valuation methodology appropriate.

A terminal value for the asset or business is calculated at the end of the future cash flow period and this is also discounted to its present value using the appropriate discount rate.

DCF valuations are particularly applicable to businesses with limited lives, experiencing growth, that are in a start-up phase, or experience irregular cash flows.

#### **5 Market-based assessment**

The market based approach seeks to arrive at a value for a business by reference to comparable transactions involving the sale of similar businesses. This is based on the premise that companies with similar characteristics, such as operating in similar industries, command similar values. In performing this analysis it is important to acknowledge the differences between the comparable companies being analysed and the company that is being valued and then to reflect these differences in the valuation.

# Appendix 3 - Comparable Companies used for Trading Multiples Assessment

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Company Name	Business Description
<b>International Listed Companies</b>	
West Fraser Timber Co. Ltd. (TSX:WFG)	West Fraser Timber Co. Ltd. is a diversified wood products company engaged in manufacturing, and selling lumber, engineered wood products, pulp, wood chips, and other residuals and renewable energy. Its products are used in home construction, repair and remodeling, papers, tissue, and box materials. West Fraser Timber Co. Ltd. was founded in 1955 and is headquartered in Vancouver, Canada.
Oji Holdings Corporation (TSE:3861)	Oji Holdings Corporation engages in the pulp and paper business in Japan and internationally. It operates in four segments: Household and Industrial Materials, Functional Materials, Resources and Environment Business, and Printed Information Media. The Household and Industrial Materials segment offers containerboards, corrugated containers, boxboard and folding cartons, packaging papers, paper bags, household paper, white paperboards, cup base papers, base paper for straw, and disposable diapers. This segment also provides tissue paper, toilet rolls, kitchen towels, wet wipes, and face masks. Oji Holdings Corporation was founded in 1873 and is headquartered in Tokyo, Japan.
The Navigator Company, S.A. (ENXTLS:NVG)	The Navigator Company, S.A. manufactures and markets pulp and paper products worldwide. The company operates through Market Pulp, UWF Paper, Tissue Paper, and Biomass Renewable Energy segments. It produces bleached eucalyptus kraft pulp, uncoated writing and printing thin paper and domestic consumption paper. The company also operates cogeneration units and two independent thermoelectric power plants. The Navigator Company, S.A. was founded in 1953 and is headquartered in Setúbal, Portugal.
Hokuetsu Corporation (TSE:3865)	Hokuetsu Corporation manufactures and sells paper products in Japan, the United State, China, rest of Asia, and internationally. It operates in two segments, Paper and Pulp Business, and Packaging and Paper Processing Business. The company offers printing and communication papers for books, magazines, catalogs, and brochures. It also provides white paperboard, coated duplex board, cast coated paper, etc. for various publication materials. Hokuetsu Corporation was founded in 1907 and is headquartered in Tokyo, Japan.
Sappi Limited (JSE:SAP)	Sappi Limited, together with its subsidiaries, engages in the provision of materials made from woodfiber-based renewable resources in Europe, North America, and South Africa. The company manufacture and sells dissolving pulp, and wood and paper pulp. It also provides biomaterials as well as forestry products. The company was founded in 1936 and is headquartered in Johannesburg, South Africa.
Canfor Corporation (TSX:CFP)	Canfor Corporation operates as an integrated forest products company in the United States, Asia, Canada, Europe, and internationally. It operates in two segments, Lumber, and Pulp and Paper. The company manufactures and sells softwood lumber,

Company Name	Business Description
	remanufactured lumber products, as well as wood chips and pellets. The company was founded in 1938 and is headquartered in Vancouver, Canada.
ENCE Energía y Celulosa, S.A. (BME:ENC)	ENCE Energía y Celulosa, S.A., together with its subsidiaries, produces and sells eucalyptus hardwood pulp and renewable energy in Europe and internationally. It offers bleached eucalyptus kraft pulp and forest land management and forestry services, as well as produces renewable energy using forestry and agricultural biomass sources. The company is also involved in generating and selling electric energy and carbon credits. ENCE Energía y Celulosa, S.A. was founded in 1957 and is headquartered in Madrid, Spain.
Rayonier Advanced Materials Inc. (NYSE:RYAM)	Rayonier Advanced Materials Inc. manufactures and sells cellulose specialty products internationally. It operates through High Purity Cellulose, Paperboard, and High-Yield Pulp segments. The Company offers commodity products such as commodity viscose pulp used in woven applications, including rayon textiles for clothing and other fabrics, as well as in non-woven applications. In addition, the company provides paperboards for packaging, printing documents, brochures and other promotional materials. The company was founded in 1926 and is headquartered in Jacksonville, Florida.
Mercer International Inc. (NasdaqGS:MERC)	Mercer International Inc., together with its subsidiaries, manufactures and sells northern bleached softwood kraft (NBSK) and northern bleached hardwood kraft (NBHK) pulp worldwide. The company operates through two segments, Pulp and Solid Wood. It manufactures, sells, and distributes pulp, electricity, and chemicals through pulp mills. The company also manufactures, distributes, and sells lumber, timber, wood pallets, electricity, biofuels, and wood residuals. Mercer International Inc. was founded in 1968 and is headquartered in Vancouver, Canada.
Ta Ann Holdings Berhad (KLSE:TAANN)	Ta Ann Holdings Berhad, an investment holding company, operates as a timber and oil palm plantation company. It operates through three segments: Timber Products, Plantations, and Others. The company offers plywood products and sawmill products. It is also involved in the trade of timber logs, reforestation and cultivation of oil palms. In addition, the company act as a logging and plantation contractor and offers management services. It has oil palm estates with a total planted area of approximately 50,000 hectares; and crude palm oil mills. The company was founded in 1985 and is headquartered in Sibul, Malaysia.
Acadian Timber Corp. (TSX:ADN)	Acadian Timber Corp. supplies primary forest products in Eastern Canada and the Northeastern United States. The company operates in two segments, NB Timberlands and Maine Timberlands. Its products include softwood and hardwood sawlogs, pulpwood, and biomass by-products. The company owns and manages freehold timberlands in New Brunswick and Maine; and provides timber services relating to Crown licensed timberlands in New Brunswick. Acadian Timber Corp. was founded in 2006 and is headquartered in Edmundston, Canada.
Mitsubishi Paper Mills Limited (TSE:3864)	Mitsubishi Paper Mills Limited, together with its subsidiaries, produces, processes, and sells paper, pulp, and photosensitive materials in Japan, Europe, rest of Asia and internationally. The company operates through Paper and Pulp, Imaging Media, Specialty Materials, and Warehouse and Transportation segments. Mitsubishi Paper Mills Limited was incorporated in 1898 and is headquartered in Tokyo, Japan.

Company Name	Business Description
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Chuetsu Pulp & Paper Co., Ltd. (TSE:3877)

Chuetsu Pulp & Paper Co., Ltd. produces, process, and sells paper, pulp, and related by-products in Japan and internationally. It operates through Paper and Pulp Manufacturing Business and Power Generation Business segments. Chuetsu Pulp & Paper Co., Ltd. was incorporated in 1947 and is headquartered in Tokyo, Japan.

Canfor Pulp Products Inc. (TSX:CFX)

Canfor Pulp Products Inc., together with its subsidiaries, produces and supplies pulp and paper products in Canada, Europe, Asia, the United States, and internationally. It operates in two segments, Pulp and Paper. The company offers solid wood; bleached and unbleached softwood kraft pulps; and bleached, unbleached, and colored kraft papers. It also produces green energy. The company is headquartered in Vancouver, Canada. Canfor Pulp Products Inc. operates as a subsidiary of Canadian Forest Products Ltd.

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# Appendix 4 - Comparable Companies used for Transaction Multiples Assessment

Target	Country	Target Description
<b>International Transactions</b>		
Timber Technologies, LLC	United States	Timber Technologies, LLC manufactures glue-laminated wood columns and beams for post frame construction. It offers titan timbers, laminated beams, titan truss, titan wall, and architectural glue-laminated products. The company was founded in 2003 and is based in Colfax, Wisconsin. As of May 17, 2024, Timber Technologies, LLC operates as a subsidiary of Star Equity Holdings, Inc.
Cali Bamboo, LLC	United States	Cali Bamboo is a company that specializes in bamboo, wood, engineered, and vinyl flooring. They offer a variety of flooring options, including Eucalyptus, cork, and hardwood flooring, as well as area rugs, bamboo fencing, and plywood. The company was founded in 2004 by Jeff Goldberg and Tanner Haigwood, who were inspired to create a business that could make a difference after experiencing the benefits of bamboo.
Timberwood Panels Pty Ltd	Australia	Timberwood Panels is an Australian company that specializes in the distribution of premium grade products, including timber veneers, veneered and coloured boards, plywood, particleboard, and MDF. They offer a wide range of products such as architectural board, acrylic panels, and engineered veneer products.
REA Vipingo Plantations Limited	Kenya	REA Vipingo Plantations Limited, together with its subsidiaries, cultivates and produces sisal and sisal fiber primarily in Kenya and Tanzania. It is also involved in the cultivation of horticultural crops. The company's sisal fiber is used in sisal carpets, buffing cloth for various industrial polishing applications and sisal pulp for use in the manufacture of specialty papers. The company was incorporated in 1995 and is headquartered in Nairobi, Kenya.



Target	Country	Target Description
Kadant Canada Corp.	Canada	Kadant Canada Corp., designs and manufactures equipment for the panel and engineered wood products, pulp and paper, and sawmill industries. It offers equipment for the sawmill, and pulp and paper industries, which include chippers, screens, and debarkers. The company was founded in 1892 and is based in Surrey, Canada, with additional offices in Canada and the Southeast U.S. Kadant Canada Corp. operates as a subsidiary of Kadant Inc.

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Annexure B

**Scheme of Arrangement**

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**Ashurst**

# Scheme of Arrangement

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Midway Limited

Scheme Shareholders

2024

# Contents

1.	Defined terms and interpretation .....	1
2.	Preliminary matters.....	1
3.	Conditions.....	2
4.	This Scheme.....	2
5.	Implementation of this Scheme .....	3
6.	Scheme Consideration .....	4
7.	Provision of Scheme Consideration .....	10
8.	Dealings in Midway Shares .....	14
9.	Quotation of Midway Shares .....	16
10.	General Scheme provisions .....	16

## Schedule

1.	Dictionary.....	21
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**THIS SCHEME OF ARRANGEMENT** is made on

2024

**BETWEEN:**

- (1) **Midway Limited ACN 005 616 044** of 10 The Esplanade, North Shore, Victoria 3214 (**Midway**); and
- (2) Each person who holds one or more Scheme Shares on the Scheme Record Date (**Scheme Shareholders**).

**THE PARTIES AGREE AS FOLLOWS:**

1. **Defined terms and interpretation**

1.1 **Definitions in the Dictionary**

A term or expression starting with a capital letter:

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

1.2 **Interpretation**

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

2. **Preliminary matters**

2.1 **Midway**

- (a) Midway is a public company limited by shares, incorporated in Australia and registered in Victoria.
- (b) Midway is admitted to the official list of ASX and Midway Shares are officially quoted on ASX.
- (c) As at the date of the Implementation Deed:
  - (i) 87,336,222 Midway Shares were on issue and officially quoted on ASX; and
  - (ii) Midway had on issue 2,635,724 Midway Rights, comprising:
    - (A) 1,914,288 performance rights; and
    - (B) 721,436 options, all of which have been disclosed to the Bidder in writing and Midway and the Bidder have agreed in the Implementation Deed the manner in which Midway Rights will be dealt with.

2.2 **Bidder and RollCo**

- (a) Bidder is a proprietary company limited by shares, incorporated in Australia and registered in Victoria.

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- (b) RollCo is an unlisted public company limited by shares, incorporated in Australia and registered in Victoria.

### 2.3 **Implementation Deed**

On 12 February 2024, Bidder and Midway entered into the Implementation Deed pursuant to which, amongst other things, Midway has agreed to propose this Scheme to the Scheme Shareholders, and each of Midway and Bidder have agreed to take certain steps to give effect to this Scheme.

### 2.4 **Deed Poll**

Bidder and RollCo have entered into the Deed Poll for the purposes of covenanting in favour of Scheme Shareholders to perform all actions attributed to it under this Scheme including the obligation to provide or procure the provision of the Scheme Consideration to Scheme Shareholders in accordance with the terms of this Scheme.

## 3. **Conditions**

### 3.1 **Conditions to this Scheme**

This Scheme is conditional upon, and will have no force or effect until, the satisfaction of each of the following conditions precedent:

- (a) as at 8:00 am on the Second Court Date, each of the conditions set out in clause 3.1 of the Implementation Deed (other than the condition relating to the approval of the Court set out in clause 3.1(i) of the Implementation Deed) have been satisfied or waived in accordance with the terms of the Implementation Deed;
- (b) as at 8:00 am on the Second Court Date, neither the Implementation Deed nor the Deed Poll have been terminated in accordance with their terms;
- (c) the Court approves this Scheme under section 411(4)(b) of the Corporations Act either unconditionally or subject to any alterations or conditions made or required by the Court under section 411(6) of the Corporations Act and that are agreed to by Bidder and Midway in writing;
- (d) such other conditions made or required by the Court under section 411(6) of the Corporations Act in relation to the Scheme, and that are agreed to by Bidder in writing, have been satisfied or waived; and
- (e) the coming into effect of the Scheme Order, in accordance with section 411(10) of the Corporations Act, on or before the End Date.

### 3.2 **Certificates**

- (a) Bidder and Midway must provide to the Court on the Second Court Date certificates signed by Bidder and Midway respectively (or such other evidence as the Court requests) confirming (in respect of matters within their knowledge) whether or not the conditions in clauses 3.1(a) and 3.1(b) of this Scheme have been satisfied or waived in accordance with the terms of the Implementation Deed as at 8:00 am on the Second Court Date.
- (b) The certificates referred to in clause 3.2(a) constitutes conclusive evidence that such conditions were satisfied, waived or taken to be waived.

## 4. **This Scheme**

- (a) Subject to clause 3.1, this Scheme takes effect for all purposes on and from the Effective Date.

- (b) Without limiting any rights under the Implementation Deed, this Scheme will lapse and be of no further force or effect if:
- (i) the Effective Date has not occurred on or before the End Date; or
  - (ii) the Implementation Deed or the Deed Poll is terminated in accordance with its terms,

unless Bidder and Midway otherwise agree in writing (and, if required, as approved by the Court).

## 5. Implementation of this Scheme

### 5.1 Lodgement of Scheme Order with ASIC

If the conditions in clauses 3.1(a) to 3.1(d) are satisfied or waived, Midway must lodge with ASIC, in accordance with section 411(10) of the Corporations Act, an office copy of the Scheme Order approving this Scheme as soon as possible after, and in any event by 5:00 pm on the Business Day on which the Court approves this Scheme (or such later date as is agreed by Bidder and Midway in writing).

### 5.2 Consequences of this Scheme becoming Effective

If this Scheme becomes Effective:

- (a) Bidder and RollCo must provide or procure the provision of the Scheme Consideration to the Scheme Shareholders in accordance with their respective obligations under the terms of this Scheme and the Deed Poll;
- (b) all the Scheme Shares, together with all of the rights and entitlements attaching to them on the Implementation Date, will be transferred to Bidder; and
- (c) Midway will enter the name of Bidder in the Midway Register in respect of all the Scheme Shares.

### 5.3 Transfer of Scheme Shares

Subject to the Scheme becoming Effective, on the Implementation Date:

- (a) subject to the provision of the Scheme Consideration in the manner contemplated by this Scheme, all of the Scheme Shares, together with all rights and entitlements attaching to them on the Implementation Date, must be transferred to Bidder, without the need for any further act by any Scheme Shareholder (other than acts performed by Midway or its officers as attorney and agent for Scheme Shareholders under clause 10) by:
  - (i) Midway delivering to Bidder a duly completed Scheme Transfer (and one or more Scheme Transfers can be a master transfer of all or part of all of the Scheme Shares), executed on behalf of the Scheme Shareholders by Midway as their attorney and agent; and
  - (ii) Bidder duly executing such Scheme Transfer, attending to the stamping of the Scheme Transfer (if required) and delivering it to Midway for registration; and
- (b) as soon as reasonably practicable following receipt of the Scheme Transfer in accordance with clause 5.3(a)(ii) or the transfer being effected under section 1074D of the Corporations Act (as the case may be), Midway must enter, or procure the entry of, the name of Bidder in the Midway Register in respect of all the Scheme Shares transferred to Bidder in accordance with this Scheme.



## 6. **Scheme Consideration**

### 6.1 **Scheme Consideration**

- (a) The Scheme Consideration to be provided by Bidder to each Scheme Shareholder in respect of the transfer of each Scheme Share in accordance with the Scheme is one of the following:
  - (i) the All Cash Consideration;
  - (ii) the All Scrip Consideration (subject to the Scaleback Arrangements and the Minimum Scrip Threshold); or
  - (iii) the Mixed Consideration (subject to the Scaleback Arrangements and the Minimum Scrip Threshold).
- (b) Each Scheme Shareholder is entitled to receive the Scheme Consideration in respect of each Scheme Share held by that Scheme Shareholder, subject to the terms of this Scheme.

### 6.2 **Entitlement to Scheme Consideration**

- (a) Subject to the Scheme becoming Effective, in consideration for the transfer to the Bidder of each Scheme Share held by a Scheme Shareholder, Bidder undertakes and warrants to Midway (in Midway's own right and separately as trustee for each of the Scheme Shareholders) that on the Implementation Date the Bidder must provide, or procure the provision to, the Scheme Consideration to each Scheme Shareholder for each Scheme Share held by it on the terms of clause 7.
- (b) The obligation of the Bidder to provide or procure the provision of the Scheme Consideration to Scheme Shareholders will be satisfied in accordance with clauses 7.1 and/or 7.2.

### 6.3 **Bidder undertakings in relation to Scheme Consideration**

Subject to the terms of this Scheme, Bidder undertakes and warrants to Midway (in its own right and separately as trustee for each Scheme Shareholder) that, in consideration of the transfer to Bidder of each Scheme Share held by a Scheme Shareholder under the terms of this Scheme, on the Implementation Date, Bidder will:

- (a) accept that transfer; and
- (b) provide to each Scheme Shareholder (or procure the provision to each Scheme Shareholder of) the Scheme Consideration for each Scheme Share in accordance with and subject to the terms and conditions of this Scheme (including any application of the Scaleback Mechanism, any Election made by that Scheme Shareholder as contemplated by clause 6.4, the payment of the Aggregate Cash Consideration and the issue of RollCo Shares pursuant to the terms of this Scheme),

in each case, in accordance with the terms of this Scheme and the Deed Poll.

### 6.4 **Election mechanism**

- (a) Unless the applicable terms of this Scheme expressly provide otherwise, the Scheme Consideration will be All Cash Consideration.
- (b) Each Midway Shareholder (other than an Ineligible Shareholder) will be entitled to make an Election. All Elections take effect in accordance with this Scheme to the extent any Midway Shareholder (other than an Ineligible Shareholder) who

makes an Election qualifies as a Scheme Shareholder with respect to receipt of the Mixed Consideration.

- (c) Midway must ensure that the Scheme Booklet is accompanied by an Election Form.
- (d) The Election Form must include the following terms and conditions:
  - (i) for an Election to be valid (**Valid Election**):
    - (A) the Scheme Shareholder must not be an Ineligible Shareholder;
    - (B) the Scheme Shareholder must complete and sign the Election Form in accordance with the instructions in the Scheme Booklet and the terms and conditions set out in the Election Form; and
    - (C) the Election Form must be received by the Midway Registry by the Election Time at the address specified by Midway in the Scheme Booklet and on the Election Form,

provided that the Bidder may, with the agreement of Midway in writing, settle as it thinks fit any difficulty, matter or interpretation or dispute which may arise in connection with interpreting the validity of any Election, and any such decision will be conclusive and binding on Bidder, Midway and the relevant Scheme Shareholder, with Bidder having no obligation to communicate with any Scheme Shareholder prior to making this determination;

- (ii) Ineligible Shareholders may not make an Election and that any purported Election by such persons will be of no effect;
- (iii) if a Midway Shareholder does not make a Valid Election on or before the Election Time, that Midway Shareholder will receive the Cash Consideration in respect of the Scheme Shares held by that Midway Shareholder;
- (iv) an Election will be deemed to apply in respect of the greater of the Midway Shareholder's entire registered holding of Scheme Shares at the Election Time and at the Scheme Record Date, provided that if the amount so calculated would otherwise exceed its entire registered holding at the Scheme Record Date, the amount will be taken to be its entire registered holding at the Scheme Record Date;
- (v) Midway Shareholders (other than Ineligible Shareholders) who make a Valid Election on or before the Election Time agree to become members of RollCo from the Implementation Date and become bound by the RollCo Constitution, the Nominee Deed and the RollCo Shareholders' Deed from the Implementation Date, pursuant to the Scheme;
- (vi) Midway Shareholders (other than Ineligible Shareholders) who make a Valid Election on or before the Election Time agree that any Scrip Consideration to which it is entitled pursuant to the terms of the Scheme will be issued to that Scheme Shareholder (either directly or indirectly through the Nominee to be held as bare trustee for those Scheme Shareholders, at the absolute discretion of Bidder), in accordance with the terms of the Nominee Deed and the RollCo Shareholders' Deed; and

- (vii) Midway Shareholders (other than Ineligible Shareholders) who make a Valid Election on or before the Election Time must provide, before the Election Time, the information and documents described in the Election Form as being required by Bidder or Midway; and
- (viii) the Scaleback Arrangements and the Minimum Scrip Threshold apply to the issue of the Scrip Consideration,

and must otherwise be in a form agreed by the parties in writing (after negotiating in good faith).

- (e) In the manner considered appropriate by Bidder and Midway (acting reasonably), a Midway Shareholder who holds one or more parcels of Midway Shares as trustee or nominee for, or otherwise on account of, another person, may make separate Elections in relation to each of those parcels of Midway Shares (subject to providing to Bidder and Midway substantiating information they reasonably require). If a Midway Shareholder does so, it will be treated as a separate Midway Shareholder for each such parcel in respect of which a separate Election is made (and for any balance of its holding), provided that if, at the Election Date, it holds fewer Midway Shares than it held at the time it made the Election the Election Form is made available to Midway Shareholders with the Scheme Booklet sent to each of them then, unless it has at the time of any sale of Midway Shares notified Midway whether the Midway Shares sold relate to, any such separate Election (and if so, which separate Election the Midway Shares sold relate to), it will be treated as not having made a Valid Election in respect of any of its Midway Shares or otherwise be treated in any other manner that Bidder and Midway agree is fair and appropriate.
- (f) Midway must procure that, to the extent reasonably practicable, Midway Shareholders who acquire Midway Shares after the date of the dispatch of the Scheme Booklet and Election Form receive an Election Form on request to the Midway.
- (g) In order to facilitate the provision of the Scheme Consideration, Midway must provide, or procure the provision of, to Bidder:
  - (i) weekly written updates of the Elections that have been received in the period up to the Election Time (and to the extent practicable, acting reasonably, daily updates in the week prior to Election Time); and
  - (ii) written details of the final Elections made by each Midway Shareholder as soon as reasonably practicable following the Election Time and in any event no later than 3 Business Days after the Election Time, including the name and address of each Midway Shareholder who has made an Election on or before the Election Time and the number of RollCo Shares that RollCo must issue to that Midway Shareholder to meet its obligations under the Scheme in accordance with that Midway Shareholder's Election and subject to the Scaleback Arrangements.

#### 6.5 **Minimum Scrip Threshold not reached**

If the Aggregate Scrip Consideration is less than the Minimum Scrip Threshold:

- (a) Bidder will not:
  - (i) comply with any Elections made on or before the Election Time; or

- (ii) procure that RollCo issue any Scrip Consideration to any Scheme Shareholders;
- (b) each Scheme Shareholder who gives an election on or before the Election Time will be entitled to receive the All Cash Consideration for the Scheme Shares they hold; and
- (c) Bidder must, instead of complying with clause 7.2, by no later than 5:00 pm on the Business Day before the Implementation Date, deposit or procure the deposit, into the Trust Account, an amount in immediately available funds equal to the Maximum Cash Consideration to be held by or on behalf of Midway on trust for those Scheme Shareholders and will, by doing so, satisfy its obligations under clause 7.2.
- (d) In the event that:
  - (i) either:
    - (A) a Scheme Shareholder does not have a Registered Address; or
    - (B) Midway as trustee for the Scheme Shareholder believes that a Scheme Shareholder is not known at the Scheme Shareholder's Registered Address, and no account has been notified in accordance with clause 7.1(b)(i) or 7.1(b)(ii) or a deposit into such account is rejected or refunded; or
  - (ii) a cheque issued under clause 7 has been cancelled in accordance with 7.4(b),

Midway as the trustee for the Scheme Shareholder may credit the amount payable to the relevant Scheme Shareholder to a separate bank account of Midway (**Separate Account**) to be held until the Scheme Shareholder claims the amount or the amount is dealt with in accordance with the *Unclaimed Money Act 2008* (Vic). To avoid doubt, if the amount is not credited to a Separate Account, the amount will continue to be held in the Trust Account until the Scheme Shareholder claims the amount or the amount is dealt with in accordance with the *Unclaimed Money Act 2008* (Vic).

- (e) Until such time as the amount is dealt with in accordance with the *Unclaimed Money Act 2008* (Vic), Midway must hold the amount on trust for the relevant Scheme Shareholder, but any interest or other benefit accruing from the amount will be to the benefit of the Bidder. An amount credited to the Separate Account or Trust Account (as applicable) under this clause is to be treated as having been paid to the Scheme Shareholder when credited to the Separate Account or Trust Account (as applicable). Midway must maintain records of the amounts paid, the people who are entitled to the amounts and any transfers of the amounts.
- (f) To the extent that there is a surplus in the amount held by Midway as the trustee for the Scheme Shareholders in the Trust Account (including any accrued interest), that surplus must be paid by Midway as the trustee for the Scheme Shareholders to the Bidder following the satisfaction of Midway's obligations as the trustee for the Scheme Shareholders under this clause 6.5.

## 6.6 All Cash Consideration

- (a) If a Midway Shareholder:
  - (i) is an Ineligible Shareholder; or

(ii) does not make a Valid Election,

that Midway Shareholder will receive the All Cash Consideration for the Scheme Shares held by them.

(b) All Midway Shareholders will receive the All Cash Consideration for the Scheme Shares held by them if clause 6.5 applies.

#### 6.7 **Ineligible Shareholders**

Without limiting clause 6.6, Bidder has no obligation to provide, and will not provide, under this Scheme any Scrip Consideration to any Ineligible Shareholders, regardless of any Election made by those persons, but must pay the All Cash Consideration to each Ineligible Shareholder for the Scheme Shares they hold in accordance with the Scheme.

#### 6.8 **Scrip Consideration**

If a Midway Shareholder makes a Valid Election and clause 6.5 does not apply:

- (a) the Midway Shareholder will be entitled to receive the Scheme Consideration relevant to their Election (subject to the Scaleback Arrangements and the terms of this Scheme); and
- (b) the Scrip Consideration in respect of which the Midway Shareholder is entitled to will be issued directly to that Scheme Shareholder (such that the Scheme Shareholder will be the legal holder of the relevant Scrip Consideration) or the Nominee to hold as bare trustee for that Scheme Shareholder (such that the Scheme Shareholder will be the beneficial holder but not the legal holder of the relevant Scrip Consideration) in accordance with the terms of the Nominee Deed and the RollCo Shareholders' Deed.

#### 6.9 **Status of Scrip Consideration**

Subject to this Scheme becoming Effective, RollCo and Bidder must:

- (a) issue (or procure the issue of) the Scrip Consideration required to be issued under this Scheme on terms such that each share forming part of the Scrip Consideration will rank equally in all respects with each existing share (if any) of the same class and will have the rights set out in the RollCo Constitution and the RollCo Shareholders' Deed; and
- (b) ensure that each such share is duly and validly issued in accordance with all applicable laws, the RollCo Constitution and the RollCo Shareholders' Deed, fully paid and free from any mortgage, charge, lien, encumbrance, pledge or other security interest (including any 'security interest' within the meaning of section 12 of the *Personal Property Securities Act 2009* (Cth)).

#### 6.10 **Scaleback Arrangements**

- (a) If the Aggregate RollCo Elected Shares are less than or equal to the Available RollCo Shares, each Scheme Shareholder (or Nominee on that Scheme Shareholder's behalf) who is entitled to be issued RollCo Shares will receive as Scrip Consideration the number of RollCo Shares the subject of their Valid Elections to receive All Scrip Consideration or Mixed Consideration in full, subject to the other conditions in this Scheme.
- (b) If the Aggregate RollCo Elected Shares exceed the Available RollCo Shares, each Scheme Shareholder (or Nominee on that Scheme Shareholder's behalf) who is entitled to be issued RollCo Shares will receive the number of RollCo Shares as Scrip Consideration calculated in accordance with the formula below

(**Scaleback Shares**), and that Scheme Shareholder will receive the Cash Consideration and not the Scrip Consideration in respect of the remaining number of Scheme Shares they hold that would otherwise have received Scrip Consideration but for the calculation below:

$$\text{Scaleback Shares} = A \times \left(\frac{B}{C}\right)$$

where:

**A** is the number of RollCo Shares that would have been received in exchange for the Scheme Shares the subject of the Scheme Shareholder's Valid Election to receive All Scrip Consideration or Mixed Consideration;

**B** is the Available RollCo Shares; and

**C** is the Aggregate RollCo Elected Shares.

#### 6.11 **Fractional entitlements**

Where the calculation of Scheme Consideration (including in calculating the Scaleback Shares) to be provided to a Scheme Shareholder would result in the Scheme Shareholder becoming entitled to a fraction of a cent or a fraction of a RollCo Share:

- (a) where that entitlement is to half a cent or more or half a RollCo Share or more, the number of cents or number of RollCo Shares (as the case may be), will be rounded up to the nearest whole number;
- (b) where that entitlement is to less than half a cent or less than half a RollCo Share, the number of cents or number of RollCo Shares (as the case may be), will be rounded down to the nearest whole number.

#### 6.12 **Splitting**

If Bidder and Midway are of the opinion that a number of Scheme Shareholders and/or other persons (who, to avoid doubt, may include other Scheme Shareholders) have, before the Election Time, been party to Share Splitting or an acquisition of Scheme Shares in an attempt to obtain, or which provides, an advantage by reference to the rounding as contemplated by clause 6.11, Bidder may give notice to those Scheme Shareholders prior to the Implementation Date:

- (a) setting out the names and registered address of all of those Scheme Shareholders;
- (b) stating that opinion; and
- (c) attributing to one of them specifically identified in the notice the Scheme Shares held by all of them,

and, after the notice has been so given, the Scheme Shareholder specifically identified in the notice will, for the purposes of the Scheme, be taken to hold all those Scheme Shares and each of the other Scheme Shareholders whose names are set out in the notice will, for the purposes of the Scheme, be taken to hold no Scheme Shares.

## 7. Provision of Scheme Consideration

### 7.1 Provision of Aggregate Cash Consideration

- (a) The obligation of Bidder to provide, or procure the provision of, the Aggregate Cash Consideration to Scheme Shareholders in accordance with this Scheme and the Deed Poll will be satisfied by Bidder by:
- (i) depositing, or procuring the deposit, into the Trust Account, an amount in immediately available funds equal to the Aggregate Cash Consideration by no later than 5:00 pm on the day that is two Business Days before the Implementation Date to be held by or on behalf of Midway on trust for those Scheme Shareholders, provided that any interest earned on the amount deposited (less bank fees and other charges) by Bidder will be for the account of Bidder; and
  - (ii) providing Midway with written confirmation that payment has been made in accordance with clause 7.1(a)(i).
- (b) Subject to clause 7.1(c), on the Implementation Date, and subject to the receipt of the Aggregate Cash Consideration in accordance with clause 7.1(a), Midway must pay, or procure the payment, to each Scheme Shareholder from the Trust Account an amount equal to the Cash Consideration due to that Scheme Shareholder in respect of each relevant Scheme Share registered in the name of that Scheme Shareholder as at the Scheme Record Date by doing any of the following below (in Midway's absolute discretion):
- (i) paying, or procuring the payment of, the relevant amount by electronic transfer to a bank account nominated by the Scheme Shareholder, where the Scheme Shareholder has made an election prior to the Scheme Record Date in accordance with the requirements of Midway Registry to receive dividend payments from Midway into that bank account;
  - (ii) paying, or procuring the payment of, the relevant amount by electronic transfer to a bank account nominated by the Scheme Shareholder by an appropriate authority received from the Scheme Shareholder to Midway; or
  - (iii) dispatching, or procuring the dispatch, to each Scheme Shareholder by prepaid ordinary post to the address of the Scheme Shareholder recorded in Midway Register as at the Scheme Record Date of a pre-printed cheque for the amount of the Cash Consideration due to that Scheme Shareholder in accordance with the Scheme.
- (c) The Cash Consideration payable to each Scheme Shareholder with a registered address in New Zealand will be paid to a bank account nominated by that Scheme Shareholder. If a Scheme Shareholder with a registered address in New Zealand has not nominated a bank account for the receipt of payments, Midway may hold payment of the Cash Consideration owed to that Scheme Shareholder until a valid bank account has been nominated by an appropriate authority from the Scheme Shareholder to Midway.
- (d) If Bidder is required by section 260-5 or Subdivision 14-D of Schedule 1 of the *Taxation Administration Act 1953* (Cth), or section 255 of the *Income Tax Assessment Act 1936* (Cth), to pay to the Commissioner of Taxation (**Commissioner**) an amount in respect of the acquisition of Scheme Shares (**Withholding Amount**), Bidder is permitted to deduct the Withholding Amount from the Scheme Consideration otherwise payable in respect of those Scheme

Shares and remit such amounts to the Commissioner. The aggregate sum payable shall not be increased to reflect the deduction of the Withholding Amount and the net sum payable to those Scheme Shareholders to whom the Withholding Amount relates to shall be taken to be in full and final satisfaction of the amounts owing to those Scheme Shareholders.

- (e) Bidder acknowledges and agrees, that it shall not pay any amounts to the Commissioner of Taxation under clause 7.1(d) with respect to a Scheme Shareholder where it receives an entity declaration from the Scheme Shareholder prior to the Implementation Date, where:
  - (i) the entity declaration is made in accordance with the requirements in section 14-225 of Subdivision 14-D and covers the Implementation Date (**Entity Declaration**); and
  - (ii) the Bidder does not know that the Entity Declaration is false.
- (f) If the Bidder forms the view that it knows that an Entity Declaration it has received is false, and the Bidder received the Entity Declaration more than 30 days before the Implementation Date, the Bidder agrees that it shall not pay any amounts to the Commissioner of Taxation in respect of that Scheme Shareholder until it has:
  - (i) provided information upon which it relied to form that view to the Scheme Shareholder who has provided that Entity Declaration no less than 20 days before the Implementation Date;
  - (ii) provided the Scheme Shareholder by notice in writing the opportunity to review the information provided to it and respond with their views no less than 10 days before the Implementation Date; and
  - (iii) reviewed any response from the Scheme Shareholder and, after having reconsidered its view, still be of the view that it has knowledge that the Entity Declaration it has received is false.
- (g) The Bidder may approach the Australian Taxation Office to obtain clarification as to the application of Subdivision 14-D to the Scheme and will provide all information and assistance that Bidder reasonably requires in making any such approach. Bidder agrees:
  - (i) to provide Midway a reasonable opportunity to review the form and content of all materials to be provided to the Australian Taxation Office, and must incorporate Midway's reasonable comments on those materials, and more generally to take into account Midway's comments in relation to the Bidder's engagement with the Australian Taxation Office, and provide Midway a reasonable opportunity to participate in any discussions and correspondence between Midway and the Australian Taxation Office in connection with the application of Subdivision 14-D to the Scheme; and
  - (ii) not to contact any Scheme Participant in connection with the application of Subdivision 14-D to the Scheme without Midway's prior consent.
- (h) Midway, BidCo and RollCo agree to consult in good faith as to the application of Subdivision 14-D, including taking into account any clarification provided by the Australian Taxation Office following any process described in clause 7.1(g). Midway, BidCo and RollCo agree to take all actions that they agree (each acting reasonably) are necessary or desirable following that consultation.



- (i) If:
  - (i) either:
    - (A) a Scheme Shareholder does not have a Registered Address; or
    - (B) Midway as the trustee for the Scheme Shareholders reasonably believes that a Scheme Shareholder is not known at the Scheme Shareholder's Registered Address,

and no account has been notified in accordance with clause 7.1(b)(i) or a deposit into such an account is rejected or refunded; or
  - (ii) a cheque issued under this clause 7.1 has been cancelled in accordance with clause 7.4,

Midway as the trustee for the Scheme Shareholders may credit the amount payable to the relevant Scheme Shareholder to a separate bank account of Midway (**Separate Account**) to be held until the Scheme Shareholder claims the amount or the amount is dealt with in accordance with the *Unclaimed Money Act 2008* (Vic). To avoid doubt, if the amount is not credited to a Separate Account, the amount will continue to be held in the Trust Account until the Scheme Shareholder claims the amount or the amount is dealt with in accordance with the *Unclaimed Money Act 2008* (Vic).

Until such time as the amount is dealt with in accordance with the *Unclaimed Money Act 2008* (Vic), Midway must hold on trust the amount for the relevant Scheme Shareholder, but any interest or other benefit accruing from the amount will be to the benefit of Bidder. An amount credited to the Separate Account or Trust Account (as applicable) is to be treated as having been paid to the Scheme Shareholder when credited to the Separate Account or Trust Account (as applicable). Midway must maintain records of the amounts paid, the people who are entitled to the amounts and any transfers of the amounts.

## 7.2 Provision of Scrip Consideration

- (a) Subject to clauses 6.4, 6.10(a), 6.11(b) and 7.2(b) and the Scaleback Arrangements, before 12:00 pm (or such other time as Bidder and Midway may agree in writing) the obligation of Bidder to provide, or procure the provision of, the Scrip Consideration to applicable Scheme Shareholders in accordance with this Scheme and the Deed Poll will be satisfied by Bidder procuring that, on the Implementation Date, RollCo:
  - (i) issues and allots the Scrip Consideration to each Scheme Shareholder who has made a Valid Election, or is otherwise deemed to have validly elected, to receive Scrip Consideration (by way of that Scheme Shareholder's Valid Election to receive Mixed Consideration or All Scrip Consideration) in accordance with the Scheme in respect of that Scheme Shareholder's Scheme Shares; and
  - (ii) enters the name and address of each Scheme Shareholder to whom Scrip Consideration is issued in accordance with clause 7.2(a)(i) into the RollCo Register in respect of the Scrip Consideration to which it is entitled under the Scheme (either directly or through the Nominee to hold as bare trustee for the relevant Scheme Shareholders as contemplated by clause 7.2(b), the Nominee Deed and the RollCo Shareholders' Deed); and

- (iii) gives written notice to Midway that it has performed its obligations under this clause 7.2(a).
- (b) Notwithstanding any other provision of this Scheme, the Scrip Consideration in respect of which a Scheme Shareholder is entitled under clause 7.2(a) may, in Bidder's absolute discretion, be issued directly to:
  - (i) that Scheme Shareholder (such that the Scheme Shareholder will be the legal holder of the relevant Scrip Consideration); or
  - (ii) the Nominee to hold as bare trustee for that Scheme Shareholder (such that the Scheme Shareholder will be the beneficial holder but not the legal holder of the relevant Scrip Consideration) in accordance with the terms of the Nominee Deed and the RollCo Shareholders' Deed.
- (c) Within 5 Business Days after the Implementation Date, RollCo must send, or procure the sending of, a certificate or other holding statement in accordance with the RollCo Constitution to each Scheme Shareholder or (if applicable) the Nominee entitled to receive Scrip Consideration under this Scheme, reflecting the issue of such Scrip Consideration, to their Registered Address or as otherwise validly directed by the relevant Scheme Shareholder or the Nominee (as applicable).

### 7.3 Joint holders

In the case of Scheme Shares held in joint names:

- (a) any Scheme Consideration payable in cash in respect of those Scheme Shares is payable to the joint holders and any cheque required to be sent under this Scheme will be made payable to the joint holders and sent to either, at the sole discretion of Midway, the holder whose name appears first in Midway Register as at the Scheme Record Date or the joint holders;
- (b) any Scrip Consideration to be issued under this Scheme must be issued to and registered in the names of the joint holders or, if Scrip Consideration is issued to the Nominee to hold as bare trustee for the joint holders (as contemplated by clause 7.2), the joint holders will have joint beneficial ownership of that Scrip Consideration; and
- (c) any other document required to be sent under this Scheme, will be forwarded to either, at the sole discretion of Midway (or, in the case of clause 7.2(c), the Bidder), the holder whose name appears first in Midway Register as at the Scheme Record Date or to the joint holders.

### 7.4 Unclaimed monies

- (a) The *Unclaimed Money Act 2008* (Vic) will apply in relation to any Scheme Consideration which becomes 'unclaimed money' (as defined in sections 3 and 12 of the *Unclaimed Money Act 2008* (Vic)).
- (b) Midway may cancel a cheque issued under clause 7.1 if the cheque:
  - (i) is returned to Midway; or
  - (ii) has not been presented for payment within six months after the date on which the cheque was sent.
- (c) During the period of 12 months commencing on the Implementation Date, on request in writing from a Scheme Shareholder to Midway (or Midway Registry)

(which request may not be made until the date which is 20 Business Days after the Implementation Date), Midway must reissue a cheque that was previously cancelled under this clause 7.4.

**7.5 Remaining monies (if any) in Trust Account**

To the extent that following satisfaction of Midway's obligations under the other provisions of this clause 7 and provided the Bidder has by that time acquired the Scheme Shares in accordance with this Scheme, there is a surplus in the Trust Account, then subject to compliance with applicable laws, the other terms of this Scheme, the Deed Poll and the Implementation Deed, that surplus (less any bank fees and related charges) must be paid by Midway (or the Midway Registry on Midway's behalf) to Bidder.

**7.6 Amounts to be withheld or retained**

- (a) If written notice is given to Midway (or the Midway Registry) or the Bidder of an order or direction made by a court or Government Agency that:
- (i) requires consideration to be provided to a third party (either through payment of a sum or the issuance of a security) in respect of Scheme Shares held by a particular Scheme Shareholder, which would otherwise be payable or required to be issued to that Scheme Shareholder by Midway in accordance with clause 7, then Midway shall be entitled to procure that provision of that consideration is made in accordance with that order or direction; or
  - (ii) prevents Midway from providing consideration to any particular Scheme Shareholder in accordance with clause 7, or the payment or issuance of such consideration is otherwise prohibited by applicable law, Midway shall be entitled to (as applicable):
    - (A) retain an amount equal to the number of Scheme Shares held by that Scheme Shareholder multiplied by the Scheme Consideration; and
    - (B) direct RollCo not to issue, or to issue to a trustee or nominee, any Scrip Consideration that Scheme Shareholder would otherwise be entitled to under clause 7.2,

in accordance with this clause 7 as permitted by that (or another) court or direction or otherwise by law.

- (b) To the extent that amounts or shares are so deducted or withheld in accordance with clause 7.6(a), such deducted or withheld amounts or shares will be treated for all purposes under this Scheme as having been paid or issued to the person in respect of which such deduction and withholding was made, provided that such deducted or withheld amounts or shares are actually remitted or issued as required in accordance with this clause 7 if such remittance or issuance becomes permitted by court or direction or otherwise by law.

**8. Dealings in Midway Shares**

**8.1 Determination of Scheme Shareholders**

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

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

and for the purpose of establishing the persons who are Scheme Shareholders, Midway will not accept for registration nor recognise for any other purpose (other than a transfer to Bidder pursuant to this Scheme and any subsequent transfer by Bidder or its successors in title) any transfer or transmission application in respect of Midway Shares received after such times, or received prior to such times but not in registrable or actionable form (as appropriate).

## 8.2 Midway Register

- (a) Midway will, until the Scheme Consideration has been provided and the name and address of the Bidder has been entered in the Midway Register as the holder of all of the Scheme Shares, maintain, or procure the maintenance of, the Midway Register in accordance with the provisions of this clause 8.2. The Midway Register in this form and the terms of the Scheme will solely determine entitlements to the Scheme Consideration.
- (b) Midway must register, or cause to be registered, valid registrable transmission applications or transfers of the Scheme Shares that are received in accordance with clause 8.1(b) by no later than the Scheme Record Date (provided that for the avoidance of doubt nothing in this clause 8.2(b) requires Midway to register a transfer that would result in a Midway Shareholder holding a parcel of Midway Shares that is less than a Marketable Parcel).
- (c) As from the Scheme Record Date, each entry in the Midway Register (other than entries in the Midway Register in respect of Bidder and subsequent transferees) will cease to have effect, except as evidence of the entitlements of Scheme Shareholders to the Scheme Consideration in respect of those Midway Shares.
- (d) As soon as possible after the Scheme Record Date, and in any event within two Business Days after the Scheme Record Date, Midway will ensure that details of the names, registered addresses and holdings of Midway Shares for each Scheme Shareholder as shown in the Midway Register as at the Scheme Record Date are available to Bidder.

## 8.3 Effect of share certificates and holding statements

As from the Scheme Record Date (and other than for Bidder following the Implementation Date), all share certificates and holding statements for Scheme Shares (other than statements of holding in favour of Bidder) will cease to have effect as documents of title in respect of those Scheme Shares. Each entry which is current as at 7:00 pm on the Midway Register as at the Scheme Record Date is the sole evidence of entitlement to the Scheme Consideration in respect of the Scheme Shares relating to that entry.

## 8.4 No disposals after Scheme Record Date

If this Scheme becomes Effective, each Scheme Shareholder, and any person claiming through that Scheme Shareholder, must not dispose of, or purport or agree to dispose of, any Scheme Shares or any interest in them after the Scheme Record Date (other than to Bidder in accordance with this Scheme and any subsequent transfers by Bidder

to its successors in title), and any attempt to do so will have no effect and Midway shall be entitled to disregard any such disposal, purported disposal or agreement.

#### 8.5 **Information made available to Bidder**

As soon as practicable after the Scheme Record Date and in any event at least three Business Days before the Implementation Date, Midway will ensure that details of the names, Registered Addresses and holdings of Scheme Shares for each Scheme Shareholder as shown in the Midway Register as at the Scheme Record Date are available to Bidder in the form Bidder reasonably requires.

#### 9. **Quotation of Midway Shares**

- (a) Subject to the Scheme becoming Effective, Midway must apply to ASX to suspend trading of Midway Shares on the ASX with effect from the close of trading on the Effective Date.
- (b) Midway will apply:
  - (i) for termination of the official quotation of Midway Shares on the ASX; and
  - (ii) to have itself removed from the official list of the ASX,

in each case, with effect on and from the close of trading on the trading day immediately following the Implementation Date (or such later date as may be requested by Bidder and permitted by the ASX).
- (c) Midway must ensure that such termination of official quotation and removal from the official list of ASX does not occur before the Implementation Date.

#### 10. **General Scheme provisions**

##### 10.1 **Appointment of agent and attorney**

- (a) On this Scheme becoming Effective, each Scheme Shareholder, without the need for any further act by that Scheme Shareholder, irrevocably appoints Midway as its agent and attorney for the purposes of:
  - (i) doing all things and executing and delivering all deeds, instruments, transfers or other documents as may be necessary or desirable to give effect to the terms of this Scheme and the transactions contemplated by it, including, without limitation, the effecting of a valid transfer or transfers (or the execution and delivery of any Scheme Transfer) and binding any Scheme Shareholder who receives Scrip Consideration to the RollCo Constitution, RollCo Shareholders' Deed and/or Nominee Deed;
  - (ii) enforcing the Deed Poll against Bidder and RollCo,

and Midway accepts such appointment.
- (b) Midway, as agent and attorney of each Scheme Shareholder, may sub-delegate its functions, authorities or powers under this clause 10.1 to all or any of its directors and officers (jointly, severally, or jointly and severally) and may execute documents on behalf of each Scheme Shareholder pursuant to which a sub-delegate or sub-attorney may also be appointed under those documents (including the RollCo Shareholders' Deed and Nominee Deed).

## 10.2 **Enforcement of Deed Poll**

Midway undertakes in favour of each Scheme Shareholder that it will enforce the Deed Poll against Bidder and RollCo (as applicable on behalf of and as agent and attorney for the Scheme Shareholders).

## 10.3 **Scheme Shareholders' agreements**

Under this Scheme, each Scheme Shareholder:

- (a) irrevocably agrees to the transfer of their Scheme Shares, together with all rights and entitlements attaching to those Scheme Shares, to Bidder in accordance with the terms of this Scheme;
- (b) irrevocably agrees to the variation, cancellation or modification of the rights attached to their Scheme Shares constituted by or resulting from this Scheme;
- (c) agrees to, on the direction of Bidder, destroy any share certificates relating to their Scheme Shares;
- (d) to the extent they are to receive Scrip Consideration to which they are entitled, agrees to become a shareholder of RollCo, to have their name entered into the RollCo Register, to be bound by the RollCo Constitution and to be bound by the RollCo Shareholders' Deed;
- (e) to the extent they are to receive Scrip Consideration to which they are entitled and that Scrip Consideration is issued to the Nominee to hold on as bare trustee for the Scheme Shareholder (as contemplated by clause 7.2), agrees to be bound by the Nominee Deed;
- (f) without limiting clause 10.1, authorises Midway to do and execute, and consents to Midway doing and executing, all acts, matters, things and documents on the part of each Scheme Shareholder necessary for, or incidental to, the implementation of the Scheme and the transactions contemplated by it, including executing and delivering deeds, instruments, transfers or other documents, as agent and attorney of each Scheme Shareholder, including:
  - (i) a Scheme Transfer in relation to its Scheme Shares as contemplated by clause 10.1; and
  - (ii) any deed or document required by Midway, Bidder or RollCo for the purposes of documenting any agreement or arrangement for the purposes of clauses 10.3(d) and 10.3(e);
- (g) irrevocably acknowledges that this Scheme binds Midway and all Scheme Shareholders (including those who did not attend the Scheme Meeting and those who did not vote, or voted against this Scheme, at the Scheme Meeting) and, to the extent of any inconsistency, overrides the constitution of Midway;
- (h) agrees, if they hold their Scheme Shares in a CHES Holding (as defined in the ASX Settlement Rules), to the conversion of their Scheme Shares to an Issuer Sponsored Holding (as defined in the ASX Settlement Rules) and irrevocably authorises Midway to do anything necessary or desirable (whether required by the ASX Settlement Rules or otherwise) to effect or facilitate such conversion; and
- (i) irrevocably consents to Midway and Bidder doing all things and executing all deeds, instruments, transfers or other documents as may be necessary, incidental or expedient to the implementation and performance of this Scheme,

without the need for any further act by that Scheme Shareholder.

#### 10.4 **Warranty by Scheme Shareholders**

- (a) Each Scheme Shareholder is deemed to have warranted to Midway and Bidder on the Implementation Date, and to the extent enforceable, to have appointed and authorised Midway as that Scheme Shareholder's agent and attorney to warrant to Bidder, that:
- (i) all their Scheme Shares (including any rights and entitlements attaching to those Scheme Shares) will, at the date of the transfer of them to Bidder pursuant to this Scheme, be fully paid and free from all mortgages, charges, security interests (including any 'security interests' within the meaning of section 12 of the *Personal Property Securities Act 2009* (Cth)), liens, encumbrances and interests of third parties of any kind, whether legal or otherwise, and restrictions on transfer of any kind;
  - (ii) they have full power and capacity to sell and to transfer their Scheme Shares (together with all rights and entitlements attaching to those Scheme Shares) to Bidder pursuant to this Scheme; and
  - (iii) it has no existing right to be issued any Midway Shares or any other Midway equity securities, options exercisable into Midway Shares, Midway convertible notes or any other Midway securities.
- (b) Midway undertakes in favour of each Scheme Shareholder that it will provide such warranty, to the extent enforceable, to Bidder on behalf of that Scheme Shareholder.

#### 10.5 **Title to Scheme Shares**

- (a) Immediately upon the provision of the Scheme Consideration to each Scheme Shareholder, Bidder will be beneficially entitled to the Scheme Shares transferred to it under this Scheme pending registration by Midway of Bidder in the Midway Register as the holder of the Scheme Shares.
- (b) To the extent permitted by law, the Scheme Shares (including all rights and entitlements attaching to the Scheme Shares) transferred under this Scheme to Bidder will, at the time of transfer of them to Bidder, vest in Bidder free from all mortgages, charges, security interests (including any 'security interests' within the meaning of section 12 of the *Personal Property Securities Act 2009* (Cth)), liens, encumbrances and interests of third parties of any kind, whether legal or otherwise, and restrictions on transfer of any kind.

#### 10.6 **Appointment of Bidder as sole proxy**

Immediately upon the provision of the Scheme Consideration to each Scheme Shareholder, and until Bidder is registered in Midway Register as the holder of all Scheme Shares, each Scheme Shareholder:

- (a) without the need for any further act by that Midway Shareholder, irrevocably appoints Bidder as its proxy to (and irrevocably appoints Bidder as its attorney and agent for the purpose of appointing any director or officer of Bidder as that Midway Shareholder's proxy and, where appropriate, its corporate representative to):
- (i) attend shareholders' meetings of Midway;

- (ii) exercise the votes attaching to Midway Shares registered in the name of the Midway Shareholder; and
    - (iii) sign any Midway Shareholders' resolution;
  - (b) must not attend or vote at any meetings of Midway Shareholders or sign any Midway Shareholders' resolution, whether in person, by proxy or by corporate representative (other than pursuant to clause 10.6(a));
  - (c) must take all other actions in the capacity of Midway Shareholder as Bidder reasonably directs; and
  - (d) acknowledges and agrees that in exercising the powers conferred in clause 10.6(a), Bidder and any person nominated by Bidder under clause 10.6(a) may act in the best interests of Bidder as the intended registered holder of the Scheme Shares.
- 10.7 **Binding effect of this Scheme**
- This Scheme binds Midway and all of the Scheme Shareholders (including those who did not attend the Scheme Meeting and those who did not vote, or voted against this Scheme, at the Scheme Meeting) and, to the extent of any inconsistency, overrides the constitution of Midway.
- 10.8 **Notices**
- (a) Where a notice, transfer, transmission application, direction or other communication referred to in this Scheme is sent by post to Midway, it will not be deemed to be received in the ordinary course of post or on a date other than the date (if any) on which it is actually received at Midway's registered office or at the Midway Registry as the case may be.
  - (b) The accidental omission to give notice of the Scheme Meeting or the non-receipt of such notice by a Midway Shareholder will not, unless so ordered by the Court, invalidate the Scheme Meeting or the proceedings of the Scheme Meeting.
- 10.9 **Inconsistencies**
- This Scheme binds Midway and all Midway Shareholders, and to the extent of any inconsistency, overrides the Midway constitution.
- 10.10 **No liability when acting in good faith**
- Each Scheme Shareholder agrees that none of Midway, Bidder or RollCo's respective directors, officers, secretaries or employees will be liable for anything done or omitted to be done in good faith in the performance of this Scheme or the Deed Poll and the transactions contemplated by the Scheme.
- 10.11 **Further assurance**
- Each Scheme Shareholder and Midway will do all things and execute all deeds, instruments, transfers or other documents as may be necessary or desirable to give full effect to the terms of this Scheme and the transactions contemplated by it.
- 10.12 **Alterations and conditions**
- If the Court proposes to approve this Scheme subject to any conditions or alterations under section 411(6) of the Corporations Act, Midway may, by its counsel or solicitors, and with the prior consent of Bidder:
- (a) consent on behalf of all persons concerned, including each Midway Shareholder, to those alterations or conditions; and



- (b) each Scheme Shareholder agrees to any such alterations or conditions which Midway has consented to.

**10.13 Consent**

Each of the Scheme Shareholders consents to Midway doing all things necessary or incidental to the implementation of this Scheme, whether on behalf of the Scheme Shareholders, Midway or otherwise.

**10.14 Duty**

Bidder will:

- (a) pay all duty (including stamp duty and any related fines, penalties and interest) payable on or in connection with the Deed Poll and any instrument executed under or any transaction evidenced by the Deed Poll (including, the transfer by Scheme Shareholders of the Scheme Shares to Bidder pursuant to this Scheme); and
- (b) indemnify each Scheme Shareholder against any liability arising from failure to comply with clause 10.14(a).

**10.15 Governing law**

- (a) This Scheme is governed by the laws of Victoria.
- (b) Each party irrevocably submits to the non-exclusive jurisdiction of the courts of Victoria and courts competent to hear appeals from those courts. The parties irrevocably waive any objection to the venue of any legal process in these courts on the basis that the process have been brought in an inconvenient forum.

# Schedule 1

## Dictionary

### 1. Dictionary

Unless the context requires otherwise, in this Scheme:

**Aggregate Cash Consideration** means the aggregate of the Cash Consideration payable to Scheme Shareholders under this Scheme (taking into account all Valid Elections and the terms of the Scheme).

**Aggregate RollCo Elected Shares** means the total number of RollCo Shares that would be issued in exchange for Scheme Shares the subject of all Valid Elections for Mixed Consideration, including deemed Valid Elections, but for the Scaleback Arrangements.

**Aggregate Scrip Consideration** means the aggregate number of RollCo Shares to be provided to Scheme Shareholders under the Scheme (taking into account all Valid Elections and the terms of the Scheme).

**All Cash Consideration** means the Cash Consideration for each Scheme Share held by a Scheme Shareholder.

**All Scrip Consideration** means the Scrip Consideration for each Scheme Share held by a Scheme Shareholder.

**ASIC** means the Australian Securities and Investments Commission.

**ASX** means ASX Limited (ACN 008 624 691) or, where the context requires, the financial market operated by it known as the "Australian Securities Exchange".

**Available RollCo Shares** means the number of RollCo Shares which represents 49.99% of the total issued capital of RollCo as at the Implementation Date (assuming all Scrip Consideration has been issued in accordance with the terms of this Scheme, and as if all other RollCo Shares that have been agreed to be issued in connection with the Scheme and contemplated by the Implementation Deed have been issued on the Implementation Date).

**Bidder** means RCM BidCo Pty Ltd ACN 682 228 280.

**Business Day** has the meaning given in the Listing Rules.

**Cash Consideration** means an amount of \$1.19 for each Scheme Share, as adjusted in accordance with clause 5.3 of the Implementation Deed (if applicable).

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

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

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

**Deed Poll** means the deed poll, substantially in the form of Annexure B of the Implementation Deed, under which Bidder and RollCo covenants in favour of the Scheme Shareholders to perform all actions attributed to it under this Scheme.

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

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

**Election** means an election by a Midway Shareholder (other than an Ineligible Shareholder) to receive for the Scheme Shares held by that Midway Shareholder:

- (a) All Cash Consideration;
- (b) All Scrip Consideration; or
- (c) Mixed Consideration.

**Election Form** means the form of election under which a Midway Shareholder is offered the opportunity to make an Election.

**Election Time** means 7.00 pm on the date which is 5 Business Days prior to the date of the Scheme Meeting, or such other date agreed in writing between Bidder and Midway.

**End Date** means:

- (a) the date that is six months after the date of this deed; and
- (b) such other date and time agreed in writing between Bidder and Midway.

**First Court Date** means the first day on which an application made to the Court for an order under section 411(1) of the Corporations Act directing Midway to convene the Scheme Meeting is heard, with such hearing being the **First Court Hearing**.

**Government Agency** means any foreign or Australian government or governmental, semi-governmental, administrative, fiscal or judicial body, department, financial or other regulator or supervisory authority, commission, authority, tribunal, agency or entity, or any minister of the Crown in right of the Commonwealth of Australia or any state, or any other federal, state, provincial, local or other government, whether foreign or Australian.

**Implementation Date** means the fifth Business Day after the Scheme Record Date or such other day as Bidder and Midway agree in writing.

**Implementation Deed** means the scheme implementation deed dated 15 November 2024 between Bidder and Midway.

**Ineligible Shareholder** means a Scheme Shareholder whose address as shown in the Midway Register (as at the Scheme Record Date) is in a place outside Australia, unless Bidder and Midway agree in writing that it is lawful and not unduly onerous or impracticable to issue RollCo Shares to that Scheme Shareholder on the Implementation Date if the Scheme Shareholder so elects under the Scheme.

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

**Marketable Parcel** has the meaning given to that term in the Listing Rules.

**Maximum Cash Consideration** means a cash amount equal to the Cash Consideration multiplied by the total number of Scheme Shares.

**Midway** means Midway Limited ACN 005 616 044.

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

**Midway Registry** means Computershare Investor Services Pty Ltd or any replacement share registry services provider to Midway.

**Midway Right** means a performance right or option or other entitlement granted under Midway's short term incentive plan, long term incentive plan or any other employee or officer incentive plan to acquire by way of issue or transfer (or have vesting or forfeiture conditions satisfied in respect of) one or more Midway Shares subject to the terms of that plan.

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

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

**Minimum Scrip Threshold** means such number of RollCo Shares as is equal to 5%, or such lesser percentage as notified by Bidder to Midway in writing at least 2 Business Days prior to the date of the Scheme Meeting, of the total issued share capital of RollCo as at the Implementation Date.

**Mixed Consideration** means, in respect of a Scheme Shareholder who has made a Valid Election to receive Mixed Consideration one of the following as per their Valid Election:

- (a) Mixed Consideration Option 1: in respect of 25% of the Scheme Shares, the Cash Consideration for each Scheme Share, and in respect of the other 75% of the Scheme Shares, the Scrip Consideration for each Scheme Share held by that Scheme Shareholder and who has made a Valid Election for Mixed Consideration Option 1;
- (b) Mixed Consideration Option 2: in respect of 50% of the Scheme Shares, the Cash Consideration for each Scheme Share, and in respect of the other 50% of the Scheme Shares, the Scrip Consideration for each Scheme Share held by that Scheme Shareholder and who has made a Valid Election for Mixed Consideration Option 2; and
- (c) Mixed Consideration Option 3: in respect of 75% of the Scheme Shares, the Cash Consideration for each Scheme Share, and in respect of the other 25% of the Scheme Shares, the Scrip Consideration for each Scheme Share held by that Scheme Shareholder and who has made a Valid Election for Mixed Consideration Option 3,

subject in each case to the terms of this Scheme and the Scaleback Arrangements.

**Nominee** has the meaning given in the RollCo Shareholders' Deed.

**Nominee Deed** has the meaning given in the RollCo Shareholders' Deed.

**Registered Address** means, in relation to a Midway Shareholder, the address of the Scheme Shareholder as recorded in the Midway Register.

**RollCo** means RCM RollCo Ltd ACN 682 218 579.

**RollCo Constitution** means the constitution of RollCo in the form agreed in writing by the parties.

**RollCo Register** means the register of RollCo.

**RollCo Share** means a fully paid Class B Share (having the same voting and economic rights as other fully paid ordinary shares in RollCo on the terms set out in the RollCo Constitution and the RollCo Shareholders' Deed) to be provided to Scheme Shareholders who make an Election to receive Scrip Consideration under and subject to the terms of this Scheme.

**RollCo Shareholders' Deed** means the shareholders' deed in relation to RollCo to be entered into by the shareholders of RollCo amongst others, on substantially the terms set out the Implementation Deed and otherwise in the form agreed in writing by the parties.

**Scaleback Arrangements** means the scaleback arrangements set out in clause 6.10.

**Scaleback Shares** has the meaning given in clause 6.10(b).

**Scheme** means this scheme of arrangement under Part 5.1 of the Corporations Act between Midway and the Scheme Shareholders, subject to any alterations or conditions made or required by the Court under section 411(6) of the Corporations Act as are acceptable to Bidder.

**Scheme Booklet** means the scheme booklet published by Midway in respect of this Scheme pursuant to section 412 of the Corporations Act and dated [•].

**Scheme Consideration** means, in respect of each Scheme Share, the consideration payable to Scheme Shareholders under the Scheme, being either:

- (a) All Cash Consideration;
- (b) All Scrip Consideration; or
- (c) Mixed Consideration,

depending on the Valid Elections made and subject to the Scaleback Arrangements and the terms of the Scheme.

**Scheme Meeting** means the meeting of Midway Shareholders ordered by the Court to be convened at the First Court Hearing or any adjournment or postponement thereof.

**Scheme Order** means the orders of the Court made under section 411(4)(b) of the Corporations Act (and, if applicable, section 411(6) of the Corporations Act) in relation to this Scheme.

**Scheme Record Date** means 7.00 pm on the fifth Business Day after the Effective Date or such other time and date as the parties agree in writing.

**Scheme Share** means a Midway Share held by a Scheme Shareholder as at the Scheme Record Date.

**Scheme Shareholder** means a Midway Shareholder as at the Scheme Record Date.

**Scheme Transfer** means, in relation to each Scheme Shareholder, a duly completed and executed proper instrument of transfer in respect of the Scheme Shares for the purposes of section 1071B of the Corporations Act, which may be a master transfer of all or part of all of the Scheme Shares.

**Scrip Consideration** means a RollCo Share for each Scheme Share in respect of which a Valid Election is made in accordance with the Scheme, subject to the Scaleback Arrangements and the terms of the Scheme.

**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, if the application is adjourned or subject to appeal for any reason, the day on which the adjourned application is heard).

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

**Trust Account** means an Australian dollar denominated trust account operated by or on behalf of Midway as trustee for the benefit of the Scheme Shareholders.

**Valid Election** has the meaning given to it in clause 6.4(d)(i).

## 2. Interpretation

Unless the context requires otherwise, in this Scheme:

- (a) Headings are for convenience only and do not affect the interpretation of this deed.
- (b) The singular includes the plural and vice versa.
- (c) Words that are gender neutral or gender specific include each gender.
- (d) Where a word or phrase is given a particular meaning, other parts of speech and grammatical forms of that word or phrase have corresponding meanings.
- (e) The words "include", "including", "such as", "to avoid doubt" and similar expressions are not words of limitation and do not limit what else might be included.
- (f) A reference to:
  - (i) a person includes a natural person, partnership, joint venture, government agency, association, corporation or other body corporate or entity (as that term is defined in section 64A of the Corporations Act);
  - (ii) a thing (including a chose in action or other right) includes a part of that thing;
  - (iii) a party includes its successors and permitted assigns;
  - (iv) a document includes all amendments or supplements to that document;
  - (v) a clause, term, party, schedule or attachment is a reference to a clause or term of, or a party, schedule or attachment to, this deed (as applicable);
  - (vi) this deed includes all schedules and attachments to it;
  - (vii) a law includes a constitutional provision, treaty, decree, convention, statute, regulation, ordinance, by-law, judgment, rule of common law or equity or a Listing Rule and is a reference to that law as amended, consolidated or replaced;

- (viii) an agreement (other than this deed) includes an undertaking or legally enforceable arrangement or understanding (whether or not in writing);
- (ix) a time period includes the date referred to as that on which the period begins and the date referred to as that on which the period ends; and
- (x) a monetary amount is in Australian dollars;
- (g) An agreement on the part of two or more persons binds them jointly and severally.
- (h) When the day on which something must be done is not a Business Day, that thing must be done on the following Business Day.
- (i) A reference to time in this deed is a reference to time in Melbourne, Victoria, save that where the reference to time is in respect of the giving or receiving of notice, such reference shall be the time in the place where the party receiving the notice is located.
- (j) No rule of construction applies to the disadvantage of a party because that party was responsible for the preparation of this deed or any part of it.

Annexure C

**Deed Poll**

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**Ashurst**

Execution Version

# Deed Poll

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RCM BidCo Pty Ltd

RCM RollCo Ltd

IN FAVOUR OF  
Scheme Shareholders

16 December 2024

## Contents

1.	Defined terms and interpretation .....	1
2.	Conditions .....	2
3.	Scheme obligations .....	2
4.	Warranties .....	3
5.	Continuing obligations .....	3
6.	General .....	3

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**THIS DEED POLL** is made on 16 December 2024

**BY:**

- (1) **RCM BidCo Pty Ltd ACN 682 228 280** of Level 18, 644 Chapel Street, South Yarra, Victoria, 3141 (**Bidder**); and
- (2) **RCM RollCo Ltd ACN 682 218 579** of Level 18, 644 Chapel Street, South Yarra, Victoria, 3141 (**RollCo**).

**IN FAVOUR OF:**

- (3) Each person registered as a holder of Midway Shares as at the Scheme Record Date (**Scheme Shareholders**).

**RECITALS:**

- (A) Bidder and Midway have entered into the Implementation Deed.
- (B) In the Implementation Deed, Bidder agreed to make this deed poll and procure that RollCo make this deed poll.
- (C) Bidder and RollCo are executing this deed poll for the purpose of covenanting in favour of the Scheme Shareholders to perform the actions and obligations attributed to them under the Implementation Deed and the Scheme.

**THIS DEED POLL PROVIDES AS FOLLOWS:**

1. **Defined terms and interpretation**

1.1 **Defined terms**

- (a) The meanings of the terms used in this deed poll are set out below:

**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.

**Implementation Deed** means the scheme implementation deed dated 13 November 2024 between Midway and Bidder relating to the implementation of the Scheme.

**Scheme** means the scheme of arrangement under Part 5.1 of the Corporations Act between Midway and the Scheme Shareholders under which all of the Scheme Shares will be transferred to Bidder, the form of which is set out in Annexure B to the Implementation Deed (or such other form as agreed in writing by Bidder and Midway), subject to any alterations or conditions made or required by the Court under subsection 411(6) of the Corporations Act and agreed to in writing by Bidder and Midway.

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

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**1.2 Interpretation**

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

**1.3 Nature of deed poll**

Bidder and RollCo acknowledge that:

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

**2. Conditions****2.1 Conditions**

This deed poll and the obligations of Bidder and RollCo under this deed poll are subject to the Scheme becoming Effective.

**2.2 Termination**

The obligations of Bidder and RollCo under this deed poll to the Scheme Shareholders will automatically terminate and the terms of this deed poll will be of no force or effect if:

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

unless Midway and Bidder otherwise agree in writing.

**2.3 Consequences of termination**

If this deed poll terminates under clause 2.2:

- (a) Bidder and RollCo are released from their obligations to further perform this deed poll except those obligations contained in clause 6.1; and
- (b) in addition and without prejudice to any other rights, powers or remedies available to the Scheme Shareholders, each Scheme Shareholder retains the rights and remedies they have against Bidder and RollCo in respect of any breach of this deed poll which occurred before it was terminated.

**3. Scheme obligations****3.1 Undertaking to provide Scheme Consideration and perform other actions**

Subject to clause 2, Bidder and RollCo undertakes in favour of each Scheme Shareholder to:

- (a) provide, or procure the provision of, the Scheme Consideration to each Scheme Shareholder in accordance with the terms of the Scheme; and
- (b) undertake or procure the undertaking of all other actions, and give each acknowledgement, representation and warranty (if any) attributed to it under the Scheme,

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in each case, subject to and in accordance with the terms of the Scheme.

### 3.2 **Status of RollCo Shares**

Bidder and RollCo undertake in favour of each Scheme Shareholder that the RollCo Shares which are issued to Scheme Shareholders in accordance with the Scheme will:

- (a) rank equally in all respects with each existing share (if any) of the same class and will have the rights set out in the RollCo Constitution and the RollCo Shareholders' Deed;
- (b) be duly and validly issued in accordance with the RollCo Constitution and the RollCo Shareholders' Deed; and
- (c) be issued fully paid and free from any mortgage, charge, lien, encumbrance, pledge or other security interest (including any 'security interest' within the meaning of section 12 of the *Personal Property Securities Act 2009* (Cth)).

## 4. **Warranties**

Each of Bidder and RollCo represents and warrants in favour of each Scheme Shareholder, in respect of itself, that:

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

## 5. **Continuing obligations**

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

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

## 6. **General**

### 6.1 **Duty**

Bidder will:

- (a) pay all duty (including stamp duty and any related fines, penalties and interest) payable in respect of the Scheme and this deed poll, the performance of this deed poll and each transaction effected by or made under the Scheme and this deed poll; and

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- (b) indemnify each Scheme Shareholder against any liability arising from failure to comply with clause 6.1(a).

## 6.2 **Governing law and jurisdiction**

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

## 6.3 **Notices**

- (a) Any notice or other communication to Bidder and RollCo in connection with this deed poll must be:
  - (i) in writing, in English and sent by a person duly authorised by the sender;
  - (ii) marked for the attention of the relevant person named below; and
  - (iii) hand delivered or sent by pre-paid post or email to the recipient's address set out below:

### **Bidder and RollCo**

Attention: Josh Ludski  
 Address: Level 18, 644 Chapel St, South Yarra, Victoria 3141  
 Email: [jludski@rivercapital.com.au](mailto:jludski@rivercapital.com.au)

with a copy (for information purposes only) to:

Attention: Neil Pathak / Ben Landau  
 Address: Level 16, 80 Collins Street, Melbourne, Victoria 3000  
 Email: [neil.pathak@ashurst.com](mailto:neil.pathak@ashurst.com) and [ben.landau@ashurst.com](mailto:ben.landau@ashurst.com)

- (b) Any notice or other communication given in accordance with clause 6.3(a) is taken to be received:
  - (i) if hand delivered, on delivery; or
  - (ii) if sent by pre-paid post, on the 2nd Business Day after the date of posting (or on the 7th Business Day after the date of posting if posted to or from a place outside Australia); and
  - (iii) if sent by email, immediately unless the sender receives a message indicating that the email has not been received by the intended recipient,

but, if the delivery, receipt or transmission is not on a Business Day or is after 5:00 pm on a Business Day, the Notice is taken to be received at 9:00 am on the next Business Day.

## 6.4 **Waiver**

- (a) A party waives a right under this deed poll only by written notice that it waives that right. A waiver is limited to the specific instance to which it relates and to the specific purpose for which it is given.

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- (b) Failure to exercise or enforce, a delay in exercising or enforcing or the partial exercise or enforcement of:
  - (i) any right, power or remedy provided by law or under this deed poll; or
  - (ii) any right, power, authority, discretion or remedy created or arising upon default under this deed poll,

by any party will not in any way preclude, or operate as a waiver of, any exercise or enforcement, or further exercise or enforcement, of that or any other right, power or remedy provided by law or under this deed poll.

**6.5 Variation**

A provision of this deed poll or any right created under it may not be varied unless:

- (a) if before the First Court Date, the variation is agreed to by Midway in writing; or
- (b) if on or after the First Court Date, the variation is agreed to by Midway in writing and the Court indicates that the variation would not of itself preclude approval of the Scheme,

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

**6.6 Cumulative rights**

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

**6.7 Assignment**

- (a) The rights created by this deed poll are personal to each Scheme Shareholder and must not be dealt with at law or in equity without the prior written consent of Bidder or RollCo.
- (b) Any purported dealing in contravention of clause 6.7(a) is invalid.

**6.8 Joint and several obligations**

Bidder and RollCo are jointly and severally liable for each obligation imposed on both of them by the terms of this deed poll.

**6.9 Further action**

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

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**EXECUTED** as a deed poll.

**EXECUTED** by **RCM BIDCO PTY LTD**, by its sole director (and the company does not have a company secretary):

Signed by:  
*Joshua Ludski*  
7ADD0ED1E46D456...  
Signature of sole director

Joshua Ludski  
Name

**EXECUTED** by **RCM ROLLCO LIMITED**:

Signed by:  
*Joshua Ludski*  
7ADD0ED1F46D456...  
Signature of director

Joshua Ludski  
Name

Signed by:  
*James Joseph*  
6B323496914C4D8...  
Signature of director/secretary

James Joseph  
Name

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Annexure D

**RollCo Shareholders' Deed**

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# Shareholders' Deed

**RCM RollCo Limited**

ACN 682 218 579

**River Capital Pty Ltd**

ACN 073 531 469

**as trustee for River Capital Midway Trust**

**River Capital Pty Ltd**

ACN 073 531 469

**as trustee for River Capital Midway Carry Trust**

## CONTENTS

CLAUSE	PAGE
1. Interpretation .....	3
2. Capital structure and effect .....	17
3. Business and objectives .....	18
4. The Board .....	18
5. Board meetings .....	22
6. Shareholders' meetings .....	24
7. Management.....	26
8. Dividend policy .....	27
9. Reporting and information .....	27
10. Financing and issue of further Shares.....	29
11. Pro rata issue of shares .....	31
12. No requirement to prepare disclosure document.....	32
13. Dealing with Shares.....	33
14. Disposal of Shares .....	33
15. Tag Along rights .....	35
16. Drag rights .....	38
17. Exit.....	40
18. Disposal of Small Holdings.....	47
19. Event of Default.....	48
20. Termination.....	51
21. Valuer .....	52
22. Nominee arrangements .....	54
23. Representations and warranties.....	60
24. Restraint .....	60
25. Disclaimers .....	62
26. Power of Attorney .....	63
27. Confidentiality and announcement .....	65
28. Goods and Services Tax .....	67
29. Notices.....	68
30. Amendment and assignment.....	69
31. Trustee limitation of liability .....	69
32. Investor Shareholders may use custodian .....	71
33. General.....	71

**THIS DEED** is made on

2024

**BETWEEN:**

- (1) **RCM RollCo Limited** (ACN 682 218 579) whose registered office is at Level 18, 644 Chapel Street, South Yarra VIC 3141 (the **Company**);
- (2) **River Capital Pty Ltd** (ACN 073 531 469) as trustee for **River Capital Midway Trust** whose registered office is at Level 18, 644 Chapel Street, South Yarra VIC 3141;
- (3) **River Capital Pty Ltd** (ACN 073 531 469) as trustee for **River Capital Midway Carry Trust** whose registered office is at Level 18, 644 Chapel Street, South Yarra VIC 3141,  
  
(each such person in paragraphs (2) and (3), an **Investor Shareholder**).

**RECITALS:**

- (A) As at the date of this document, one or more of the Investor Shareholders hold 100% of the Share Capital of the Company, being Class A Shares.
- (B) On 13 November 2024, RCM BidCo Pty Ltd (**BidCo**) entered into an Implementation Deed with the Target to acquire all of the shares in the Target by way of a Scheme.
- (C) On implementation of the Scheme, BidCo will own 100% of the Target, and the Company will issue Class B Shares to the Target shareholders who are entitled to receive scrip consideration pursuant to the terms of the Scheme.
- (D) As a result of the Scheme, each relevant Target shareholder is bound by this document and the Nominee Deed.
- (E) Following implementation of the Scheme, Managers of the Group may be invited to participate in any Management Equity Plan.
- (F) The Parties wish to record in this document the terms of their agreement as to how the Group and the Business will be owned, managed and controlled and for the avoidance of doubt, including for the purposes of the Nominee Deed, this document is a governing document in relation to the Company.

**THE PARTIES AGREE AS FOLLOWS:**

**1. Interpretation**

**1.1 Definitions**

The following definitions apply in this document.

**Acceptance Period** has the meaning given in clause 11.2(a)(v).

**Accession Deed Poll** in a form which is substantially similar to that set out in Schedule 1, amended as necessary.

**Accounting Standards** means:

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- (a) accounting standards approved under the Corporations Act and its requirements about the preparation and contents of financial reports; and
- (b) Australia's equivalent to the International Financial Reporting Standards as approved by the Australia Accounting Standards Board.

**Affiliate** means:

- (a) in relation to any person (**first person**), a person which, directly or indirectly, Controls, is Controlled by, or is under common Control with, such first person;
- (b) in relation to an Investor Shareholder, also includes:
  - (i) any partnership, limited partnership, venture capital limited partnership, trust, managed investment scheme, limited liability company or body corporate, or other fund or entity of which any Investor Advisor, or any person assuming the rights and obligations of such Investor Advisor, is the manager, trustee, responsible entity, general partner or investment advisor (**Investor Fund**);
  - (ii) any entities Controlled by or under common Control with the Investor Shareholder or an Investor Fund (whether individually or collectively);
  - (iii) any investor, partner, limited partner, unitholder, shareholder, trustee, responsible entity or custodian of any of the entities, funds, trusts or other things set out in any of paragraphs (i) or (ii) above,
- (c) in relation to any Shareholder or Appointing Beneficiary who is a natural person, also includes:
  - (i) any Family Entity of that individual;
  - (ii) any self-managed superannuation fund for that individual, the trustee of which is that individual, that individual and their spouse, or a Family Entity of that individual.

**Agreement Provisions** has the meaning given in clause 17.4.

**Alternate** means an alternate Director appointed under clause 4.6.

**Appointer** has the meaning given in clause 26.1.

**Appointing Beneficiary** means a Class B Shareholder, Management Shareholder or other Party who has appointed the Nominee to hold Shares on bare trust for it in accordance with clause 22 and the Nominee Deed.

**Asset Sale** means the sale of all or substantially all of the Business or the sale of all or substantially all of the assets of the Group, whether by way of a sale of assets of the Company or by the sale of assets or shares of any Group Company (other than the Company), excluding any Reorganisation Event.

**Attorney** has the meaning given in clause 26.1.

**Auditor** means the person appointed from time to time to the office of the auditor of the Company.

**Bare Trust** means a trust established under the Nominee Deed under which the Nominee holds Beneficial Shares for an Appointing Beneficiary.

**Beneficial Shares** means in relation to an Appointing Beneficiary, the Shares held by the Nominee as bare trustee for that Appointing Beneficiary.

**Board** means the board of Directors of the Company as constituted from time to time.

**Business** means the business conducted by the Group from time to time.

**Business Day** means a day (other than a Saturday, Sunday or public holiday) on which banks are open for general banking business in Sydney, New South Wales.

**Business Objectives** has the meaning given in clause 3.1.

**Business Plan and Budget** means the business plan and budget in respect of the Business for a particular Financial Year which will be in the form and include such statements, reports, forecasts, projections and other information as determined and as adopted by the Directors from time to time under clause 7.4.

**CEO** means the person appointed as CEO of the Group by the Board from time to time.

**Claim** means, in relation to a person, any claim, allegation, cause of action, proceeding, Liability, suit or demand made against the person concerned however it arises and whether it is present or future, fixed or unascertained, actual or contingent.

**Class A Share** means an ordinary share in the capital of the Company which is designated as a "Class A Share" and has the rights set out in this document and the Constitution.

**Class B Share** means an ordinary share in the capital of the Company which is designated as a "Class B Share" and has the rights set out in this document and the Constitution.

**Class B Shareholder** means a person holding the legal or beneficial interest to a Class B Share (and who is not an Investor Shareholder or the Nominee).

**Class B Shareholder Meeting** has the meaning given in clause 6.7.

**Constitution** means the constitution of the Company, as amended from time to time after the date of this document.

**Control** has the meaning given in section 50AA of the Corporations Act and, in addition:

- (a) a general partner is deemed to "Control" a limited partnership of which it is the general partner;
- (b) a person is deemed to "Control" a corporation if the person has the power to control, whether directly or indirectly, the composition of a majority of the board of directors of that corporation or the voting rights of the majority of the voting shares of the corporation;
- (c) a person is deemed to "Control" a trust if:
  - (i) the person is the sole trustee of the trust;
  - (ii) the composition of the board of directors of any corporate trustee of the trust is determined by the person (alone or with its Affiliates);
  - (iii) the board of directors of any trustee company of the trust is accustomed to act in accordance with the instructions, directions or wishes of the person (either alone or with its Affiliates);

- (iv) the person holds or owns (alone or with its Affiliates) and whether directly or indirectly:
  - (A) the majority of the issued voting shares of any corporate trustee of the trust;
  - (B) the majority of the issued voting shares of the ultimate controlling entity of any corporate trustee of the trust; or
  - (C) the majority of the units, securities or other rights granted by the trust entitling holders to distributions from the trust; or
- (v) the person has the power to appoint the trustees or beneficiaries of the trust,

and **Controlled** and **Controller** have a corresponding meaning.

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

**Default Notice** has the meaning given in clause 19.1(c).

**Default Sale Shares** has the meaning given in clause 19.1(c).

**Defaulting Shareholder** has the meaning given in clause 19.1(b).

**Directed Breach** has the meaning given in clause 22.10.

**Director** means a person who is, for the time being, director of the Company, including an Alternate, when acting as the alternate.

**Dispose**, in relation to any property, means to, or to agree to, sell, transfer, assign, make a gift of, grant an option over, declare a trust over, part with the benefit of, or otherwise deal with, dispose of or create an interest in the property, (or, if applicable, any interest in it) other than by creating an Encumbrance but includes to enter into a transaction in relation to a Share (or any interest in the Share) which results in a person other than the registered holder of the Share:

- (a) acquiring any equitable interest in the Share, including an equitable interest arising under a declaration of trust, an agreement for sale and purchase or an option agreement;
- (b) acquiring any right to receive directly or indirectly any dividends payable in respect of the Share;
- (c) acquiring any right of pre-emption, first refusal or other control over the disposal of the Share;
- (d) acquiring any right of control over the exercise of any voting rights or rights to appoint Directors attaching to the Share; or
- (e) otherwise acquiring legal or equitable rights against the registered holder of the Share which have the effect of placing the person in the same position as if the person had acquired a legal or equitable interest in the Share itself,

and includes giving an instruction or direction to any person (including the Nominee) to take any action in respect of any of the things contemplated in this definition, having regard to clause 22.7(a).

**Disputing Shareholder** means:

- (a) the Small Shareholder who issues a Referral Notice pursuant to clause 18.5(a);  
or
- (b) the Defaulting Shareholder who issues a Referral Notice pursuant to clause 19.3,  
as the context requires.

**Drag Buyer** has the meaning given in clause 16.1.

**Drag Notice** has the meaning given in clause 16.1.

**Drag Proportion** has the meaning given in clause 16.2(d).

**Drag Sale Price** has the meaning given in clause 16.2(e).

**Drag Seller** has the meaning given in clause 16.1.

**Drag Transaction** means a Disposal of Shares in accordance with clause 16.

**Dragged Shareholder** has the meaning given in clause 16.1.

**Dragged Shares** has the meaning given in clause 16.2(f).

**Emergency Funding Shareholder** has the meaning given in clause 10.3(h).

**Emergency Funding Shares** has the meaning given in clause 10.3(h).

**Emergency Issue** has the meaning given in clause 10.3(h).

**Encumbrance** means:

- (a) a Security Interest; or
- (b) an easement, restrictive covenant, caveat or similar restriction over property.

**Event of Default** means in relation to a Party (other than the Company or an Investor Shareholder):

- (a) **(Non-permitted dealing or disposal)** a breach of any of their obligations under or in relation to clauses 13 (Dealing with Shares) or 14 (Disposal of Shares), which cannot be remedied or which remains unremedied for 10 Business Days after the Company has notified it or (where applicable) its Relevant Manager of the breach;
- (b) **(Breach of material obligations)** a breach of any other of their material obligations under any Transaction Document, which cannot be remedied or which remains unremedied for 10 Business Days after the Company has notified it or (where applicable) its Relevant Manager of the breach;
- (c) **(Restraint)** a breach by it or (where applicable) its Relevant Manager of clause 24 (Restraint) or any other restraint given by it or (where applicable) its Relevant Manager to any Group Company;
- (d) **(Insolvency Event)** it or (where applicable) its Relevant Manager becomes the subject of an Insolvency Event;
- (e) **(Non permitted transfer or Permitted Holder)** a person becomes a Shareholder or Appointing Beneficiary pursuant to a transfer of Shares in breach of this document or the person ceases to be a Permitted Holder and does not comply with the provisions in clause 14 (Disposal of Shares);



- (f) **(Change in Control)** a change in Control occurs in relation to it such that a person who has Control as a result of that change was not a Permitted Holder of it immediately prior to the change in Control; or
- (g) **(Offence)** it or its Relevant Manager is guilty of a criminal offence in any jurisdiction which would, in the reasonable opinion of the Board materially affect the Business or the duties of it or its Relevant Manager in respect of the Business.

**Event of Default Date** means, in relation to the relevant Party (other than the Company or an Investor Shareholder), the date that both the Investor Shareholders and the Company become actually aware that it or its Relevant Manager has committed or is subject to an Event of Default.

**Exit** means an Asset Sale, a Share Sale or an IPO.

**Fair Market Value** means the fair market value of a Share as determined by the Board, or if a Referral Notice is validly issued, the value determined under clause 21.

**Family Entity** means:

- (a) a body corporate which the individual (either alone or with their spouse) Controls and where all of the shares in the body corporate are owned, legally and beneficially, by the individual and/or the spouse of the individual and/or trustees of a trust described in paragraph (b) or (c) below of the individual;
- (b) a trust which the individual Controls (either alone or with their spouse) and where all the beneficiaries or potential beneficiaries are the individual and/or the spouse of the individual and/or charities; or
- (c) a company or trust which is otherwise associated with the individual and approved by the Board.

**Financial Advisor** has the meaning given in clause 17.2(e).

**Financial Year** means each 12 month period ending on 30 June each year or such other dates as the Board approves.

**Government Agency** means:

- (a) a government or government department or other body;
- (b) a governmental, semi-governmental or judicial person; or
- (c) a person (whether autonomous or not) who is charged with the administration of a law,

and includes the Australian Securities and Investments Commission and the Australian Securities Exchange (and any other stock exchange).

**Group** means the Company and each of its Subsidiaries and Controlled entities from time to time, and **Group Company** means any of them.

**GST** means:

- (a) the same as in the GST Act;
- (b) any other goods and services tax, or any Tax applying to this transaction in a similar way; and

- (c) any additional tax, penalty tax, fine, interest or other charge under a law for such a tax.

**GST Act** means *A New Tax System (Goods and Services Tax) 1999* (Cth).

**Implementation Date** means the date on which the Scheme is implemented in accordance with its terms.

**Implementation Deed** means the document entitled "Scheme implementation deed" dated 13 November 2024 between the Target and BidCo, relating to the Scheme.

**Independent Director** has the meaning given in clause 4.3.

**Insolvency Event** means, in respect of a person:

- (a) an order being made, or the person passing a resolution, for its winding up;
- (b) an application being made to a court for an order for its winding up, unless the application is withdrawn or dismissed within 7 days;
- (c) an administrator being appointed to the person;
  - (i) a controller or analogous person being appointed to the person or any of the person's property;
  - (ii) an application being made to a court for an order to appoint a controller, provisional liquidator, trustee for creditors or in bankruptcy or analogous person to the person or any of the person's property, unless the application is withdrawn or dismissed within 7 days; or
  - (iii) an appointment of the kind referred to in paragraph (ii) above being made (whether or not following a resolution or application);
- (d) the holder of a Security Interest or any agent on its behalf, appointing a controller or taking possession of any of the person's property (including seizing the person's property within the meaning of section 123 of the PPSA) or otherwise enforcing or exercising any rights under the Security Interest or Chapter 4 of the PPSA;
- (e) the person being taken under section 459F(1) of the Corporations Act to have failed to comply with a statutory demand;
- (f) the person:
  - (i) suspending payment of its debts, ceasing (or threatening to cease) to carry on all or a material part of its business, stating that it is unable to pay its debts or being or becoming otherwise insolvent; or
  - (ii) being taken by applicable law to be (or if a court would be entitled or required to presume that the person is) unable to pay its debts or otherwise insolvent;
- (g) the process of any court or authority being invoked against the person or any of its property to enforce any judgment or order for the payment of money or the recovery of any property, unless the person is able, within seven days, to satisfy the court or authority that there is no substantial basis for the judgment or order in respect of which the process was invoked;

- (h) the person dying, ceasing to be of full legal capacity or otherwise becoming incapable of managing its own affairs for any reason;
- (i) the person taking any step that could result in the person becoming an insolvent under administration (as defined in section 9 of the Corporations Act);
- (j) the person taking any step toward entering into a compromise or arrangement with, or assignment for the benefit of, any of its shareholders or creditors; or
- (k) any analogous event.

**Interested Person** means, in relation to a Class B Shareholder, any person who:

- (a) has a relevant interest in that Class B Shareholder;
- (b) is an ultimate beneficial owner of that Class B Shareholder; and/or
- (c) is a Controller of that Class B Shareholder.

**Investor Advisor** means any management entity or general partner that from time to time provides investment advice, management services, and/or advisory services, in each case, whether directly or indirectly, to an Investor Shareholder or any of its Affiliates and/or any management entity or general partner that from time to time Controls an Investor Shareholder or any of its Affiliates.

**Investor Director** means a Director appointed by the Investor Shareholders pursuant to this document and designated by the Investor Shareholders as an Investor Director.

**Investor Shareholder** has the meaning given in the "Parties" section of this document or as otherwise notified in a Deed of Adherence, and includes a Permitted Holder of such person, and is to be read having regard to clause 32.

**Invitation to Tag** has the meaning given in clause 15.1.

**IPO** means:

- (a) an initial public offering of all or part of the Business by way of an offer of Shares in the Company or securities in an IPO Vehicle; and/or
- (b) a sell-down by the Investor Shareholders of their Shares in the Company or securities in an IPO Vehicle by way of public offering,

in conjunction with an application for the quotation of those securities on a recognised stock exchange (including ASX).

**IPO Vehicle** means any Related Body Corporate (actual or proposed) of the Company and/or any special purpose vehicle established for the purpose of an IPO.

**Issue Notice** has the meaning given in clause 11.2.

**Liability** means, in relation to a person, any liability or obligation however it arises and whether it is present or future, fixed or unascertained, actual or contingent.

**Loss** includes any loss, damage, Liability, compensation, fine, penalty, charge, payment, cost or expense (including any legal cost and expense) however it arises and whether it is present or future, fixed or unascertained, actual or contingent.

**Management Equity Plan** means any management equity plan or other equity agreement or arrangement which is approved by the Board and provides Managers of

the Group (or their Affiliates) an opportunity to acquire Shares or options or rights to acquire Shares.

**Management Shareholder** means a person who is any one or more of the following:

- (a) a person who holds Shares or Beneficial Shares issued pursuant to or in connection with a Management Equity Plan;
- (b) a person (other than the Nominee) holding the legal or beneficial interest to any Shares who executes an Accession Deed Poll as a "Management Shareholder"; or
- (c) where applicable, a Relevant Manager.

**Manager** means a person that is:

- (a) invited by the Board to participate in a Management Equity Plan; and
- (b) an employee, senior consultant, contractor or director of a Group Company.

**Nominated Director** means a Director nominated by the Class B Shareholders pursuant to this document.

**Nominee** has the meaning given in the "Parties" section of this document or any other third party trustee company appointed pursuant to the Nominee Deed to hold Class B Shares, any Shares issued pursuant to or in connection with a Management Equity Plan, or any other Shares of a Party, on Bare Trust, as may be replaced by the Board from time to time.

**Nominee Accession Deed** has the meaning given to the term "Accession Deed Poll" in the Nominee Deed.

**Nominee Deed** means the deed between the Nominee and the Company in a form which is substantially similar to that set out in Schedule 2, subject to any changes reasonably required by the Nominee in accordance with its usual business practices and accepted by the Company.

**Nominee Transfer** means a transfer of legal title to Shares:

- (a) by a Shareholder to the Nominee to be held under a Bare Trust, either at the request of the Board or with the prior written consent of the Board;
- (b) in connection with the replacement of the Nominee in accordance with the process set out in the Nominee Deed; or
- (c) by the Nominee to an Appointing Beneficiary if the transfer has the prior written approval of the Board.

**Non-contributing Shareholder** has the meaning given in clause 11.2(d).

**Offeree Shareholder** has the meaning given in clause 11.1.

**Oversubscribing Shareholder** has the meaning given in clause 11.2(d).

**Participating Issue Shareholder** has the meaning given in clause 11.2(c).

**Participating Tag Shareholder** has the meaning given in clause 15.4.

**Party** means a party to this document, including any person who becomes bound by the terms of this document pursuant to the Scheme or under an Accession Deed Poll.

**Permitted Holder** means, in the case of:

- (a) any Shareholder, an Affiliate of that Shareholder;
- (b) an Investor Shareholder and any Affiliate of an Investor Shareholder, a custodian as contemplated by clause 32; or
- (c) a Management Shareholder and in respect of shares held under a Management Equity Plan, a person to whom a Disposal may be made pursuant to the terms of the Management Equity Plan.

**PPS Security Interest** means a security interest that is subject to the PPSA.

**PPSA** means the *Personal Property Securities Act 2009* (Cth).

**Qualified Person** means a person who:

- (a) is not subject to any commercial or other conflict of interest in relation to the Business or operations of the Group, excluding any conflict arising solely from the person holding or having a relevant interest (as defined in the Corporations Act) in any Class B Shares; and
- (b) has the necessary knowledge, skills and expertise, having regard to the Business, to serve as a Director of the Company and contribute to achievement of the Business Objectives.

**Referral Notice** has the meaning given in clause 18.5(a) or clause 19.3, as the context requires.

**Related Body Corporate** has the same meaning as in section 9 of the Corporations Act.

**Relevant Clause** has the meaning given in clause 26.1.

**Relevant Manager** means:

- (a) in relation to a Management Shareholder, the person who is a Manager that is an Affiliate of that Management Shareholder (irrespective of whether or not such Manager is a Party to this document);
- (b) in relation to a Class B Shareholder:
  - (i) that Class B Shareholder, if the Class B Shareholder is an employee, senior consultant or director of a Group Company;
  - (ii) the person that is an employee, senior consultant or director of a Group Company that is an Affiliate of that Class B Shareholder,
 (irrespective of whether or not such person is a Party to this document); and
- (c) in relation to a Shareholder or Appointing Beneficiary who acquires Shares (including via the Nominee) as a Permitted Holder of the Class B Shareholder or Management Shareholder transferring Shares, the person who is a Manager or employee, senior consultant or director of a Group Company, that is or is an Affiliate of the transferor (irrespective of whether or not such person is a Party to this document).

**Relevant Proportion** means, in relation to a Shareholder:

- (a) subject to paragraph (b) below, the proportion which its aggregate holding of Voting Share Capital bears to the aggregate of all Voting Share Capital; and
- (b) where the context requires a "Relevant Proportion" to be determined with reference to a particular class of Shares, the proportionate holdings for the

purposes of paragraph (a) is to be determined with reference to the relevant Shareholder's holdings of that particular class, that is, only Shares of the particular class will comprise the numerator and denominator for purposes of the calculation, and for the avoidance of doubt, Class A Shares and Class B Shares form one and the same class of Shares, being Ordinary Shares, with 'Class A' and 'Class B' being designations for the purpose of identification only.

**Relevant Rights and Obligations** has the meaning given in clause 22.3(b).

**Relevant Transaction** has the meaning given in clause 14.7.

**Reorganisation Event** means:

- (a) a bonus issue of Shares;
- (b) a sub-division or consolidation of Shares; or
- (c) any other reorganisation or reconstruction of the Shares where the Company neither pays nor receives cash or any other form of consideration, or any other reorganisation or reconstruction which an Investor Shareholder notifies the Company in writing is part of a genuine corporate restructuring or transaction that will not result in the actual final realisation of the Investor Shareholders' economic interests in the Group.

**Representatives** means in relation to a Party, an employee, officer, director or advisor of that Party.

**Required Resolution** means:

- (a) a resolution passed at a Shareholders Meeting with at least 75% of votes cast in favour; or
- (b) a written resolution passed in accordance with clause 6.6 by Shareholders together holding at least 75% of the Voting Share Capital,

in each case who are entitled to vote on the resolution.

**Restricted Area** means:

- (a) Australia;
- (b) Northern Territory, Queensland, Tasmania and Victoria;
- (c) Queensland, Tasmania and Victoria;
- (d) Queensland and Victoria;
- (e) Victoria;
- (f) any other countries or states of Australia that the Business operates in at any time in the 12 months prior to the Trigger Date; and
- (g) any other metropolitan and/or regional areas that the Business operates in at any time in the 12 months prior to the Trigger Date.

**Restricted Business** means any business or activity which:

- (a) is the same as or substantially similar to the Business as carried on by the Group (or any part of it) at any time in the 12 months prior to the Trigger Date; and/or
- (b) competes with the Business as carried on by the Group (or any material part of it) at any time in the 12 months prior to the Trigger Date.

**Restricted Period** means the period commencing on the date on which the relevant Restricted Person becomes Party to this document (whether by Accession Deed Poll or otherwise) and ending on the date that is the later of:

- (a) 36 months after its Trigger Date; or only if that period is held to be unenforceable by a court of competent jurisdiction
- (b) 24 months after its Trigger Date; or only if that period is held to be unenforceable by a court of competent jurisdiction,
- (c) 18 months after its Trigger Date; or only if that period is held to be unenforceable by a court of competent jurisdiction,
- (d) 12 months after its Trigger Date; or only if that period is held to be unenforceable by a court of competent jurisdiction,
- (e) 9 months after its Trigger Date; or only if that period is held to be unenforceable by a court of competent jurisdiction,
- (f) 6 months after its Trigger Date.

**Restricted Person** means each:

- (a) Class B Shareholder and, where applicable, its Relevant Manager;
- (b) Management Shareholder and, where applicable, its Relevant Manager; and
- (c) other person whose Accession Deed Poll stipulates is a "Restricted Person".

**Retained Amounts** has the meaning given in clause 17.7.

**Sale Price** has the meaning given in clause 19.1(e).

**Scheme** means the scheme of arrangement under Part 5.1 of the Corporations Act under which BidCo (which is a Subsidiary of the Company) acquires all of the issued shares in the Target.

**Secondary Acceptance Period** has the meaning given in clause 11.2(d)(iii).

**Security Interest** means:

- (a) a PPS Security Interest;
- (b) any other mortgage, pledge, lien or charge; or
- (c) any other interest or arrangement of any kind that in substance secures the payment of money or the performance of an obligation, or that gives a creditor priority over unsecured creditors in relation to any property.

**Share** means an issued share or security of any class in the capital of the Company.

**Share Capital** means all of the Shares on issue from time to time.

**Share Sale** means a sale of all of the Share Capital (other than in connection with an IPO or any Reorganisation Event).

**Shareholder** means a person that is a registered holder of a Share from time to time, and where the context requires, is to be read having regard to clause 22 (Nominee arrangements) and 32 (Investor Shareholders may use custodian).

**Shareholders Meeting** means a meeting of Shareholders of the Company held, or taken to be held, in accordance with this document and the Constitution.

**Simple Majority** means a resolution passed:

- (a) by Shareholders:
  - (i) at a Shareholders Meeting with more than 50% of votes cast in favour; or
  - (ii) by written resolution passed in accordance with clause 6.6 by Shareholders together holding more than 50% of the Voting Share Capital,in each case who are entitled to vote on the resolution; and
- (b) by the Board:
  - (i) at a duly convened and quorate Board meeting by a majority of votes cast by Directors who are entitled to vote on the resolution; or
  - (ii) by written resolution passed in accordance with clause 5.4.

**Small Holding Shares** means the Shares held by or on behalf of a Small Shareholder.

**Small Holding Transaction** means a Disposal of Shares in accordance with clause 18.

**Small Shareholder** means a Class B Shareholder who holds Class B Shares (including through the Nominee) which had, at the time or times of their issue, an aggregate issue price and/or face value (as applicable) of \$10,000 or less.

**Subsidiary** has the meaning given to it in the Corporations Act.

**Tag Buyer** has the meaning given in clause 15.2(a)(i).

**Tag Exercise Period** has the meaning given in clause 15.2(a)(vi).

**Tag Option** has the meaning given in clause 15.2(a)(v).

**Tag Proportion** has the meaning given in clause 15.2(a)(iii).

**Tag Sale Price** has the meaning given in clause 15.2(a)(iv).

**Tag Shareholder** has the meaning given in clause 15.1.

**Tag Shares** has the meaning given in clause 15.2(a)(v).

**Tag Transaction** means a Disposal of Shares in accordance with clause 15.

**Target** means Midway Limited (ACN 005 616 044).

**Tax** means a tax, levy, duty, charge, deduction or withholding, however it is described, that is imposed by law or by a Government Agency, together with any related interest, penalty, fine or other charge.

**Third Party** means a person other than a Party or an Affiliate of the Party.

**Transaction Document** means:

- (a) this document;
- (b) the Constitution;



- (c) the Nominee Deed;
- (d) the documents giving effect to any Management Equity Plan; and
- (e) any other agreement or document that the Investor Shareholders and the Company agree is a Transaction Document.

**Trigger Date**, in respect of a particular Restricted Person, is the earlier of:

- (a) the date on which that Restricted Person and its Permitted Holders ceases to be the holder of any legal or beneficial interest in any Shares (including through the Nominee); or
- (b) the date on which that Restricted Person ceases to be employed by a Group Company or engaged as an officer, director or contractor of, or to, a Group Company.

**Valuer** means an independent chartered accountant from one of KPMG, Deloitte, PwC or Ernst & Young, unless otherwise agreed to by the Investor Shareholders.

**Valuer's Certificate** has the meaning given in clause 21.1(a)(ii).

**Voting Share Capital** means those Shares in the Share Capital which carry the right to vote at any general meeting of the Company, which immediately following implementation of the Scheme will comprise Class A Shares and Class B Shares.

## 1.2 Rules for interpreting this document

Headings are for convenience only, and do not affect interpretation. The following rules also apply in interpreting this document, except where the context makes it clear that a rule is not intended to apply.

- (a) A reference to:
  - (i) a legislative provision or legislation (including subordinate legislation) is to that provision or legislation as amended, re-enacted or replaced, and includes any subordinate legislation issued under it;
  - (ii) a document (including this document) or agreement, or a provision of a document (including this document) or agreement, is to that document, agreement or provision as amended, supplemented, replaced or novated;
  - (iii) a party to this document or to any other document or agreement includes a permitted substitute or a permitted assign of that party;
  - (iv) a person includes any type of entity or body of persons, whether or not it is incorporated or has a separate legal identity, and any executor, administrator or successor in law of the person;
  - (v) anything (including a right, obligation or concept) includes each part of it; and
  - (vi) except as otherwise provided, a reference to a period of time (including without limitation, a year, a month and a day) is to a calendar period.
- (b) A singular word includes the plural, and vice versa.
- (c) A recital, schedule, annexure or a description of the parties forms part of this document.
- (d) A word which suggests one gender includes the other genders.

- (e) If a word or phrase is defined, any other grammatical form of that word or phrase has a corresponding meaning.
- (f) If an example is given of anything (including a right, obligation or concept), such as by saying it includes something else, the example does not limit the scope of that thing.
- (g) The word **agreement** includes an undertaking or other binding arrangement or understanding, whether or not in writing.
- (h) The expression **this document** includes the agreement, arrangement, understanding or transaction recorded in this document.
- (i) The word **dividend** includes a bonus or other distribution in cash or kind.
- (j) The expressions **holding company, officer, related body corporate, subsidiary** and **controller** have the same meanings as in the Corporations Act.
- (k) The word **representative** includes a proxy or attorney appointed by a Party.
- (l) A reference to **information** is to information of any kind in any form or medium, whether formal or informal, written or unwritten, for example, computer software or programs, concepts, data, drawings, ideas, knowledge, procedures, source codes or object codes, technology or trade secrets.
- (m) Words defined in the GST Act have the same meaning in clauses concerning GST.
- (n) If a person is a member of a GST group, references to GST for which the person is liable and to input tax credits to which the person is entitled include GST for which the representative member of the GST group is liable must pay and input tax credits to which the representative member is entitled.
- (o) If a person is notionally liable for GST or is liable for an amount which is treated as GST under the GST Act, references to GST for which the person is liable extend to any notional liability of the person for GST and references to an input tax credit extend to any notional input tax credit to which the person is entitled.

### 1.3 **Non Business Days**

If the day on or by which a person must do something under this document is not a Business Day:

- (a) if the act involves a payment that is due on demand, the person must do it on or by the next Business Day; and
- (b) in any other case, the person must do it on or by the previous Business Day.

### 1.4 **The rule about "contra proferentem"**

This document is not to be interpreted against the interests of a Party merely because that Party proposed this document or some provision in it or because that Party relies on a provision of this document to protect itself.

## 2. **Capital structure and effect**

### 2.1 **Shares**

- (a) As at the date of this document, the Investor Shareholders are the only Shareholders in the Company and hold all of the Shares, being Class A Shares.

- (b) On implementation of the Scheme, the Nominee will be issued and subscribe for Class B Shares in the Company to hold as bare trustee for certain shareholders of the Target pursuant to the Nominee Deed and the terms of the Scheme.

## 2.2 **Reclassification and redesignation of Shares**

Any Shares which may be acquired by an Investor Shareholder or its Permitted Holders from a Class B Shareholder or a Management Shareholder will, unless the Board determines otherwise, automatically be re-designated or re-classified (as the case may be) as Class A Shares.

## 2.3 **Effect**

This document comes into effect on and from the Implementation Date, except for this clause 2 and clauses 1 (Interpretation), 20 (Termination), 25 (Disclaimers), 27 (Confidentiality and announcement), 29 (Notices), 31 (Trustee limitation of liability), 32 (Investor Shareholders may use custodian) and 33 (General) each of which come into effect on the date of this document.

## 2.4 **Failure to achieve Scheme implementation**

Unless the Investor Shareholders agree otherwise in writing, this document terminates if:

- (a) the Scheme fails and cannot be implemented for any reason; or
- (b) the Implementation Deed is terminated for any reason.

## 3. **Business and objectives**

### 3.1 **Objectives and business**

- (a) The objectives of the Group are to operate, carry on and grow the Business in accordance with this document (**Business Objectives**).
- (b) The Parties acknowledge that the Group intends to pursue the Business Objectives with regard to responsible business and investing practices.

### 3.2 **Parties' duties**

To the maximum extent permitted by law, no Party shall owe any other Party any duty or obligations in relation to the Business or the Company except as set out in this document.

## 4. **The Board**

### 4.1 **Number of Directors**

The Board must consist of a minimum of five Directors and a maximum of nine Directors (or such other maximum number as determined by the Board).

### 4.2 **Appointment and removal of Directors**

- (a) Subject to the maximum number of Directors which may be appointed to the Board in accordance with clause 4.1, after allowing for, if applicable:
  - (i) any Directors which may be appointed by the B Class Shareholders in accordance with clause 4.2(b); and
  - (ii) the appointment of any Independent Directors in accordance with clause 4.3,

the Investor Shareholders will have the right to appoint, remove and replace the balance of the Directors to the Board (such number Directors being the **Board Balance**), with each Investor Shareholder having the right to appoint, remove and replace such number of the Board Balance pro rata to each Investor Shareholder's holding of Shares as a proportion (as near as possible, having regard to rounding) to all Investor Shareholders' holding of Shares.

- (b) Subject to clause 4.1, the remainder of this clause 4.2 and clause 19.4:
  - (i) an individual B Class Shareholder has the right, by written notice to the Company, to appoint, remove and replace one Director to the Board for every 20% of the Voting Share Capital that it holds, provided that for so long as an individual B Class Shareholder holds 50% or more of the Voting Share Capital it may appoint, remove and replace at least three Directors; and
  - (ii) B Class Shareholders:
    - (A) who each individually hold less than 20% of the Voting Share Capital; and
    - (B) who in aggregate hold more than 10% of the Voting Share Capital, have the joint right, by written notice to the Company, to appoint, remove and replace one Director to the Board.
- (c) Shares may only be counted once for the purposes of clause 4.2(b).
- (d) Any person nominated as a proposed Director by the Class B Shareholders must be:
  - (i) a Qualified Person; and
  - (ii) approved by the Investor Shareholders in writing (with such approval not to be unreasonably withheld or delayed).
- (e) Any Nominated Director who ceases to be a Qualified Person may be removed as a Director by the Board or the Investor Shareholders.
- (f) The Investor Shareholders or the Class B Shareholders may by notice to the Company remove any Director so appointed by them and replace any Director who is so removed or who ceases for any reason to be a Director, provided it is entitled to appoint a Director in accordance with this document.
- (g) A person will automatically be removed as a Director of the Company if the person is, or becomes, ineligible to be a Director in accordance with this document, any applicable law or under the provisions of the Constitution.
- (h) Each Class B Shareholder irrevocably appoints the Company as its attorney in accordance with clause 26 to do any thing necessary or desirable to remove a Nominated Director where the Director has ceased to be entitled to be a Director (including ceasing to be a Qualified Person) or where the Class B Shareholders have ceased to be entitled to appoint or nominate a Director in accordance with this document (including to pass any resolution or give any direction to the Nominee in respect of any such resolution).

- (i) Each Shareholder must use its best endeavours to ensure that any Director it appoints (or participates in appointing) complies with this document and does all things required to give effect to this document.

#### 4.3 **Appointment and removal of Independent Directors**

- (a) The Investor Shareholders may, from time to time, and at their absolute discretion, nominate and appoint independent Directors (**Independent Directors**).
- (b) An Independent Director so nominated will be appointed by the Board.
- (c) An Independent Director appointed under this clause 4.3 may at any time be removed from the Board by the Investor Shareholders by notice in writing to the Company.

#### 4.4 **Existing officers and new appointees**

From the Implementation Date, the following person will be appointed or continue in office (as the case may be) as Investor Directors of the Company until they are removed or otherwise cease to hold office pursuant to this document:

- (a) Jim Craig;
- (b) Josh Ludski;
- (c) Tim Poole; and
- (d) Michael Nossal.

#### 4.5 **Director's interests**

- (a) A Director is not disqualified from holding any office or place of profit with an Investor Shareholder or any of its Affiliates. For the avoidance of doubt, an Investor Director may:
  - (i) be or become a director of or otherwise hold office or a place of profit in any entity promoted by an Investor Shareholder or any of its Affiliates, or in which an Investor Shareholder or any of its Affiliates may be interested; and
  - (ii) contract or make any arrangement with an Investor Shareholder or any of its Affiliates.
- (b) A Director who has a material personal interest in a matter that relates to the Business (other than as a result of such Director's relationship with an Investor Shareholder or any of its Affiliates) must give the other Directors notice of that interest and abstain from being present or voting on that matter unless:
  - (i) the interest does not need to be disclosed under section 191 of the Corporations Act;
  - (ii) the Directors who do not have a material personal interest in the matter have passed a resolution in accordance with section 195(2) of the Corporations Act; or
  - (iii) the Director is otherwise permitted to be present and to vote in accordance with section 195(3) of the Corporations Act.

- (c) Each Party acknowledges that an Investor Director as nominated and appointed by an Investor Shareholder is the nominee of the relevant appointing Investor Shareholder.
- (d) Subject to the Director's duties at law and this document, the Director appointed by a Shareholder:
  - (i) may have regard to and represent the interests of the appointing Shareholder;
  - (ii) may act in the interests of the appointing Shareholder in performing any of the Director's duties or exercising any power, right or discretion as a Director, and will not be in breach of their duties to the Company or the Group solely because the Director has had regard to or acts in the interests of its appointing Shareholder; and
  - (iii) may vote on any related party transaction between a Group Company and that Director's appointing Shareholder (including an arrangement under clause 7.6), provided that the transaction is on commercial arms' length terms.

#### 4.6 **Alternates**

- (a) Each Director (other than an Alternate) may appoint a person to act as an Alternate.
- (b) In the case of a Nominated Director and an Independent Director, the identity of the Director's Alternate is subject to prior approval of the Board.
- (c) Subject to clause 4.6(b), the appointment:
  - (i) must be made by notice to the Company by the appointing Director; and
  - (ii) may be for a specified period, until the appointment is revoked or the appointing Director is removed or resigns, whichever occurs first.
- (d) Each Alternate has all the powers and duties of the Director when acting as an Alternate, including the right to attend Board meetings but excluding the power to appoint an Alternate. These powers and duties are in addition to any other powers and duties the Alternate may have and owe.

#### 4.7 **Observer**

- (a) The Board may from time to time appoint and remove any person as an observer to the Board.
- (b) An observer has the right to be notified of and attend Board meetings (and receive copies of all Board papers) but does not have the right to vote nor the right to be counted in a quorum.

#### 4.8 **Directors' remuneration**

- (a) The Company may pay fees to one or more Directors, as determined by the Board.
- (b) All reasonable expenses incurred by a Director which are associated with, or incidental to, the discharge of his or her obligations as Directors or are otherwise incurred in connection with the Business are to be reimbursed by the Company to the Director in accordance with any policy which may be adopted by the Board from time to time.

## **5. Board meetings**

### **5.1 Board meeting**

- (a) Board meetings shall be held at least once a quarter or as determined by the Board, from time to time.
- (b) Each Director must be given at least 3 Business Days' prior written notice of any Board meeting (unless all Directors otherwise agree). The notice must provide reasonable details of the matters to be considered at the meeting and the business to be put to the vote of the Directors as well as the matters required by clause 5.1(c).
- (c) The notice of a Board meeting must include:
  - (i) an agenda;
  - (ii) any proposed resolutions; and
  - (iii) a copy of all papers to be considered at that meeting.
- (d) All Board meetings to be held must permit Directors to participate through technological means such as video conference or teleconference.
- (e) If a Board meeting is held in two or more places linked together by any technology:
  - (i) a Director present at one of the places is taken to be present at the meeting unless and until the Director states to the chairperson of the meeting that the Director is discontinuing his or her participation in the meeting; and
  - (ii) the chairperson of the meeting may determine at which place the meeting will be taken to have been held.

### **5.2 Quorum for Board meetings**

- (a) Subject to clause 5.2(b), the quorum for a meeting of the Board is two Directors, of whom at least one must be an Investor Director and, to the extent a Director has been appointed by the Class B Shareholders in accordance with clause 4.2, at least one must be a Nominated Director.
- (b) If a quorum is not present within 30 minutes of the time set for the meeting, the meeting is adjourned to the same time and place two Business Days later and notice reconvening the adjourned meeting must be promptly given to all Directors and the quorum at the adjourned meeting will be at least one Investor Director.

### **5.3 Directors' voting rights**

At a meeting of the Board:

- (a) each Director is entitled to one vote; plus
- (b) an Investor Director who is present at a meeting of the Board and is entitled to vote on a resolution may cast an additional vote for:
  - (i) each other Investor Director who is also present at the meeting but unable to vote on that resolution (including due to a material personal interest); and
  - (ii) each other Investor Director who is not present at the meeting.

- (c) Only one Investor Director who is present at a meeting of the Board and entitled to vote on a resolution may cast an additional vote or votes under clause 5.3(b).
- (d) If there is more than one Nominated Director appointed to the Board, the Nominated Director who is present at a meeting of the Board and is entitled to vote on a resolution may cast an additional vote for:
  - (i) each other Nominated Director who is also present at the meeting but unable to vote on that resolution (including due to a material personal interest); and
  - (ii) each other Nominated Director who is not present at the meeting.
- (e) Only one Nominated Director who is present at a meeting of the Board and entitled to vote on a resolution may cast an additional vote or votes under clause 5.3(d).
- (f) The chairperson, if any, will not have a casting vote in addition to his or her deliberative vote.

#### 5.4 **Written Resolutions**

- (a) A written resolution circulated to all the Directors, and signed by those Directors who would be capable of approving the relevant resolution if it were considered at a Board meeting duly convened in accordance with this document, will be as valid and effective as a resolution duly passed at a meeting of the Board called and held in accordance with this document. The resolution is taken to have passed on the date that the last Director required to reach the number of Directors to approve such resolution signs the document.
- (b) The document may be in counterpart, signed by one or more Directors and may be circulated by email or such other technology platform or document exchange system approved from time to time by the Board.

#### 5.5 **Board decisions**

No resolution of the Directors will be carried and the Board must not approve or consent to a matter under this document unless, subject to the Corporations Act or as otherwise expressly provided under this document, it is passed by a Simple Majority.

#### 5.6 **Committees**

- (a) The Board may constitute committees of the Board from time to time. Such committees will have authority to approve any matters delegated to it by the Board, subject to the terms of this document.
- (b) The composition of such committees will be as determined by the Board from time to time.
- (c) The Directors may, at any time and from time to time, revoke or vary any and all powers delegated by the Board to any committee pursuant to the terms of this clause 5.6.

#### 5.7 **Valid proceedings**

Each resolution passed or thing done by, or with the participation of, a person acting as an Investor Director is valid even if it is later discovered that:

- (a) there was a defect in the appointment of the person; or



- (b) the person was disqualified from continuing in office, voting on the resolution or doing the thing.

## **6. Shareholders' meetings**

### **6.1 Calling a Shareholders Meeting**

Subject to the Corporations Act, a Shareholders Meeting may be convened at any time by the Board.

### **6.2 Quorum**

- (a) A quorum for a meeting of Shareholders is constituted by any two Shareholders, one of which must be an Investor Shareholder.
- (b) No business may be transacted at any Shareholders Meeting unless a quorum is present at the commencement of the meeting, except for the adjournment of the meeting.
- (c) If a quorum is not present within 30 minutes after the time appointed for a Shareholders Meeting, the meeting shall be adjourned to the date 5 Business Days from the date of the original meeting, at the same time and place of the original meeting and the quorum for that re-convened Shareholders Meeting is the Shareholders present.

### **6.3 Chairing Shareholders Meetings**

- (a) The chair of the Board, if present at a Shareholders Meeting, must chair the Shareholders Meeting.
- (b) If the chair of the Board is not present at the Shareholders Meeting or, if present, is not willing to chair the Shareholders Meeting, the Investor Shareholders present may elect a Shareholder or Director present to chair the meeting.

### **6.4 Decision making**

- (a) No resolution of Shareholders is carried unless, subject to the Corporations Act and clause 6.5, it is passed by a Simple Majority.
- (b) A Shareholder may have regard to and represent the interests of the Shareholder and may act on the wishes of the Shareholder in exercising any power to vote in relation to the Company.
- (c) The chair of the Shareholders Meeting does not have a casting vote.

### **6.5 Matters requiring Required Resolution of Shareholders**

- (a) The Company must not and must ensure that each Group Company does not take any action or pass any resolution in respect of the matters set out in Schedule 3 unless the action or resolution has first been approved by a Required Resolution.
- (b) Each Shareholder (to the extent they are able) must ensure that the Company and each Group Company complies with clause 6.5(a).

### **6.6 Written Resolutions**

- (a) A written resolution circulated to all the Shareholders, and signed by those Shareholders who would be capable of approving the relevant resolution if it were considered at a Shareholders Meeting duly convened in accordance with this document, will be as valid and effective as a resolution duly passed at a Shareholders Meeting called and held in accordance with this document. The

resolution is taken to have passed on the date that the last Shareholder required to reach the number of Shareholders to approve such resolution signs the document.

- (b) The document may be in counterpart, signed by one or more Shareholder.

#### 6.7 Meetings of Class B Shareholders

- (a) Meetings of Class B Shareholders (**Class B Shareholder Meeting**) may be convened at any time by the Board, or by one or more Class B Shareholders holding 5% or more of the Class B Shares on issue.
- (b) Class B Shareholder Meetings may be held in order to, among other things, facilitate the exercise of Class B Shareholders' rights to appoint, remove and replace Directors under clauses 4.2(b).
- (c) The provisions of clauses 6.2, 6.4 and 6.6 apply to Class B Shareholder Meetings, with the following changes:
- (i) any action or resolution in a Class B Shareholder Meeting will be made by the affirmative vote of a Simple Majority of Class B Shareholders;
  - (ii) a quorum for a Class B Shareholder Meeting is constituted by the presence of two or more Class B Shareholders; and
  - (iii) only Class B Shareholders are permitted to vote at a Class B Shareholder Meeting or sign a written resolution in respect of resolutions to be considered at a Class B Shareholder Meeting.

#### 6.8 Shareholder approvals subject to power of attorney

- (a) Each Party (other than an Investor Shareholder) irrevocably appoints the Company as its attorney in accordance with clause 26 to take any action (including to give directions to the Nominee or pass any resolution) in respect of any matter requiring its approval under any applicable law, including without limitation in relation to:
- (i) (**Winding up**) the making of an application or the commencement of any proceedings or the taking of any other steps for the winding up, dissolution, deregistration or appointment or administrator of a Group Company, or the entering into by a Group Company of an arrangement, compromise or composition with or assignment for the benefit of its creditors, a class of them or any of them;
  - (ii) (**Constitution**) the making of any amendment to the Constitution or the modification or abrogation of any rights attached to any Shares (whether issued or unissued) of the Company;
  - (iii) (**re-classification or re-designation**) any re-classification or re-designation of Shares which is contemplated by this document;
  - (iv) (**variation to class rights**) any variation, cancellation or modification to the rights attached to any Shares of the Company (unless otherwise specifically permitted by the terms of this document or the Constitution);
  - (v) (**Related party transactions**) any transaction that would require member approval under Chapter 2E of the Corporations Act; and

- (vi) **(Buy-back)** any buy-back, redemption, cancellation, reduction of capital or purchase by the Company of any Shares,

subject to any Required Resolution (if required) having being passed.

## 7. Management

### 7.1 Management vests in the Board

- (a) Subject to this document and applicable law, management of the Company and each other Group Company vests in the Board.
- (b) The Board must ensure, and must procure that the board of each other Group Company ensures that, the Business is managed in accordance with this document, the Constitution and the Business Plan and Budget.

### 7.2 Delegation of authority

The Board will adopt a delegations policy which will provide for:

- (a) certain material matters in relation to the Business, and its strategy and direction, to be reserved for consideration by the Board;
- (b) a delegation of certain matters for consideration by a management committee (to be comprised of Group executives and other key individuals in the Business); and
- (c) a delegation of certain matters relating to the day to day management of the Business to the CEO and/or other Group executives.

### 7.3 Directors' and officers' insurance

The Company:

- (a) must to the fullest extent permitted by law, purchase and maintain insurance for each Director against any liability incurred by the Director as an officer of any Group Company including liability for negligence, and for reasonable costs and expenses incurred in defending proceedings, whether civil or criminal, on policy terms approved by the Board and which are on terms reasonably available in the market and appropriate for the operation of the Group and its Business; and
- (b) must enter into, and must procure each Group Company enter into, deeds of access and indemnity with each Director, which deeds shall provide for indemnification of the Director and access to company books by the Director for the purpose of defending an action against the Director, in respect of the period during which the Director is or was an officer of a Group Company.

### 7.4 Business Plan and Budget

- (a) The Company must ensure that the Group conducts the Business in accordance with the Business Plan and Budget approved and adopted by the Board for that Financial Year, or as may be amended by the Board from time to time. Any material deviation from or variation to the Business Plan and Budget must have prior approval of the Board.
- (b) At least one month before the start of each Financial Year the Company must procure that the Group's management prepare and distribute to the Board, a draft Business Plan and Budget (in the form determined by the Board) for the next following Financial Year, which must include the following:
  - (i) profit and loss budget;

- (ii) capital expenditure budget; and
- (iii) cash flow forecast and projection,

provided that the Board may approve (acting reasonably) such other period for delivery of the draft Business Plan and Budget if it considers there are exceptional circumstances warranting a shorter period, or it is not reasonably practicable to deliver the draft in the circumstances.

- (c) If the Board fails to adopt a Business Plan and Budget for a Financial Year, then the Business Plan and Budget for the Financial Year consists of:
  - (i) that part of the Business Plan and Budget for the immediately preceding Financial Year; and
  - (ii) a continuation of the Business and business activities proposed in the Business Plan and Budget for the immediately preceding Financial Year, to the extent applicable to the current Financial Year.
- (d) The Board may amend the Business Plan and Budget, either before or during the Financial Year to which a Business Plan and Budget relates.

#### 7.5 **Annual Audit**

The Company must ensure that the accounts of the Group are audited annually by the Auditor.

#### 7.6 **Management fees**

It is acknowledged and agreed that the Company or a Group Company may enter into a management services agreement with the Investor Advisor (or an Affiliate of the Investor Advisor) pursuant to which, in addition to reimbursement for costs for specialised operational services provided to the Group, the Investor Advisor (or an Affiliate of the Investor Advisor) will be paid fees by the Company or a Group Company as consideration for the services provided under the agreement.

### 8. **Dividend policy**

Subject to the Corporations Act, a decision to pay and the amount of any dividend will be determined by the Board taking into account (in each case as the Board considers appropriate):

- (a) retention of such reasonable and proper reserves for working capital requirements, possible future acquisitions, capital expenditure, debt amortisation or other actual or contingent liabilities or commitments of the Group;
- (b) such dividend not resulting in a breach of any covenant or undertaking of any Group Company to any bank or financial institution; and
- (c) the dividend policy for the Group, which policy will be determined by the Board from time to time, which will have regard to the Business Plan and Budget.

### 9. **Reporting and information**

#### 9.1 **Information to the Investor Shareholder**

- (a) The Company must, and must procure that each Group Company and the Group's management, promptly deliver to, or as directed by, an Investor Shareholder such financial and other information relating to the Group as an

Investor Shareholder may request, including any information required by any financiers or prospective financiers of the Company or the Group.

- (b) The Company must provide to the Investor Shareholders:
- (i) **(Financial statements)** no more than 90 Business Days following the end of each Financial Year, consolidated audited financial statements, which must include:
    - (A) consolidated profit and loss account;
    - (B) consolidated balance sheet;
    - (C) consolidated cash flow statement; and
    - (D) notes and reports of the Directors and Auditor;
  - (ii) **(ESG)** no more than 60 Business Days following the end of each Financial Year, reports on annual environmental, social, and governance metrics, which must include greenhouse emissions reporting in a format determined by the Investor Shareholders;
  - (iii) **(Management accounts)** no more than 21 days following the end of each calendar month, management accounts, which must include:
    - (A) consolidated profit and loss account;
    - (B) consolidated balance sheet;
    - (C) comparison of, and commentary on, actual-to-budgeted results for the month and year to date, and actual-to-prior year for the month and year to date;
    - (D) revised forecast of revenue and profits for the remainder of the Financial Year;
    - (E) statement of cash flow;
    - (F) statement of cash position (at bank and in books of account) and current level of utilisation of banking facilities;
    - (G) statement of headroom available under financial covenants in banking facilities;
    - (H) any other reporting, as required by any financiers (or prospective financiers) of the Company or the Group,

provided in each case that the Board may approve (acting reasonably) such other period for delivery of the information specified in this clause 9.1(b) if it considers there are exceptional circumstances warranting a shorter period, or it is not reasonably practicable to deliver the information in the circumstances.
- (c) The Company must provide to an Investor Shareholder, upon written request, full access to:
- (i) inspect the assets of the Group;

- (ii) inspect and take copies of documents, records (including financial records) and accounts relating to the Business or the Group; and
- (iii) discuss the affairs, finances and accounts of the Group with the Group's officers, employees, agents, representatives or contractors and the Auditor.

## 9.2 **Information to Class B Shareholders**

No more than 90 Business Days following the end of each Financial Year, the Company must provide a copy of the latest audited financial statements of the Group to the Class B Shareholders.

## 9.3 **Information to Company about beneficial ownership and controllers**

Upon written request from the Company, a Class B Shareholder must within 5 Business Days of the request, provide to the Company full written details of its Interested Persons, including:

- (a) the name and address of each Interested Person;
- (b) the circumstances that give rise to that relationship and a summary of the nature and extent of the relationship; and
- (c) any other information as reasonably requested by the Company in relation to the ownership of the Class B Shareholder, including to assist the Company in assessing whether a change in Control has occurred in relation to the Class B Shareholder.

## 10. **Financing and issue of further Shares**

### 10.1 **No obligation**

No Shareholder will be obliged to provide any funds of any nature whatsoever to or on behalf of any Group Company, whether by way of loans or subscription for Shares or debentures, provide any form of financial accommodation to or on behalf of any Group Company, or guarantee or secure the obligations of any Group Company.

### 10.2 **Issues of Shares**

The Company must not issue any Shares unless the issue is:

- (a) an issue of Shares permitted by clause 10.3 (including, where applicable, the exercise of any option or right to issue Shares which is permitted by clause 10.3); or
- (b) an issue of Shares pursuant to a pro rata offer in accordance with clause 11.

### 10.3 **Permitted issues**

For the purposes of clause 10.2(a), the Company may issue Shares (or agree to issue or grant any option or right to issue Shares, or enter into a contract, arrangement or understanding with a similar economic effect) if the issue is approved by the Board and is:

- (a) **(Class A)** an issue of Class A Shares to provide funding to meet transaction costs in connection with the Scheme or to finance the payment of cash consideration under the Scheme to Target shareholders or to repay debts of the Target or its Subsidiaries in place prior to implementation of the Scheme or to fund the working capital of the Target or its Subsidiaries;

- (b) **(Class B)** an issue of Class B Shares pursuant to the Scheme, or otherwise in connection with the Scheme and as contemplated by the Implementation Deed;
- (c) **(MEP)** an issue of any class of Shares to a Manager (or an Affiliate of a Manager) pursuant to, or as contemplated by, the Management Equity Plan (including upon exercise of options or performance rights or conversion of instruments into Shares (if applicable) granted under the Management Equity Plan);
- (d) **(IPO)** an issue of Shares pursuant to or in connection with an IPO (including a "pre-IPO" issue of shares shortly before an IPO);
- (e) **(M&A)** an issue of Shares as non-cash consideration for an arms' length, bona fide acquisition of, or merger with, a company, business or assets, by a Group Company;
- (f) **(Reorganisation Event)** an issue of Shares under a Reorganisation Event provided that the Reorganisation Event does not dilute a Shareholder's proportion of:
  - (i) Shares of a given type or class as that bears to the total number of Shares of that type or class held by all Shareholders holding that type or class; and
  - (ii) Shares of a given type or class as that bears to the total number of Shares held by all Shareholders;
- (g) **(Required Resolution)** an issue of Shares which has been approved by a Required Resolution;
- (h) **(Emergency Funding)** an issue of Shares to an Investor Shareholder or an Affiliate of an Investor Shareholder (**Emergency Funding Shares**), if the Board determines (acting reasonably), that an urgent injection of funds is necessary or desirable in order to:
  - (i) ensure that a Group Company does not breach (or ceases to breach) a covenant or a condition of its external debt financing facilities, or is otherwise required by its external debt financiers; or
  - (ii) ensure that a Group Company does not experience (or ceases to experience) an Insolvency Event,

such issue being the **Emergency Issue**, and such Investor Shareholder or its Affiliate being the **Emergency Funding Shareholder**, and provided that as soon as possible after the Emergency Issue:

- (iii) the process set out in clause 11 is followed after such Emergency Issue such that, subject to clause 12, either:
  - (A) the Emergency Funding Shareholder offers each other holder of Voting Share Capital the opportunity to acquire Emergency Funding Shares from it; or
  - (B) the Company offers to each other holder of Voting Share Capital the opportunity to subscribe for further Shares on the same terms as the Emergency Issue,

in each case:

- (C) using the process set out in clause 11, with such adjustments as are necessary, as though the Emergency Issue were in satisfaction of a pro-rata offer to the Investor Shareholders and other holders of Voting Share Capital, in accordance with clause 11; and
- (D) so as to enable the other holders of Voting Share Capital to maintain their Relevant Proportion prior to the Emergency Issue.

## 11. Pro rata issue of shares

### 11.1 Pro rata offer

- (a) The Board may resolve to issue Shares for the purposes of clause 10.2(b), by ensuring that Shares are, subject to clause 12, offered to all holders of Voting Share Capital (**Offeree Shareholder**) in accordance with this clause 11.
- (b) Any issue of Shares in accordance with this clause 11 to an Offeree Shareholder that is not an Investor Shareholder will be issued to the Nominee, unless the Board has determined otherwise in respect of such Offeree Shareholder.

### 11.2 Basis of Pro rata issue

Subject to clause 12, the Company must ensure that the issue is conducted on the following basis:

- (a) the Company must in the first instance, offer each Offeree Shareholder its Relevant Proportion of the total number of Shares to be issued. The Company must serve notice on the Offeree Shareholders (**Issue Notice**) specifying:
  - (i) the terms of issue;
  - (ii) the issue price per new Shares as determined by the Board;
  - (iii) the total number of new Shares to be issued;
  - (iv) the number of new Shares for which the Offeree Shareholder would need to subscribe to maintain its Relevant Proportion;
  - (v) the date on which the acceptance of the offer must be received (which acceptance must be in full and not in part of the allocation of new Shares contemplated by paragraph (iv) above) by the Company which date must not be less than 5 Business Days after the date of the Issue Notice (**Acceptance Period**); and
  - (vi) the applicable date by which each Offeree Shareholder must give notice to the Company for the purposes of an election under clause 11.2(d)(iii), being the end of the Secondary Acceptance Period.
- (b) the issue must be for cash and the new Shares must be offered on the same terms to each Offeree Shareholder on a pro rata basis in their Relevant Proportions in accordance with this clause 11, provided that if the new Shares being issued pursuant to this clause 11 are Ordinary Shares, then the Ordinary Shares will be designated:
  - (i) Class A Shares if they are issued to any Shareholder that is not a Class B Shareholder; and
  - (ii) Class B Shares if they are issued to a Class B Shareholder;



- (c) if an Offeree Shareholder accepts the offer made to it pursuant to the Issue Notice (**Participating Issue Shareholder**) within the Acceptance Period, the Participating Issue Shareholder must pay the agreed subscription amount at such time and in such manner that the Company directs the Participating Issue Shareholder in writing or as set out in the Issue Notice (not being less than 5 Business Days after the date of the Issue Notice);
- (d) in the event a Participating Issue Shareholder (**Non-contributing Shareholder**) does not take up its entitlement within the Acceptance Period:
  - (i) that Non-contributing Shareholder will cease to have any right to apply to subscribe for the Shares which have not been taken up;
  - (ii) each other Participating Issue Shareholder will be deemed to have been made an offer to subscribe for new Shares not taken up by the Non-contributing Shareholders (**Remaining New Shares**);
  - (iii) the Participating Issue Shareholders may subscribe for Remaining New Shares by giving notice to the Company within 2 Business Days after the expiry of the Acceptance Period (**Secondary Acceptance Period**) that it wishes to subscribe for the Remaining New Shares (each an **Oversubscribing Shareholder**); and
  - (iv) at the conclusion of the Secondary Acceptance Period and subject to payment of the relevant subscription price, the Oversubscribing Shareholders will be issued such number of Remaining New Shares in accordance with the Relevant Proportions of Voting Share Capital held by the Oversubscribing Shareholders,
- (e) the Company may issue any Remaining New Shares that are not subscribed for by Oversubscribing Shareholders in accordance with clauses 11.2(a) to 11.2(d) to one or more Shareholders or an Affiliate of a Shareholder, or Third Parties approved by the Board, within 40 Business Days after the expiry of the later of the Acceptance Period and the Secondary Acceptance Period (as applicable) on terms no more beneficial to the subscriber than those set out in the offer made pursuant to the Issue Notice; and
- (f) if the Company does not issue the new Shares within 40 Business Days after the expiry of the Acceptance Period or the Secondary Acceptance Period (as applicable), it may not issue those new Shares without first complying again with clause 11.2.

### 11.3 Accession Deed Poll

An issue of Shares to a person that is not a Party to this document is void and of no effect unless and until the proposed subscriber (or the Appointing Beneficiary who is the subscriber) has executed, and delivered to the Company, an Accession Deed Poll (except for an issue in connection with an IPO, a Reorganisation Event or to a custodian pursuant to clause 32), and where required by the Company, a Nominee Accession Deed.

## 12. No requirement to prepare disclosure document

- (a) Notwithstanding anything to the contrary in this document, a person's right to be offered Shares, to subscribe for, or transfer, or otherwise Dispose of Shares under this document, are subject to those rights not requiring the Company, any Group Company or an Investor Shareholder to issue a disclosure document (including a prospectus) or a product disclosure statement, undertake any

registration or filing with any Government Agency or take any comparable action, whether under Chapter 6D or Chapter 7 of the Corporations Act or any comparable legislation in any other jurisdiction, unless the Board determines otherwise.

- (b) Neither the Company nor any other Party will be in breach of this document if it fails to offer or issue any Shares to any person, or give any notice which would constitute an offer of any Shares to any person, in circumstances where such offer or issue of Shares would require the taking of any action described in this clause 12.

### **13. Dealing with Shares**

#### **13.1 Restriction on Encumbrance over Shares**

No Party (other than the Investor Shareholder) may create or permit to exist any Encumbrance over all or any of its Shares unless:

- (a) the Encumbrance is expressly permitted by and forms part of this document; or
- (b) the Investor Shareholders have approved the Encumbrance in writing.

### **14. Disposal of Shares**

#### **14.1 Restriction on Disposal of Shares**

- (a) No Party (other than the Investor Shareholder) may Dispose of any Share, and the Board must not register any transfer of Shares, unless the Disposal is:

- (i) a Nominee Transfer;
- (ii) a transfer of Emergency Funding Shares pursuant to clause 10.3(h);
- (iii) permitted under clause 14.2 (Permitted transfers);
- (iv) required under clause 14.3 (Change of Permitted Holder);
- (v) made in accordance with clause 15 (Tag Along) or clause 16 (Drag Along);
- (vi) made as part of an Exit pursuant to clause 17 (Exit);
- (vii) made pursuant to clause 18 (Disposal of Small Holdings);
- (viii) made pursuant to clause 19 (Event of Default);
- (ix) pursuant to or in connection with a Management Equity Plan;
- (x) to a custodian pursuant to clause 32 (Investor Shareholders may use custodian); or
- (xi) otherwise approved in writing by the Investor Shareholders,

but subject always to clause 14.6.

- (b) The Class B Shareholders must take all such actions as they are permitted to do by law so that any purported Disposal of Shares which does not comply with this document will be of no force or effect.

#### **14.2 Permitted transfers**

Subject to clause 14.3 and 14.4, a Shareholder may transfer Shares to a Permitted Holder, provided that the Board may require the Nominee hold or continue to hold the legal title to the Shares to be transferred to a Permitted Holder.

**14.3 Change of Permitted Holder**

If any person to whom Shares are Disposed of pursuant to clause 14.2 ceases to be a Permitted Holder of the original transferor then, that person must, within 10 Business Days of so ceasing to be a Permitted Holder, Dispose of all such Shares to the original transferor or to any person who is a Permitted Holder of the original transferor, on the same terms (except as to consideration) as they were originally transferred.

**14.4 Accession Deed Poll**

Notwithstanding any other clause in this document, a Disposal of Shares to a person that is not a Party to this document is void and of no effect unless and until the proposed transferee (or Appointing Beneficiary) has executed, and delivered to the Company, an Accession Deed Poll (except for a Disposal in connection with an Exit or a Disposal to a custodian pursuant to clause 32), and where required by the Company, a Nominee Accession Deed.

**14.5 Deemed release**

Despite any other provision of this document, on completion of any sale or other Disposal of Shares by any person, after which the relevant person will no longer hold any Shares (including through the Nominee), the Company, the Investor Shareholders and their Affiliates and the other Shareholders will be deemed to be unconditionally released from all Liabilities to that disposing person and any other Claims by that disposing person of any nature whatsoever, actual or contingent, in respect of any prior breach by the Company, the Investor Shareholders and their Affiliates or any other Shareholder of any of their respective obligations under this document (whether that Liability or Claim is known at the relevant time or not).

**14.6 No more than 50 members**

A Party must not (nor may it attempt to) Dispose of all or any of its Shares if, following such Disposal, the Company would have more than 50 members, other than in connection with an IPO.

**14.7 Obligations on certain conversions and Disposals of Shares**

- (a) If the Company wishes to undertake a conversion, variation, buy-back, redemption or cancellation of any Shares in accordance with this document, the Constitution, a Management Equity Plan or the terms of issue of any Shares (**Relevant Transaction**), each Party (in all relevant capacities) must do and perform, and procure that any Directors appointed or nominated by it and/or its Affiliates do and perform, all acts and enter into all documents which are within its power (in any capacity), and use its best endeavours to procure others to do and perform all acts and enter into all documents, which are requested by the Board to give effect to the Relevant Transaction, including:
- (i) voting in favour of the Relevant Transaction at any Board and Shareholder Meetings that may be required;
  - (ii) if the Relevant Transaction includes a buy back and/or cancellation of any Shares, entering into any buy back agreement or cancellation agreement that may be required to effect the buy back and/or cancellation;

- (iii) lodging all necessary documents to effect the Relevant Transaction and giving all necessary notifications of the Relevant Transaction to regulatory authorities; and
- (iv) performing those acts necessary to complete the Relevant Transaction in accordance with its terms including paying the price for the Shares and delivering the certificate(s) and, if necessary, executing transfer(s) for the Shares,

subject to any Required Resolution (if required) having been passed.

- (b) Each Party irrevocably appoints the Company as its attorney in accordance with clause 26 to perform its obligations under this clause 14.7.

## 15. Tag Along rights

### 15.1 Tag Along Option

If, subject to clause 15.8:

- (a) some or all of the Investor Shareholders wish to Dispose of such number of Class A Shares which comprise 60% or more of the Investor Shareholders' collective holding of Class A Shares to a Third Party in one transaction or a series of related transactions (**Tag Transaction**); and
- (b) the Investor Shareholders have not issued a Drag Notice (or has withdrawn any Drag Notice which was issued and not issued a further Drag Notice),

the Investor Shareholders must serve a notice (**Invitation to Tag**) on each other Shareholder holding Voting Share Capital (**Tag Shareholder**) with a copy to the Company.

### 15.2 Contents of an Invitation to Tag

- (a) An Invitation to Tag must state:
  - (i) the identity of the Third Party who proposes to acquire Shares from the Investor Shareholders (**Tag Buyer**), to the extent then known;
  - (ii) the number and class or classes of Shares proposed to be Disposed of by the Investor Shareholders;
  - (iii) the percentage or percentages of the total number of Shares of each class held by the Investor Shareholders and proposed to be Disposed of in the Tag Transaction (being a **Tag Proportion**);
  - (iv) for each class of Shares proposed to be Disposed of in the Tag Transaction, the proposed consideration per Share (which need not be payable all in cash) or the manner in which that consideration is proposed to be calculated or determined, subject to clause 17.4 (**Tag Sale Price**);
  - (v) that each Tag Shareholder has an option (**Tag Option**) to participate in the Tag Transaction on the basis set out in clause 15.5 in respect of the relevant Tag Proportion of the Tag Shareholder's Shares (if any) in each class of Shares being Disposed of by the Investor Shareholders (such proportion of each class of the Tag Shareholder's Shares being the **Tag Shares**) at the Tag Sale Price and otherwise on terms which are materially no less favourable to the Tag Shareholder (taken as a whole) than the terms on which the Investor Shareholders are proposing to

Dispose of Shares in the Tag Transaction (taking into account the relative rights of such Shares under this document and the Constitution), subject to clause 17.4; and

- (vi) the period during which the Tag Option may be exercised which, unless otherwise agreed in writing between the Investor Shareholders and the Tag Shareholders (**Tag Exercise Period**), must not be less than 5 Business Days from the date of the Invitation to Tag.
- (b) An Invitation to Tag may be revoked or amended at any time by written notice from the Investor Shareholders to the Tag Shareholders and the Company.

### 15.3 Exercise of a Tag Option

- (a) A Tag Option may be exercised by notice in writing to the Investor Shareholders with a copy to the Company within the Tag Exercise Period.
- (b) Any exercise of a Tag Option:
  - (i) must be for all (and not some) of the Tag Shares of the relevant Tag Shareholder;
  - (ii) is irrevocable, unless otherwise agreed in writing between the Investor Shareholders and the relevant Tag Shareholder;
  - (iii) must include bank transfer instructions for payment of any cash portion of the purchase price payable to the Tag Shareholder; and
  - (iv) if required by the Investor Shareholders, must be accompanied by all documents required to be executed in connection with the Tag Transaction, including the certificate or other documents representing the Tag Shares (if any) or a customary undertaking in respect of any lost or destroyed certificates, together with a power of attorney authorising the Investor Shareholders or their nominee to act as its attorney to Dispose of the Tag Shares to the Tag Buyer.
- (c) If at the end of the Tag Exercise Period stated in the Invitation to Tag, any Tag Shareholder has not exercised its Tag Option by notice in writing to the Investor Shareholders, that Tag Shareholder will be deemed to have waived all of its rights under this clause 15 to participate in the relevant Tag Transaction.

### 15.4 Effect of exercise of Tag Option

- (a) If a Tag Shareholder validly exercises its Tag Option in accordance with clause 15.3 (**Participating Tag Shareholder**):
  - (i) the Participating Tag Shareholder must Dispose of its Tag Shares in the Tag Transaction on the terms stated in the Invitation to Tag; and
  - (ii) subject to clause 15.4(b) and 15.5, the Investor Shareholders must not complete the proposed Disposal of its Shares to the Tag Buyer unless completion of the Disposal of the Tag Shares of each Participating Tag Shareholder in accordance with this clause 15 occurs contemporaneously with the Disposal of the Investor Shareholders' Shares, provided that if the Tag Buyer is not willing to purchase all of the Tag Shares of the Participating Tag Shareholders and the Shares offered for Disposal by the Investor Shareholders, the numbers of each class of Shares Disposed of by the Investor Shareholders and the Participating Tag Shareholders may (at the discretion of the Investor Shareholders) be reduced pro rata

between the Investor Shareholders and the Participating Tag Shareholders based on the number of such class of Shares the Tag Buyer is willing to purchase (or which may otherwise be Disposed of in the Tag Transaction) and the number of such class of Shares offered for Disposal by the Investor Shareholders and all Participating Tag Shareholders.

- (b) Notwithstanding anything to the contrary in this document, an Investor Shareholder will not have any obligation to include a Participating Tag Shareholder's Tag Shares in a Tag Transaction, and will be permitted to complete the proposed Disposal of its Shares to the Tag Buyer without the Tag Buyer buying, or another Disposal of, those Tag Shares, if the Participating Tag Shareholder:
- (i) defaults in its obligations to Dispose of its Tag Shares in the Tag Transaction; or
  - (ii) breaches its obligations under clause 15.5 or otherwise under this document in connection with the completion of the Tag Transaction.

#### 15.5 **Conditions to participating in Tag Transaction**

- (a) Despite anything contained in this clause 15, the rights and obligations of the Participating Tag Shareholders to participate in a Tag Transaction are subject to the following conditions (each of which must be satisfied within the time periods specified by the Investor Shareholders):
- (i) Participating Tag Shareholders must enter into and execute substantially identical documents as the Investor Shareholders enter into and executes in connection with the Tag Transaction and any other documents reasonably requested by the Investor Shareholders for the purposes of the Tag Transaction, which for the avoidance of doubt may include any representations, warranties or indemnities as contemplated by clause 17.4;
  - (ii) except as otherwise expressly provided in this document, each Participating Tag Shareholder must pay its pro rata share (based on the relative amounts of the proceeds to the Investor Shareholders and each Participating Tag Shareholder) of all expenses incurred by the Investor Shareholders, the Participating Tag Shareholders and the Group Companies (as the case may be) in connection with the Tag Transaction (whether consummated or not), but only to the extent such expenses are not otherwise paid by the Company or another person, and are not individual costs; and
  - (iii) if required by the Investor Shareholders, each Participating Tag Shareholder must and must procure their Relevant Manager to comply with clause 17.4.
- (b) An Investor Shareholder will not be required to comply with clause 15.4 in relation to a Participating Tag Shareholder who does not comply with this clause 15.5.

#### 15.6 **Co-operation and power of attorney**

- (a) The other Parties must (and the Company must procure that the Group Companies) co-operate with the Investor Shareholders and each actual or prospective Tag Buyer, and their respective Representatives, to facilitate and

give effect to any Tag Transaction, including by facilitating and supporting any due diligence process required, and in connection with obtaining all Government Agency and third-party approvals and consents appropriate to consummate the Tag Transaction.

- (b) Each Participating Tag Shareholder (which, for the avoidance of doubt, includes the relevant Appointing Beneficiary) irrevocably appoints the Company as its attorney in accordance with clause 26 to perform its obligations under this clause 15.

#### 15.7 **No obligation to complete**

Notwithstanding anything contained in this clause 15, neither the Investor Shareholders nor the Company is liable to any Party or other person if any Tag Transaction is not consummated for any reason or if the number of Tag Shares Disposed of in a Tag Transaction is scaled back under clause 15.4(a)(ii). The Investor Shareholders may decide whether to Dispose of any Shares in a Tag Transaction or to complete a Tag Transaction in its discretion.

#### 15.8 **Tag along rights do not apply to certain Disposals**

For the avoidance of doubt, this clause 15 does not apply to the following:

- (a) a Nominee Transfer;
- (b) Disposals to a Shareholder in connection with an Emergency Issue pursuant to clause 10.3(h);
- (c) if an Investor Shareholder has issued a Drag Notice and not withdrawn it, or has withdrawn a Drag Notice and issued a further Drag Notice;
- (d) in connection with an IPO;
- (e) a Disposal to a Permitted Holder;
- (f) a Disposal pursuant to, or as contemplated by, the Management Equity Plan;
- (g) a Disposal of a Small Holding pursuant to clause 18;
- (h) a Disposal following an Event of Default in accordance with clause 19; or
- (i) a Disposal to a custodian pursuant to clause 32.

### 16. **Drag rights**

#### 16.1 **Right to give Drag Notice**

If some or all of the Investor Shareholders and/or their Affiliates (**Drag Seller**) wish to Dispose in aggregate of more than 80% of their collective holding of Class A Shares to a Third Party (**Drag Buyer**) in a transaction other than one specified in clause 16.7, then the Drag Seller may give a written notice (**Drag Notice**) specifying the matters listed in clause 16.2 to each other Shareholder (**Dragged Shareholder**) with a copy to the Company.

#### 16.2 **Content of Drag Notice**

A Drag Notice must state:

- (a) the identity, or identities, of the Drag Seller;
- (b) the identity of the Drag Buyer, to the extent known;

- (c) the class or classes of Shares and number in each such class, proposed to be Disposed of by the Drag Seller;
- (d) the percentage or percentages of the total number of Shares of each class held by the Drag Seller and proposed to be Disposed of in the Drag Transaction (being a **Drag Proportion**);
- (e) for each class of Share proposed to be Disposed of in the Drag Transaction, the proposed form and amount of consideration per Share (which need not be payable all in cash) or the manner in which that consideration is proposed to be calculated or determined, subject to clause 17.4 (**Drag Sale Price**), and
- (f) that the Drag Seller requires each Dragged Shareholder to Dispose of the relevant Drag Proportion of each relevant class of the Dragged Shareholder's Shares (**Dragged Shares**) on materially no less favourable terms as the terms on which the Drag Seller is proposing to Dispose of its Shares in the Drag Transaction (taking into account the relative rights of such Shares under this document and the Constitution), subject to clause 17.4.

### 16.3 **Withdrawal of Drag Notice**

A Drag Notice may be revoked or amended at any time by written notice from the Drag Seller to the Company. The Company must notify each Dragged Shareholder promptly if any Drag Notice is withdrawn or amended.

### 16.4 **Effect of Drag Notice**

If a Drag Notice is given (and has not been withdrawn pursuant to clause 16.3):

- (a) then each Dragged Shareholder must Dispose of its Dragged Shares (or such lesser number(s) of the Shares owned by the Dragged Shareholder as is notified in writing to the Dragged Shareholder by the Drag Seller) on the terms stated in the Drag Notice;
- (b) Dragged Shareholders must enter into and execute substantially identical documents as the Drag Seller enters into and executes in connection with the Drag Transaction and any other documents reasonably requested by the Drag Seller for the purposes of the Drag Transaction, which for the avoidance of doubt may include any representations, warranties, indemnities or other terms as contemplated by clause 17.4;
- (c) except as otherwise expressly provided in this document, each Dragged Shareholder must pay its pro rata share (based on the relative amounts of the proceeds to the Drag Seller and each Dragged Shareholder) of all expenses incurred by the Drag Seller, the Dragged Shareholders and the Group Companies, (as the case may be), in connection with the Drag Transaction (whether consummated or not), but only to the extent such expenses are not otherwise paid by the Company or another person, and are not individual costs; and
- (d) if required by the Drag Seller, each Dragged Shareholder must and must procure their Relevant Manager to comply with clause 17.4.

### 16.5 **Co-operation and power of attorney**

- (a) The other Parties must (and the Company must procure that the Group Companies) cooperate with the Drag Seller and the Drag Buyer, and their respective Representatives, to facilitate and give effect to any Drag Transaction, including by facilitating and supporting any due diligence process required and in



connection with obtaining all Government Agency and third-party approvals and consents appropriate to consummate the Drag Transaction.

- (b) Each Dragged Shareholder (which, for the avoidance of doubt, includes the relevant Appointing Beneficiary) irrevocably appoints the Company as its attorney in accordance with clause 26 to perform its obligations under this clause 16.

**16.6 No obligation to complete**

Notwithstanding anything contained in this clause 16, neither a Drag Seller nor the Company is liable to any Dragged Shareholder or any other person if any Drag Transaction is not consummated for any reason. A Drag Seller may decide whether to Dispose of any Shares in a Drag Transaction or complete a Drag Transaction at its discretion.

**16.7 Drag along rights do not apply to certain Disposal**

For the avoidance of doubt, this clause 16 does not apply in respect of the Disposal of any Shares if the Disposal is:

- (a) a Nominee Transfer;
- (b) in connection with an IPO;
- (c) to a Shareholder in connection with an Emergency Issue pursuant to clause 10.3(h);
- (d) by a Small Shareholder pursuant to clause 18; or
- (e) a Disposal following an Event of Default in accordance with clause 19.

**17. Exit**

**17.1 Exit Notice**

- (a) The Investor Shareholders may, at any time, give a notice to the Company that the Investor Shareholders wish to commence preparations for an Exit (including two or more Exit options concurrently), and require the Company and the other Parties to assist with that Exit and the process to determine whether an Exit can be achieved on terms acceptable to the Investor Shareholders in accordance with this clause 17 and the other applicable provisions of this document (**Exit Notice**).
- (b) The Investor Shareholders will determine all matters related to the conduct and execution of the Exit, including:
  - (i) the structure of the Exit;
  - (ii) the advisers, consultants and experts to be engaged in connection with the Exit (including, if applicable, one or more underwriters or lead managers, co-lead managers, co-managers and brokers for an IPO), and the terms of engagement of such advisers, consultants and experts;
  - (iii) the timetable for the Exit; and
  - (iv) the terms of any Exit (including the valuation of the Company or Group implied by such Exit).

- (c) Before taking any meaningful steps to execute a proposed Exit, the Investor Shareholders will inform the Board (including the Nominated Directors) of material matters in relation to the proposed Exit, and will keep the Board updated on material developments in relation to the proposed Exit.
- (d) This clause 17 is in addition to the Investor Shareholders' rights under clause 16.

#### 17.2 Assistance with Exit

Without limiting any specific obligation which a Party may have under this document in connection with an Exit, if the Investor Shareholders issue an Exit Notice, the Company and each other Party must:

- (a) use their best endeavours to ensure that the Exit occurs in accordance with the Exit Notice and the Investor Shareholders' other requirements, promptly take all action within its power to facilitate and/or implement the Exit in accordance with the directions of the Company or the Investor Shareholders, and co-operate in good faith with the other Parties and the Company in connection with an Exit (including procuring that each Group Company do the same);
- (b) exercise all rights it has in relation to the Group Companies and its Shares to ensure that an Exit is achieved in accordance with the Exit Notice and the Investor Shareholders' other requirements and no other Party will raise any objection to the Exit or the process by which the Exit is implemented in accordance with the Exit Notice;
- (c) procure that each Director appointed by it and/or its Affiliates and Permitted Holders (as applicable), approve all matters appropriate to ensure that the Exit occurs in accordance with the Exit Notice and the Investor Shareholders' other requirements and must not withhold, deny or delay any consent or approval right it has in connection with an Exit;
- (d) do all things, execute all documents and provide all such information and assistance as may be required by the Company or the Investor Shareholders (including the preparation of any necessary material for, and the giving of presentations to, third parties and potential financiers, facilitating and supporting any due diligence process required (including by the provision of information requested by the Investor Shareholders), assistance in obtaining all Government Agency and third-party approvals and consents appropriate in connection with the Exit and undertaking any action described in clause 17.3 if the Exit is not an IPO but the Investor Shareholders determine that the action is appropriate in connection with the Exit) to facilitate the Exit (including procuring that each Group Company do the same);
- (e) in the case of the Company, must appoint a financial advisor or investment bank of good standing (**Financial Advisor**) and other financial, taxation and legal advisers requested in writing by the Investor Shareholders, or the Investor Shareholders may appoint a Financial Advisor and/or any of those other advisers on behalf of the Company, in each case, to advise on, and assist with, the Exit;
- (f) approve or agree to (including by executing documents) certain matters, such as:
  - (i) confidentiality restrictions;
  - (ii) the change of a Group Company's name;
  - (iii) the incorporation of a new holding company and the exchange of Shares for securities in that new holding company;

- (iv) any amendment to, or adoption of a new constitution for a Group Company or a new holding company;
  - (v) the entry into a shareholders' agreement for the Company or a new holding company on similar terms;
  - (vi) amending this document to the extent required to facilitate an Exit;
  - (vii) changes to the capital structure of the Company or a new holding company (including as a result of the issue of securities), and other restructure or preparatory steps (including the transfer of assets of the Group); and
- (g) without limiting clauses 6.8 or 14.7, take all actions reasonably required by the Company to effect a buy-back, exchange or conversion of some or all of its Shares (which may involve the exchange of such Shares for other securities in a different entity).

### 17.3 **Preparation for an IPO**

If the Investor Shareholders give an Exit Notice requiring that the Company and other Parties prepare for an IPO, or the Board otherwise resolves to undertake an IPO or to take any other action which would facilitate an IPO (including, re-organising the outstanding securities of any Group Company or amalgamating or reconstructing any or all of the Group Companies), to the extent permitted by law:

- (a) each Party, each Group Company and each Director must co-operate and use its best endeavours to do all acts, matters and things within its power to effect the IPO, including without limiting clauses 6.8 or 14.7:
  - (i) applying to the ASX (or other relevant recognised stock exchange) for admission of the Company or IPO Vehicle, as applicable, to its official list and official quotation of the relevant shares on that stock exchange;
  - (ii) procuring the unanimous passing of all appropriate resolutions of a Group Company in general meeting (including any class meeting) or by its directors (subject to their fiduciary obligations);
  - (iii) exchanging its Shares for securities in the relevant IPO Vehicle or any other company which is proposed by the Board to become (and following such exchange will become) the ultimate holding company of the Group;
  - (iv) acting in good faith to sell down or retain on an IPO such securities or interests in the Company or IPO Vehicle as determined by the Investor Shareholders, having regard to appropriate factors at the time, including the advice of the underwriters, joint lead managers and financial advisers (as applicable);
  - (v) acting in good faith to rollover a portion of their Shares or reinvest a portion of their proceeds of the Exit in connection with any IPO, with any rollover or reinvestment amount to be determined by the Investor Shareholders, having regard to appropriate factors at the time, including the advice of the underwriters, joint lead managers and financial advisers (as applicable);
  - (vi) giving all reasonable undertakings and entering into any reasonable escrow arrangements in relation to their Shares or securities in the IPO

- Vehicle as may reasonably be required by the Board, the relevant stock exchange or underwriters or brokers to an IPO;
- (vii) appointing appropriately qualified professional advisors;
  - (viii) Disposing of some or all of its Shares (to a newly incorporated sale vehicle or otherwise) and surrendering the certificates (if any) for its Shares in each case as requested by the Board and allowing, and doing all things reasonably required by the Board to give effect to, the redemption, buy back, purchase and/or cancellation by the Company of all or some of its Shares, provided that the price per Share (net of costs, if applicable) for any such Disposal, redemption, buy back, purchase or cancellation is the same for all Shares of the same class issued on the same terms;
  - (ix) assisting in preparing a prospectus, information memorandum or other disclosure document and in marketing activities, including participating or providing assistance in road shows;
  - (x) appointing an appropriate board of directors to the Company or IPO Vehicle having regard to any advice from the Financial Advisor appointed in connection with the IPO, including an appropriate number of independent non-executive directors for the Company's or the IPO Vehicle's listed state;
  - (xi) obtaining any necessary ASX (or other recognised stock exchange) approvals and other regulatory approvals;
  - (xii) meeting the financial reporting requirements of the ASX or other relevant stock exchange or trading system (including as to trading history, extracts from audited accounts of prior years, cash flow and profit forecasts, working capital reports and indebtedness statements);
  - (xiii) approving or agreeing to (including by executing documents) those matters contemplated by clause 17.2(f), and conversion of the Company to a listed public company in connection with an IPO;
- (b) each Party must procure that the management of the Group, to the extent requested by the Board, applies adequate time, resources and commitment to the IPO process to enable it to be successfully completed, including for the purposes of:
- (i) due diligence, membership of the due diligence committee, and providing sign offs to the due diligence committee in connection with the preparation and verification of the IPO disclosure documents;
  - (ii) attending and facilitating management presentations, site visits and investor road shows; and
  - (iii) satisfying all terms and conditions of admission to listing imposed by the ASX or other relevant stock exchange;
- (c) each Party, the Group Companies, Directors of the Company and directors of the Group Companies must take such actions determined by the Board as are appropriate to ensure that the capital structure, debt financing and leverage of the Group is appropriate for a public company listed on a stock exchange, including negotiating and entering into, new debt finance facilities, if appropriate.

17.4 **Sale terms for drag along, tag along and Exit**

(a) If:

- (i) a Shareholder is a Participating Tag Shareholder; or
- (ii) there is a Drag Transaction or other Exit in which a Shareholder is Disposing of any Shares or will otherwise receive proceeds,

that Shareholder must, if requested by the Investor Shareholders in writing:

(iii) give:

- (A) unqualified representations, warranties and indemnities relating to its unencumbered title to its Shares and its authority, capacity and solvency to execute and deliver the definitive documentation for the Tag Transaction, Drag Transaction or Exit (as the case may be);
- (B) reasonable representations, warranties and indemnities under any agreements relating to the sale and purchase of its Shares, the Business or the Group,

(such representations, warranties and indemnities, the **Agreement Provisions**);

- (iv) in the case of a Management Shareholder, give, and must procure its Relevant Manager give, for the benefit of the acquirer, reasonable restrictive covenants as required by the Board; and
- (v) in the case of a Management Shareholder, give or procure its Relevant Manager give all reasonable undertakings and committing to continue working in the Business in an executive capacity, on market terms, as reasonably required by the Board,

provided that:

- (vi) any Agreement Provisions are given on an equivalent basis to those given by the Investor Shareholders;
- (vii) liability under such Agreement Provision is individual and several, and not joint, and allocated between the Shareholders who are giving the Agreement Provisions pro rata, based on the respective amounts of proceeds to be received by them in connection with the transaction;
- (viii) the maximum liability of the Shareholders under such Agreement Provisions does not exceed 100% of the proceeds to that person in connection with the transaction.

(b) The Shareholders acknowledge that the Tag Sale Price and Drag Sale Price (as applicable):

- (i) may be adjusted by the Investor Shareholders as they consider appropriate for different classes of Shares in the context of the proposed Tag Transaction or Drag Transaction (as applicable);
- (ii) if the Tag Sale Price or Drag Sale Price (as applicable) is unknown due to the proposed sale being by way of auction or dual-track Share Sale or

IPO, the Tag Sale Price in the Invitation to Tag or Drag Sale Price in the Drag Notice (as applicable) may be a minimum sale price per Share; and

- (iii) to the extent that the Investor Shareholders receive non-cash consideration under the Tag Transaction or Drag Transaction (as applicable), the Tag Sale Price for a Tag Shareholder and the Drag Sale Price for a Dragged Shareholder (as applicable) will also comprise a portion of non-cash consideration that is pro rata to the aggregate proportion of the value of non-cash consideration to total cash consideration received by the Investor Shareholders, provided that the Board may determine that a higher proportion of non-cash consideration will be received by Management Shareholders.

#### 17.5 **Participation in an IPO**

Subject to clause 17.3, any Shareholder may participate as a seller in an IPO and the Company must (or if applicable must ensure that the IPO Vehicle and/or any other relevant offering entity will) allow the Shareholder to Dispose of its Shares or its securities in the IPO Vehicle (as applicable) in the IPO (without imposing any obligation on the Company to ensure or facilitate any such Disposal of Shares or other securities).

#### 17.6 **Relationship deed**

If an IPO is undertaken, the Parties must procure that, at the Investor Shareholders' request, the relevant listed entity (be that the Company or the IPO Vehicle) enters into a relationship deed with the Investor Shareholders (or any person nominated by the Investor Shareholders) which includes the following terms:

- (a) the Investor Shareholders will be entitled to appoint up to 3 directors to the board of the listed entity for so long as the Investor Shareholders together with their Affiliates hold in aggregate at least 20% of the issued share capital of the relevant listed entity and 2 directors to the board of the listed entity for so long as the Investor Shareholders together with their Affiliates hold in aggregate at least 10% of its issued share capital;
- (b) for so long as the Investor Shareholders are entitled to appoint any directors to the board of the relevant listed entity:
  - (i) the Investor Shareholders will also be entitled to appoint up to 3 observers to attend each board meeting of the relevant listed entity;
  - (ii) the relevant listed entity must, on written request of an Investor Shareholder, provide the Investor Shareholder with:
    - (A) board packs including monthly trading updates;
    - (B) consolidated audited financial statements and quarterly unaudited financial and management reports; and
    - (C) any other information reasonably requested by the Investor Shareholders for accounting purposes or to otherwise manage their investment in the relevant listed entity; and
  - (iii) the listed entity agrees to give a cleansing statement under section 708A of the Corporations Act on the request of any Investor Shareholder (or its nominated person) who is party to the relationship deed and holds not less than 5% of the shares in the listed entity if it proposes to sell-down its securities in the listed entity.

17.7 **Asset Sale**

- (a) If the Investor Shareholders decide to conduct an Asset Sale, each Party and each Nominated Director must co-operate and use its best endeavours to do all acts, matters and things within its power to effect the Asset Sale.
- (b) If an Asset Sale is implemented, the Parties and each Group Company must do all things and execute all documents necessary to ensure that:
  - (i) the Company distributes the proceeds of the Asset Sale to the Shareholders in accordance with their entitlements under this document, the Constitution and the terms of the Shares (net of any Tax or other costs and expenses to be paid on behalf of the Group Companies or the Shareholders and net of all amounts which the Board determines should be retained by a Group Company or any third party escrow agent on account of any future contingent payments, including in support of any indemnity or post-completion adjustment (**Retained Amounts**)) as soon as reasonably practicable after completion of the Asset Sale;
  - (ii) as soon as reasonably practicable (which may be at multiple times), the Company distributes so much of the Retained Amounts as are no longer required to be retained on account of any future contingent payments (net of any Tax or other costs and expenses to be paid on behalf of the Shareholders); and
  - (iii) if required by the Investor Shareholders, any Group Company is wound up.

17.8 **Exit and drag rights**

If an Exit is to be by way of a Share Sale, a Drag Notice may be given to effect the Share Sale, in which case clause 16 applies with any required modifications to reflect the Exit process set out in the Exit Notice and the Investor Shareholders' other requirements and, subject to the express obligations in this clause 17 which prevail to the extent of any inconsistency with clause 16.

17.9 **Agent for receipt of proceeds**

- (a) In connection with any Tag Transaction, Drag Transaction or Exit, the Company or the Investor Shareholders may:
  - (i) make appropriate arrangements to preserve the confidentiality of the details of the consideration received by each Shareholder in connection with the Tag Transaction, Drag Transaction or Exit; and
  - (ii) without limiting clause 26.4, act as, or appoint any other person with their consent to act as, agent for receipt of the proceeds to be paid to some or all Shareholders in connection with the Tag Transaction, Drag Transaction or Exit.
- (b) If the Company acts as, or appoints another person to act as, agent for the receipt of proceeds in accordance with this clause 17.9, distribution of those proceeds in accordance with directions received from the relevant Shareholders will constitute a full discharge of the relevant payer's obligations in respect of the payment and distribution of the proceeds and neither the Company nor any other person will be liable to see to the receipt of those proceeds, in the absence of fraud or wilful misconduct.

17.10 **Other obligations and acknowledgements**

- (a) The:
  - (i) Company must, to the extent applicable, ensure that each other Group Company undertake the actions in clauses 17.2, 17.3 and 17.7;
  - (ii) Class B Shareholders must, to the extent applicable, ensure that its Nominee, each Nominated Director, each director of a Group Company that is Affiliated with a Class B Shareholder, and their Relevant Managers, undertake the actions in clauses 17.2, 17.3 and 17.7;
  - (iii) the Shareholders (other than an Investor Shareholder) must, to the extent applicable, ensure its Nominee and their Relevant Managers undertake the actions in clauses 17.2, 17.3 and 17.7;
- (b) Without limiting clauses 17.2, 17.3 or 17.7, each Shareholder (other than an Investor Shareholder) acknowledges and agrees that an Exit may not necessarily involve them having the right or ability to realise cash for its Shares as part of the Exit, and to the extent that an Exit does allow it to realise cash for some or all of its Shares, it may not be on the same terms as the Investor Shareholders (including any escrow restrictions) as contemplated by clause 17.4.

**17.11 Power of attorney**

Each Party (other than an Investor Shareholder) irrevocably appoints the Company as its attorney in accordance with clause 26 to perform its obligations under this clause 17.

**18. Disposal of Small Holdings**

**18.1 Disposal of Small Holdings**

- (a) After the end of 12 months following the Implementation Date, either:
  - (i) an Investor Shareholder may give written notice to the Company stating that they wish to acquire any or all of the Small Holding Shares; or
  - (ii) the Board may require a Small Shareholder to Dispose of all of its Shares on the terms in this clause 18.

If either clause 18.1(a)(i) or 18.1(a)(ii) applies, the Board must serve a written notice on each Small Shareholder notifying them of that fact (**Small Holding Disposal Notice**).

- (b) For the avoidance of doubt, under this clause 18:
  - (i) Small Shareholders may be requested by an Investor Shareholder or the Board to Dispose of their Small Holding Shares at different times and in different manners (subject to the price per Small Holding Share being the Fair Market Value of that Small Holding Share at the date of the relevant Small Holding Disposal Notice and no Small Shareholder being required to Dispose of only some of its Shares); and
  - (ii) Small Holding Disposal Notices may be given at multiple times.

**18.2 Small Holding Disposal Notice**

A Small Holding Disposal Notice must state:

- (a) (**type of Disposal**) how the Investor Shareholders or the Board requires the Small Shareholder to Dispose of its Small Holding Shares, including whether the Small Holding Shares will be bought-back, redeemed, cancelled (including by



way of capital reduction) and/or transferred to another Shareholder or Third Party nominated by the Board;

- (b) **(price for Small Holding Shares)** the Board's determination of the Fair Market Value of a Small Holding Share; and
- (c) **(date of completion)** the date or dates on which the Disposal of the Small Shareholder's Small Holding Shares will be completed.

### 18.3 **Effect of Small Holding Disposal Notice**

- (a) If a Small Holding Disposal Notice is given, each Small Shareholder must Dispose of its Small Holding Shares on the terms stated in the Small Holding Disposal Notice (or any amended Small Holding Disposal Notice given by the Company in accordance with clause 18.3(b)).
- (b) A Small Holding Disposal Notice is revocable and may be amended by the Investor Shareholders (in the case of clause 18.1(a)(i)) or the Board (in the case of clause 18.1(a)(ii)) (in each case, by written notice to the relevant Small Shareholder) without the consent of the Small Shareholder.

### 18.4 **Co-operation**

The Company and all Parties:

- (a) must take all actions requested by the Board to give effect to a Small Holding Transaction; and
- (b) must enter into and execute all documents as required by the Board in connection with a Small Holding Transaction.

### 18.5 **Small Holding Share price**

- (a) If a Small Shareholder, acting reasonably, disagrees with the Board's determination of the Fair Market Value specified in the Small Holding Disposal Notice, it must give the Company a notice (in this clause, the **Referral Notice**) within 2 Business Days of receiving the Small Holding Disposal Notice specifying the grounds on which it disagrees with the calculation of the Fair Market Value. If the Company receives a Referral Notice in accordance with this clause 18.5 the independent valuation process in clause 21 will apply.
- (b) The price payable for a Small Shareholder's Small Holding Shares will be the Fair Market Value of those Small Holding Shares as specified in the Small Holding Disposal Notice or determined in accordance with clause 21, or any other price agreed between the Small Shareholder and the Company (with Board approval).

### 18.6 **Completion of a Small Holding Transaction**

Completion of a Small Holding Transaction must occur on the date or dates specified in the Small Holding Disposal Notice or any other date determined by the Investor Shareholders (in the case of clause 18.1(a)(i)) or the Board (in the case of clause 18.1(a)(ii)) and notified to the relevant Small Shareholder.

### 18.7 **Power of attorney**

Each Small Shareholder irrevocably appoints the Company as its attorney in accordance with clause 26 to perform its obligations under this clause 18.

## 19. **Event of Default**

19.1 **Right to purchase Shares following Event of Default**

- (a) Each Party must immediately notify the Investor Shareholders and the Company if an Event of Default occurs in relation to it.
- (b) The Investor Shareholders (or at their election, a nominee, including the Company) may purchase (or in the case of the Company, buy back, cancel or redeem) some or all of the Shares of the relevant Party in accordance with this clause 19, if:
  - (i) that Party commits an Event of Default (**Defaulting Shareholder**); and
  - (ii) within six months of the Event of Default Date, the Investor Shareholders notify the Company and the Defaulting Shareholder in writing that it wishes to purchase (or at the Investor Shareholders' election, have their nominee, including the Company, purchase) all or any portion of the Defaulting Shareholder's Shares.
- (c) Shares sold under clause 19.1(b) (**Default Sale Shares**) may be sold to:
  - (i) the Company by way of a purchase, buy back, cancellation as part of a reduction of capital or redemption of the relevant Share (subject to applicable law); and/or
  - (ii) the Investor Shareholders or their nominee (which may include any other Shareholder and/or any Third Party),in such combination, as determined by the Investor Shareholders and notified to the Company.
- (d) The Company must notify the Defaulting Shareholder promptly of any such determination (a **Default Notice**).
- (e) The sale price for Default Sale Shares will be an amount equal to 85% of the Fair Market Value, provided always that the Investor Shareholders in their absolute discretion may (but are not required to), agree to a higher amount (**Sale Price**).

19.2 **Default notice**

If a Defaulting Shareholder is required to dispose of its Default Sale Shares, the Default Notice must specify for each Default Sale Share:

- (a) the Fair Market Value determined by the Board, and the Sale Price payable for the Default Sale Share on disposal;
- (b) any conditions and other terms of the disposal required by the Investor Shareholders and the Board;
- (c) the Company's or Investor Shareholders' reasonable best estimate of the date for completion of the disposal;
- (d) the documents required to be signed by or on behalf of the relevant Defaulting Shareholder to give effect to the disposal of the Default Sale Shares, copies of which must accompany the Default Notice; and
- (e) such other arrangements as the Board or the Investor Shareholders reasonably require to give effect to the disposal of the Default Sale Shares.

### 19.3 Referral to Valuer

If a Defaulting Shareholder, acting reasonably, disagrees with the Board's determination of the Fair Market Value specified in the Default Notice, it must give the Company a notice (in this clause, the **Referral Notice**) within 2 Business Days of receiving the Default Notice specifying the grounds on which it disagrees with the calculation of the Fair Market Value. If the Company receives a Referral Notice in accordance with this clause 19.3 the independent valuation process in clause 21 will apply.

### 19.4 Suspension of rights

- (a) If an Event of Default occurs, the rights in this clause 19 are without prejudice to any other rights any other Party may have.
- (b) With effect from the date that is the earlier of the Event of Default Date or the date on which the Defaulting Shareholder gives a notice under clause 19.1(a), all rights, voting rights and entitlements held by the Defaulting Shareholder are immediately suspended, including that:
  - (i) any Director appointed by the Defaulting Shareholder (other than in circumstances where the Director is appointed in accordance with clause 4.2(b)(ii)) is not entitled to vote at a Board meeting or exercise any other rights granted to the Director under this document or at law;
  - (ii) the Defaulting Shareholder's Shares will be disregarded for the purpose of calculating the aggregate Voting Share Capital holding for the purpose of clause 4.2(b)(ii);
  - (iii) the Defaulting Shareholder is not entitled to vote at a Shareholders Meeting or exercise any other rights it has under this document or at law; and
  - (iv) any distributions or dividends that would have been payable to the Defaulting Shareholder must be retained by the Company, unless the Board resolves otherwise.
- (c) Each suspension under clause 19.4(b) continues in respect of any Shares held by the Defaulting Shareholder until the Event of Default has been remedied to the reasonable satisfaction of the Company and the Investor Shareholders.
- (d) For the purposes of this clause 19.4, a Defaulting Shareholder will be deemed to have remedied a breach of clause 14 relating to the Disposal of Shares if the Shares the subject of that breach are transferred back to the Defaulting Shareholder and no loss has been suffered by any Shareholder other than the Defaulting Shareholder as a result of the breach.
- (e) The Defaulting Shareholder's obligations under this document continue to apply during the period of any suspension of rights under this clause 19.4.

### 19.5 Completion

- (a) On the date which is 10 Business Days after the date of service of the Default Notice or if later, the date on which the Fair Market Value is determined in accordance with clause 19.3 (if applicable) (or such other date as the Defaulting Shareholder, the Company and the Investor Shareholders may agree) the Defaulting Shareholder must sell and the relevant buyer(s) must buy the Default Sale Shares free and clear of all Encumbrances.

- (b) Upon the sale or disposal of Default Sale Shares, the Investor Shareholders (or their nominee, including the Company) must pay the Sale Price to the Defaulting Shareholder.
- (c) Without limiting clauses 6.8 or 14.7, the Defaulting Shareholder must do anything (including execute any document and pass any resolution) reasonably required by the Investor Shareholders (or their nominee, including the Company) to give effect to the sale, redemption, buy-back or cancellation (as applicable) of the Default Sale Shares free from any Encumbrances.

#### 19.6 **Power of attorney**

Each Defaulting Shareholder that has received a Default Notice irrevocably appoints the Company as its attorney in accordance with clause 26 to perform its obligations under this clause 19.

#### 19.7 **Other remedies**

The rights and remedies contained in this clause 19 are in addition to and not to the exclusion of any other rights or remedies that a Party may have against a Party in default of this document.

### 20. **Termination**

#### 20.1 **Termination**

Unless otherwise expressly provided to the contrary, this document terminates automatically:

- (a) for an Investor Shareholder, when it ceases to hold any Shares other than in connection with an action required to prepare for an IPO contemplated by clause 17.3 (unless otherwise agreed by the relevant Investor Shareholder). At that time of termination the Investor Shareholder will have no further rights or obligations under this document (except for rights only under clauses 14.5, 23, 24, 25, 26, 27, 28, 29, 31, 32 and 33);
- (b) subject to clause 20.2, for any other Shareholder, when it and each of its Permitted Holders ceases to hold any legal or beneficial interest in any Shares other than in breach of this document or in connection with an action required to prepare for an IPO contemplated by clause 17.3 (unless otherwise determined by the Investor Shareholders). At that time of termination the Shareholder will have no further rights or obligations under this document (except for rights and obligations under clauses 14, 23, 24, 25, 26, 27, 28, 29, 31, 32 and 33);
- (c) when the Company is wound up by an order of a court;
- (d) if required by applicable law, listing rules or the Investor Shareholders, on completion of an IPO;
- (e) on the day on which all the Shares are held by one person only;
- (f) when all Parties agree to terminate this document; or
- (g) on the day on which completion of an Exit occurs, other than clause 17.7.

#### 20.2 **Certain provisions continue**

Termination of this document with respect to a Party or all Parties does not affect:

- (a) any obligation of that Party or those Parties, as applicable, under this document which accrued prior to that termination and which remains unsatisfied;

- (b) any accrued rights or Liabilities of a Party in respect of a breach of this document prior to such termination; or
- (c) unless otherwise determined by the Investor Shareholder in connection with an Exit, clauses 22 (Nominee arrangements), 24 (Restraint), 25 (Disclaimers) and any provision of this document which is expressed to come into effect on, or to continue in effect after, that termination.

## 21. Valuer

### 21.1 Appointment of Valuer

- (a) The Board must as soon as reasonably practicable and in any event not more than 5 Business Days after the date of receipt of a Referral Notice, appoint an appropriate Valuer to:
  - (i) determine the Fair Market Value in accordance with clause 21.2; and
  - (ii) as soon as reasonably practicable and, in any event, no later than 15 Business Days following the Valuer's appointment issue a certificate (**Valuer's Certificate**) specifying the Fair Market Value of relevant Shares, expressed as a price per Share and provide a report to the Company setting out the results of its valuation, including an explanation of the methodologies used to conduct the valuation.
- (b) Each Party must provide all information and assistance reasonably requested by the Valuer.
- (c) The Valuer acts as an independent expert and not as an arbitrator when valuing the Shares.

### 21.2 Process for Valuation

- (a) The Valuer must be instructed to conduct the valuation:
  - (i) in accordance with the terms of this document;
  - (ii) as at the date specified by the Board;
  - (iii) in accordance with the valuation standards, practices and principles generally accepted in the Commonwealth of Australia;
  - (iv) on the basis of an arm's length transaction between an informed and willing seller and an informed and willing buyer under no compulsion to sell or buy, respectively;
  - (v) without taking into account any element of control that a person may obtain as a result of acquiring all or a part of the Shares;
  - (vi) without taking into account any transfer restrictions on the Shares;
  - (vii) assuming a reasonable period within which to negotiate the sale considering the state of the market on the valuation date;
  - (viii) assuming no account is taken of any prospective purchaser with unique attributes;
  - (ix) assuming the buyer would not have the benefit of any uncommon sale terms which would serve to increase or decrease the value of the Shares or the Group;

- (x) if relevant, assuming no allowance for any charges, mortgages or amounts owing on the Shares, or for any expenses or taxation which may be incurred or payable in effecting a sale (although an allowance will be made for any Encumbrances, restrictions or outgoings of an onerous nature which are specific to the Shares and which would affect value if they would not be discharged in the ordinary course prior to a transfer);
- (xi) valuing the whole Company as if it were being sold to a Third Party in accordance with the Accounting Standards and having regard to the profit, strategic positioning, future prospects and undertaking of the Business; and
- (xii) determining the price per Share on the basis of the proportion that the value of relevant parcel of Shares in question bears to the total value of Shares on issue.

### 21.3 Valuation Binding

The Valuer's Certificate is conclusive and binding on the Parties and is not subject to review or appeal except in the case of manifest error.

### 21.4 Costs of Valuer

The Parties agree that the costs of the Valuer in connection with the valuation are to be:

- (a) borne by the Disputing Shareholder if:
  - (i) the Valuer determined a specific dollar value and the Fair Market Value as determined by the Valuer is:
    - (A) no more than 5% greater than; or
    - (B) equal to or less than,

the proposed Fair Market Value determined by the Board that was the subject of the relevant Referral Notice; or
  - (ii) the Valuer determined a range of values and the proposed Fair Market Value determined by the Board that was the subject of the relevant Referral Notice is:
    - (A) within the range of values determined by the Valuer; or
    - (B) is higher than the highest endpoint of the range of values determined by the Valuer; or
- (b) borne by the Company if:
  - (i) the Valuer determined a specific dollar value and the Fair Market Value as determined by the Valuer is more than 5% greater than the proposed Fair Market Value determined by the Board that was the subject of the relevant Referral Notice; or
  - (ii) the Valuer determined a range of values and the proposed Fair Market Value determined by the Board that was the subject of the relevant Referral Notice is lower by more than 5% than the lowest endpoint of the range of values determined by the Valuer.

## 22. Nominee arrangements

### 22.1 Disposal to Nominee

- (a) If requested by the Company (with Board approval) at any time by way of notice (**Nominee Disposal Notice**), any Party (other than an Investor Shareholder) must Dispose of the Shares which it holds to the Nominee, unless the Investor Shareholders have otherwise determined in writing in respect of a Party.
- (b) Each such Party must comply with the directions of the Company for the purposes of facilitating the Disposal of its Shares to the Nominee in accordance with this clause 22.1, including executing a Nominee Accession Deed or any other document necessary to facilitate the Disposal.
- (c) Each such Party that has received a Nominee Disposal Notice irrevocably appoints the Company as its attorney in accordance with clause 26 to perform its obligations under this clause 22.1.

### 22.2 Intended operation of this clause

- (a) The Parties confirm that the principle to which this clause 22 is intended to give effect, is that Appointing Beneficiaries as Class B Shareholders, Management Shareholders or are holders of Beneficial Shares:
  - (i) have rights and obligations under this document that are in effect equivalent to (but not additional to) those of Shareholders; and
  - (ii) do not hold legal title to Shares and are instead Appointing Beneficiaries in relation to Beneficial Shares,

such that the voting, economic and other interests of an Appointing Beneficiary under this document and in respect of its Beneficial Shares should, assuming that the Nominee, Class B Shareholder, Management Shareholder and holder of Beneficial Shares (as the case may be) act in accordance with this document and the Nominee Deed, be neither enhanced nor impaired as a consequence of appointing the Nominee as bare trustee in respect of that Appointing Beneficiary's Beneficial Shares.

- (b) Each Party must take all actions within its power and authority, including giving relevant instructions to the Nominee and, in the case of an Appointing Beneficiary, exercising its rights in its capacity as appointor of the Nominee as bare trustee for it, to give effect to the principle in clause 22.2(a).
- (c) Clauses 22.3 to 22.8 (inclusive) are to be interpreted subject to, and in a manner is consistent with, the principle in clause 22.2(a).
- (d) The provisions in this clause 22 (subject to any changes reasonably required by the Nominee and accepted by the Company) apply in these cases.
- (e) This clause 22 applies separately in relation to the Nominee in its capacity as bare trustee for each Appointing Beneficiary.

### 22.3 Appointing Beneficiary rights and obligations

- (a) If the Nominee is the registered holder of Shares, for the purposes of any references in this document to the Shareholder's or holder's Shares, or to Shares held by the Shareholder or holder (or any similar expression), the Appointing Beneficiary is to be regarded as holding its Beneficial Shares. For the avoidance of doubt (but without limitation):

- (i) in the context of a Required Resolution, Simple Majority or any requirement that an act be approved by Shareholders or holders holding at least a given percentage of all Shares, Appointing Beneficiaries are to be treated as holding their Beneficial Shares;
  - (ii) the Shares of, or held by, the Class B Shareholder, Management Shareholder or Shareholder (or any comparable expression, including for the purposes of determining the Relevant Proportions or pro rata entitlements of Class B Shareholders, Management Shareholders or other Shareholders), are to be regarded as if the Class B Shareholder, Management Shareholder or other Shareholders (as applicable) holds legal title to its Beneficial Shares; and
  - (iii) the Class B Shareholder, Management Shareholder or other Shareholders taking any action in respect of any Shares, is taken to also include a reference to the Nominee taking that action as bare trustee for the Class B Shareholder, Management Shareholder or Shareholder that is the Appointing Beneficiary.
- (b) Each Appointing Beneficiary will continue to have the benefit of, and be bound by, all the provisions of this document which would have applied to the Appointing Beneficiary by virtue of, or in relation to, that Appointing Beneficiary's holding of its Beneficial Shares had it been issued or continued to hold legal title to its Beneficial Shares or not transferred legal title to its Beneficial Shares to the Nominee (**Relevant Rights and Obligations**), subject to the terms of this document and the Nominee Deed.
  - (c) The Relevant Rights and Obligations will so far as possible have application to the Nominee and the relevant Appointing Beneficiary in the same way as they would have applied to the Appointing Beneficiary if it held legal title to its Beneficial Shares.
  - (d) Each Appointing Beneficiary undertakes to the Company and to the Investor Shareholders that it will not:
    - (i) take any action, or omit to take any action (including the giving of any instruction to the Nominee or failing to give any instruction to the Nominee) which would breach its or a Shareholder's obligations under this document;
    - (ii) fail to give, or delay in giving, any instruction to the Nominee which is required to enable the Appointing Beneficiary, a Shareholder or the Nominee to comply with their respective obligations under this document or the Nominee Deed; or
    - (iii) give an instruction to the Nominee which has the effect of cancelling or superseding an instruction given on behalf of the Appointing Beneficiary by an attorney acting on behalf of the Appointing Beneficiary under clause 22.1 or clause 26.

#### 22.4 Definitions and interpretation

- (a) Where the context requires to give effect to clauses 22.2 and 22.3 and without limiting any other provision of this document, including clause 22.3(c), any reference in this document to a Class B Shareholder, Management Shareholder or Shareholder who is an Appointing Beneficiary is to be taken to also include a reference to the Nominee as bare trustee for that Appointing Beneficiary.



- (b) A Class B Shareholder, Management Shareholder or Shareholder will continue to be a Class B Shareholder, Management Shareholder or Shareholder (as applicable) for the purposes of this document irrespective of whether legal title to all or any of that person's Shares are held by the Nominee.
- (c) Obligations under this document or the Constitution on a Class B Shareholder, Management Shareholder or Shareholder who is an Appointing Beneficiary to exercise voting rights or take other actions (including signing documents) as the registered holder or beneficial owner of Shares are to be interpreted as obligations to ensure that the Nominee takes the relevant actions at the Appointing Beneficiary's direction, or by the Company on behalf of the Appointing Beneficiary, acting under power of attorney, or otherwise.
- (d) The Nominee is not itself to be regarded for the purposes of this document as:
  - (i) a Shareholder, Investor Shareholder, Class B Shareholder or Management Shareholder; or
  - (ii) otherwise as a holder of any Shares who has independent obligations in their capacity as such.

#### 22.5 **Voting**

Instructions may be given by each Appointing Beneficiary to the Nominee (as the person legally entitled to voting rights, dividends and distributions in respect of those Shares) in accordance with this document and the Nominee Deed:

- (a) in relation to voting, Disposals and other dealings in respect of the Appointing Beneficiary's Beneficial Shares; and
- (b) in respect of the payment of dividends and distributions.

#### 22.6 **Dividends**

Each Appointing Beneficiary directs the Company to pay dividends and distributions in respect of its Beneficial Shares as it directs in accordance with the Nominee Deed. This clause 22.6 does not affect the right of an Appointing Beneficiary to change such a direction from time to time.

#### 22.7 **Disposals of Shares**

- (a) References to a Disposal of Shares in this document and the Constitution include a Disposal of a beneficial interest in Beneficial Shares and any Disposal of the legal title to those Shares by the Nominee (at the Appointing Beneficiary's direction, or by the Company or another attorney on behalf of the Appointing Beneficiary acting under power of attorney, or otherwise).
- (b) Where this document contemplates the sale, purchase or transfer of some or all of a Class B Shareholders', Management Shareholders' or Shareholders' Shares and the Nominee is the registered holder of Shares, the relevant provisions apply so that references to the sale, purchase or transfer of the relevant Shares are to be construed as references to:
  - (i) the sale, purchase or transfer of Beneficial Shares; and
  - (ii) (without limiting clause 22.7(c) below in circumstances where the Nominee is to retain legal title to the relevant Shares) the Party procuring the concurrent transfer of legal title in those Beneficial Shares by the Nominee,

and obligations on Class B Shareholders, Management Shareholders or Shareholders to offer Shares for sale, purchase, or transfer are to be construed in a corresponding manner.

- (c) An Appointing Beneficiary must not direct the Nominee to Dispose of, nor otherwise procure the Disposal of:
  - (i) legal title to any of its Beneficial Shares to itself, without the prior written consent of the Investor Shareholder; or
  - (ii) legal or beneficial title to any of its Beneficial Shares to any other person unless it would be entitled in accordance with this document to Dispose of those Shares in that manner in the relevant circumstances if it held legal title to them, provided the Nominee continues to hold bare legal title to those Shares the subject of such a Disposal, unless the Investor Shareholder has provided its written consent otherwise.
- (d) Where this document permits the Company to issue or any other Party to transfer, sell or otherwise Dispose of Shares to any person, that provision includes permission to issue, transfer, sell or otherwise Dispose of Shares to the Nominee as bare trustee for the Appointing Beneficiary.
- (e) Where an Appointing Beneficiary Disposes of Shares to a Permitted Holder, in circumstances where the Nominee continues to hold the relevant Beneficial Shares, such transferee Permitted Holder must execute and deliver to the Company an Accession Deed Poll and Nominee Accession Deed.

#### 22.8 **Additional Shares**

- (a) If an Appointing Beneficiary becomes entitled to receive any additional Shares, whether by way of issue or Disposal (and whether under this document or otherwise), then unless the Board has approved another holding arrangement in relation to the relevant transaction, the issue or Disposal must be made in favour of the Nominee on the basis that the Shares are to be held by the Nominee as bare trustee for the Appointing Beneficiary and will be Beneficial Shares of the Appointing Beneficiary.
- (b) An offer to an Appointing Beneficiary to participate in an issue of Shares or other transaction on the basis that legal title to the relevant Shares will be issued to the Nominee as bare trustee for the Appointing Beneficiary will not be regarded for that reason alone as being on different terms from the terms offered to other Shareholders.

#### 22.9 **Notices**

All notices or communications under this document or the Nominee Deed which are provided to the Nominee in its capacity as bare trustee for a particular Appointing Beneficiary must also be provided at the same time to the relevant Appointing Beneficiary.

#### 22.10 **Liability of Nominee**

Each Party acknowledges that, subject to the terms of the Nominee Deed, the Nominee is obliged to act in accordance with the directions of the Appointing Beneficiaries in relation to their respective Beneficial Shares. Each Party agrees that any breach of this document or the Constitution which arises as a result of the Nominee complying with a direction given by an Appointing Beneficiary (**Directed Breach**) is to be construed for all purposes as a breach by the relevant Appointing Beneficiary for which the Appointing

Beneficiary is personally liable (including in accordance with the Nominee Deed) and not by the Nominee and without limiting the foregoing but subject to clause 22.11:

- (a) the Nominee is released from any claim or Liability in respect of any Directed Breach; and
- (b) each Party (other than the Nominee) covenants not to claim, sue or take any action against the Nominee in respect of any Directed Breach.

#### 22.11 **Limitation of Nominee's liability**

- (a) Each Party acknowledges that the Nominee will be bound by the terms of this document in its capacity as bare trustee of the Bare Trusts and in no other capacity.
- (b) Any Liability of the Nominee arising under or in connection with this document is limited to, and can be enforced against the Nominee only to the extent to which it can be satisfied out of the assets of the Bare Trust from which the Nominee is actually indemnified for the Liability or to the extent that under the Nominee Deed the Nominee is actually indemnified for the Liability. This limitation of the Nominee's Liability applies despite any other provision of this document and extends to all Liabilities of the Nominee in any way connected with any representation, warranty, conduct, omission, agreement or transaction related to this document or the Nominee Deed.
- (c) No Party may sue the Nominee in any capacity other than as trustee of a Bare Trust, including seeking the appointment of a receiver (except in relation to property of a Bare Trust), a liquidator, an administrator, or any similar person to the Nominee nor may any Party prove in any liquidation, administration or arrangement of or affecting the Nominee (except in relation to property of the relevant Bare Trust).
- (d) The provisions of clauses 22.10 and 22.11 do not apply to any Liability of the Nominee to the extent that it is not satisfied under the Nominee Deed or by operation of law or there is a reduction in the extent of the Nominee's indemnification out of the assets of the relevant Bare Trust, in each case as a result of the Nominee's fraud, negligence or wilful default.
- (e) No attorney, agent, receiver or receiver and manager appointed in accordance with this document has authority to act on behalf of the Nominee in a way which exposes the Nominee to any personal Liability.

#### 22.12 **Indemnity from Appointing Beneficiaries and costs**

- (a) If the Company pays, suffers, incurs or is liable to the Nominee for any Liabilities under the Nominee Deed arising out of or in connection with any Shares held by the Nominee on behalf of an Appointing Beneficiary, the relevant Appointing Beneficiary must indemnify the Company against those Liabilities.
- (b) The Parties acknowledge that each Appointing Beneficiary will be bound by the terms of the Nominee Deed which contemplate that the Appointing Beneficiary:
  - (i) indemnifies the Nominee for or in respect of any Liability or Loss which the Nominee pays, suffers, incurs or is liable for arising out of or in connection with; and
  - (ii) covenants with the Nominee not to claim, sue or take any action against the Nominee in relation to,

anything done by the Nominee at the direction of or on behalf of the Appointing Beneficiary, or by reason of the Appointing Beneficiary's Beneficial Shares being registered in the name of the Nominee, other than:

- (iii) Liabilities or Losses arising of the Nominee's (or any of its officers', employees', or agents') fraud, negligence, dishonesty, wilful misconduct, breach of any of its obligations under this document or the Nominee Deed or breach of trust;
  - (iv) overhead costs (including rent, office maintenance and salaries) of the Nominee, fees of a Related Body Corporate of the Nominee acting as custodian of the Nominee and fees of a sub-custodian, nominee or other delegate of such a custodian of the Nominee; or
  - (v) to the extent the Nominee is entitled to recover and is actually indemnified for any such amounts in paragraphs (iii) or (iv) above by the Company under the terms of the Nominee Deed or from the assets of the relevant Bare Trust under the terms of the Nominee Deed.
- (c) Each indemnity given by an Appointing Beneficiary referred to in this clause 22.12:
- (i) is an additional, separate and independent obligation of the Appointing Beneficiary and no one indemnity limits the generality of any other indemnity; and
  - (ii) survives termination of this document and the Nominee Deed.

#### 22.13 **Conversion and termination**

- (a) If the Company applies to the Australian Securities and Investments Commission to change its type to a proprietary company at a time when it has more than 50 non-employee Appointing Beneficiaries:
- (i) the bare trustee arrangements contemplated in this clause 22 will terminate on the date on which the change of company type takes effect (**Termination Date**); and
  - (ii) the Nominee must as soon as reasonably possible (and, in any event, before the Termination Date), transfer legal title in respect of all of the Beneficial Shares held by it to the relevant Appointing Beneficiaries who must be registered in the register of members of the Company as legal holders of such Beneficial Shares.
- (b) The provisions of clause 22.13(a) must not be amended or varied unless such amendment or variation has been approved by resolution by at least 75% of the votes cast by Appointing Beneficiaries where:
- (i) only Appointing Beneficiaries can vote on the resolution;
  - (ii) each Appointing Beneficiary is entitled to cast a vote for each security held on trust for, or on behalf of, it under the Bare Trust; and
  - (iii) Part 2G.2 of the Corporations Act applies as if each Appointing Beneficiary were a member of the Company.

#### 22.14 **No termination of Bare Trust**

Each Appointing Beneficiary undertakes to the Company that it will not, without the prior written approval of the Board, give any notice pursuant to the terms of the Nominee Deed to terminate the Nominee's appointment as nominee of its Bare Trust.

### 23. **Representations and warranties**

#### 23.1 **Representations and warranties**

Each Party represents and warrants that:

- (a) **(status)** if the Party is a body corporate, it is duly registered and validly existing under the laws of the country of its registration;
- (b) **(power)** it has full legal capacity and power to:
  - (i) own its property and to carry on its business; and
  - (ii) enter into this document and to carry out the transactions that it contemplates;
- (c) **(documents effective)** this document constitutes legal, valid and binding obligations, enforceable against it in accordance with its terms;
- (d) **(no contravention)** neither its execution of this document nor the carrying out by it of the transactions that this document contemplates, does or will:
  - (i) contravene any law to which it or any of its property is subject or any order of any Government Agency that is binding on it or any of its property;
  - (ii) contravene any agreement binding on it or any of its property; or
  - (iii) if the Party is a body corporate, contravene its constitution or the powers or duties of its directors; and
- (e) **(solvency)** there are no reasonable grounds to suspect that it will not be able to pay its debts as and when they become due and payable.

#### 23.2 **Reliance on representations and warranties**

Each Party acknowledges that the other Parties have executed this document and agreed to perform its obligations under this document in reliance on the representations and warranties that are made or repeated in this clause 23.

### 24. **Restraint**

#### 24.1 **Restraint**

Each Restricted Person undertakes to the Investor Shareholders and the Company that neither it nor any of its Affiliates will directly or indirectly:

- (a) during the Restricted Period, and within the Restricted Area, conduct, carry on, promote or be in any way engaged or involved in, any Restricted Business (in each case, whether alone or in concert with others and in any capacity);
- (b) during the Restricted Period, and within the Restricted Area, solicit, canvass, approach or accept an approach from any existing or identified prospective customer or client of, or any supplier to, any Group Company or any other

person with whom any Group Company has business dealings, for the purpose of persuading, encouraging or procuring that person to:

- (i) cease doing business with any Group Company;
  - (ii) reduce the amount, or adversely change the nature, of business they do with any Group Company; or
  - (iii) adversely alter the terms on which they do business with any Group Company; or
- (c) during the Restricted Period, and within the Restricted Area, disrupt or interfere with, or take any action which is reasonably likely to prejudice, damage or be harmful to, the relationship between any Group Company and any of their clients or suppliers or any other person with whom any Group Company has significant business dealings; or
- (d) during the Restricted Period, and within the Restricted Area, induce or encourage any director, officer, employee or contractor of a Group Company to cease their employment or engagement with that Group Company (including by directly or indirectly approaching or soliciting that director, officer, employee or contractor for the purpose of recruitment by any person), or employ or engage or offer to employ or engage any person who is employed or engaged by a Group Company or was so employed or engaged within the last 12 months of the Trigger Date.

#### 24.2 **Deletion of restrictions**

If any part of the restrictions in clause 24.1 goes beyond what is reasonable in the circumstances but would be reasonable in the circumstances if any activity were deleted or a period or area were reduced, then the restriction in clause 24.1 applies with that activity deleted or period or area reduced by the minimum amount necessary to make the restriction reasonable in the circumstances.

#### 24.3 **Severance**

Each part of a restriction in clause 24.1 resulting from the various combinations of the Restricted Periods and Restricted Areas is independent and has effect as a separate and severable restriction and is to be enforced accordingly. If any part of the restriction in clause 24.1 is unenforceable it may be severed without affecting the remaining enforceability of that part or any other part of any other restriction in clause 24.1.

#### 24.4 **Exceptions**

This clause 24 does not restrict a Restricted Person from:

- (a) holding an interest in any Shares;
- (b) holding 5% or less of the securities of an entity listed on a stock exchange provided such holding is only a passive portfolio holding for investment purposes where neither the Restricted Person nor any of its Affiliates directly or indirectly exercises a role in the operational direction or management of the relevant entity;
- (c) with the prior written approval of the Board (not to be unreasonably withheld or delayed), seeking employment or engagement, or being an employee, contractor or consultant in:
  - (i) an in-house role in a corporate organisation; or
  - (ii) an industry organisation or regulator,

that does not provide services similar to the services provided by the Business;  
or

- (d) conducting or engaging in any activities with the prior written consent of the Investor Shareholders.

#### 24.5 **Acknowledgements about restraint**

Each Restricted Person acknowledges that:

- (a) each restriction in clause 24.1 is reasonable in the circumstances and necessary to protect the goodwill of the Business;
- (b) it has received or has had the opportunity to receive independent legal advice as to the operation and effect of this clause 24; and
- (c) this clause 24 survives termination of this document.

#### 24.6 **Restrained Parties**

Each Restricted Person will procure that its Affiliates and its Relevant Manager comply with each restriction in clause 24.1.

#### 24.7 **Injunctive relief**

Damages may not be an adequate remedy in the event of a breach of this clause 24. The Company and/or the Investor Shareholder may, in addition to other remedies, obtain an injunction restraining any further violation and other equitable relief.

### 25. **Disclaimers**

#### 25.1 **No representations**

None of the Investor Shareholders, the Company nor any of their respective Representatives makes:

- (a) any representation or warranty to any Party in relation to any acquisition by the Group, the value of any Shares or other securities in any Group Company at any time, the proposed business strategy of any Group Company, the Business performance or the potential Exit strategy or returns achievable on an Exit; or
- (b) any recommendation on the suitability of an acquisition by any Group Company or on the suitability of an investment in the Company by any other Party.

#### 25.2 **No liability**

To the maximum extent permitted by law, the Company, the Investor Shareholders and their Representatives disclaim all Liability in relation to the matters referred to in clause 25.1 and no Party may take any action against the Company, the Investor Shareholders or any of their Representatives for any Liability suffered as a result of that Party's decision to invest in the Company, in relation to any matter referred to in clause 25.1 or as a result of an Investor Shareholder lawfully performing its obligations and/or exercising its rights under this document.

#### 25.3 **Independent assessment and advice**

Each Party:

- (c) acknowledges and agrees that it has entered into this document on the basis of its own independent investigation and assessment and after making its own enquiries; and

- (d) confirms that it has received or has had the opportunity to receive independent legal, accounting and tax advice in relation to the terms and conditions of this document (including the escrow arrangements contemplated by clause 17.3 and the restraints contemplated in clause 24.1).

## 26. Power of Attorney

### 26.1 Appointment

Each Party (other than an Investor Shareholder) (an **Appointer**) appoints each of the Investor Directors in his or her personal capacity (rather than his or her capacity as a director) from time to time jointly and severally as its attorney (the **Attorney**) on the terms set out in this clause 26 for the purposes of giving effect to the attorney appointments contemplated by clauses 4.2(h) (Appointment and removal of Directors), 6.8 (Shareholder approvals subject to power of attorney), clause 14.7 (Obligations on certain conversions and Disposals of Shares), 15 (Tag Along rights), 16 (Drag rights), 17 (Exit), 18 (Disposal of Small Holdings), 19 (Event of Default), 22 (Nominee arrangements), 30.1 (Amendment) and 33.11 (Inconsistency with other documents) (each a **Relevant Clause**).

### 26.2 Powers of attorney

Each Attorney has power to, on behalf of an Appointer and in the Appointer's name, do all acts and things appropriate to negotiate and implement any action or transaction, do any thing, or carry out any other matter, under or contemplated by a Relevant Clause or any document entered into in connection with a transaction contemplated by a Relevant Clause, including to do each of the following to give effect to, or otherwise in connection with, such an action, transaction or matter:

- (a) complete, execute and deliver any documentation, deed, instrument, notice, resolution or similar;
- (b) give representations, warranties and indemnities as contemplated by clause 17.4 and to execute and deliver the definitive documentation for a Disposal of Shares in accordance with this document;
- (c) negotiate, accept any offer or contract in respect of, and complete any Disposal of, any Shares held by the Appointer which the Appointer is obliged to complete under this document;
- (d) carry out any act, consent or agree to any matter, amend, vary or waive any provision or matter, make any determination and provide any notice or direction in connection with this document or any document entered into in connection with a transaction contemplated by this document;
- (e) instruct and direct the Nominee to take any actions, including to instruct such person to execute, under hand or under seal and deliver (conditionally or unconditionally) any document and/or to Dispose of any Shares;
- (f) to call for, agree to short notice being provided in respect of, attend and speak at general meetings of, the Company (including any class meeting);
- (g) vote or grant a proxy in favour of any person to vote (or appoint an authorised representative to vote) on behalf of the Appointer (to the exclusion of the Appointer) at any meeting or class meeting of holders of Shares.



### 26.3 **Validity and Indemnity**

Each Appointer:

- (a) declares that all acts and things done by an Attorney in exercising powers under the power of attorney in this clause 26 will be as good and valid as if they had been done by that Appointer and ratifies and confirms whatever the Attorney lawfully does, or causes to be done, under the appointment in this clause 26;
- (b) acknowledges and agrees that no other Party nor any other person is required to enquire any further in respect of the validity of any action or omission of an Attorney under the power of attorney in this clause 26;
- (c) agrees that it will not, for so long as the power of attorney in this clause 26 is in effect:
  - (i) grant any power of attorney or other instrument conferring on persons other than the Attorney's rights which contradict or are otherwise inconsistent with some or all of the rights granted under the power of attorney in this clause 26; nor
  - (ii) personally take any action which would result in the suspension of the power of attorney in this clause 26 or otherwise be contradictory or inconsistent with the power of attorney in this clause 26, including attending any meeting and voting at that meeting if an Attorney is present and intends to vote at the meeting pursuant to a lawful exercise of the Attorney's powers;
- (d) agrees that it will not challenge the validity of any act carried out by an Attorney on behalf of the Appointer;
- (e) indemnifies each Attorney against, and agrees to reimburse and compensate each Attorney for, all Liabilities arising in any way in connection with the exercise in accordance with this document of any of the powers and authorities under the appointment in this clause 26; and
- (f) without prejudice to the other provisions of this clause 26, must deliver to the Company and to each Attorney on demand any power of attorney, instrument of transfer or other document which the Company or an Attorney requires for the purposes of any transaction or action contemplated by this clause 26.

### 26.4 **Application of Appointer's money**

Without limiting clause 17.9, if an Appointer defaults in completing the Disposal of any Shares pursuant to any provision of this document:

- (a) subject to clause 26.4(b), the Company (or an independent person nominated by the Company) may hold any proceeds which are payable to the defaulting Appointer for the benefit of the Appointer (and any interest earned on such proceeds belongs to the Company unless the Company otherwise agrees but the Company has no obligation to invest such proceeds);
- (b) the Company may deduct any costs of performing its rights and obligations under this clause 26 (including legal fees and disbursements on a full indemnity basis), which are incurred by or on behalf of a Group Company or the Directors, from the defaulting Appointer's proceeds;
- (c) subject to clause 26.4(b), receipt by the Company of the defaulting Appointer's proceeds will be good discharge of the relevant buyer's obligation to the

defaulting Appointer and the buyer will not be bound to see to the application of any such proceeds; and

- (d) subject to clause 26.4(b), the Company must pay the defaulting Appointer's proceeds to the defaulting Appointer as soon as practicable after the defaulting Appointer has observed the applicable requirements for the Disposal.

**26.5 Irrevocable grant of attorney**

Each Appointer declares that the power of attorney in this clause 26 is given for valuable consideration and is irrevocable. Each Appointer agrees that if some or all of the Appointer's Shares are Disposed of in accordance with this document, this clause 26 remains effective in respect of the Appointer and the remaining Shares held by or on behalf of the Appointer.

**26.6 Conflict of interest**

Each Attorney may exercise a power under the power of attorney in this clause 26 even if it involves a conflict of duty or any Attorney, Investor Shareholder, other Party or any Group Company has a personal interest in the doing of that act.

**26.7 Benefits**

Each Attorney is expressly authorised to do any act as a result of which a benefit is conferred on it, any Group Company, an Investor Shareholder or any Appointer.

**26.8 Survival**

Clauses 26.1 to 26.7 survive termination of this document (for all Parties or for any specific Party) indefinitely.

**27. Confidentiality and announcement**

**27.1 Confidentiality definitions**

The following definitions apply in this clause 27.

**Confidential Information** means information that:

- (a) is made available by or on behalf of the Discloser to the Recipient, or is otherwise obtained by or on behalf of the Recipient; and
- (b) is by its nature confidential or the Recipient knows, or ought to know, is confidential.

Confidential Information may be made available or obtained directly or indirectly, and before, on or after the date of this document.

Confidential Information does not include information that:

- (a) is in or enters the public domain through no fault of the Recipient or any of its officers, employees or agents;
- (b) is or was made available to the Recipient by a person (other than the Discloser) who is not or was not then under an obligation of confidence to the Discloser in relation to that information; or
- (c) is or was developed by the Recipient independently of the Discloser and any of its officers, employees or agents.

**Discloser** means the Party giving information.

**Recipient** means the Party to whom information is given.

**27.2 Use and disclosure of Confidential Information**

A Party (the **Recipient**) which acquires Confidential Information of another Party (the **Discloser**) must not:

- (a) use any of the Confidential Information except to the extent necessary to exercise its rights and perform its obligations under this document; or
- (b) disclose any of the Confidential Information except in accordance with clauses 27.3, 27.4 or 27.5.

**27.3 Disclosures to personnel and advisers**

- (a) The Recipient may disclose Confidential Information to an officer, employee, agent, contractor, or legal, financial or other professional adviser if:
  - (i) the disclosure is necessary to enable the Recipient to perform its obligations or to exercise its rights under this document; and
  - (ii) prior to disclosure, the Recipient informs the person of the Recipient's obligations in relation to the Confidential Information under this document and obtains an undertaking from the person to comply with those obligations.
- (b) The Recipient must ensure that any person to whom Confidential Information is disclosed under paragraph (a) keeps the Confidential Information confidential and does not use it for any purpose other than as permitted under paragraph (a).

**27.4 Disclosures by Investor Shareholders**

Where an Investor Shareholder is the Recipient, the Investor Shareholder may disclose Confidential Information:

- (a) to an existing or proposed debt or equity financier (or such persons' advisers) of the Investor Shareholder (including any limited partner or co-investor), of any of its Affiliates or, of a Group Company;
- (b) to its ultimate investors, on a confidential basis;
- (c) to any of its Affiliates, or its or its Affiliates' legal, financial or other professional advisors;
- (d) in connection with or as part of an IPO;
- (e) to a prospective buyer of Shares or a buyer of the Business who gives an appropriate confidentiality deed poll for the benefit of the Company; or
- (f) with the prior written consent of the Board, unless the Confidential Information relates only to a certain Party (or an Affiliate), in which case with the prior written consent of the Party to whom the Confidential Information relates.

**27.5 Disclosures required by law**

- (a) Subject to paragraph (b), the Recipient may disclose Confidential Information that the Recipient is required to disclose:
  - (i) by law or by order of any court or tribunal of competent jurisdiction; or
  - (ii) by any Government Agency, stock exchange or other regulatory body.

- (b) If the Recipient is required to make a disclosure under paragraph (a) and is not an Investor Shareholder, the Recipient must:
  - (i) to the extent possible, notify the Discloser immediately if it anticipates that it may be required to disclose any of the Confidential Information;
  - (ii) consult with and follow any reasonable directions from the Discloser to minimise disclosure; and
  - (iii) if disclosure cannot be avoided:
    - (A) only disclose Confidential Information to the extent necessary to comply; and
    - (B) use reasonable efforts to ensure that any Confidential Information disclosed is kept confidential.

#### 27.6 **Restrictions on public announcements**

Subject to clause 27.5, no Party may directly or indirectly make a public announcement about or make a public comment on the contents of this document including any discussions between the Parties without the prior written consent of the Company.

#### 27.7 **Recipient's return or destruction of documents**

If a Party ceases to hold Shares, it must immediately:

- (a) deliver to the Company all documents and other materials containing, recording or referring to Confidential Information; and
- (b) erase or destroy in another way all electronic and other intangible records containing, recording or referring to Confidential Information,

which are in the possession, power or control of the Recipient or any person to whom the Recipient has given access.

#### 27.8 **Investor Director may provide information to the Investor Shareholders**

An Investor Director may:

- (a) communicate any information, in respect of the affairs of the Company, received or made available to the Investor Director; and
- (b) provide copies of the information,

to the Investor Shareholders, their Investor Advisor, and their respective officers and employees.

#### 27.9 **Survival of obligations**

The obligations in this clause 27 survive any termination or expiry of this document.

### 28. **Goods and Services Tax**

#### 28.1 **GST on Claims payments**

If a Party provides a payment for or any satisfaction of a Claim or a right to Claim under or in connection with this document (for example, for misleading or deceptive conduct or for misrepresentation or for a breach of any warranty or for indemnity or for reimbursement of any expense) that gives rise to a liability for GST, the provider must pay, and indemnify the recipient on demand against, the amount of that GST.

**28.2 Costs plus GST**

If a Party has a Claim under or in connection with this document for a cost on which the Party must pay an amount for GST, the Claim is for the cost plus the amount for GST (except any amount for GST for which that Party is entitled to an input tax credit).

**28.3 Revenue Claims**

If a Party has a Claim under or in connection with this document whose amount depends on actual or estimated revenue or which is for a loss of revenue, revenue must be calculated without including any amount received or receivable as reimbursement for GST (whether that amount is separate or included as part of a larger amount).

**28.4 GST on supplies**

If any Party makes a supply to another Party under or in connection with this document (unless the consideration is expressly stated to be inclusive of GST), the consideration for that supply is exclusive of GST, and in addition to paying that consideration, then the recipient must:

- (a) pay to the supplier an amount equal to any GST for which the supplier is liable on that supply, without deduction or set-off of any other amount; and
- (b) make that payment as and when the consideration or part of it must be paid or provided, except that the recipient need not pay unless the supplier has issued to the recipient a tax invoice (or an adjustment note) for that supply.

**28.5 Adjustments and refunds**

The supplier must promptly create an adjustment note for, or apply to the Commissioner of Taxation for, a refund of, and refund to the recipient any overpayment by the recipient for GST, but the supplier need not refund to the recipient any amount for GST paid to the Commissioner of Taxation unless the supplier is entitled to a refund or credit of that amount.

**29. Notices**

- (a) A notice, consent or other communication under this document is only effective if it is in writing, signed and either left at the addressee's address or sent to the addressee by mail or email.
- (b) A notice, consent or other communication that complies with this clause is regarded as given and received:
  - (i) if sent by mail, three working days after it is posted; and
  - (ii) if sent by email, when the sender receives an automated message confirming delivery or two 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 delivery failed, whichever happens first.
- (c) A person's addresses are those set out below, or as the person notifies the sender:

**Company**

Address: Level 18, 644 Chapel St, South Yarra, Victoria 3141  
Email Address: jludski@rivercapital.com.au  
Attention: Josh Ludski

**Investor Shareholders**

Address: Level 18, 644 Chapel St, South Yarra, Victoria 3141  
 Email Address: jludski@rivercapital.com.au  
 Attention: Josh Ludski

**30. Amendment and assignment****30.1 Amendment**

- (a) Subject to clause 30.1(b), this document may be amended by the Investor Shareholders in writing from time to time.
- (b) Any amendment to this document that would discriminate against, or selectively and adversely affect the rights and obligations of Class B Shareholders disproportionately relative to the Investor Shareholders must be approved by a Required Resolution.
- (c) Where an amendment is proposed in accordance with clause 30.1(a) or is approved by Required Resolution in accordance with clause 30.1(b), each Party agrees to execute any document or deed required by the Investor Shareholders to give effect to such an amendment and each Class B Shareholder and Management Shareholder irrevocably appoints the Company severally as its attorney in accordance with clause 26 to perform its obligations under this clause 30.

**30.2 Assignment**

- (a) Subject to clause 30.2(b), a Party may only assign, encumber, declare a trust over or otherwise deal with its rights under this document with the written consent of the Investor Shareholders.
- (b) An Investor Shareholder may assign, encumber, declare a trust over or otherwise deal with its rights under this document in its absolute discretion.

**31. Trustee limitation of liability**

- (a) In this clause 31, the following definitions apply:
  - (i) **Trustee** means any entity which is or becomes a Party to this document in the capacity of trustee of a Trust.
  - (ii) **Trust** means the trust of which the Trustee is the trustee.
  - (iii) **Trustee Liability** means any liability or obligation (of any kind including, without limitation, for negligence, in tort, in equity, or under statute) of the Trustee which arises in any way under or in connection with this document or its performance, or any representation, warranty, conduct, omission, agreement or transaction made under or in connection with this document or its performance
- (b) The Trustee enters into this document in its capacity as trustee of the Trust and in no other capacity.
- (c) The parties acknowledge that the Trustee incurs the Trustee Liabilities solely in its capacity as trustee of the Trust and agree that (to the maximum extent permitted by law) the Trustee will cease to have any Trustee Liability if the Trustee ceases for any reason to be trustee of the Trust.

- (d) A Trustee Liability may be enforced against the Trustee only to the extent to which:
  - (i) the Trustee is actually indemnified in respect of that Trustee Liability out of the property of the Trust; and
  - (ii) there is sufficient property held by the Trustee as trustee at the time, which is available to meet that indemnity (after all Trust assets have been allocated to meet the indemnity and any other valid Claims).
- (e) Subject to clause 31(f), no person will be entitled to:
  - (i) claim from or commence proceedings against the Trustee in respect of any Trustee Liability in any capacity other than as trustee of the Trust;
  - (ii) enforce or seek to enforce any judgment in respect of any Trustee Liability against any property of the Trustee other than property held by the Trustee as trustee of the Trust;
  - (iii) take any steps to procure or support the appointment of a liquidator, administrator or any other similar office holder to the Trustee on the basis of a Trustee Liability, or prove in any liquidation, administration or arrangement of or affecting the Trustee; or
  - (iv) in respect of a Trustee Liability, appoint or take any steps to procure or support the appointment of a receiver or receiver and manager to any property of the Trustee, other than property which is held by it in its capacity as trustee of the Trust.
- (f) The restrictions in clauses 31(d) and 31(e) do not apply to any Trustee Liability to the extent to which there is, whether under the trust deed constituting the Trust or by operation of law, a reduction in the extent of the Trustee's indemnification, or in respect of which the Trustee is not entitled to be indemnified, out of the property of the Trust, as a result of the Trustee's fraud, negligence or wilful default.
- (g) Each other Party to this document agrees that no act or omission of the Trustee (including any related failure to satisfy any Trustee Liabilities) will constitute fraud, negligence or wilful default of the Trustee for the purposes of clause 31(f) to the extent to which the act or omission was caused or contributed to by any failure of that party to fulfil its obligations relating to the Trust or by any other act or omission of that party.
- (h) No attorney, agent or other person appointed in accordance with this document has authority to act on behalf of the Trustee in a way which exposes the Trustee to any personal liability, and no act or omission of such a person will be considered fraud, negligence or wilful default of the Trustee for the purposes of clause 31(f).
- (i) This limitation of the Trustee Liability applies despite any other provisions of this document and extends to all Trustee Liabilities of the Trustee in any way connected with any representation, warranty, conduct, omission, agreement or transaction related to this document or its performance.
- (j) The Trustee is not obliged to do or refrain from doing anything under this document (including incur any liability) unless the Trustee Liability is limited in the same manner as set out in clauses 31(b) to 31(i).

- (k) The provisions of this clause 31 are paramount and apply regardless of any other provision in this document, or other instrument, even another provision which seeks to apply regardless of any other provision.

**32. Investor Shareholders may use custodian**

- (a) Each Investor Shareholder may from time to time appoint a custodian to hold its Shares (and may remove or replace that custodian and effect any corresponding transfer of Shares to itself or a new custodian), provided that the custodian is a bona fide, third party professional custodian or nominee that provides custody services in its usual course of business.
- (b) Despite any other provision of this document, for such time as any Investor Shareholder has an appointed custodian in accordance with this clause 32 in place to hold its Shares:
  - (i) that custodian may hold the Investor Shareholder's Shares without being required to be a Party to this document or to execute an Accession Deed Poll;
  - (ii) the Shares so held by the custodian will be deemed for all purposes under this document to be held by the Investor Shareholder; and
  - (iii) the Investor Shareholder will be responsible under this document as if each act or omission of the custodian in respect of its Shares was an act or omission of the Investor Shareholder.

**33. General**

**33.1 Governing law**

- (a) This document and any dispute arising out of or in connection with this document is governed by the laws of New South Wales within the Commonwealth of Australia.
- (b) Each Party submits to the non-exclusive jurisdiction of the courts of New South Wales and courts of appeal from them, in respect of any proceedings arising out of this document. Each Party irrevocably waives any right it has to object to any legal process being brought in those courts including any claim that the process has been brought in an inconvenient forum or that those courts do not have jurisdiction.

**33.2 Liability for expenses**

Each Party must pay its own expenses incurred in negotiating, executing, stamping and registering this document.

**33.3 Giving effect to this document**

Each Party must do anything (including execute any document), and must ensure that its employees and agents do anything (including execute any document), that the other Parties may reasonably require to give full effect to this document.

**33.4 Waiver of rights**

A right may only be waived in writing, signed by the Party giving the waiver, and:

- (a) no other conduct of a Party (including a failure to exercise, or delay in exercising, the right) operates as a waiver of the right or otherwise prevents the exercise of the right;



- (b) a waiver of a right on one or more occasions does not operate as a waiver of that right if it arises again; and
- (c) the exercise of a right does not prevent any further exercise of that right or of any other right.

### 33.5 **Operation of this document**

- (a) This document and the documents referred to in this document (or executed in connection with this document) constitute the entire agreement of the Parties about the subject matter of this document and supersede all previous agreements, understandings and negotiations on that subject matter and all other communications.
- (b) Any right that a person may have under this document is in addition to, and does not replace or limit, any other right that the person may have.
- (c) Any provision of this document which is unenforceable or partly unenforceable is, where possible, to be severed to the extent necessary to make this document enforceable, unless this would materially change the intended effect of this document.

### 33.6 **No partnership, fiduciary relationship or agency**

Nothing in this document is to be treated as creating a relationship of agency, partnership or of a fiduciary nature between the Parties.

### 33.7 **Operation of indemnities**

- (a) Each indemnity in this document survives the expiry or termination of this document.
- (b) A Party may recover a payment under an indemnity in this document before it makes the payment in respect of which the indemnity is given.

### 33.8 **Clauses benefiting third parties**

If a provision of this document is expressed to be for the benefit of (for example, by conferring an indemnity or an exclusion of liability on) a person such as an officer, employee, agent or adviser of a Party that is not a Party to this document (the **third party**), the Party that receives that promise and any permitted assignee of the Party (the **promise**) holds the benefit of that promise in its own capacity but also as trustee for the third party and may enforce this document on their behalf and for their benefit despite the third party not being a Party to this document.

### 33.9 **Requirement on a Relevant Manager**

Where a Relevant Manager is not a party to this document, an obligation which is expressed to be of, or to apply to or in respect of, a Relevant Manager shall be deemed to be an obligation of the Management Shareholder or Class B Shareholder with whom that Relevant Manager is Affiliated.

### 33.10 **Consents**

Where this document contemplates that a Party may agree or consent to something (however it is described), the Party may:

- (a) agree or consent, or not agree or consent, in its absolute discretion; and
- (b) agree or consent subject to conditions,

unless this document expressly contemplates otherwise.

**33.11 Inconsistency with other documents**

- (a) If this document is inconsistent with the Constitution, any other document or agreement between the Parties, this document prevails to the extent of the inconsistency.
- (b) To the extent permitted by law:
  - (i) the Parties must ensure that the Transaction Documents are consistent with this document; and
  - (ii) if an Investor Shareholder gives the Company a notice specifying an inconsistency and requesting an amendment to a Transaction Document, each Party will take all steps reasonably necessary to amend the relevant Transaction Document to remove the inconsistency and to ensure the provisions of this document prevail. Each Party (other than an Investor Shareholder) irrevocably appoints the Company as its attorney in accordance with clause 26 to perform its obligations under this clause 33.11.

**33.12 Counterparts**

This document may be executed in counterparts.

## Schedule 1

### Accession deed poll

**THIS DEED POLL** is made on

**BETWEEN:**

- (1) **[insert name of acceding party]** (ACN **[insert]**) whose registered office is at **[insert address]** (the **Acceding Party**);
- (2) Each Party to the Shareholders' Deed dated **[insert]** between RCM RollCo Limited (ACN 682 218 579) (**Company**), River Capital Pty Ltd (ACN 073 531 469) as trustee for River Capital Founders Fund and River Capital Pty Ltd (ACN 073 531 469) as trustee for River Capital Dividend Plus Fund (**Shareholders' Deed**) and all persons who are, or subsequently become a Party to the Shareholders' Deed (the **Continuing Parties**).

**THE ACCEDING PARTY AGREES IN FAVOUR OF AND FOR THE BENEFIT OF EACH AND ALL CONTINUING PARTIES AS FOLLOWS:**

1. **Interpretation**

1.1 **Definitions**

Unless otherwise defined, capitalised terms used in this document have the meaning given to them in the Shareholders' Deed, as amended, varied, novated or supplemented from time to time, unless the context otherwise requires.

1.2 **Rules for interpreting this document**

Clause 1.1 to 1.4 of the Shareholders' Deed apply in the interpretation of this document.

2. **Accession**

- (a) Subject to the terms of this document, the Acceding Party accedes to the Shareholders' Deed as if it were an original party to the Shareholders' Deed as a Party and as a Shareholder (to the extent applicable) and as a **[Investor Shareholder / Class B Shareholder / Management Shareholder]** on and from the date that the Acceding Party is, or the Nominee in respect of its Beneficial Shares is, registered as a holder of Shares (**Accession Date**).
- (b) The Acceding Party acknowledges that they have received a copy of the Shareholders' Deed and the Constitution, together with all other information they require in connection with this document, the Shareholders' Deed and the Constitution.

3. **Parties to be bound**

- (c) The Acceding Party undertakes to be bound by all the terms of the Shareholders' Deed from the Accession Date as if the definition of Party, Shareholder (to the

extent applicable) and [Investor Shareholder / Class B Shareholder / Management Shareholder] included the Acceding Party.

- (d) The Acceding Party acknowledges and agrees that for the purposes of clause 0 of the Shareholders' Deed, the Acceding Party is a Restricted Person.

#### 4. **Acceding Party not subject to pre-accession liabilities**

Notwithstanding any other provision of this document, but subject to the Shareholders' Deed, the Acceding Party is not liable upon accession for any liabilities of the Party to whom it has acquired the Shares or Beneficial Shares (as applicable) from, which accrued prior to the Accession Date or which relate to any act or omission prior to the Accession Date.

#### 5. **Representations and warranties**

- (a) The Acceding Party represents and warrants the following:
- (i) **registration:** if a body corporate, it is duly registered and validly existing under the laws of the country of its registration;
  - (ii) **power and authority:** it has full legal capacity and power to:
    - (A) own its property and to carry on its business; and
    - (B) enter into this document and to carry out the transactions that it contemplates, and to be bound by and carry out the transactions contemplated by the Shareholders' Deed;
  - (iii) **binding obligation:** this document and the Shareholders' Deed constitutes legal, valid and binding obligations, enforceable against it in accordance with its terms;
  - (iv) **no contravention:** neither its execution of this document nor the carrying out by it of the transactions that this document contemplates, does or will:
    - (A) contravene any law to which it or any of its property is subject or any order of any Government Agency that is binding on it or any of its property;
    - (B) contravene any agreement binding on it or any of its property; or
    - (C) if a body corporate, contravene its constitution or the powers or duties of its directors; and
  - (v) **solvency:** there are no reasonable grounds to suspect that it will not be able to pay its debts as and when they become due and payable.

#### 6. **General**

##### 6.1 **Address of Acceding Party for notices**

For the purposes of the Shareholders' Deed, the address of the Acceding Party to which all notices must be delivered in accordance with clause 29 of the Shareholders' Deed is:

##### **Acceding Party**

Address: **[insert]**

Email Address: **[insert]**

Attention: **[insert]**

7. **Governing law**

Clause 33.1 of the Shareholders' Deed applies to this document as if incorporated by reference.

8. **Further steps**

The Acceding Party agrees, at its own expense, to do anything reasonably requested by the Company and any Continuing Party to give effect to the provisions of this document and the transactions contemplated by it.

9. **Waiver of rights**

A right may only be waived in writing, signed by the party giving the waiver, and:

- (a) no other conduct of a party (including a failure to exercise, or delay in exercising, the right) operates as a waiver of the right or otherwise prevents the exercise of the right;
- (b) a waiver of a right on one or more occasions does not operate as a waiver of that right or as an estoppel precluding enforcement of that right if it arises again; and
- (c) the exercise of a right does not prevent any further exercise of that right or of any other right.

10. **Counterparts**

This document may consist of a number of copies, each signed by one or more parties to this document. If so, the signed copies are treated as making up the one document and the date on which the last counterpart is executed is the date of this document.

11. **Liability for expenses**

Each party must pay its own expenses incurred in negotiating, executing, stamping and registering this document.

12. **Amendment**

This document can only be amended or replaced by another document executed by the Acceding Party and the Company.

13. **Service of process**

*[This section is to be inserted if the Acceding Party is not incorporated in Australia.]*

- (d) The Acceding Party irrevocably appoints **[insert local agent]** (**Agent**) as its agent for the service of process in Australia in relation to any matter arising out of this document and the Shareholders' Deed.
- (e) If the Agent ceases to be able to act as such or have an address in Australia, the Acceding Party agrees to appoint a new process agent in Australia and deliver to the Company within 20 Business Days, a copy of a written acceptance of appointment by the process agent, upon receipt of which the new appointment becomes effective for the purpose of this document and the Shareholders' Deed.

- (f) The Acceding Party must inform the Company in writing of any change in the address of its Agent within 20 Business Days of the change.

14. **[Relevant Manager]**

For the purposes of the Shareholders' Deed, the Acceding Party's Relevant Manager is [insert name].]

**EXECUTED** as a deed poll.

Each person who executes this document on behalf of a party under a power of attorney declares that he or she is not aware of any fact or circumstance that might affect his or her authority to do so under that power of attorney.

*[For use if Acceding Party is an Australian company]*

**EXECUTED** by **[INSERT]** in its capacity as trustee of **[INSERT]** in accordance with section 127 of the *Corporations Act 2001* (Cth) by:

\_\_\_\_\_  
Signature of director

\_\_\_\_\_  
Signature of director/secretary

\_\_\_\_\_  
Name of director

\_\_\_\_\_  
Name of director/secretary

*[For use if Acceding Party is an individual]*

**SIGNED, SEALED AND DELIVERED** by **[INSERT NAME OF INDIVIDUAL]** in the presence of:

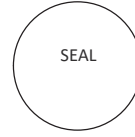
\_\_\_\_\_  
Signature of witness

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Name of witness

*[For use if Acceding Party is a foreign corporation]*

**SIGNED, SEALED AND DELIVERED** by  
**[INSERT NAME OF FOREIGN CORPORATION]** in the presence of:



\_\_\_\_\_  
Signature of witness

\_\_\_\_\_  
Signature of authorised representative

\_\_\_\_\_  
Name of witness

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Schedule 2

Nominee deed

For personal use only



# Nominee Deed

For personal use only

Perpetual Corporate Trust Limited

ACN 000 341 533

RCM RollCo Ltd

ACN 682 218 579

Each Appointing Beneficiary from time to time

# Contents

1.	Interpretation .....	1
1.1	Definitions.....	1
1.2	Rules for interpreting this document .....	3
1.3	Non Business Days .....	4
1.4	The rule about "contra proferentem" .....	4
1.5	Nominee Deed binding.....	4
1.6	Acquire Scheme Shares .....	5
2.	Declaration of Trust .....	5
2.1	Nominee and custody services .....	5
2.2	Declaration of Separate Trusts .....	5
2.3	Separate Trust Property in each Separate Trust to be treated separately .....	5
2.4	Nominee's and Appointing Beneficiary's obligations.....	5
2.5	Appointing Beneficiary's attorneys .....	6
2.6	Appointing Beneficiary's reservation of rights .....	6
2.7	Limitations on the Nominee.....	6
2.8	Nominee may appoint attorneys or proxies .....	6
3.	Instructions to the Nominee.....	6
3.1	No obligation to verify.....	6
3.2	Requests for further details .....	7
3.3	Notification of failure to act on Instruction .....	7
4.	Register of separate trusts .....	7
4.1	Register of Appointing Beneficiaries .....	7
4.2	Trusts Register.....	7
4.3	Nominee reliance on the Trusts Register.....	8
4.4	No certificate .....	8
4.5	Cessation of notation as an Appointing Beneficiary .....	8
5.	Undertaking by the Company .....	8
6.	Corporate actions .....	8
6.1	Dividends.....	8
6.2	Proceeds from the sale of Shares.....	9
6.3	Notices of meetings.....	9
6.4	Shareholder communications.....	9
6.5	Shareholders Meetings and Class B Shareholder Meetings .....	9
6.6	Appointment of attorney .....	9
6.7	No meetings of Appointing Beneficiaries .....	10
7.	Authorised Persons .....	10
7.1	Authorised Persons .....	10
7.2	Variation of Authorised Person .....	10
7.3	Nominee's actions .....	10
7.4	Nominee's reliance on an Instruction .....	11
8.	Term, removal and retirement.....	11
8.1	Termination .....	11
8.2	New Nominee.....	11
8.3	Release .....	11

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8.4	Costs of replacing the Nominee .....	12
9.	Limitation of liability and indemnities .....	12
9.1	No Liability of Nominee for certain breaches .....	12
9.2	Limitation of Nominee's liability .....	12
9.3	Indemnity from Appointing Beneficiary to Nominee .....	13
9.4	Company reimbursement to Nominee .....	13
10.	Nominee role .....	14
11.	Fees.....	14
12.	Duration of Separate Trusts .....	15
12.1	Commencement date .....	15
12.2	Termination and termination date .....	15
12.3	Termination of document for an Appointing Beneficiary .....	15
13.	Conversion and termination .....	15
14.	GST .....	16
15.	Notices.....	16
15.1	Notices .....	16
15.2	Appointment of Company as agent for notice.....	17
16.	Amendment and assignment.....	18
16.1	Amendment.....	18
16.2	Assignment.....	18
17.	General.....	18
17.1	Governing law .....	18
17.2	Giving effect to documents.....	18
17.3	Variation of rights .....	18
17.4	Operation of this document.....	18
17.5	Counterparts .....	18
 <b>Schedule</b>		
1.	Form of Instruction.....	19
2.	Accession Deed Poll.....	20

**THIS DEED** is made on

2024

**BETWEEN:**

- (1) **Perpetual Corporate Trust Limited** (ACN 000 341 533) whose registered office is at Level 18, 123 Pitt Street, Sydney NSW 2000 (the **Nominee**);
- (2) **RCM RollCo Ltd** (ACN 682 218 579) whose registered office is at Level 18, 644 Chapel Street, South Yarra VIC 3141 (the **Company**); and
- (3) **each Appointing Beneficiary from time to time**, who becomes a party to this document in accordance with clause 1.5(b) or by way of Accession Deed Poll.

**RECITALS:**

- (A) At the request of the Company, the Nominee has agreed to act as nominee and to hold each Appointing Beneficiary's Separate Trust Property in each case by way of separate bare trust for the Appointing Beneficiary who is absolutely entitled to and has a vested and indefeasible interest in the Appointing Beneficiary's Separate Trust Property.
- (B) The Nominee agrees to act as nominee severally for each Appointing Beneficiary in respect of the Appointing Beneficiary's Separate Trust Property, in each case on the terms and conditions set out in this document.
- (C) In consideration for the Nominee providing those nominee services, the Company has agreed to indemnify the Nominee and to pay its fees and expenses on the terms and conditions set out in this document.

**THE PARTIES AGREE AS FOLLOWS:**

1. **Interpretation**

1.1 **Definitions**

The following definitions apply in this document.

**Accession Deed Poll** means a deed substantially in the form set out in Schedule 2 or such other form approved in writing by the Company and the Nominee.

**Accretions** means, in respect of each Separate Trust, all accretions, rights and benefits attaching to the Separate Trust Property (including all rights to receive dividends and any other distributions and to receive or subscribe for shares, stock, units, notes, options or other securities, declared, paid or issued by the Company but excluding amounts or other property that are paid or delivered by the Company directly to the Appointing Beneficiary under this document or paid or delivered to the Appointing Beneficiary as if it were the legal holder of the Separate Trust Property).

**Additional Amount** has the meaning given to it in clause 14(a)(i).

**Appointing Beneficiary** means any person who has appointed the Nominee to hold Shares on bare trust for it from time to time, including pursuant to clause 1.6.

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**Authorised Person** means any other person nominated by an Appointing Beneficiary, as authorised to make any written communication or take any other action on behalf of that Appointing Beneficiary under this document.

**Beneficiary Notice of Termination** has its meaning given to it in clause 8.1(b).

**Beneficial Shares** means in relation to an Appointing Beneficiary, the Shares held by the Nominee as bare trustee for that Appointing Beneficiary.

**Board** means the board of directors of the Company as constituted from time to time.

**Business Day** means a day (other than a Saturday, Sunday or public holiday) on which banks are open for general banking business in Sydney, New South Wales.

**Company Notice of Termination** has its meaning given to it in clause 8.1(a).

**Constitution** means the constitution of the Company, as amended from time to time after the date of this document.

**Directed Breach** has the meaning given to it in clause 9.1.

**Effective Date** means, in relation to each Separate Trust, the date and time at which the Nominee first becomes the registered holder of any Shares on bare trust for the relevant Appointing Beneficiary.

**Exit** means a sale of all or substantially all of the business or the sale of all or substantially all of the assets of the Company and its subsidiaries, a sale of all the shares in the Company, or an initial public offering of all or part of the business (or a sell-down by controlling shareholders by way of a public offering).

**Fee Letter** means the fee letter between the Company and the Nominee dated on or about the date of this document.

**GST Law** has the meaning given in the *A New Tax System (Goods and Services Tax) Act 1999* (Cth).

**Instruction** means a written instruction to the Nominee (with a copy to the Company) in respect of or in connection with the Separate Trust Property which is signed by an Appointing Beneficiary, or an Authorised Person on behalf of an Appointing Beneficiary, and which also satisfies each of the following matters:

- (a) is substantially in the form of Schedule 1 of this document;
- (b) the instruction states that it is an 'Instruction' for the purposes of this document; and
- (c) where the instruction includes a requirement for the Nominee to execute a document, it includes appropriate details of the terms and purpose of the relevant document,

and provided that the Nominee in its discretion is entitled to treat any such instruction as an Instruction even if it does not satisfy one or more of the above matters.

**Liability** means, in relation to a person, any liability or obligation however it arises and whether it is present or future, fixed or unascertained, actual or contingent.

**Loss** includes any loss, damage, Liability, compensation, fine, penalty, charge, payment, cost or expense (including any legal cost and expense) however it arises and whether it is present or future, fixed or unascertained, actual or contingent.

**Notice of Retirement** has its meaning given to it in clause 8.1(c).

**Separate Trust** means each bare trust established in accordance with clause 2.2.

**Separate Trust Property** means, in relation to each Separate Trust, all of the property of that trust, including the Shares held by the Nominee for and on behalf of the Appointing Beneficiary of that Separate Trust, as shown in the Trusts Register, and all Accretions to those Shares or to any other property comprised in the trust.

**Scheme** means the scheme of arrangement under Part 5.1 of the Corporations Act under which a subsidiary of the Company acquires all of the issued shares in Midway Limited (ACN 005 616 044).

**Share** means an issued share or security of any class in the capital of the Company.

**Shareholder** means a person that is a registered holder of a Share from time to time.

**Supplier** has the meaning given to it in clause 14(a)(i).

**Tax Act** means the *Income Tax Assessment Act 1997* (Cth) and the *Income Tax Assessment Act 1936* (Cth).

**Trusts Register** means the register of Separate Trusts established by the Company and maintained by the Nominee in accordance with clause 4.

## 1.2 **Rules for interpreting this document**

Headings are for convenience only, and do not affect interpretation. The following rules also apply in interpreting this document, except where the context makes it clear that a rule is not intended to apply.

- (a) A reference to:
  - (i) a legislative provision or legislation (including subordinate legislation) is to that provision or legislation as amended, re-enacted or replaced, and includes any subordinate legislation issued under it;
  - (ii) a document (including this document) or agreement, or a provision of a document (including this document) or agreement, is to that document, agreement or provision as amended, supplemented, replaced or novated;
  - (iii) a party to this document or to any other document or agreement includes a successor in title, permitted substitute or a permitted assign of that party, and includes a person who becomes a party to this document under an Accession Deed Poll;
  - (iv) a person includes any type of entity or body of persons, whether or not it is incorporated or has a separate legal identity, and any executor, administrator or successor in law of the person; and
  - (v) anything (including a right, obligation or concept) includes each part of it.
- (b) A singular word includes the plural, and vice versa.
- (c) A recital, schedule, annexure or a description of the parties form a part of this document.
- (d) A word which suggests one gender includes the other genders.

- (e) If a word or phrase is defined, any other grammatical form of that word or phrase has a corresponding meaning.
- (f) If an example is given of anything (including a right, obligation or concept), such as by saying it includes something else, the example does not limit the scope of that thing.
- (g) The expression **this deed** and **this document** includes the agreement, arrangement, understanding or transaction recorded in this document.
- (h) A reference to **absolutely entitled** means absolutely entitled within the meaning of the Tax Act.
- (i) The word **dividend** includes a bonus or other distribution in cash or kind.
- (j) The expressions **officer** and **related body corporate** have the same meanings as in the Corporations Act.
- (k) A reference to **information** is to information of any kind in any form or medium, whether formal or informal, written or unwritten.
- (l) Words that are defined in the GST Law, but are not defined in clause 1.1 have the same meaning given in the GST Law.
- (m) If a person is a member of a GST group, references to GST for which the person is liable and to input tax credits to which the person is entitled include GST for which the representative member of the GST group is liable to pay and input tax credits to which the representative member is entitled.

### 1.3 **Non Business Days**

If the day on or by which a person must do something under this document is not a Business Day:

- (a) if the act involves a payment that is due on demand, the person must do it on or by the next Business Day; and
- (b) in any other case, the person must do it on or by the previous Business Day.

### 1.4 **The rule about "contra proferentem"**

This document is not to be interpreted against the interests of a party merely because that party proposed this document or some provision of it or because that party relies on a provision of this document to protect itself.

### 1.5 **Nominee Deed binding**

- (a) This document binds the Nominee, the Company and, in the case of each Separate Trust, the Appointing Beneficiary and any other person with an interest in the Separate Trust and any person claiming through the Appointing Beneficiary as if each of them had been a party to this document.
- (b) The Company will procure that each Appointing Beneficiary agrees to be bound by this document as an Appointing Beneficiary:
  - (i) by that Appointing Beneficiary or an attorney of the Appointing Beneficiary (including an attorney appointed under the Scheme) executing and delivering to the Company and the Nominee;

- (A) in respect of an Appointing Beneficiary that acquires Shares as a result of the Scheme, the form of election used by that person under the Scheme to receive those Shares; or
  - (B) an Accession Deed Poll; or
- (ii) by virtue of any provision of the Scheme which provides that by making an election to receive Shares as consideration under the Scheme, that person will be taken to have agreed to become a party to, and be bound by, this document.

#### 1.6 **Acquire Scheme Shares**

The Company directs, on behalf of, and as attorney for each relevant Appointing Beneficiary, the Nominee to acquire the Shares which that Appointing Beneficiary is entitled to receive pursuant to the Scheme, and the Nominee agrees to follow that direction.

### 2. **Declaration of Trust**

#### 2.1 **Nominee and custody services**

- (a) The Nominee agrees to act as bare trustee of each Separate Trust on the terms and conditions of this document.
- (b) The Nominee represents and warrants to the Company and to each Appointing Beneficiary that it holds an Australian financial services licence authorising it, among other things, to provide the custodial or depository services provided in this document for each Separate Trust.

#### 2.2 **Declaration of Separate Trusts**

- (a) The Nominee declares that, in respect of each Appointing Beneficiary, it holds all of the Separate Trust Property of that Appointing Beneficiary's Separate Trust on a separate bare trust for that Appointing Beneficiary who has a vested and indefeasible interest in, and is absolutely entitled to, the Separate Trust Property.
- (b) For the avoidance of doubt, each Appointing Beneficiary has a vested and indefeasible interest in, and is absolutely entitled to the capital, assets and any income of its respective Separate Trust and is the sole beneficiary of the Separate Trust in relation to its Separate Trust Property.

#### 2.3 **Separate Trust Property in each Separate Trust to be treated separately**

The Nominee must at all times treat the Separate Trust Property of a Separate Trust separately from the Separate Trust Property of each other Separate Trust and, in particular:

- (a) the Separate Trust Property of a Separate Trust will be separately identified and recorded in the Trusts Register and in any books of the Nominee (or in books maintained by the Company in connection with the nominee arrangements); and
- (b) none of the assets of a Separate Trust will be co-mingled at any time with the assets of any other Separate Trust.

#### 2.4 **Nominee's and Appointing Beneficiary's obligations**

- (a) The Nominee must, on the Instruction of the relevant Appointing Beneficiary and at the cost of the relevant Appointing Beneficiary:



- (i) transfer to the Appointing Beneficiary or otherwise deal with the Nominee's legal right, title and interest in any or all of that Appointing Beneficiary's Separate Trust Property including any Accretions as the Appointing Beneficiary (or its Authorised Person) may from time to time direct; and
- (ii) take all steps, execute all documents and do all things necessary to vest the Nominee's legal right, title and interest in any or all of that Appointing Beneficiary's Separate Trust Property (including any Accretions) in the Appointing Beneficiary or any other person as the Appointing Beneficiary (or its Authorised Person) may from time to time direct,

provided that the Nominee will not be held liable for any failure to comply with these obligations to the extent that such failure is due to any act, refusal to act or omission by that Appointing Beneficiary, its Authorised Person or any other person (including any failure to provide any information that is properly required by the Nominee or any competent authority) or is due to the operation of law.

## 2.5 **Appointing Beneficiary's attorneys**

- (a) The Nominee and each Appointing Beneficiary acknowledge that the Appointing Beneficiary has appointed certain attorneys with authority to give Instructions to the Nominee on behalf of the Appointing Beneficiary in certain circumstances, including the Company as attorney for the Appointing Beneficiary.
- (b) Each Appointing Beneficiary directs the Nominee to comply with, and the Nominee must comply with, any Instruction given on behalf of an Appointing Beneficiary by an attorney (including the Company) which the Appointing Beneficiary has appointed.

## 2.6 **Appointing Beneficiary's reservation of rights**

Nothing in this document entitles the Nominee to the beneficial ownership of any Separate Trust Property, or operates to deprive an Appointing Beneficiary of the rights of beneficial ownership (including the right of possession) of, and absolute entitlement to, that Appointing Beneficiary's Separate Trust Property. The Nominee declares that it has no beneficial interest whatsoever in the Separate Trust Property of any Appointing Beneficiary.

## 2.7 **Limitations on the Nominee**

The Nominee has no powers, duties, discretions or liabilities under a Separate Trust except those expressly set out in this document.

## 2.8 **Nominee may appoint attorneys or proxies**

The Nominee may appoint any one or more persons as its attorney or proxy (jointly, or severally if more than one) with the power to execute documents on behalf of the Nominee for the day-to-day administration of a Separate Trust or as proxy to represent the Nominee at any meeting which the Nominee is instructed to attend in accordance with clause 6.5.

## 3. **Instructions to the Nominee**

### 3.1 **No obligation to verify**

The Nominee has no obligation to verify the purpose, merits or propriety of an Instruction or any document the subject of an Instruction and it is entitled to rely solely on the relevant Appointing Beneficiary or its Authorised Person in respect of all matters relating to an Instruction and any transaction the subject of an Instruction.

### 3.2 **Requests for further details**

The Nominee is entitled to request further details from the relevant Appointing Beneficiary or its Authorised Person in respect of any Instruction, and is entitled to a reasonable period to consider any matter related to or arising from an Instruction, but this does not impose any obligation on the Nominee to do so, and does not otherwise limit the effect of this clause 3.

### 3.3 **Notification of failure to act on Instruction**

- (a) If the Nominee considers that it is unable to wholly or partially act on an Instruction of an Appointing Beneficiary or its Authorised Person, it must promptly (and in any event, within two Business Days) notify the relevant Appointing Beneficiary or its Authorised Person (as applicable) of that position and the reasons why it is unable to act.
- (b) Upon receipt of such notice, the relevant Appointing Beneficiary or the Authorised Person (as applicable) may either:
  - (i) withdraw the specific Instruction with which the Nominee is unable to comply in accordance with this document; or
  - (ii) re-issue or clarify the Instruction, in which case the Instruction will not operate until it has been re-issued or clarified (and this clause will apply to that revised Instruction, as required).

## 4. **Register of separate trusts**

### 4.1 **Register of Appointing Beneficiaries**

- (a) The Company must, at its sole cost and expense, establish a Trusts Register.
- (b) The Company undertakes to record in the Trusts Register in respect of each Separate Trust:
  - (i) the name, address and description of the Appointing Beneficiary for that Separate Trust (or the Appointing Beneficiary's nominee or custodian (if any));
  - (ii) the number, class of Beneficial Shares and identifying designation of Shares that are held on trust for that Appointing Beneficiary;
  - (iii) the date(s) at which the name of the Appointing Beneficiary was first noted in the Trusts Register in respect of the Separate Trust Property held on bare trust for that Appointing Beneficiary; and
  - (iv) any other details reasonably considered necessary by the Nominee or the Company.
- (c) The Company must provide the Nominee information in order to enable the Nominee to alter and update the Trusts Register to reflect any changes which are necessary to reflect information provided to the Company and are relevant to the particulars listed in clause 4.1(b), including as a result of the termination of any Separate Trust.

### 4.2 **Trusts Register**

- (a) The Company must provide, or must procure that its registrar provides:
  - (i) a copy of the Trusts Register to the Nominee on, or as soon as practicable, after the date of this document;

- (ii) information relevant to the particulars listed in clause 4.1(b), as and when any information in the Trusts Register is required to be updated, amended or replaced; and
- (iii) information relevant to the particulars listed in clause 4.1(b), within ten Business Days of being requested to do so by the Nominee.

- (b) The Nominee must provide a copy of the Trusts Register within five Business Days of being requested to do so by the Company.

#### 4.3 **Nominee reliance on the Trusts Register**

Unless contrary information is provided to the Nominee under this document, the Nominee is entitled to assume without inquiry that the information in the Trusts Register is correct and the Nominee has no liability to any Appointing Beneficiary for any Loss which arises from the Trusts Register.

#### 4.4 **No certificate**

No certificates will be issued to an Appointing Beneficiary in respect of the number of Shares held under a Separate Trust for that Appointing Beneficiary.

#### 4.5 **Cessation of notation as an Appointing Beneficiary**

Upon termination of a Separate Trust in respect of an Appointing Beneficiary, the Appointing Beneficiary will cease to be noted in the Trusts Register as the beneficiary of the Shares held under that Separate Trust.

### 5. **Undertaking by the Company**

The Company undertakes to the Nominee that it will:

- (a) promptly provide the Nominee with all necessary information and assistance as the Nominee may reasonably require to enable the Nominee to comply with its obligations under this document;
- (b) without limitation to clause 5(a), provide the Nominee with written notice of any of the following events (as soon as practicable, but in any case no later than five Business Days after becoming aware of any such events):
  - (i) any event that will result in a change in the beneficial ownership of a Share; and
  - (ii) any transfer or purported transfer of the beneficial interest in a Share by an Appointing Beneficiary,

and, on request, provide the Nominee with any information reasonably required by the Nominee in relation to any such event or events.

### 6. **Corporate actions**

#### 6.1 **Dividends**

- (a) The Company must pay all dividends or other distributions in respect of any property comprised in an Appointing Beneficiary's Separate Trust directly to the Appointing Beneficiary.
- (b) The Company undertakes to the Nominee that it will procure that a distribution or dividend that would otherwise be paid to the Nominee as Shareholder will be paid to the Appointing Beneficiary in place of the Nominee at the same time as it

makes or pays any distribution or dividend of any kind whatsoever to Shareholders.

**6.2 Proceeds from the sale of Shares**

The Company will procure that the proceeds (whether in the form of money or otherwise) from the sale of any Shares comprised in the Separate Trust Property of any Appointing Beneficiary that would otherwise be paid or distributed to the Nominee as Shareholder will be paid or distributed to that Appointing Beneficiary in place of the Nominee when the Company remits any proceeds from the disposal of those Shares.

**6.3 Notices of meetings**

The Company undertakes to the Nominee that it will send to each Appointing Beneficiary a copy of any notice of the meeting or a notice for Shareholder approval or consent pursuant to the Constitution or other documents governing the Company at the same time as it sends such notice to Shareholders.

**6.4 Shareholder communications**

The Company undertakes to the Nominee that it will send to each Appointing Beneficiary all notices, documents, communications or information provided to Shareholders under the Constitution or other documents governing the Company at the same time as it sends such notice to Shareholders.

**6.5 Shareholders Meetings and Class B Shareholder Meetings**

To the extent reasonably practicable, the Nominee must:

- (a) attend any meetings of shareholders which the Nominee is directed by an Instruction to attend and which the Nominee is entitled to attend (provided that in the absence of an Instruction from an Appointing Beneficiary, the Nominee will not attend the relevant meeting on behalf of that Appointing Beneficiary);
- (b) in respect of Shares held on behalf of an Appointing Beneficiary, vote at any meeting of Shareholders in accordance with any Instruction to vote at that meeting given to the Nominee by or on behalf of that Appointing Beneficiary and at which the Nominee is entitled to vote in respect of those Shares (and in the absence of an Instruction relating to a meeting, the Nominee will not vote at that meeting);
- (c) if the Nominee has been directed by an Instruction by more than one Appointing Beneficiary to vote at a meeting of shareholders (and is entitled to vote) and those Appointing Beneficiaries between them would have been entitled to demand a poll had they been the registered holder of the relevant Shares, demand a poll (and not withdraw such demand) for each resolution that the Nominee is directed by Instruction to cast a vote on; and
- (d) if required by an Instruction given by or on behalf of an Appointing Beneficiary, execute all proxies, powers of attorney and other documents which it is necessary to execute to enable the relevant Appointing Beneficiary or its Authorised Persons to vote in the place of the Nominee at a meeting of shareholders in respect of that Appointing Beneficiary's Separate Trust Property.

**6.6 Appointment of attorney**

- (a) The Nominee hereby appoints each Appointing Beneficiary as its attorney to exercise the votes attached to the Shares held on bare trust for that Appointing Beneficiary under a Separate Trust in relation to all or any of the resolutions specified in any notice of meeting or notice for Shareholder approval or consent

pursuant to any documents governing the Company and any attorney, and any sub-attorney appointed by an attorney, will (without limiting any other provision of this document relating to the Nominee's limitation of liability and indemnity) be subject to clauses 6.6(f) and 9. Each attorney may appoint a sub-attorney in writing, and each Appointing Beneficiary confirms, and the Nominee acknowledges, that each Appointing Beneficiary has appointed the Company as its sub-attorney in certain circumstances.

- (b) The appointment of an Appointing Beneficiary as the Nominee's attorney as referred to in this clause 6.6 extends to entitle the Appointing Beneficiary or its proxies or sub-attorneys (as the case may be) to attend, speak and vote, and to demand a poll or join in demanding a poll, at the relevant meeting of shareholders and to consent to short notice of such meeting and any resolution to be considered at a meeting.
- (c) The Nominee may but is not required to attend at any meetings of shareholders and must not cast a vote on any resolution in respect of the Company, except as required by clause 6.5 or through its attorneys appointed under this clause 6.6.
- (d) The Company's decision as to the validity of an appointment of an attorney referred to in this clause 6.6 will be final and binding.
- (e) The Nominee has no responsibility or liability whatsoever for any act or omission of any Appointing Beneficiary that it appoints as an attorney under this clause 6.6, or for any sub-attorney that any Appointing Beneficiary has in turn appointed.
- (f) The Nominee is not, for any reason whatsoever, liable to the Company, an Appointing Beneficiary or any other person for any Loss arising out of or in connection with any appointment pursuant to this clause 6.6, any meetings of shareholders (or proposed meetings), requisition, execution of any documents, any voting or abstention, including if the meetings of shareholders of the Company is not quorate or properly formed.

#### 6.7 **No meetings of Appointing Beneficiaries**

For the avoidance of doubt, there will be no meetings of the Appointing Beneficiaries of the Separate Trusts.

### 7. **Authorised Persons**

#### 7.1 **Authorised Persons**

An Appointing Beneficiary may notify the Nominee (with a copy to the Company) of persons who are Authorised Persons for the purposes of the rights and obligations of that Appointing Beneficiary under this document (including, but not limited to, the service of an Instruction under clause 3.1).

#### 7.2 **Variation of Authorised Person**

An Appointing Beneficiary may in its absolute discretion vary its Authorised Persons by written notice to the Nominee and the Company (other than an appointment of an attorney under documents governing the Company).

#### 7.3 **Nominee's actions**

The Nominee must accept all communications or actions concerning this document made by the Authorised Persons of an Appointing Beneficiary, provided that those communications or actions are in accordance with this document. The Nominee is not obliged to take any action if the communication or action is not made by an Authorised

Person, nor to enquire as to the identity of any person if it reasonably believes the person to be an Authorised Person.

#### 7.4 **Nominee's reliance on an Instruction**

If the Nominee receives an Instruction from an Authorised Person of an Appointing Beneficiary in accordance with this document in circumstances where it is reasonable for the Nominee to assume it was from an Authorised Person of the Appointing Beneficiary, the Nominee is not liable for any properly performed action or omission of the Nominee in reliance on that Instruction.

### 8. **Term, removal and retirement**

#### 8.1 **Termination**

- (a) The Company may remove the Nominee at any time in accordance with this document by providing 90 days' written notice to the Nominee (or such lesser notice period agreed by the Nominee) (**Company Notice of Termination**).
- (b) The Appointing Beneficiary may remove the Nominee as bare trustee for that Appointing Beneficiary only, at any time in accordance with this document by providing 90 days' written notice to the Nominee and to the Company (or such lesser notice period agreed by the Nominee and the Company) (**Beneficiary Notice of Termination**).
- (c) The Nominee may retire at any time by providing 90 days' written notice to the Company and the Appointing Beneficiaries (or such lesser notice period agreed by the Company) (**Notice of Retirement**).
- (d) Subject to clause 8.1(b), the Nominee may only retire or be removed as trustee of all (but not some) of the Separate Trusts.

#### 8.2 **New Nominee**

- (a) If the Nominee retires or is removed under clause 8.1, the Company may appoint a replacement trustee to act as the Nominee for each relevant Separate Trust. If no such person is nominated by the Company by the end of the Company Notice of Termination, Beneficiary Notice of Termination or Notice of Retirement (as the case may be) period, the Appointing Beneficiary (in the case of a termination under clause 8.1(b)) or otherwise the Nominee may, acting reasonably, propose a person as a replacement nominee to act as the Nominee for each relevant Separate Trust (in each case, the **Replacement Nominee**).
- (b) Where a Replacement Nominee is appointed under clause 8.2(a), the Company and Nominee must do all things reasonably necessary to facilitate the appointment of the Replacement Nominee.
- (c) The removal or retirement of the Nominee and the appointment of the Replacement Nominee is not complete until the new Replacement Nominee executes a deed by which it agrees to act as bare trustee of each Separate Trust, and to provide the nominee and custody services provided in this document in respect of each Separate Trust, for the benefit of the Appointing Beneficiaries on the terms and conditions of this document in place of the Nominee as outgoing bare trustee.

#### 8.3 **Release**

Upon the removal or retirement of the Nominee under clause 8.1, the Nominee is released from all obligations in relation to the relevant Separate Trusts arising after the time it retires, except that the Nominee is still obliged to comply with clause 8.2(b)

including by delivering all books and records relating to the relevant Separate Trusts in its possession at the relevant time to the Replacement Nominee.

#### 8.4 **Costs of replacing the Nominee**

All reasonable costs incurred by the Nominee and all costs of any Replacement Nominee and the Company in connection with the retirement or removal and replacement of the Nominee must be borne by the Company, other than a removal pursuant to a Beneficiary Notice of Termination, in which case such costs must be borne by the relevant Appointing Beneficiary.

### 9. **Limitation of liability and indemnities**

#### 9.1 **No Liability of Nominee for certain breaches**

- (a) Each party acknowledges that, subject to the terms of this document, the Nominee is obliged to act in accordance with the directions of the Appointing Beneficiaries in relation to their respective Beneficial Shares.
- (b) Each party agrees that any breach of this document which arises as a result of the Nominee complying with a direction given by an Appointing Beneficiary (**Directed Breach**) is to be construed for all purposes as a breach by the relevant Appointing Beneficiary for which the Appointing Beneficiary is personally liable (including in accordance with this document) and not by the Nominee, and, except to the extent that the same arises as a direct result of the fraud, dishonesty or wilful misconduct of the Nominee or those acting on its behalf, and without limiting the foregoing:
  - (i) the Nominee is released from any claim or Liability in respect of any Directed Breach; and
  - (ii) each party (other than the Nominee) covenants not to claim, sue or take any action against the Nominee in respect of any Directed Breach.

#### 9.2 **Limitation of Nominee's liability**

- (a) Subject to clause 9.2(d), each party acknowledges that the Nominee will be bound by the terms of this document in its capacity as bare trustee of the Separate Trusts and in no other capacity.
- (b) Any Liability of the Nominee arising under or in connection with this document is limited to, and can be enforced against the Nominee only to the extent to which under clause 9.3 or 9.4, any governing document of the Company, or by operation of law, the Nominee is actually indemnified for the Liability. This limitation of the Nominee's Liability applies despite any other provision of this document and extends to all Liabilities of the Nominee in any way connected with any representation, warranty, conduct, omission, agreement or transaction related to this document.
- (c) No party may sue the Nominee in any capacity other than as trustee of a Separate Trust, including seeking the appointment of a receiver (except in relation to property of a Separate Trust), a liquidator, an administrator, or any similar person to the Nominee nor may any party prove in any liquidation, administration or arrangement of or affecting the Nominee (except in relation to property of the relevant Separate Trust).
- (d) The provisions of clauses 9.1 and 9.2(a) to 9.2(c) do not apply to any Liability of the Nominee to the extent that it is not satisfied under this document or by operation of law or there is a reduction in the extent of the Nominee's

indemnification out of the assets of the relevant Separate Trust, in each case as a result of the Nominee's fraud, negligence or wilful default.

- (e) No attorney, agent, receiver or receiver and manager appointed in accordance with this document has authority to act on behalf of the Nominee in a way which exposes the Nominee to any personal Liability.

### 9.3 **Indemnity from Appointing Beneficiary to Nominee**

- (a) Each Appointing Beneficiary:

- (i) indemnifies the Nominee for or in respect of any Liability or Loss which the Nominee pays, suffers, incurs or is liable for arising out of or in connection with; and
- (ii) covenants with the Nominee not to claim, sue or take any action against the Nominee in relation to,

anything done by the Nominee at the direction of or on behalf of the Appointing Beneficiary, or by reason of the Appointing Beneficiary's Separate Trust Property being registered in the name of the Nominee, other than:

- (iii) Liabilities or Losses arising of the Nominee's (or any of its officers', employees' or agents') fraud, negligence, dishonesty, wilful misconduct, breach of any of its obligations under any governing document of the Company or this document or breach of trust; or
  - (iv) overhead costs (including rent, office maintenance and salaries) of the Nominee, fees of a related body corporate of the Nominee acting as custodian of the Nominee and fees of a subcustodian, nominee or other delegate of such a custodian of the Nominee; or
  - (v) to the extent the Nominee is entitled to recover and is actually indemnified for any such amounts in paragraphs (iii) or (iv) above by the Company under this document or by operation of law.
- (b) Each indemnity given by an Appointing Beneficiary referred to in this clause 9.3:
    - (i) is an additional, separate and independent obligation of the Appointing Beneficiary and no one indemnity limits the generality of any other indemnity; and
    - (ii) survives termination of this document.

### 9.4 **Company reimbursement to Nominee**

The Company will meet the Nominee's out-of-pocket expenses and any internal costs of the Nominee relating to actions and directions by the Appointing Beneficiary in relation to its Separate Trust Property in the ordinary course. This does not apply in relation to:

- (a) the following costs in respect of that Appointing Beneficiary for which the Nominee is otherwise liable:
  - (i) advisory costs for tax, legal or other professional advice given to an Appointing Beneficiary in connection with an Exit or other relevant transaction, as applicable, which is not advice for the benefit of other parties;
  - (ii) Tax; nor



- (iii) a Liability arising out of any claim, action or proceeding of any nature in connection with an Exit or other relevant transaction, as applicable, unless approved by the Board;
- (b) Liabilities suffered or incurred by the Nominee arising in connection with any action, omission or Instruction by that Appointing Beneficiary which is in breach of any legal or contractual obligation of that Appointing Beneficiary (including any breach of this document or governing document of the Company);
- (c) Liabilities incurred by the Nominee as a result of any action, omission or Instruction by that Appointing Beneficiary that is unreasonable or otherwise outside the ordinary course;
- (d) Liabilities incurred by the Nominee that would have been incurred in comparable circumstances by the Appointing Beneficiary had it been the registered holder of the relevant Shares;
- (e) all calls, demands and other Liabilities which the Nominee is liable to pay in respect of that Appointing Beneficiary's Separate Trust Property; and
- (f) any other cost, expense or Liability which this document or governing document of the Company provides will be paid by, or are otherwise the responsibility of, the Appointing Beneficiary.

10. **Nominee role**

In acting as trustee of a Separate Trust, the Nominee agrees that:

- (a) the Nominee has and must maintain adequate arrangements to enable it to provide the services under the document in any contingency for which it should reasonably plan;
- (b) it has information and cybersecurity policies in place that are designed and functioning in a manner to protect client/customer information and that are consistent with the prevailing best practices used in the Nominee's industry. The Nominee acknowledges and agrees that any information provided to the Nominee by or on behalf of the Company or any Appointing Beneficiary will be subject to such policies;
- (c) the Nominee must not use the name, logo, trademark or service mark of the Company or its affiliates without the Company's prior written consent. Additionally, the Nominee must not issue any press release or make any other public statement regarding this document or the contemplated arrangement hereunder without the prior written consent of the Company;
- (d) the Nominee will keep any information of a confidential nature in confidence, apart from any disclosure as required by law; and
- (e) the Nominee will not appoint any other person to hold an Appointing Beneficiary's Separate Trust Property.

11. **Fees**

In consideration for the Nominee providing the services specified in this document, the Company agrees to pay to the Nominee the fees and expenses set out in the Fee Letter.

## 12. Duration of Separate Trusts

### 12.1 Commencement date

Each Separate Trust commences on the Effective Date.

### 12.2 Termination and termination date

A Separate Trust will terminate on the earlier of:

- (a) the date on which the Appointing Beneficiary is registered on the register of members held by the Company as the legal owner of any Shares which are Separate Trust Property of that Appointing Beneficiary's Separate Trust;
- (b) the date on which the Nominee ceases to be registered on the register of members held by the Company as the legal owner of all of the Shares which are Separate Trust Property of that Appointing Beneficiary's Separate Trust;
- (c) if the Company is wound-up, the date on which that proportion of the proceeds of realisation payable in respect of the Separate Trust Property held in an Appointing Beneficiary's Separate Trust is distributed to that Appointing Beneficiary or, if no proceeds of realisation are to be distributed to that Appointing Beneficiary, the date on which the Company is wound-up;
- (d) the date on which the Separate Trust is terminated by the operation of clause 13(a) or 8.1(b);
- (e) the date on which the Separate Trust is terminated by the operation of any applicable laws; and
- (f) the date that is eighty (80) years from the day before the Effective Date of the Separate Trust.

### 12.3 Termination of document for an Appointing Beneficiary

This document will terminate for an Appointing Beneficiary when each Separate Trust of that Appointing Beneficiary is terminated in accordance with clause 12.2.

## 13. Conversion and termination

- (a) If the Company applies to the Australian Securities and Investments Commission to change its type to a proprietary company at a time when it has more than 50 non-employee Appointing Beneficiaries:
  - (i) the bare trustee arrangements contemplated under this document will terminate on the date on which the change of company type takes effect (**Conversion Termination Date**); and
  - (ii) the Nominee must as soon as reasonably possible (and, in any event, before the Conversion Termination Date), transfer legal title in respect of the Separate Trust Property held by it to the relevant Appointing Beneficiaries who must be registered in the register of members of the Company as legal holders of such Separate Trust Property.
- (b) The provisions of clause 13(a) must not be amended or varied unless such amendment or variation has been approved by resolution by at least 75% of the votes cast by Appointing Beneficiaries where:
  - (i) only Appointing Beneficiaries can vote on the resolution;

- (ii) each Appointing Beneficiary is entitled to cast a vote for each Share held on trust for, or on behalf of it, under this document; and
- (iii) Part 2G.2 of the Corporations Act applies as if each Appointing Beneficiary were a member of the Company.

#### 14. **GST**

- (a) If GST is or will be payable on a supply made under or in connection with this document, to the extent that the consideration otherwise provided for that supply under this document is not stated to be inclusive of GST on that supply:
  - (i) the consideration otherwise provided for that supply under this document is increased by that amount of that GST as calculated by the party making the supply (**Supplier**) in accordance with GST Law (**Additional Amount**); and
  - (ii) the recipient must make payment of the Additional Amount as and when the consideration otherwise provided for, or any part of it, must be paid or provided or, if the consideration has already been paid or provided, within seven days of receiving a tax invoice from the Supplier.
- (b) If the amount of GST on a supply is or should be different from the Additional Amount already recovered by the Supplier, as appropriate, the Supplier within 14 days of becoming aware of the adjustment event:
  - (i) may recover from the recipient the amount by which the amount of GST on the supply exceeds the amount already recovered by giving seven days' written notice; or
  - (ii) must refund to the recipient the amount by which the amount already recovered exceeds the amount of GST on the supply to the extent that the Supplier is entitled to a refund or credit from the Commissioner of Taxation; and
  - (iii) must issue an adjustment note or tax invoice reflecting any adjustment event in relation to the supply to the recipient within 28 days of the adjustment event.
- (c) The right of the Supplier to recover any amount in respect of GST under this document is subject to the issuing of the relevant tax invoice or adjustment note to the recipient.
- (d) Any costs actually or estimated to be incurred or revenue actually or estimated to be earned or lost by a party that is required to be reimbursed or indemnified by another party or used as the basis for calculation of consideration for a supply under this document must exclude the amount of GST referable to the cost to the extent to which an entitlement arises or would arise to claim an input tax credit and in relation to revenue must exclude any amount in respect of GST referable to the revenue.

#### 15. **Notices**

##### 15.1 **Notices**

- (a) A notice, demand, consent or communication under this document (**Notice**) must be:

- (i) in writing, in English and signed by a person duly authorised by the sender; and
  - (ii) hand delivered or sent by prepaid post or email to the recipient's address for Notices specified in this clause, as varied by any Notice given by the recipient to the sender.
- (b) A notice, consent or other communication that complies with this clause takes effect when received (or at a later time specified in it), and is taken to be received:
- (i) if hand delivered, on delivery;
  - (ii) if sent by prepaid post, on the second Business Day after the date of posting (or on the seventh Business Day after the date of posting if posted to or from a place outside Australia); or
  - (iii) if sent by email, when sent by the sender unless the sender receives a delivery failure notification indicating that the email has not been delivered to the addressee,

but if the delivery by hand or transmission by email does not take place on a Business Day or takes place after 5.00pm on a Business Day, the Notice is taken to be received at 9.00am on the next Business Day.

- (c) A person's addresses are those set out below, or as the person otherwise notifies the sender (including through an Accession Deed Poll):

**The Company**

Address: Level 18, 644 Chapel Street, South Yarra, VIC 3141

Attention: Josh Ludski

Email: [jludski@rivercapital.com.au](mailto:jludski@rivercapital.com.au)

**The Nominee**

Address: Level 18, 123 Pitt Street, Sydney NSW 2000

Attention: Head of Custody

Email: [CCSCustody@perpetual.com.au](mailto:CCSCustody@perpetual.com.au)

**15.2 Appointment of Company as agent for notice**

- (a) The Company is hereby appointed as agent for each Appointing Beneficiary to receive notices out of or in connection with the subject matter of this document and any such notice served on the Company is taken to be served on the Appointing Beneficiary.
- (b) The Company and the Nominee agree that:
  - (i) the Nominee is not obligated to seek any Instructions, directions, consents or approvals directly from any Appointing Beneficiary directly but may do so through the Company; and

- (ii) the Company will take reasonable steps to ensure that any Instruction, direction, consent or approval of any Appointing Beneficiary will be provided through the Company to the Nominee.

## 16. **Amendment and assignment**

### 16.1 **Amendment**

This document can only be amended or replaced with, subject to clause 13(b), the written approval of the Nominee and the Company, and no amendment or replacement is effective to the extent that it results in any Separate Trust created under this document ceasing to be a bare trust.

### 16.2 **Assignment**

A party may only assign, encumber or otherwise deal with its rights under this document with the written consent of the Nominee and the Company.

## 17. **General**

### 17.1 **Governing law**

- (a) This document is governed by the law in force in the State of New South Wales.
- (b) Each party submits to the jurisdiction of the courts of the State of New South Wales and of any court that may hear appeals therefrom for any proceedings in connection with this document.

### 17.2 **Giving effect to documents**

Each party must do anything (including execute any document), and must ensure that its employees and agents do anything (including execute any document), that the other party may reasonably require to give full effect to this document.

### 17.3 **Variation of rights**

The exercise of a right partially or on one occasion does not prevent any further exercise of that right in accordance with the terms of this document. Neither a forbearance to exercise a right nor a delay in the exercise of a right operates as an election between rights or a variation of the terms of this document.

### 17.4 **Operation of this document**

- (a) Subject to clause 17.4(b), this document, the Constitution and any other document which governs or contemplates the arrangements contained in this document, contains the entire agreement between the parties about its subject matter. Any previous understanding, agreement, representation or warranty relating to that subject matter is replaced by this document and has no further effect.
- (b) Any provision of this document which is unenforceable or partly unenforceable is, where possible, to be severed to the extent necessary to make this document enforceable, unless this would materially change the intended effect of this document.

### 17.5 **Counterparts**

This document may be executed in counterparts.

# Schedule 1

## Form of Instruction

Date: [insert]

**Perpetual Corporate Trust Limited**

Level 18, 123 Pitt Street, Sydney NSW 2000

Attention: Head of Custody

Dear Sir

**Instruction regarding RCM RollCo Ltd**

This letter is an Instruction for the purposes of clause 3 of the Nominee Deed between Perpetual Corporate Trust Limited (**Nominee**) and RCM RollCo Ltd (**Company**), among others, dated [insert] 2024 (**Nominee Deed**).

Unless otherwise defined, capitalised terms used in this Instruction have the meaning given to them in the Nominee Deed.

In my capacity as an Appointing Beneficiary, I [insert name] provide the following instruction to the Nominee:

(a) [insert]; and

(b) [insert],

(the **Direction**).

The Appointing Beneficiary confirms that:

1. it is an Appointing Beneficiary pursuant to the Nominee Deed as at the date of this Instruction;
2. this letter is an Instruction given pursuant to the terms of the Nominee Deed;
3. this Instruction is binding on the Nominee;
4. it will ensure that the Nominee is able to comply with the Direction and/or the transaction contemplated by the Direction, and where necessary provide further Instructions to the Nominee to comply with the Direction;
5. by acting on this Instruction the Nominee is not doing, or refraining from doing, any act that would be inconsistent with the Appointing Beneficiary being absolutely entitled to its Separate Trust against the Nominee; and
6. this Instruction is irrevocable unless a further written notice is provided to the Nominee.

**Executed by** [insert]:

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## Schedule 2

### Accession Deed Poll

**THIS DEED** is made on 2024

#### **BETWEEN:**

- (1) **[Name of Party]** ABN/ACN/ARBN [number] whose registered office is at [address] (**Acceding Party**).

#### 1. **Definitions and interpretation**

##### 1.1 **Definitions**

Unless the contrary intention appears, these meanings apply.

**Accession Date** has the meaning given to it in clause 2.1.

**Continuing Party** means each party (whether an original party or a party by accession) to the Nominee Deed.

**Nominee Deed** means the Nominee Deed dated [insert date] between Perpetual Corporate Trust Limited (ACN 000 341 533), RCM RollCo Ltd (ACN 682 218 579) and the Appointing Beneficiaries (as that term is defined in that document) from time to time, as amended from time to time.

##### 1.2 **Interpretation**

Clauses 1.2 to 1.4 of the Nominee Deed apply to this document as if set out in full in this document.

##### 1.3 **Incorporated definitions**

Unless the contrary intention appears, a term which has a defined meaning in the Nominee Deed, has the same meaning when used in this document.

#### 2. **Accession**

##### 2.1 **Accession**

The Acceding Party accedes to the Nominee Deed as an Appointing Beneficiary on and from [insert relevant date] (**Accession Date**).

##### 2.2 **Rights and obligations of Acceding Party**

Upon accession to the Nominee Deed, the Acceding Party is bound by all the terms of the Nominee Deed from the Accession Date as if the Acceding Party was, from the Accession Date, a party to the Nominee Deed with all the rights and obligations of an Appointing Beneficiary.

#### 3. **Representations and warranties**

The Acceding Party represents and warrants to each Continuing Party:

- (a) **(status)** if it is not an individual, it has been incorporated or formed in accordance with the laws of its place of incorporation or formation, is validly existing under those laws and has power and authority to own its assets and carry on its business as it is now being conducted;

- (a) **(power)** it has power to enter into this document and the Nominee Deed, to comply with its obligations under this document and the Nominee Deed and exercise its rights under this document and the Nominee Deed;
- (b) **(no contravention)** the entry by it into, its compliance with its obligations and the exercise of its rights under, this document and the Nominee Deed does not and will not conflict with:
  - (i) if it is with an individual, its constituent documents or cause a limitation on its powers or the powers of its directors to be exceeded; or
  - (ii) any law binding on or applicable to it or its assets;
- (c) **(authorisations)** it has in full force and effect each authorisation necessary for it to enter into this document and the Nominee Deed, to comply with its obligations, and to allow this document and the Nominee Deed to be enforced;
- (d) **(validity of obligations)** its obligations under this document and the Nominee Deed are valid and binding and are enforceable against it in accordance with its terms; and
- (e) **(not insolvent)** it is not subject to any dissolution, liquidation, winding up or other termination event, nor any pending or threatened bankruptcy, insolvency or liquidation proceedings against it.

#### 4. Notices

##### 4.1 Address of Acceding Party for notices

For the purposes of the Nominee Deed the address of the Acceding Party to which all notices must be delivered is:

##### *Acceding Party*

**[Insert Acceding Party's name]:**

Address: **[insert address]**

Email: **[insert email address]**

Attention: **[insert name]**

#### 5. General

##### 5.1 Variation and waiver

A provision of this document, or right, power or remedy created under it, may not be varied or waived except in writing signed by the party to be bound.

##### 5.2 Amendment

This document may be amended only by a document signed by the Acceding Party, the Nominee and the Company.

##### 5.3 Assignment

The Acceding Party may not assign or otherwise deal with its rights under this document or allow any interest in them to arise or be varied without the written consent of the Nominee and the Company.



5.4 **Giving effect to documents**

Each party must do anything (including execute any document), and must ensure that its employees and agents do anything (including execute any document), that the other party may reasonably require to give full effect to this document.

5.5 **Severability**

Any provision of this document which is unenforceable or partly unenforceable is, where possible, to be severed to the extent necessary to make this document enforceable, unless this would materially change the intended effect of this document.

6. **Governing law and jurisdiction**

The law in force in New South Wales governs this document. The Acceding Party submits to the non-exclusive jurisdiction of the courts of that place.

Executed as a **deed poll**

***[Note: Appropriate execution blocks to be inserted for the Acceding Party]***

**SIGNED, SEALED AND DELIVERED** by  
**[NAME OF PARTY]:**

\_\_\_\_\_  
Signature of director

\_\_\_\_\_  
Signature of director/secretary

\_\_\_\_\_  
Name

\_\_\_\_\_  
Name

**SIGNED, SEALED AND DELIVERED** by  
**[NAME OF PARTY]:**

in the presence of:

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Signature of witness

\_\_\_\_\_  
Name

\_\_\_\_\_  
Name

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**EXECUTED** as a deed.

Each person who executes this document on behalf of a party under a power of attorney declares that he or she is not aware of any fact or circumstance that might affect his or her authority to do so under that power of attorney.

**Company**

**EXECUTED** by **RCM ROLLCO LTD:**

\_\_\_\_\_  
Signature of director

\_\_\_\_\_  
Signature of director/secretary

\_\_\_\_\_  
Name

\_\_\_\_\_  
Name

**Nominee**

**EXECUTED** by **PERPETUAL  
CORPORATE TRUST LIMITED ACN 000  
341 533** by its attorneys under power of  
attorney dated

\_\_\_\_\_  
in the presence of:

\_\_\_\_\_  
Signature of attorney

\_\_\_\_\_  
Signature of witness

\_\_\_\_\_  
Name and Title

\_\_\_\_\_  
Name

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## Schedule 3

### Matters requiring Required Resolution

1. **(Issuing Shares)** issuing Shares in the Company other than as contemplated by clause 10.2 of this document.
2. **(Selective capital reduction or share buy-back)** a capital reduction or share buy-back not applying equally to all Shareholders, other than:
  - (a) in connection with a Management Equity Plan;
  - (b) in connection with any person ceasing to be employed by the Target Group; and/or
  - (c) under clause 17, clause 18 or clause 19.
3. **(Shareholder rights)** any action which discriminates against, or selectively and adversely affects, Class B Shareholders (in that capacity) disproportionately relative to the Investor Shareholders (including any amendment to the Constitution or variation to the rights attaching to Shares).

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**EXECUTED** as a deed.

Each person who executes this document on behalf of a party under a power of attorney declares that he or she is not aware of any fact or circumstance that might affect his or her authority to do so under that power of attorney.

**SIGNED, SEALED and DELIVERED** by  
**RCM ROLLCO LIMITED** (ACN 682 218  
579) in accordance with section 127 of the  
*Corporations Act 2001* (Cth) by:

\_\_\_\_\_  
Signature of director

\_\_\_\_\_  
Name

\_\_\_\_\_  
Signature of director/secretary

\_\_\_\_\_  
Name

**SIGNED, SEALED and DELIVERED** by  
**RIVER CAPITAL PTY LTD** (ACN 073 531  
469) as trustee for **RIVER CAPITAL  
FOUNDERS FUND** in accordance with  
section 127 of the *Corporations Act 2001*  
(Cth) by:

\_\_\_\_\_  
Signature of director

\_\_\_\_\_  
Name

\_\_\_\_\_  
Signature of director/secretary

\_\_\_\_\_  
Name

**SIGNED, SEALED and DELIVERED** by  
**RIVER CAPITAL PTY LTD** (ACN 073 531  
469) as trustee for **RIVER CAPITAL  
DIVIDEND PLUS FUND** in accordance  
with section 127 of the *Corporations Act  
2001* (Cth) by:

\_\_\_\_\_  
Signature of director

\_\_\_\_\_  
Name

\_\_\_\_\_  
Signature of director/secretary

\_\_\_\_\_  
Name

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Annexure E

**RollCo Constitution**

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**Ashurst**

# Constitution of RCM RollCo Ltd

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11 November 2024

# Contents

1.	Preliminary.....	1
	1.1 Replaceable rules .....	1
	1.2 Definitions.....	1
	1.3 Interpretation of this document .....	3
	1.4 Application and priority of Shareholders Deed .....	3
	1.5 Director acting in compliance with Shareholders Deed .....	4
	1.6 Application and priority of Management Equity Plan .....	4
2.	Directors .....	4
	2.1 Number of directors.....	4
	2.2 Eligibility .....	5
	2.3 Appointment by the board .....	5
	2.4 Election by general meeting.....	5
	2.5 Eligible candidates .....	5
	2.6 Cessation of director's appointment.....	5
3.	Alternate directors .....	5
	3.1 Appointment of alternates .....	5
	3.2 Notice of Board meetings.....	6
	3.3 Obligations and entitlements of alternates.....	6
	3.4 Termination of appointment .....	6
	3.5 Appointments and revocations in writing .....	6
4.	Powers of the board .....	6
	4.1 Powers generally.....	6
	4.2 Exercise of powers.....	6
5.	Executing negotiable instruments .....	7
6.	Managing Director .....	7
	6.1 Appointment and power of Managing Director.....	7
	6.2 Termination of appointment of Managing Director.....	7
7.	Delegation of Board powers .....	7
	7.1 Power to delegate .....	7
	7.2 Power to revoke delegation.....	7
	7.3 Terms of delegation .....	7
	7.4 Proceedings of committees.....	8
8.	Directors' duties and interests .....	8
	8.1 Director can hold other offices etc .....	8
	8.2 Director interested in a matter .....	8
	8.3 Agreements with third parties.....	9
9.	Directors' remuneration .....	9
	9.1 Remuneration of Directors .....	9
	9.2 Additional remuneration for extra services.....	9
	9.3 Expenses of Directors .....	9
	9.4 Directors' retirement benefits .....	9
	9.5 Application of fixed amount.....	10
10.	Officers' indemnity and insurance .....	10

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10.1	Indemnity.....	10
10.2	Insurance.....	10
10.3	Former officers.....	11
10.4	Deeds.....	11
11.	Board meetings.....	11
11.1	Convening Board meetings.....	11
11.2	Notice of Board meeting.....	11
11.3	Use of technology.....	11
11.4	Chairing Board meetings.....	11
11.5	Quorum.....	11
11.6	Board decisions.....	12
11.7	Procedural rules.....	12
11.8	Written resolution.....	12
11.9	Additional provisions concerning written resolutions.....	12
11.10	Valid proceedings.....	12
12.	Meetings of members.....	13
12.1	Annual general meeting.....	13
12.2	Calling meetings of members.....	13
12.3	Notice of meeting.....	13
12.4	Short notice.....	13
12.5	Postponement or cancellation.....	13
12.6	Fresh notice.....	13
12.7	Notice to joint holders of shares.....	14
12.8	How meetings of members may be held.....	14
12.9	Accidental omission.....	14
12.10	Class meetings.....	14
13.	Proceedings at meetings of members.....	14
13.1	Member present at meeting.....	14
13.2	Quorum.....	14
13.3	Chairing meetings of members.....	15
13.4	Attendance at general meetings.....	15
13.5	Members rights suspended in certain circumstances.....	15
13.6	Adjournment.....	15
13.7	Business at adjourned meetings.....	16
13.8	Meetings of a class of members.....	16
14.	Proxies, attorneys and representatives.....	16
14.1	Appointment of proxies.....	16
14.2	Member's attorney.....	16
14.3	Deposit of proxy appointment forms, powers of attorney and proxy appointment authorities.....	16
14.4	Corporate representatives.....	17
14.5	Appointment for particular meeting, standing appointment and revocation.....	17
14.6	Position of proxy or attorney if member present.....	17
14.7	Priority of conflicting appointments of attorney or representative.....	17
14.8	More than two current proxy appointments.....	17
14.9	Continuing authority.....	17
15.	Entitlement to vote.....	18
15.1	Number of votes.....	18
15.2	Casting vote of chair.....	18
15.3	Votes of joint holders.....	18
15.4	Votes of transmittes and guardians.....	18



15.5	Voting restrictions.....	18
15.6	Decision on right to vote.....	19
16.	How voting is carried out and written resolutions.....	19
16.1	Method of voting and Direct Voting.....	19
16.2	Demand for a poll.....	19
16.3	When and how polls must be taken.....	19
16.4	Written resolutions.....	20
17.	Secretary.....	20
17.1	Appointment of Secretary.....	20
17.2	Terms and conditions of office.....	20
17.3	Cessation of Secretary's appointment.....	20
17.4	Removal from office.....	21
18.	Minutes.....	21
18.1	Minutes must be kept.....	21
18.2	Minutes as evidence.....	21
18.3	Inspection of minute books.....	21
19.	Execution of documents.....	21
19.1	General.....	21
19.2	Common seal.....	21
19.3	Use of seals.....	21
19.4	Fixing seals to documents.....	21
20.	Shares.....	22
20.1	Issue at discretion of Board.....	22
20.2	Preference Shares.....	22
20.3	Ordinary Shares which are designated as Class A Shares.....	23
20.4	Ordinary Shares which are designated as Class B Shares.....	24
20.5	Conversion or variation of rights of Class A or Class B.....	24
20.6	Surrender of shares.....	25
21.	Certificates.....	25
21.1	Issue of share certificate.....	25
22.	Register.....	25
22.1	Joint holders.....	25
22.2	Non-beneficial holders.....	25
23.	Partly paid shares.....	26
23.1	Fixed instalments.....	26
23.2	Prepayment of calls.....	26
23.3	Calls made by Board.....	26
23.4	Classes of shares.....	26
23.5	Obligation to pay calls.....	26
23.6	Called Amounts.....	26
23.7	Proof of call.....	27
23.8	Forfeiture notice.....	27
23.9	Forfeiture.....	27
23.10	Disposal and re-issue of forfeited shares.....	27
23.11	Notice of forfeiture.....	27
23.12	Cancellation of forfeiture.....	28
23.13	Effect of forfeiture.....	28
23.14	Application of proceeds.....	28
23.15	Title of new holder.....	28

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	23.16 Mortgage of uncalled capital .....	28
24.	Company liens.....	28
	24.1 Existence of liens .....	28
	24.2 Sale under lien .....	29
	24.3 Indemnity for payments required to be made by the Company .....	29
25.	Dividends.....	30
	25.1 Accumulation of reserves.....	30
	25.2 Payment of dividends.....	30
	25.3 Amount of dividend .....	30
	25.4 Prepayments and payments during dividend period.....	30
	25.5 Dividends in kind .....	30
	25.6 Payment of dividend by way of securities in another corporation.....	31
	25.7 Method of payment .....	31
	25.8 Joint holders' receipt .....	31
	25.9 Retention of dividends by Company .....	31
	25.10 No interest on dividends.....	31
26.	Share plans .....	31
	26.1 Implementing share plans .....	31
	26.2 Board obligations and discretions .....	32
27.	Transfer of shares .....	32
	27.1 Modes of transfer .....	32
	27.2 Delivery of transfer and certificate .....	32
	27.3 Refusal to register transfer.....	33
	27.4 Qualifications on restrictions on share transfers .....	33
	27.5 Transferor remains holder until transfer registered.....	33
	27.6 Powers of attorney .....	33
28.	Transmission of shares .....	34
	28.1 Death of joint holder .....	34
	28.2 Death of single holder .....	34
	28.3 Transmission of Shares on insolvency or mental incapacity .....	34
	28.4 Refusal to register holder .....	34
29.	Alteration of share capital.....	34
	29.1 Capitalisation of profits.....	34
	29.2 Adjustment of capitalised amounts .....	35
	29.3 Conversion of shares .....	35
	29.4 Adjustments on conversion.....	35
	29.5 Reduction of capital.....	35
	29.6 Payments in kind.....	36
	29.7 Payment in kind by way of securities in another corporation.....	36
	29.8 Variation of rights .....	36
30.	Winding up.....	37
	30.1 Entitlement of members .....	37
	30.2 Distribution of assets generally .....	37
	30.3 No distribution of liabilities.....	37
	30.4 Distribution not in accordance with legal rights.....	37
31.	Notices.....	37
	31.1 Overseas members.....	37
	31.2 When notice is given .....	37
	31.3 Notices to directors .....	38

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31.4	Notices to the Company.....	38
31.5	When a notice is deemed given.....	38
31.6	Notice to joint holders.....	39
32.	Unclaimed money.....	39

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# Constitution of RCM RollCo Ltd

## RCM RollCo Ltd

### 1. Preliminary

#### 1.1 Replaceable rules

The replaceable rules referred to in section 141 do not apply to the Company and are replaced by the rules set out in this document.

#### 1.2 Definitions

The following definitions apply in this document.

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

**Alternate** means an alternate Director appointed under rule 3.1.

**Appointor** in relation to an Alternate, means the Director who appointed the Alternate.

**Attending Member** means, in relation to a meeting of members (or a meeting of a class of members):

- (a) a member present at the meeting, in person or by proxy, by attorney or, where the member is a body corporate, by corporate representative
- (b) a member who has duly lodged a valid Direct Vote in relation to the meeting pursuant to the Direct Voting Rules; or
- (c) a member who participates in the meeting using any one or more of the Virtual Meeting Technologies used for the meeting.

**Board** means the Directors acting collectively under this document.

**Called Amount** in respect of a Share means:

- (a) the amount of a call on that Share which is due and unpaid; and
- (b) any amount the Board requires a member to pay under rule 23.6.

**Class A Share** means an Ordinary Share in the capital of the Company which is designated as a "Class A Share" and has the rights set out in this document and the Shareholders Deed.

**Class B Share** means an Ordinary Share in the capital of the Company which is designated as a "Class B Share" and has the rights set out in this document and the Shareholders Deed.

**Class B Shareholder** has the meaning given to that term in the Shareholders Deed.

**Class B Shareholder Meeting** has the meaning given to that term in the Shareholders Deed.

**Company** means the company named at the beginning of this document whatever its name is for the time being.

**Direct Vote** means a notice of a member's voting intention delivered to the Company in accordance with the Direct Voting Rules.

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**Direct Voting Rules** means any rules determined by the Board pursuant to rule 16.1(b).

**Director** means a person who is, for the time being, a director of the Company including, where appropriate, an Alternate.

**Interest Rate** means, in respect of each rule in which that term is used:

- (a) the rate for the time being prescribed by the Board in respect of that rule; or
- (b) if no rate is prescribed, 15% each year.

**Investor Shareholder** has the meaning given to that term in the Shareholders Deed.

**Management Equity Plan** has the meaning given to that term in the Shareholders Deed.

**Managing Director** means a managing director appointed under rule 6.1.

**member** means a person whose name is entered in the Register as the holder of a Share.

**Nominee Deed** has the meaning given to that term in the Shareholders Deed.

**ordinary resolution** means a resolution passed at a meeting of members (including by Direct Vote or by written resolution) by a majority of the votes cast by members entitled to vote on the resolution.

**Ordinary Shares** means a Class A Share, a Class B Share or any other ordinary share in the capital of the Company having the rights set out in this document. To avoid doubt and notwithstanding any other provision of this document or otherwise, while an ordinary share may have a separate designation (such as being a Class A Share, a Class B Share or otherwise), all ordinary shares irrespective of their designation are one and the same class.

**Register** means the register of members kept as required by sections 168 and 169.

**Secretary** means, during the term of that appointment, a person appointed as a secretary of the Company in accordance with this document.

**Security Interest** means a mortgage, charge, pledge, lien or other security interest securing any obligation of any person or any other agreement or arrangement having a similar effect, including any "security interest" as defined in sections 12(1) or (2) of the *Personal Property Securities Act 2009* (Cth).

**Share** means a share (of any class) in the capital of the Company.

**Shareholders Deed** means the Shareholders' Deed relating to the Company, entered into by the Company and its then members (and/or beneficial owners of the Company's Shares, if applicable) from time to time.

**special resolution** has the meaning given by section 9 (and includes a resolution passed by Direct Vote or by written resolution).

**Virtual Meeting Technology** means any technology (including online platforms) that allows a person to participate in a meeting without being physically present at the meeting.

**Voting Member** in relation to a general meeting, or meeting of a class of members, means a member who has the right to be present and to vote on at least one item of business to be considered at the meeting.

### 1.3 Interpretation of this document

Headings are for convenience only, and do not affect interpretation. The following rules also apply in interpreting this document, except where the context makes it clear that a rule is not intended to apply.

- (a) A reference to:
  - (i) legislation (including subordinate legislation) is to that legislation as amended, modified in relation to the Company, re-enacted or replaced, and includes any subordinate legislation issued under it;
  - (ii) a document or agreement, or a provision of a document or agreement, is to that document, agreement or provision as amended, supplemented, replaced or novated;
  - (iii) a person includes any type of entity or body of persons, whether or not it is incorporated or has a separate legal identity, and any executor, administrator or successor in law of the person; and
  - (iv) anything (including a right, obligation or concept) includes each part of it.
- (b) A singular word includes the plural, and vice versa.
- (c) A word which suggests one gender includes the other genders.
- (d) If a word is defined, another part of speech has a corresponding meaning.
- (e) If an example is given of anything (including a right, obligation or concept), such as by saying it includes something else, the example does not limit the scope of that thing.
- (f) The word **agreement** includes an undertaking or other binding arrangement or understanding, whether or not in writing.
- (g) A power to do something includes a power, exercisable in the like circumstances, to revoke or undo it.
- (h) A reference to a power is also a reference to authority or discretion.
- (i) A reference to something being **written** or **in writing** includes that thing being represented or reproduced in any mode in a visible form.
- (j) A word (other than a word defined in rule 1.2) which is defined by the Act has the same meaning in this document where it relates to the same matters as the matters for which it is defined in the Act.
- (k) A reference to a Chapter, Part, Division, or section is a reference to a Chapter, Part, Division or section of the Act.

### 1.4 Application and priority of Shareholders Deed

While the Shareholders Deed is in force:

- (a) this document must be read in conjunction with the Shareholders Deed. To the extent that this document and the Shareholders Deed deal with the same or a

similar topic differently, or if there is any inconsistency between this document and the Shareholders Deed, then the Shareholders Deed prevails to the extent of any inconsistency on that topic;

- (b) if it is necessary to include a provision in, or otherwise amend this document to ensure that a provision of the Shareholders Deed is effective in accordance with its terms, the members must do everything within their power to include such a provision or otherwise amend this document; and
- (c) the Company, each Director and each member must comply with the prevailing terms of the Shareholders Deed as if incorporated in this document (including for the avoidance of doubt clause 26 of the Shareholders Deed).

#### 1.5 **Director acting in compliance with Shareholders Deed**

While the Shareholders Deed is in force and a Director acts in accordance with the Shareholders Deed:

- (a) the fact that the Director has acted in accordance with the Shareholders Deed:
  - (i) is taken to be an act that is in the best interest of the Company as a whole; and
  - (ii) is not taken to be a breach of any duty owned by that Director to the Company or a breach of this document;
- (b) neither the Company nor the members may take any steps to pursue the Director for a breach of duty if the only basis for the breach is conduct permitted by this rule 1.5; and
- (c) if, contrary to rule 1.5(a), the conduct is a breach of duty or a breach of this constitution, to the extent permitted by law, each member must take all steps necessary to:
  - (i) consent to, excuse, ratify or authorise the breach; and
  - (ii) otherwise release the Director from any liability arising from the breach of duty or this document.

#### 1.6 **Application and priority of Management Equity Plan**

While any Management Equity Plan is in force, this document must be read in conjunction with any Management Equity Plan. If there is any inconsistency between this document and any Management Equity Plan, the Management Equity Plan prevails to the extent of any inconsistency.

## 2. **Directors**

### 2.1 **Number of directors**

- (a) Not counting Alternates, the Company must have at least three and not more than:
  - (i) if the Shareholders Deed is in force, the maximum number of Directors permitted under the Shareholders Deed; or
  - (ii) in any other circumstances, nine Directors.
- (b) Subject to the Shareholders Deed, the Board may from time to time determine to increase the maximum number of Directors.

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**2.2 Eligibility**

A Director need not be a member.

**2.3 Appointment by the board**

- (a) Subject to rule 2.1(a), if the Shareholders Deed is in force, a Director may only be appointed or removed in accordance with the applicable provisions in the Shareholders Deed.
- (b) If the Shareholders Deed is not in force, the Board may appoint a person to be a Director at any time except during a general meeting.

**2.4 Election by general meeting**

Subject to section 201E and to the number of Directors for the time being fixed under rule 2.1 not being exceeded, the Company may elect Directors by ordinary resolution.

**2.5 Eligible candidates**

Subject to rule 2.3 and 2.4, the Company in general meeting cannot validly elect a person as a Director unless:

- (a) the Board recommends the appointment; or
- (b) at least seven days (or any other period fixed by the Board) before the date of the meeting at which election is to occur, the Company receives both:
  - (i) a nomination of the person by a member (other than the person); and
  - (ii) a consent to act as a Director signed by the person.

The Company must notify members of every candidate for election as a Director at least seven days before the relevant general meeting.

**2.6 Cessation of director's appointment**

A person automatically ceases to be a Director if the person:

- (a) is not permitted by the Shareholders Deed to be a director;
- (b) is not permitted by the Act (or an order made under the Act) to be a director;
- (c) becomes disqualified from managing corporations under Part 2D.6 and is not given permission or leave to manage the Company under section 206F or 206G;
- (d) becomes of unsound mind or physically or mentally incapable of performing the functions of that office; and/or
- (e) resigns by notice in writing to the Company.

**3. Alternate directors****3.1 Appointment of alternates**

Subject to the Shareholders Deed, a Director (other than an Alternate) may appoint a person who is approved by the Board (without the vote of the Appointor) to act as Alternate for a specified period or each time the Appointor is unable to attend a Board meeting or act as a Director.

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**3.2 Notice of Board meetings**

If the Appointor requests the Company to give the Alternate notice of Board meetings, the Company must do so. Unless the Appointor has requested it, the Company need not give notice of Board meetings to an Alternate.

**3.3 Obligations and entitlements of alternates**

Subject to this document, the Shareholders Deed, the Act and the instrument of appointment of an Alternate, an Alternate:

- (a) may attend and vote in place of the Appointor at a Board meeting at which the Appointor is not present;
- (b) if also a Director, has a separate right to vote as Alternate;
- (c) if Alternate for more than one Appointor, has a separate right to vote in place of each Appointor;
- (d) when acting as Alternate, is an officer of the Company and subject to all the duties, and entitled to exercise all the powers and rights, of the Appointor as a Director; and
- (e) is entitled to reasonable travelling, accommodation and other expenses incurred in attending meetings of the Board or of the Company or while otherwise engaged on the business of the Company on the same basis as other Directors but is not entitled to any other remuneration from the Company (but the Appointor may further remunerate the Alternate).

**3.4 Termination of appointment**

The Appointor may at any time revoke the appointment of a person as an Alternate whether or not that appointment is for a specified period. Any appointment of an Alternate immediately ceases if:

- (a) the Appointor ceases to be a Director; or
- (b) an event occurs which would cause the Alternate to cease to be a Director under rule 2.6 if the Alternate were a Director.

**3.5 Appointments and revocations in writing**

The Appointor must appoint, and revoke the appointment of, any Alternate in writing. The appointment or revocation is not effective until a copy is provided to the Company.

**4. Powers of the board****4.1 Powers generally**

Except as otherwise required by the Act, any other applicable law, this document or the Shareholders Deed, the Board:

- (a) has power to manage the business of the Company; and
- (b) may exercise every right, power or capacity of the Company to the exclusion of the Company in general meeting and the members.

**4.2 Exercise of powers**

A power of the Board can be exercised only:

- (a) if the Shareholders Deed is in force, in accordance with the Shareholders Deed;

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- (b) otherwise, by resolution passed at a meeting of the Board or otherwise in accordance with rule 11; or
- (c) in accordance with a delegation of the power under rule 6 or 7.

## 5. **Executing negotiable instruments**

- (a) Any two Directors of the Company may sign, draw, accept, endorse or otherwise execute a negotiable instrument.
- (b) The Board may determine that a negotiable instrument may be signed, drawn, accepted, endorsed or otherwise executed in a different way (including by other persons or by the use of facsimile or electronic signatures).

## 6. **Managing Director**

### 6.1 **Appointment and power of Managing Director**

Subject to the Shareholders Deed, the Board may appoint one or more persons to be a Managing Director of the Company. Subject to this document and the Shareholders Deed, a Managing Director has all the duties, and can exercise all the powers and rights, of a Director and the Board may delegate (and revoke) any of the powers of the Board to a Managing Director as it considers fit.

This rule does not limit rule 7.

### 6.2 **Termination of appointment of Managing Director**

The appointment of a Managing Director terminates if:

- (a) the Managing Director ceases for any reason to be a Director; or
- (b) the Board removes the Managing Director from the office of Managing Director (which, without affecting the rights of the Managing Director under any contract between the Company and the Managing Director, the Board has power to do).

## 7. **Delegation of Board powers**

### 7.1 **Power to delegate**

Subject to the Shareholders Deed, the Board may delegate any of its powers as permitted by section 198D.

### 7.2 **Power to revoke delegation**

The Board may revoke a delegation previously made whether or not the delegation is expressed to be for a specified period.

### 7.3 **Terms of delegation**

Subject to the Shareholders Deed, a delegation of powers under rule 7.1 may be made:

- (a) for a specified period or without specifying a period; and
- (b) on the terms (including power to further delegate) and subject to any restrictions the Board decides.

A document of delegation may contain the provisions for the protection and convenience of those who deal with the delegate that the Board thinks appropriate.

**7.4 Proceedings of committees**

Subject to the terms on which a power of the Board is delegated to a committee, the meetings and proceedings of committees are, to the greatest extent practical, governed by the rules of this document which regulate the meetings and proceedings of the Board.

**8. Directors' duties and interests****8.1 Director can hold other offices etc**

Subject to the Shareholders Deed, a Director may:

- (a) hold any office or place of profit or employment other than that of the Company's auditor or any director or employee of the auditor;
- (b) be a member of any corporation (including the Company) or partnership other than the Company's auditor;
- (c) be a creditor of any corporation (including the Company) or partnership;
- (d) enter into any agreement with the Company; or
- (e) be a director or other officer of:
  - (i) a related body corporate;
  - (ii) a body corporate promoted by the Company; or
  - (iii) a body corporate in which the Company is interested, as shareholder or otherwise,

or be otherwise interested in any of those bodies corporate.

A Director is not accountable to the Company for any remuneration or other benefits received by the Director as a director or officer of that body corporate or from having an interest in that body corporate provided that the Director discloses the interest giving rise to those benefits if required by, and in accordance with the Act.

**8.2 Director interested in a matter**

- (a) Subject to the Shareholders Deed and to the extent it would not be contrary to the Act, a Director who is in any way interested in a matter, contract or arrangement (whether proposed or otherwise) may, despite that interest:
  - (i) be counted in determining whether or not a quorum is present at any meeting of directors considering that contract or arrangement or proposed contract or arrangement;
  - (ii) vote in respect of the contract or arrangement or proposed contract or arrangement or any matter arising out of those things; and
  - (iii) sign or countersign any document relating to that contract or arrangement or proposed contract or arrangement.
- (b) The Directors may exercise the voting rights conferred by shares in any body corporate held or owned by the Company as the Directors think fit. This includes voting in favour of any resolution appointing a Director as a director or other officer of that body corporate, or voting for the payment of remuneration to the directors or other officers of that body corporate. A Director may, if permitted by law, vote in favour of the exercise of those voting rights even if he or she is, or

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may be about to be appointed, a director or other officer of that other body corporate.

### 8.3 **Agreements with third parties**

The Company cannot avoid an agreement with a third party merely because a Director:

- (a) fails to make a disclosure of a conflict of interest or duty; or
- (b) is present at, or counted in the quorum for, a Board meeting that considers or votes on that agreement.

## 9. **Directors' remuneration**

### 9.1 **Remuneration of Directors**

Subject to the Shareholders Deed and any contract with the Company, the Board may fix the remuneration of each Director. That remuneration may consist of salary, bonuses, commission on profits or dividends, participation in profits or any other elements. The Directors are entitled to be paid, out of the funds of the Company, an amount of remuneration which:

- (a) does not in any year exceed in aggregate the amount last fixed by ordinary resolution;
- (b) is allocated among them on an equal basis having regard to the proportion of the relevant year for which each Director held office or as otherwise decided by the Board; and
- (c) is provided in the manner the Board decides, which may include provision of non-cash benefits.

### 9.2 **Additional remuneration for extra services**

Subject to the Shareholders Deed, if a Director, at the request of the Board and for the purposes of the Company, performs extra services or makes special exertions (including going or living away from the Director's usual residential address), the Company may pay that Director a fixed sum set by the Board for doing so. Remuneration under this rule may be either in addition to or in substitution for any remuneration to which that Director is entitled under rule 9.1.

### 9.3 **Expenses of Directors**

Subject to the Shareholders Deed, the Company must pay a Director (in addition to any remuneration) all reasonable expenses (including travelling and accommodation expenses) incurred by the Director:

- (a) in attending meetings of the Company, the Board, or a committee of the Board;
- (b) on the business of the Company; or
- (c) in carrying out duties as a Director.

### 9.4 **Directors' retirement benefits**

Subject to Division 2 of Part 2D.2 and the Shareholders Deed, the Company may:

- (a) agree with a Director or person about to become a Director that, when or after the person dies or otherwise ceases to be a Director, the Company will pay a pension or lump sum benefit to:
  - (i) that person; or

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- (ii) after that person's death, any of the surviving spouse, dependants or legal personal representatives of that person; or
- (b) pay such a pension or lump sum benefit whether or not the Company has agreed to do so.

#### 9.5 **Application of fixed amount**

For the purposes of rule 9.1, the maximum amount fixed by the Company as remuneration does not include any amount paid by the Company or a related body corporate:

- (a) to an executive director of the Company as remuneration;
- (b) to a superannuation, retirement or pension fund for a director so that the Company is not liable to pay the superannuation guarantee charge or similar statutory charge;
- (c) as a payment made as compensation for loss of office or in connection with retirement from office (which includes resignation from office and death while in office);
- (d) as an insurance premium paid by the Company or indemnity under rule 10;
- (e) for any issue or acquisition of securities; or
- (f) as a payment for costs or expenses.

### 10. **Officers' indemnity and insurance**

#### 10.1 **Indemnity**

Subject to any applicable law:

- (a) the Company may indemnify every officer of the Company and its related bodies corporate and may indemnify its auditor against any Liability incurred as such an officer or auditor to a person (other than the Company or a related body corporate) including a Liability incurred as a result of appointment or nomination by the Company or its related bodies corporate as a trustee or as an officer of another corporation (and including a Liability for negligence or for legal costs on a full indemnity basis); and
- (b) the Company may make a payment (whether by way of advance, loan or otherwise) in respect of legal costs incurred by an officer or employee or auditor in defending an action for a Liability incurred as such an officer, employee or auditor or in resisting or responding to actions taken by a government agency or a liquidator.

In this rule, **Liability** means a liability of any kind (whether actual or contingent and whether fixed or unascertained) and includes costs, damages and expenses, including costs and expenses incurred in connection with any investigation or inquiry by a government agency or a liquidator.

The indemnity in this rule operates only to the extent the Liability is not covered by insurance.

#### 10.2 **Insurance**

Subject to the Act and any other applicable law, the Company may enter into, and pay premiums on, a contract of insurance in respect of any person.

**10.3 Former officers**

The indemnity in favour of officers under rule 10.1 is a continuing indemnity. It applies in respect of all acts done by a person while an officer of the Company or one of its related bodies corporate even though the person is not an officer at the time the claim is made.

**10.4 Deeds**

Subject to any applicable law, the Company may, without limiting a person's rights under this rule 10, enter into an agreement with or execute a deed in favour of a person who is or has been an officer of the Company or any of the Company's subsidiaries, to give effect to the rights of the person under this rule 10 on any terms and conditions that the Board thinks fit.

**11. Board meetings****11.1 Convening Board meetings**

A Director may at any time, and a Secretary must on request from a Director, convene a Board meeting. If the Shareholders Deed is in force, the convening of a meeting must comply with the Shareholders Deed in respect of notice or any other requirements.

**11.2 Notice of Board meeting**

Subject to the Shareholders Deed, the convenor of each Board meeting:

- (a) must give reasonable notice of the meeting (and, if it is adjourned, of its resumption) individually to:
  - (i) each Director who is in Australia; and
  - (ii) each Alternate in respect of whom the Appointor has given notice under rule 3.2 requiring notice of Board meetings to be given to that Alternate or whose Appointor is not given notice due to being outside Australia; and
- (b) may give that notice orally (including by telephone) or in writing,

but accidental failure to give notice to, or non-receipt of notice by, a Director does not result in a Board meeting being invalid.

**11.3 Use of technology**

A Board meeting may be held using any means of audio or audio-visual communication by which each Director participating can hear and be heard by each other Director participating or in any other way permitted by section 248D. A Board meeting held solely or partly by technology is treated as held at the place at which the greatest number of the Directors present at the meeting is located or, if an equal number of Directors is located in each of two or more places, at the place where the chair of the meeting is located.

**11.4 Chairing Board meetings**

The Board may elect a Director to chair its meetings and decide the period for which that Director holds that office. If there is no chair of Directors or the chair is not present within 15 minutes after the time for which a Board meeting is called or is unwilling to act, the Directors present must elect a Director present to chair the meeting.

**11.5 Quorum**

- (a) If the Shareholders Deed is in force, a quorum for a meeting of the Board is as set out in the applicable provisions of the Shareholders Deed.

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- (b) If the Shareholders Deed is not in force, unless the Board decides otherwise, the quorum for a Board meeting is two Directors and a quorum must be present for the whole meeting. An Alternate who is also a Director or a person who is an Alternate for more than one Appointor may only be counted once toward a quorum.
- (c) A Director is treated as present at a meeting held by audio or audio-visual communication if the Director is able to hear and be heard by all others attending. If a meeting is held in another way permitted by section 248D, the Board must resolve the basis on which Directors are treated as present.

#### 11.6 **Board decisions**

- (a) If the Shareholders Deed is in force, a resolution of the Board is passed as set out in the applicable provisions of the Shareholders Deed.
- (b) If the Shareholders Deed is not in force, a resolution of the Board is passed if a majority of the votes cast by Directors entitled to vote on the resolution are in favour of it. The chair of a Board meeting does not have a casting vote. If an equal number of votes is cast for and against a resolution, the matter is decided in the negative.

#### 11.7 **Procedural rules**

Subject to this document, the Board may meet, adjourn and otherwise regulate its meetings as required by the Shareholders Deed and, in other cases, as it thinks fit.

#### 11.8 **Written resolution**

- (a) If the Shareholders Deed is in force, a resolution of the Board is also passed as a written resolution if the applicable provisions of the Shareholders Deed are complied with.
- (b) If all of the Directors entitled to receive notice of a Board meeting and to vote on the resolution sign a document containing a statement that they are in favour of the resolution set out in the document, a Board resolution in those terms is passed at the time when the last Director signs.

#### 11.9 **Additional provisions concerning written resolutions**

For the purpose of rule 11.8:

- (a) two or more separate documents in identical terms, each of which is signed by one or more Directors, are treated as one document;
- (b) signature of a document by an Alternate is not required if the Appointor of that Alternate has signed the document;
- (c) signature of a document by the Appointor of an Alternate is not required if that Alternate has signed the document in that capacity; and
- (d) a facsimile or electronic message containing the text of the document expressed to have been signed by a Director that is sent to the Company is a document signed by that Director at the time of its receipt by the Company.

#### 11.10 **Valid proceedings**

Each resolution passed or thing done by, or with the participation of, a person acting as a Director or member of a committee is valid even if it is later discovered that:

- (a) there was a defect in the appointment of the person; or

- (b) the person was disqualified from continuing in office, voting on the resolution or doing the thing.

## 12. Meetings of members

### 12.1 Annual general meeting

The Company must hold an annual general meeting as required by section 250N.

### 12.2 Calling meetings of members

- (a) A meeting of members may be convened at any time by the Board or as permitted by the Shareholders Deed.
- (b) No member may call or arrange to hold a meeting of members except where permitted under the Act or as permitted by the Shareholders Deed. If a general meeting is requested by members in accordance with section 249D or is required under section 250N, then the general meeting must be convened by the Board in accordance with section 249D or section 250N (as applicable).

### 12.3 Notice of meeting

Subject to the Shareholders Deed, rules 12.4 and 12.7, at least 21 days' written notice of a meeting of members must be given individually to:

- (a) each member (whether or not the member is entitled to vote at the meeting);
- (b) each Director (other than an Alternate); and
- (c) to the auditor.

Subject to any regulation made under section 249LA, the notice of meeting must comply with section 249L and may be given in any manner permitted by section 249J(3).

### 12.4 Short notice

Subject to the Shareholders Deed, sections 249H(3) and (4):

- (a) if the Company has elected to convene a meeting of members as the annual general meeting, if all the members entitled to attend and vote agree; or
- (b) otherwise, if members who together have power to cast at least 95% of the votes that may be cast at the meeting agree,

a resolution may be proposed and passed at a meeting of which less than 21 days' notice has been given.

### 12.5 Postponement or cancellation

Subject to the Shareholders Deed, sections 249D(5) and 250N, the Board may:

- (a) postpone a meeting of members;
- (b) cancel a meeting of members; or
- (c) change the place for a general meeting,

by notice given individually to each person entitled to be given notice of the meeting.

### 12.6 Fresh notice

If a meeting of members is postponed or adjourned for one month or more, the Company must give new notice of the resumed meeting.

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**12.7 Notice to joint holders of shares**

If a Share is held jointly, the Company need only give notice of a meeting of members (or of its cancellation or postponement) to the joint holder who is named first in the Register.

**12.8 How meetings of members may be held**

The Company may hold a meeting of its members:

- (a) at one or more physical venues;
- (b) at one or more physical venues and using Virtual Meeting Technology; or
- (c) using Virtual Meeting Technology only,

as determined by the convenor of the meeting.

**12.9 Accidental omission**

The accidental omission to give notice to, or the non-receipt of notice by, any of those entitled to it does not invalidate any resolution passed at a meeting of members.

**12.10 Class meetings**

Rules 12 to 16 apply to a separate meeting of a class of members as far as they are capable of application and modified as necessary.

**13. Proceedings at meetings of members****13.1 Member present at meeting**

- (a) A member who attends the meeting (whether at a physical venue or by using Virtual Meeting Technology) is taken for all purposes to be present in person at the meeting while so attending.
- (b) If a member has appointed a proxy or attorney or (in the case of a member which is a body corporate) a representative to act at a meeting of members, that member is taken to be present at a meeting at which the proxy, attorney or representative is present.

**13.2 Quorum**

- (a) Subject to section 249B, if the Shareholders Deed is in force, quorum for a meeting of members (including a re-convened meeting of members) is that set out in the Shareholders Deed.
- (b) If the Shareholders Deed is not in force, quorum for a meeting of members is 2 members entitled to vote (or if only 1 member is entitled to vote, that member), and if a quorum is not present within 15 minutes after the time for which a meeting of members is called:
  - (i) if called as a result of a request of members under section 249D, the meeting is dissolved; and
  - (ii) in any other case:
    - (A) the meeting is adjourned to the day, time and place that the Board decides and notifies to members, or if no decision is notified before then, to the same time on the same day in the next week at the same place; and

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- (B) if a quorum is not present at the adjourned meeting, the meeting is dissolved.

Each individual present may only be counted once toward a quorum. If a member has appointed more than one proxy or representative only one of them may be counted toward a quorum.

### 13.3 Chairing meetings of members

- (a) If the Shareholders Deed is in force, the chair of a meeting of members is as set out in the Shareholders Deed.
- (b) If the Shareholders Deed is not in force, if the Board has appointed a Director to chair Board meetings, that Director may also chair meetings of members. If:
- (i) there is no Director who the Board has appointed to chair Board meetings for the time being; or
- (ii) the Director appointed to chair Board meetings is not present at the time for which a meeting of members is called or is not willing to chair the meeting,

the Voting Members present must elect a member or Director present to chair the meeting.

### 13.4 Attendance at general meetings

- (a) Subject to this document, the Shareholders Deed and any rights and restrictions attached to a class of Shares, every member has the right to attend all meetings of members whether or not entitled to vote.
- (b) Every Director has the right to attend and speak at all meetings of members whether or not a member.
- (c) The auditor has the right to attend any meeting of members and to speak on any part of the business of the meeting which concerns the auditor in the capacity of auditor.

### 13.5 Members rights suspended in certain circumstances

- (a) If a call on a Share is due and unpaid, the holding of that Share does not entitle the member to be present, speak or vote at, or be counted in the quorum for, a meeting of members.
- (b) The rights of members to be present, speak or vote at, or be counted in the quorum for a meeting of members are also suspended in circumstances where the Shareholders Deed provides for their suspension.

### 13.6 Adjournment

Subject to the Shareholders Deed and to rule 12.6, the chair of a meeting of members at which a quorum is present:

- (a) may; and
- (b) must, if directed by ordinary resolution of the meeting,

adjourn it to another time and place.

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**13.7 Business at adjourned meetings**

The only business that may be transacted at a meeting resumed after an adjournment is the business left unfinished immediately before the adjournment.

**13.8 Meetings of a class of members**

- (a) Subject to the Shareholders Deed, all the provisions of this document relating to a meeting of members apply so far as they are capable of application and with any necessary changes to a meeting of a class of members required to be held pursuant to this document or the Act.
- (b) For this purpose, and other than for Class B Shareholder Meetings, all Ordinary Shares, irrespective of their designation, are a single class such that the members holding Ordinary Shares shall meet and vote together as a single class.

**14. Proxies, attorneys and representatives****14.1 Appointment of proxies**

Each member may appoint a proxy to attend and act for the member at a meeting of members. If the member is entitled to cast two or more votes at the meeting, the member may appoint two proxies to attend and act for the member at a meeting of members. An appointment of proxy must be made by written notice to the Company that:

- (a) complies with section 250A(1) or is made pursuant to the Shareholders Deed; or
- (b) is in a form and mode, and is signed or otherwise authenticated by the member in a manner, satisfactory to the Board.

If a member appoints two proxies and the appointment does not specify the proportion or number of the member's votes each proxy may exercise, each proxy may exercise half of those votes.

**14.2 Member's attorney**

- (a) A member may appoint an attorney to act, or to appoint a proxy to act, at a meeting of members.
- (b) If the Shareholders Deed is in force, the members of the Company have granted the attorney appointments contemplated by the Shareholders Deed and the Nominee Deed.

**14.3 Deposit of proxy appointment forms, powers of attorney and proxy appointment authorities**

An appointment of a proxy or an attorney is not effective for a particular meeting of members unless:

- (a) in the case of a proxy, the proxy appointment form and, if it is executed or otherwise authenticated in a manner prescribed by a regulation made for the purposes of section 250A(1) by an attorney that was not granted pursuant to the terms of the Shareholders Deed or the Nominee Deed, the relevant power of attorney or other authority under which the appointment was authenticated or a certified copy of it; and
- (b) in the case of an attorney that was not granted pursuant to the terms of the Shareholders Deed or the Nominee Deed, the power of attorney or a certified copy of it,

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are received by the Company in accordance with section 250B(3) at least 48 hours before the time for which the meeting was called or, if the meeting has been adjourned, before the resumption of the meeting.

**14.4 Corporate representatives**

A member that is a body corporate may appoint an individual to act as its representative at meetings of members as permitted by section 250D.

**14.5 Appointment for particular meeting, standing appointment and revocation**

Subject to the Shareholders Deed and the Nominee Deed, a member may appoint a proxy, attorney or representative to act at a particular meeting of members or make a standing appointment and may revoke any appointment. A proxy, attorney or representative may, but need not, be a member.

**14.6 Position of proxy or attorney if member present**

Subject to the Shareholders Deed and the Nominee Deed, the appointment of a proxy or attorney is not revoked by the member attending and taking part in the general meeting, but if the member votes on a resolution, the proxy or attorney is not entitled to vote, and must not vote, as the member's proxy or attorney on the resolution.

**14.7 Priority of conflicting appointments of attorney or representative**

Subject to the Shareholders Deed and the Nominee Deed, if more than one attorney or representative appointed by a member is present at a meeting of members and the Company has not received notice of revocation of any of the appointments:

- (a) an attorney or representative appointed to act at that particular meeting may act to the exclusion of an attorney or representative appointed under a standing appointment; and
- (b) subject to rule 14.7(a), an attorney or representative appointed under a more recent appointment may act to the exclusion of an attorney or representative appointed earlier in time.

**14.8 More than two current proxy appointments**

An appointment of proxy by a member is revoked (or, in the case of a standing appointment, suspended for that particular meeting) if the Company receives a further appointment of proxy from that member which would result in there being more than two proxies of that member entitled to act at a meeting. The appointment of proxy made first in time is the first to be treated as revoked or suspended by this rule.

**14.9 Continuing authority**

An act done at a meeting of members by a proxy, attorney or representative is valid even if, before the act is done, the appointing member:

- (a) dies or becomes mentally incapacitated;
- (b) becomes bankrupt or an insolvent under administration or is wound up;
- (c) revokes the appointment or revokes the authority under which the appointment was made by a third party; or
- (d) transfers the Share to which the appointment relates,

unless the Company has received written notice of the matter before the start or resumption of the meeting at which the vote is cast.

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**15. Entitlement to vote****15.1 Number of votes**

Subject to sections 250BB(1) and 250BC, rules 13.6, 14, 15.3, 15.4 and 15.5, the Shareholders Deed and the terms on which Shares are issued:

- (a) on a show of hands:
  - (i) if a member has appointed two proxies, neither of those proxies may vote;
  - (ii) a member who is present and entitled to vote and is also a proxy, attorney or representative of another member has one vote; and
  - (iii) subject to paragraphs (a)(i) and (a)(ii), every individual present who is a member, or a proxy, attorney or representative of a member, entitled to vote has one vote; and
- (b) on a poll, a member has one vote for every Share held.

**15.2 Casting vote of chair**

The chair of a meeting of members does not have a casting vote. If an equal number of votes is cast for and against a resolution the matter is decided in the negative.

**15.3 Votes of joint holders**

If there are joint holders of a Share, any one of them may vote at a meeting of members, in person or by proxy, attorney or representative, as if that holder were the sole owner of the Share. If more than one of the joint holders of a Share (including, for the purposes of this rule, joint legal personal representatives of a dead member) are present at a meeting of members, in person or by proxy, attorney or representative, and tender a vote in respect of the Share, the Company may only count the vote cast by, or on behalf of, the most senior joint holder who tenders a vote. For this purpose, seniority depends on the order in which the names of the joint holders are listed in the Register.

**15.4 Votes of transmittees and guardians**

Subject to section 1072C, if the Board is satisfied at least 48 hours before the time fixed for a meeting of members, that a person:

- (a) is entitled to the transmission of a Share under rule 28; or
- (b) has power to manage a member's property under a law relating to the management of property of the mentally incapable,

that person may vote as if registered as the holder of the Share and the Company must not count the vote (if any) of the actual registered holder.

**15.5 Voting restrictions**

If:

- (a) the Shareholders Deed or the Act requires that some members are not to vote on a resolution, or that some members' right to vote is suspended, or that votes cast by some members be disregarded, in order for the resolution to have an intended effect; and
- (b) the notice of the meeting at which the resolution is proposed states that fact,

those members have no right to vote on that resolution and the Company must not count any votes purported to be cast by those members. If a proxy purports to vote in a

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way or in circumstances that contravene section 250BB(1), on a show of hands the vote is invalid and the Company must not count it and on a poll rule 16.3(c) applies.

#### 15.6 **Decision on right to vote**

A Voting Member or Director may challenge a person's right to vote at a meeting of members. A challenge may only be made at the meeting. A challenge, or any other doubt as to the validity of a vote, must be decided by the chair, whose decision is final.

### 16. **How voting is carried out and written resolutions**

#### 16.1 **Method of voting and Direct Voting**

- (a) A resolution put to the vote at a meeting of members must be decided on a show of hands unless a poll is demanded under rule 16.2 either before or on declaration of the result of the vote on a show of hands. Unless a poll is demanded, the chair's declaration of a decision on a show of hands is final.
- (b) The Board may determine that members entitled to attend and vote at a meeting of members or a meeting of a class of members may vote at that meeting without an Attending Member in respect of that person being present at that meeting (and voting in this manner is referred to in this rule 16.1(b) as **Direct Voting**). The Board may determine rules and procedures in relation to Direct Voting, including the class of members entitled to cast a Direct Vote, the manner in which a Direct Vote may be cast, the circumstances in which a Direct Vote will be valid and the effect of a member casting both a Direct Vote and a vote in any other manner. Where a notice of meeting specifies that Direct Voting may occur by eligible members, a Direct Vote cast by an eligible member is taken to have been cast by that person at the meeting if the rules and procedures for Direct Voting determined by the Board (whether set out in the notice of meeting or otherwise) are complied with.

#### 16.2 **Demand for a poll**

A poll may be demanded on any resolution (except a resolution concerning the election of the chair of a meeting) by:

- (a) at least five members entitled to vote on the resolution; or
- (b) members entitled to cast at least 5% of the votes that may be cast on the resolution on a poll (worked out as at the midnight before the poll is demanded); or
- (c) the chair.

The demand for a poll does not affect the continuation of the meeting for the transaction of other business and may be withdrawn.

#### 16.3 **When and how polls must be taken**

If a poll is demanded:

- (a) if the resolution is for the adjournment of the meeting, the poll must be taken immediately and, subject to rule 16.3(c), in the manner that the chair of the meeting directs;
- (b) in all other cases, the poll must be taken at the time and place and, subject to rule 16.3(c), in the manner that the chair of the meeting directs;

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- (c) votes which sections 250BB(1) or 250BC require to be cast in a given way must be treated as cast in that way;
- (d) a person voting who has the right to cast two or more votes need not cast all those votes and may cast those votes in different ways; and
- (e) the result of the poll is the resolution of the meeting at which the poll was demanded.

#### 16.4 **Written resolutions**

- (a) If the Shareholders Deed is in force, the Company may pass a resolution without a general meeting being held in accordance with the terms of the Shareholders Deed.
- (b) If the Shareholders Deed is not in force, the Company may pass a resolution without a general meeting being held if the number of members as would be required to pass the resolution sign a document containing a statement that they are in favour of a resolution set out in that document, and the resolution is taken to be passed when the last person satisfying the relevant number of members signs the document.
- (c) The passage of a resolution in accordance with this rule 16.4 satisfies any requirement in the Act, or in this document, that the resolution be passed at a general meeting.

### 17. **Secretary**

#### 17.1 **Appointment of Secretary**

The Board:

- (a) must appoint at least one individual; and
- (b) may appoint more than one individual,

to be a Secretary either for a specified term or without specifying a term.

#### 17.2 **Terms and conditions of office**

A Secretary holds office on the terms (including as to remuneration) that the Board decides. The Board may vary any decision previously made by it in respect of a Secretary.

#### 17.3 **Cessation of Secretary's appointment**

A person automatically ceases to be a Secretary if the person:

- (a) is not permitted by the Act (or an order made under the Act) to be a secretary of a company;
- (b) becomes disqualified from managing corporations under Part 2D.6 and is not given permission or leave to manage the Company under section 206F or 206G;
- (c) becomes of unsound mind or physically or mentally incapable of performing the functions of that office;
- (d) resigns by notice in writing to the Company; or
- (e) is removed from office under rule 17.4.

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#### 17.4 **Removal from office**

The Board may remove a Secretary from that office whether or not the appointment was expressed to be for a specified term.

### 18. **Minutes**

#### 18.1 **Minutes must be kept**

Minutes of:

- (a) proceedings and resolutions of meetings of the Company's members;
- (b) the names of Directors present at each Board meeting or committee meeting;
- (c) proceedings and resolutions of Board meetings (including meetings of a committee to which Board powers are delegated under rule 7);
- (d) resolutions passed by Directors without a meeting; and
- (e) disclosures and notices of Directors' interests,

must be kept in accordance with sections 191, 192 and 251A.

#### 18.2 **Minutes as evidence**

A minute recorded and signed in accordance with section 251A is evidence of the proceeding, resolution or declaration to which it relates unless the contrary is proved.

#### 18.3 **Inspection of minute books**

The Company must allow members to inspect, and provide copies of, the minute books for the meetings of members in accordance with section 251B.

### 19. **Execution of documents**

#### 19.1 **General**

- (a) The Company may sign or execute a document (including a deed) as set out in section 127.
- (b) Without limiting the ways a person may sign a document, a document to which Division 1 of Part 1.2AA of the Act applies may be signed by a person in accordance with that Division.

#### 19.2 **Common seal**

The Board:

- (a) may decide whether or not the Company has a common seal; and
- (b) is responsible for the safe custody of that seal (if any) and any duplicate seal it decides to adopt under section 123(2).

#### 19.3 **Use of seals**

The common seal and duplicate seal (if any) may only be used with the authority of the Board. The Board must not authorise the use of a seal that does not comply with section 123.

#### 19.4 **Fixing seals to documents**

The fixing of the common seal, or any duplicate seal, to a document must be witnessed:

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- (a) as set out in section 127(2); or
- (b) as otherwise authorised by the Board.

## 20. Shares

### 20.1 Issue at discretion of Board

- (a) Subject to the Act, Shareholders Deed and any rights and restrictions attached to a class of Shares or other securities, the Board may, on behalf of the Company, issue, grant options over or otherwise dispose of, unissued shares to any person on the terms, with the rights, and at the times that the Board decides.
- (b) An issue of any class of Shares in accordance with this document and, if applicable, the Shareholders Deed will not constitute a variation of the rights attaching to any other Shares.

### 20.2 Preference Shares

- (a) Subject to the Shareholders Deed, the Company may issue preference shares and may convert any issued Shares into preference shares, from time to time. Preference shares have the following rights and restrictions:
  - (i) **repayment of capital:** the right in priority to any other class of shares to repayment of the amount paid on the preference share:
    - (A) in a winding up or reduction of capital; and
    - (B) in the case of a redeemable preference share, on redemption;
  - (ii) **dividends:** the right to payment of a cumulative preferential dividend in priority to the payment of a dividend on any other class of shares, accruing from day to day and payable on the amount paid on the preference share at the time and at the rate, which may be fixed or variable, specified or determined under the terms of issue;
  - (iii) **accrued dividends:** the right in priority to any other class of shares to the amount of any dividend accrued but unpaid on the preference share:
    - (A) in a winding up or reduction of capital; and
    - (B) in the case of a redeemable preference share, on redemption;
  - (iv) **participation in surplus assets and profits:** no rights to participate in the profits or property of the Company other than as set out in this rule 20.2 whether on a winding up, reduction of capital or, in the case of a redeemable preference share, on redemption;
  - (v) **voting:** has no right to attend or vote at any meeting of members except in the following circumstances:
    - (A) while a dividend or part of a dividend in respect of the preference share is unpaid;
    - (B) on a proposal to reduce the Company's share capital;
    - (C) on a resolution to approve the terms of a buy-back agreement;
    - (D) on a proposal that affects rights attached to the Share;

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- (E) on a proposal to wind up the Company;
  - (F) on a proposal for the disposal of the whole of the Company's property, business and undertaking; and
  - (G) during the winding up of the Company.
- (vi) **redemption:** in the case of a redeemable preference share, the right to require the Company to redeem the preference share at the time and place specified under the terms of issue; and
- (vii) **restrictions:** any other restrictions specified in the terms of issue.
- (b) An issue of preference shares in accordance with this document and, if applicable, the Shareholders Deed will not constitute a variation of the rights attaching to any other class of Shares.

### 20.3 Ordinary Shares which are designated as Class A Shares

- (a) Class A Shares are a separate designation (but not a separate class) of Ordinary Shares that may be issued by the Company. To avoid doubt, Class A Shares are Ordinary Shares and form one and the same class of Shares with all other designations of Ordinary Shares.
- (b) The provisions of this document and the Shareholders Deed (if in force) apply to Class A Shares.
- (c) A Class A Share shall be redesignated in the circumstances provided for such redesignation in the Shareholders Deed.
- (d) A Class A Share is convertible or variable in accordance with rule 29.3 and rule 29.8, respectively, in the circumstances provided for such conversion or variation in the Shareholders Deed.
- (e) Relevantly:
  - (i) Class A Shares are a separate designation for Ordinary Shares held by the Investor Shareholders (unless the Investor Shareholders determine otherwise).
  - (ii) Each Class A Share when issued will rank equally in all respects with each other Ordinary Share.
  - (iii) Class A Shares confer the following rights to the holders thereof, in each case, subject to the terms of the Shareholders Deed and the Act:
    - (A) **attending general meetings:** the right to:
      - (aa) receive notice of a general meeting; and
      - (bb) attend the general meeting;
    - (B) **voting:** the right to vote with such number of votes being equivalent to the number of fully paid Class A Shares held by it;
    - (C) **dividends:** the right to participate in dividends declared in relation to Ordinary Shares; and
    - (D) **other rights:** all other rights of holders of Class A Shares specified in the Shareholders Deed or otherwise provided for under the Act.

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- (f) For the avoidance of doubt, any reference in the Company's documents to "Ordinary Shares" shall mean to include "Class A Shares".

#### 20.4 **Ordinary Shares which are designated as Class B Shares**

- (a) Class B Shares are a separate designation (but not a separate class) of Ordinary Shares that may be issued by the Company. To avoid doubt, Class B Shares are Ordinary Shares and form one and the same class of Shares with all other designations of Ordinary Shares.
- (b) The provisions of this document and the Shareholders Deed (if in force) apply to Class B Shares.
- (c) A Class B Share shall be redesignated in the circumstances provided for such redesignation in the Shareholders Deed.
- (d) A Class B Share is convertible or variable in accordance with rule 29.3 and rule 29.8, respectively, in the circumstances provided for such conversion or variation in the Shareholders Deed.
- (e) Relevantly:
- (i) Class B Shares are a separate designation for Ordinary Shares held by Class B Shareholders.
  - (ii) Each Class B Share when issued will rank equally in all respects with each other Ordinary Share.
  - (iii) Class B Shares confer the following rights to the holders thereof, in each case, subject to the terms of the Shareholders Deed and the Act:
    - (A) **attending general meetings:** the right to:
      - (aa) receive notice of a general meeting; and
      - (bb) attend the general meeting;
    - (B) **voting:** the right to vote with such number of votes being equivalent to the number of fully paid Class B Shares held by it;
    - (C) **dividends:** the right to participate in dividends declared in relation to Ordinary Shares; and
    - (D) **other rights:** all other rights of holders of Class B Shares specified in the Shareholders Deed or otherwise provided for under the Act.
- (f) For the avoidance of doubt, any reference in the Company's documents to "Ordinary Shares" shall mean to include "Class B Shares".

#### 20.5 **Conversion or variation of rights of Class A or Class B**

- (a) Subject to the Shareholders Deed and any Management Equity Plan, the Board may convert or vary any of the rights attaching to the Class A Shares or the Class B Shares at any time by resolution of the Board (a **Share Term Variation**), with the Share Term Variation being effective from the date the applicable resolution was passed by the Board, so long as each affected member has been given notice of such Share Term Variation within seven days of the resolution of the board of directors effectuating such Share Term Variation. Each affected member will be deemed to have automatically consented to any such Share Term Variation.

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- (b) Notwithstanding any other provision of this document, if the Investor Shareholders have submitted a Drag Notice (as that term is defined under the Shareholders Deed) that requires such member receiving the Drag Notice (as that term is defined in the Shareholders Deed) to convert or vary their Shares into Class A Shares prior to a sale of those Shares to a third party, such Shares may be re-classified as Class A Shares as determined by the Investor Shareholders and any such re-classification will not require the consent of any other member of the Company, and to the extent any such consent is required under the Act, each such member will be deemed to have automatically consented to such re-classification.

## 20.6 **Surrender of shares**

The Board may accept a surrender of Shares:

- (a) to compromise a question as to whether those Shares have been validly issued; or
- (b) if surrender is otherwise within the Company's powers.

The Company may sell or re-issue surrendered Shares in the same way as forfeited Shares.

## 21. **Certificates**

### 21.1 **Issue of share certificate**

Subject to the Act, the Company may issue a certificate of title to Shares, cancel any certificates of title for Shares, and replace lost or destroyed or defaced certificates of title to Shares, on the basis and in the form which the Board resolves.

## 22. **Register**

### 22.1 **Joint holders**

If the Register names two or more joint holders of a Share, the Company may treat only the person named first in the Register in respect of that Share as the sole owner of it for all purposes (including the giving of notice) except in relation to:

- (a) the right to vote (to which rule 15.3 applies);
- (b) the power to give directions as to payment of, or a receipt for, dividends (to which rules 25.7 and 25.8 apply);
- (c) liability for instalments or calls (which, subject to section 1072E(8), is joint and several); and
- (d) transfers of that Share.

### 22.2 **Non-beneficial holders**

Subject to sections 169(5A) and 1072E, unless otherwise ordered by a court of competent jurisdiction or required by statute, the Company:

- (a) may treat the registered holder of any Share as the absolute owner of it; and
- (b) need not recognise any equitable or other claim to or interest in a Share by any person except a registered holder.

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**23. Partly paid shares****23.1 Fixed instalments**

If a Share is issued on terms that some or all of the issue price is payable by instalments, the registered holder of the Share must pay every instalment to the Company when due. If the registered holder does not do so, rules 23.6 to 23.15 apply as if the registered holder had failed to pay a call.

**23.2 Prepayment of calls**

The Board may:

- (a) accept prepayment of some or all of the amount unpaid on a Share above the sums actually called as a payment in advance of calls;
- (b) agree:
  - (i) to payment by the Company of interest at a rate no higher than the Interest Rate on that part of the advance payment which for the time being exceeds the aggregate amount of the calls then made on the Shares in respect of which it was paid; or
  - (ii) that the amount paid in advance will be taken into account in calculating participation in profit or ascertaining entitlement to surplus on a winding up or other distributions attributable to that Share; and
- (c) unless otherwise agreed between the member and the Company, repay the sum or part of it.

**23.3 Calls made by Board**

Subject to the terms of issue of a Share, the Board may:

- (a) make calls on a member for some or all of the money unpaid on a Share held by that member;
- (b) make a call payable by instalments; and
- (c) revoke or postpone a call before the due date for payment,

and must give the relevant member written notice of the call specifying to whom the call must be paid and the time for payment (which must be at least 14 days after the notice is given).

**23.4 Classes of shares**

The Board may issue Shares on terms as to the amount of calls to be paid and the time for payment of those calls which are different as between the holders of those Shares. The Board may make different calls on different classes of Shares.

**23.5 Obligation to pay calls**

Subject to section 1072E(8), a member subject to a call must pay the amount of the call to the payee named in the notice of call no later than the time specified in the notice. Joint holders of a Share are jointly and severally liable for calls.

**23.6 Called Amounts**

- (a) If a call is not paid on or before the day specified for payment, the Board may require the member liable for the call to pay:

- (i) interest on the amount of the call at the Interest Rate from that day until payment is made; and
  - (ii) all costs and expenses incurred by the Company because payment was not made on that day.
- (b) The Board may, to the extent permitted by law, waive or comprise all or any part of any payment due to the Company of a Called Amount.

### 23.7 **Proof of call**

If on the hearing of an action for recovery of a Called Amount it is proved that:

- (a) the minute books of the Company record the Board's resolution making the call;
- (b) notice of the call was given under rules 23.3 and 31; and
- (c) the person sued appears in the Register as a holder of the Share in respect of which the call was made,

proof of those matters is conclusive proof of the debt.

### 23.8 **Forfeiture notice**

At any time until a Called Amount is paid, the Board may give the relevant member a notice which:

- (a) requires the member to pay the Called Amount;
- (b) states the Called Amount at the date of the notice;
- (c) specifies how to calculate the Called Amount when payment is made;
- (d) specifies a date at least 14 days after the date of the notice by which and a place at which payment must be made; and
- (e) states that if payment is not made at that place on or before that date, the Share to which the call relates is liable to be forfeited.

### 23.9 **Forfeiture**

If the requirements of a notice given under rule 23.8 are not satisfied, the Board may forfeit the Share in respect of which that notice was given (and all dividends, interest and other money payable in respect of that Share and not actually paid before the forfeiture) by resolution passed before the Called Amount is paid.

### 23.10 **Disposal and re-issue of forfeited shares**

A Share forfeited under rule 23.9 immediately becomes the property of the Company and the Board, on behalf of the Company, may:

- (a) re-issue the Share with or without any money paid on it by any former holder credited as paid; or
- (b) sell or otherwise dispose of the Share, and execute and register a transfer of it,

to the person and on the terms it decides.

### 23.11 **Notice of forfeiture**

The Company must promptly:

- (a) give notice of the forfeiture of a Share to the member who held the Share immediately before the resolution for forfeiture was passed; and
- (b) enter the forfeiture and its date in the Register.

A written declaration that a Share was forfeited on a specified date and notice of forfeiture was given in accordance with this document signed by a Director or Secretary is, in the absence of proof to the contrary, evidence of those facts and of the Company's right to dispose of the Share.

#### 23.12 **Cancellation of forfeiture**

The Board may cancel the forfeiture of a Share on any terms at any time before it disposes of that Share under rule 23.10.

#### 23.13 **Effect of forfeiture**

A person who held a Share which has been forfeited under rule 23.9 ceases to be a member in respect of that Share but remains liable to pay the Called Amount until it is paid in full. The Board may elect not to enforce payment of an amount due to the Company under this rule.

#### 23.14 **Application of proceeds**

The Company must:

- (a) apply the net proceeds of any re-issue, sale or disposal of a forfeited Share under rule 23.10 (after payment of all costs and expenses) to satisfy the Called Amount; and
- (b) pay any surplus to the person who held the Share immediately before forfeiture.

#### 23.15 **Title of new holder**

The title of the new holder of a forfeited Share is not affected by any irregularity in the forfeiture or the re-issue, sale or disposal. The sole remedy of any person previously interested in the Share is damages which may be recovered only from the Company. The new holder is not liable for the Called Amount.

#### 23.16 **Mortgage of uncalled capital**

If the Company grants a mortgage or charge over uncalled capital, the Board may delegate the power to make calls to:

- (a) the person in whose favour the mortgage or charge is granted; or
- (b) a trustee or agent for that person,

on the terms (including power to further delegate) and subject to any restrictions the Board decides. If the Board does so, a call made in accordance with the delegation is treated as made by the Board.

This rule does not limit rule 7.

### 24. **Company liens**

#### 24.1 **Existence of liens**

Unless the terms of issue provide otherwise, the Company has a first and paramount lien on each Share for:

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- (a) all money called or payable at a fixed time in respect of that Share (including money payable under rule 23.6) whether or not payment is due; and
- (b) amounts for which the Company is indemnified under rule 24.3.

The lien extends to all dividends payable in respect of the Share and to proceeds of sale of the Share.

#### 24.2 **Sale under lien**

If:

- (a) the Company has a lien on a Share;
- (b) an amount secured by the lien is due and payable;
- (c) the Company has given notice to the member registered as the holder of the Share:
  - (i) requiring payment of the amount which is due and payable and secured by the lien;
  - (ii) stating the amount due and payable at the date of the notice;
  - (iii) specifying how to calculate the amount due when payment is made; and
  - (iv) specifying a date (at least 14 days after the date of the notice) by which and a place at which payment of that amount must be made; and
- (d) the requirements of the notice given under paragraph (c) are not fulfilled,

the Company may sell the Share as if it had been forfeited under rule 23.9. Rules 23.10, 23.14 and 23.15 apply, to the extent practical and modified as necessary, as if the Called Amount in respect of that Share were the aggregate of the amount referred to in paragraph (b) and the costs and expenses incurred by the Company because the amount was not paid when due.

#### 24.3 **Indemnity for payments required to be made by the Company**

If the law of any jurisdiction imposes or purports to impose any immediate, future or possible liability on the Company, or empowers or purports to empower any person to require the Company to make any payment, on account of a member or referable to a Share held by that member (whether alone or jointly) or a dividend or other amount payable in respect of a Share held by that member, the Company:

- (a) is fully indemnified by that member from that liability;
- (b) may recover as a debt due from the member the amount of that liability together with interest at the Interest Rate from the date of payment by the Company to the date of repayment by the member; and
- (c) subject to rule 27.3, may refuse to register a transfer of any Share by that member until the debt has been paid to the Company.

Nothing in this document in any way prejudices or affects any right or remedy which the Company has (including any right of set off) and, as between the Company and the member, any such right or remedy is enforceable by the Company.

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**25. Dividends****25.1 Accumulation of reserves**

The Board may:

- (a) set aside out of profits of the Company reserves to be applied, in the Board's discretion, for any purpose it decides and use any sum so set aside in the business of the Company or invest it in investments selected by the Board and vary and deal with those investments as it decides; or
- (b) carry forward any amount out of profits which the Board decides not to distribute without transferring that amount to a reserve; or
- (c) do both.

**25.2 Payment of dividends**

Subject to the Act, rules 25.3 and 25.9, the Shareholders Deed and the terms of issue of Shares, the Board may resolve to pay any dividend (including an interim dividend) it thinks appropriate and fix the time for payment. The Company does not incur a debt merely by fixing the amount or time for payment of a dividend. A debt arises only when the time fixed for payment arrives. The decision to pay a dividend may be revoked by the Board at any time before then.

**25.3 Amount of dividend**

Subject to the Shareholders Deed and the terms of issue of Shares, the Company may pay a dividend on one class of Shares to the exclusion of another class, and at different rates for different classes of Shares. Subject to rule 25.4, each Share of a class on which the Board resolves to pay a dividend carries the right to participate in the dividend in the same proportion that the amount for the time being paid on the Share bears to the total issue price of the Share. For the avoidance of doubt, all fully paid Ordinary Shares (whether Class A Shares, Class B Shares or any other ordinary shares in the capital of the Company) have the same rights to dividends.

**25.4 Prepayments and payments during dividend period**

For the purposes of rule 25.3:

- (a) an amount paid in advance of calls is not taken into account as part of the amount for the time being paid on a Share; and
- (b) if an amount was paid on a Share during the period to which a dividend relates, the Board may resolve that only the proportion of that amount which is the same as the proportion which the period from the date of payment to the end of the period to which the dividend relates bears to the total period to which the dividend relates, counts as part of the amount for the time being paid on the Share.

**25.5 Dividends in kind**

The Board may resolve to pay a dividend (either generally or to specific members) in cash or satisfy it by distribution of specific assets (including shares or securities of any other corporation), the issue of Shares or the grant of options. If the Board satisfies a dividend by distribution of specific assets, the Board may:

- (a) fix the value of any asset distributed;
- (b) make cash payments to members on the basis of the value fixed so as to adjust the rights of members between themselves; and

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- (c) vest an asset in trustees.

#### 25.6 **Payment of dividend by way of securities in another corporation**

- (a) Where the Company satisfies a dividend by way of distribution of specific assets, being shares or other securities in another corporation, each member is taken to have agreed to become a member of that corporation and to have agreed to be bound by the constitution of that corporation.
- (b) Each member also appoints each Director and each Secretary their agent and attorney to:
  - (i) agree to the member becoming a member of that corporation;
  - (ii) agree to the member being bound by the constitution of that corporation; and
  - (iii) execute any transfer of shares or securities, or other document required to give effect to the distribution of shares or other securities to that member.

#### 25.7 **Method of payment**

The Company may pay any cash dividend, interest or other money payable in respect of Shares by cheque sent, and may distribute assets by sending the certificates or other evidence of title to them, through the post directed to:

- (a) the address of the member (or in the case of a jointly held Share, the address of the joint holder named first in the Register); or
- (b) to any other address the member (or in the case of a jointly held Share, all the joint holders) directs in writing,

or by any other method of payment or distribution the Board decides.

#### 25.8 **Joint holders' receipt**

Any one of the joint holders of a Share may give an effective receipt for any dividend, interest or other money payable in relation to that Share.

#### 25.9 **Retention of dividends by Company**

The Company may retain the dividend payable on a Share:

- (a) of which a person seeks to be registered as the holder under rule 28.2 or 28.3, until that person is registered as the holder of that Share or transfers it; or
- (b) on which the Company has a lien, to satisfy the liabilities in respect of which the lien exists.

#### 25.10 **No interest on dividends**

No member may claim, and the Company must not pay, interest on a dividend (either in money or kind).

### 26. **Share plans**

#### 26.1 **Implementing share plans**

Subject to the Shareholders Deed, the Company may establish and implement any of the following on any terms as the Board resolves:

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- (a) a re-investment plan under which any dividend or other cash payment in respect of a Share or convertible security may, at the election of the person entitled to it, be:
  - (i) retained by the Company and applied in payment for fully paid Shares issued under the plan; and
  - (ii) treated as having been paid to the person entitled and simultaneously repaid by that person to the Company to be held by it and applied in accordance with the plan;
- (b) any other plan under which members or security holders may elect that dividends or other cash payments in respect of Shares or other securities:
  - (i) be satisfied by the issue of shares or other securities of the Company or a related body corporate, or that issues of shares or other securities of the Company or a related body corporate be made in place of dividends or other cash payments;
  - (ii) be paid out of a particular reserve or source; or
  - (iii) be forgone in consideration of another form of distribution from the Company, another body corporate or a trust; or
- (c) a plan under which shares or other securities of the Company or a related body corporate may be issued or otherwise provided for the benefit of employees, contractors or Directors of the Company or any of its related bodies corporate.

## 26.2 **Board obligations and discretions**

- (a) The Board may:
  - (i) vary the rules governing; or
  - (ii) suspend or terminate the operation of,
 a plan implemented under rule 26.1 as it thinks appropriate.
- (b) The Board is under no obligation to admit any person as a participant in any plan nor to comply with any request made by a holder of Shares who is not admitted as a participant in a plan.

## 27. **Transfer of shares**

### 27.1 **Modes of transfer**

- (a) Subject to this document, the Shareholders Deed, each Management Equity Plan, any restrictions attached to a Share and rule 27.2, a member may transfer a Share by a document the form of which is permitted by law and which is signed by or on behalf of both the transferor and the transferee.
- (b) The Company must not register a transfer that does not comply with this rule. A member must comply with the Shareholders Deed or the relevant Management Equity Plan (as applicable to the member and the Shares which are being transferred) when transferring Shares in the Company.

### 27.2 **Delivery of transfer and certificate**

A document of transfer under rule 27.1 must be:

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- (a) delivered to the registered office of the Company or the address of the Register last notified to members by the Company;
- (b) accompanied by the certificate (if any) for the Shares to be transferred or evidence satisfactory to the Board of its loss or destruction; and
- (c) marked with payment of any stamp duty payable, if required by law.

Property in and title to a document of transfer that is delivered to the Company (but not the Shares to which it relates) passes to the Company on delivery.

### 27.3 Refusal to register transfer

- (a) Subject to the Shareholders Deed, rule 27.3(b) and rule 27.4, the Board, without giving any reason, may refuse to register a transfer of Shares and, subject to section 259C, must not register a transfer to a subsidiary of the Company. If the Board refuses to register a transfer, the Company must give the transferee notice of the refusal within two months after the date on which the transfer was delivered to it.
- (b) If the Shareholders Deed is in force, then notwithstanding any other provision of this document, the Company must not decline to register a transfer of Shares that complies with the terms of the Shareholders Deed, and must not register a transfer that does not comply with the terms of the Shareholders Deed.

### 27.4 Qualifications on restrictions on share transfers

Subject to rule 27.3(b), any Share in the Company that:

- (a) is the subject of a Security Interest; and
- (b) is registered in the name of the person granting the Security Interest or the holder of the Security Interest,

may, on the exercise of rights under that Security Interest, be transferred to the holder or beneficiary of that Security Interest, its nominee, or any purchaser of that Share, free from any transfer or procedural restrictions under this document and the Board must not refuse to register the relevant transfer for any reason.

### 27.5 Transferor remains holder until transfer registered

The transferor of a Share remains the holder of it until the transfer is registered and the name of the transferee is entered in the Register in respect of it.

### 27.6 Powers of attorney

The Company may assume, as against a member, that a power of attorney granted by that member that is lodged with or produced or exhibited to the Company remains in force, and may rely on it, until the Company receives express notice in writing at its registered office of:

- (a) the revocation of the power of attorney; or
- (b) the death, dissolution or insolvency of the member.

This does not affect any power of attorney granted pursuant to the Shareholders Deed which the Company may rely on absolutely.

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**28. Transmission of shares****28.1 Death of joint holder**

The Company may recognise only the surviving joint holders as being entitled to Shares registered jointly in the names of a deceased member and others. The estate of the deceased joint holder is not released from any liability in respect of the Shares.

**28.2 Death of single holder**

The Company must not recognise anyone except the legal personal representative of the deceased member as having any title to Shares registered in the sole name of a deceased member. If the personal representative gives the Board the documents described in section 1071B(9) or 1071B(13) or other information that satisfies the Board of the representative's entitlement to be registered as holder of the Shares:

- (a) subject to rules 27.3 and 28.4 the Company must register the personal representative as the holder of the Shares as soon as practical after receipt of a written and signed notice to the Company from the representative requiring it to do so; and
- (b) whether or not registered as the holder of the Shares, the personal representative:
  - (i) may, subject to rule 27, transfer the shares to another person; and
  - (ii) has the same rights as the deceased member.

**28.3 Transmission of Shares on insolvency or mental incapacity**

Subject to the *Bankruptcy Act 1966* (Cth), if a person entitled to Shares because of the insolvency or mental incapacity of a member gives the Board the information it reasonably requires to establish the person's entitlement to be registered as holder of the Shares:

- (a) subject to rules 27.3 and 28.4 the Company must register that person as the holder of the Shares as soon as practical after receipt of a written and signed notice to the Company from that person requiring it to do so; and
- (b) whether or not registered as the holder of the Shares, that person:
  - (i) may, subject to rule 27, transfer the Shares to another person; and
  - (ii) has the same rights as the insolvent or incapable member.

If section 1072C applies, this rule is supplemental to it.

**28.4 Refusal to register holder**

The Company has the same right to refuse to register a personal representative or person entitled to Shares on the insolvency or mental incapacity of a member as it would have if that person were the transferee named in a transfer signed by a living, solvent, competent members.

**29. Alteration of share capital****29.1 Capitalisation of profits**

The Company may capitalise profits, reserves or other amounts available for distribution to members. Subject to the Shareholders Deed and the terms of issue of Shares, members are entitled to participate in a capital distribution in the same proportions in which they are entitled to participate in dividends.

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**29.2 Adjustment of capitalised amounts**

The Board may settle any difficulty that arises in regard to a capitalisation of profits as it thinks appropriate and necessary to adjust the rights of members among themselves, including:

- (a) fix the value of specific assets;
- (b) issue fractional certificates;
- (c) make cash payments to members on the basis of the value fixed for assets or in place of fractional entitlements so as to adjust the rights of members between themselves;
- (d) disregard fractional entitlements; and
- (e) vest cash or specific assets in trustees.

**29.3 Conversion of shares**

(a) Subject to Part 2H.1, rules 29.8, the Shareholders Deed and the terms of issue of each class of Shares, the Board may convert Shares from one class to another in accordance with the terms of the Shareholders Deed, or by ordinary resolution of members with the approval of the Board, including converting:

- (i) an Ordinary Share into a preference Share;
- (ii) a preference Share into an Ordinary Share; and
- (iii) all or any of its Shares into a larger or smaller number of Shares,

and the conversion of any class of Share into any other class of Share will not constitute a cancellation, redemption or termination of the Share or the issue, allotment or creation of new Shares, but will have the effect of varying the status of, and the rights attaching to the Share so that it becomes a Share of the class into which it converts.

(b) A redesignation of an Ordinary Share (including a Class A Share being redesignated to a Class B Share or vice versa) is not a conversion as it does not involve converting Shares from one class to another (and involves only redesignating Shares within the same class).

**29.4 Adjustments on conversion**

The Board may do anything it thinks appropriate and necessary to give effect to a conversion of Shares including, if a member becomes entitled to a fraction of a Share as a result of the conversion:

- (a) issue fractional certificates;
- (b) make cash payments to members or disregard fractional entitlements so as to adjust the rights of members between themselves; or
- (c) vest fractional entitlements in a trustee.

**29.5 Reduction of capital**

Subject to the Shareholders Deed, the Company may reduce its share capital:

- (a) by reduction of capital in accordance with Division 1 of Part 2J.1;
- (b) by buying back Shares in accordance with Division 2 of Part 2J.1;

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- (c) in the ways permitted by sections 258E and 258F; or
- (d) in any other way for the time being permitted by the Act and the Shareholders Deed.

#### 29.6 **Payments in kind**

Where the Company reduces its share capital in accordance with Division 1 of Part 2J.1, it may do so by way of payment of cash, distribution of specific assets (including shares or other securities in another corporation), or in any other manner permitted by law. If the reduction is by distribution of specific assets, the Board may:

- (a) fix the value of any assets distributed;
- (b) make cash payments to members on the basis of the value fixed so as to adjust the rights of members between themselves; and
- (c) vest an asset in trustees.

#### 29.7 **Payment in kind by way of securities in another corporation**

Where the Company reduces its share capital by way of distribution of specific assets, being shares or other securities in another corporation, each member is taken to have agreed to become a member of that corporation and to have agreed to be bound by the constitution of that corporation. Each member also appoints each Director and each Secretary their agent and attorney to:

- (a) agree to the member becoming a member of that corporation;
- (b) agree to the member being bound by the constitution of that corporation; and
- (c) execute any transfer of shares or securities, or other document required to give effect to the distribution of shares or other securities to that member.

#### 29.8 **Variation of rights**

- (a) Subject to the Act, the Shareholders Deed, any Management Equity Plan and the terms of issue of Shares in a particular class (and without limiting rule 20.5), the Company may vary or cancel rights attached to Shares in that class:
  - (i) in accordance with the Shareholders Deed;
  - (ii) by special resolution passed at a meeting of the members holding the issued Shares of the affected class; or
  - (iii) with the written consent of members who are entitled to at least 75% of the votes that may be cast in respect of issued Shares of the affected class, and for this purpose all Ordinary Shares, irrespective of their designation, are a single class,

and the variation of any class of Share into any other class of Share will not constitute a cancellation, redemption or termination of the Share or the issue, allotment or creation of new Shares, but will have the effect of varying the status of, and the rights attaching to the Share so that it becomes a Share of the class into which it converts.

- (b) A redesignation of an Ordinary Share (including a Class A Share being redesignated to a Class B Share or vice versa) is not a variation as it does not involve varying Shares from one class to another (and involves only redesignating Shares within the same class).

- (c) Subject to the terms of issue of Shares, the rights attached to a class of Shares are not treated as varied by:
  - (i) the issue of further Shares of that class; or
  - (ii) the issue of any Shares of any other class.

## 30. **Winding up**

### 30.1 **Entitlement of members**

Subject to the terms of issue of Shares and this rule 30, the surplus assets of the Company remaining after payment of its debts are divisible among the members in proportion to the number of fully paid Shares held by them and, for this purpose, a partly paid Share is counted as a fraction of a fully paid Share equal to the proportion which the amount paid on it bears to the total issue price of the Share.

### 30.2 **Distribution of assets generally**

If the Company is wound up, the liquidator may, with the sanction of a special resolution:

- (a) divide the assets of the Company among the members in kind;
- (b) for that purpose fix the value of assets and decide how the division is to be carried out as between the members and different classes of members; and
- (c) vest assets of the Company in trustees on any trusts for the benefit of the members as the liquidator thinks appropriate.

### 30.3 **No distribution of liabilities**

The liquidator cannot compel a member to accept marketable securities in respect of which there is a liability as part of a distribution of assets of the Company.

### 30.4 **Distribution not in accordance with legal rights**

If the liquidator decides on a division or vesting of assets of the Company under rule 30.2 which does not accord with the legal rights of the contributories, any contributory who would be prejudiced by it may dissent and has ancillary rights as if that decision were a special resolution passed under section 507.

## 31. **Notices**

### 31.1 **Overseas members**

A member whose registered address is not in Australia may notify the Company in writing of an address in Australia to which notices may be sent.

### 31.2 **When notice is given**

A notice (including a notice of meeting) is taken to be given to a member (or person entitled to be a member as a result of a transmission event contemplated by rule 28):

- (a) if it is given in accordance with the notice provisions of the Shareholders Deed;
- (b) by any means permitted by the Act;
- (c) by serving it personally at, or by sending it by post in a prepaid envelope to, or by air-mail to, the member's address or email address as shown in the register of members or such other address or email as the member has supplied to the Company for the giving of notices (or in the case of a person entitled to be a



member as a result of a transmission event contemplated by rule 28, to the member as if the transmission event had not occurred). For the purposes of this rule, any notice may be given by attaching a file containing it to, or providing a URL link to it from, the email or other electronic communication; or

- (d) if the member does not have a registered address or email and has not supplied another address to the Company for the giving of notices, by exhibiting it at the registered office of the Company for 48 hours.

A certificate in writing signed by a Director or Secretary stating that a notice was sent, and setting out the means by which and date on which it was sent, is conclusive evidence of those facts.

### 31.3 Notices to directors

A notice may be given by the Company to any director or alternate director either by serving it personally at, or by sending it by post in a prepaid envelope to, the director's or alternate director's usual residential or business address or email address, or such other address or email as the director or alternate director has supplied to the Company for the giving of notices.

### 31.4 Notices to the Company

Subject to this document, a notice may be given by a member, director or alternate director to the Company by serving it on the Company at, or by sending it by post in a prepaid envelope to, the registered office of the Company or by email to the nominated email address at the registered office of the Company.

### 31.5 When a notice is deemed given

- (a) If the Shareholders Deed is in force, a notice is deemed to be given in accordance with the Shareholders Deed.
- (b) If the Shareholders Deed is not in force:
  - (i) where a notice is served personally, service of the notice is taken to be effected when delivered;
  - (ii) where a notice is sent by email or other electronic communication, when the transmission is sent provided that the sender does not receive an automated message stating the transmission failed; or
  - (iii) where a notice is sent by post or air-mail, the day after it is posted or mailed.
- (c) A notice given to a member in accordance with clause 31.2 is, despite the occurrence of a transmission event contemplated by rule 28 and whether or not the Company has notice of that occurrence:
  - (i) duly given in respect of any shares registered in that person's name, whether solely or jointly with another person; and
  - (ii) sufficient service on any person entitled to the shares as a result of the transmission event.
- (d) A notice given to a person who is entitled to a share as a result of a transmission event contemplated by rule 28 is sufficient service on the member in whose name the share is registered.

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31.6 **Notice to joint holders**

Notice to joint holders of Shares must be given to the joint member named first in the Register. Every person who becomes entitled to a Share is bound by every notice in respect of that Share that was properly given to a person registered as the holder of the Share before the transfer or transmission of the Share was entered in the Register.


32. **Unclaimed money**

The Company must deal with unclaimed dividends and distributions and unclaimed proceeds of Shares sold or reissued under this document in accordance with the Act.

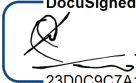
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**SIGNED** by each person who consents to become a member of the Company with effect from registration as evidence of that person's agreement to the terms of this constitution.

**EXECUTED** by River Capital Nominees  
Pty Ltd ACN 138 955 870:

Signed by:  
  
9102382FCB45453...  
Signature of director

Barry Anthony Carp  
Name

DocuSigned by:  
  
23D0C9C7A40E427...  
Signature of director/secretary

Paul Samuel Cowan  
Name

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## Annexure F

## Notice of Scheme Meeting

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### Midway Limited ACN 005 616 044

#### Notice of meeting

Notice is given that by an order of the Federal Court of Australia made on 19 December 2024 pursuant to section 411(1) of the *Corporations Act 2001* (Cth), a meeting of shareholders of Midway Limited (**Midway**) will be held at the time and location, and to conduct the business specified below (**Scheme Meeting**):

**Date:** Thursday 30 January 2025

**Time:** 11:00am (AEDT)

**Location:** The offices of KPMG, Level 36, Tower 2, Collins Square, 727 Collins Street, Melbourne VIC 3008

#### Purpose of Meeting

The purpose of the Scheme Meeting is to consider and, if thought fit, to approve (with or without amendment or any alterations or conditions required by the Court to which Midway and RCM BidCo Pty Ltd agree) the scheme of arrangement proposed to be made between Midway and Midway Shareholders (**Scheme**).

A copy of the Scheme and a copy of the explanatory statement required by section 412 of the Corporations Act in relation to the Scheme are contained in the Scheme Booklet, of which this notice of Scheme Meeting forms part. Additional information about the Scheme Meeting is set out in the explanatory notes that accompany and form part of this notice.

Capitalised terms used but not defined in this notice have the defined meanings set out in the Glossary contained in Section 11 of the Scheme Booklet, unless the context otherwise requires.

#### Business of Scheme Meeting

The purpose of the Scheme Meeting is to consider and, if thought fit, to pass (with or without amendment) the following resolution (**Scheme Resolution**) in accordance with section 411(4)(a)(ii) of the Corporations Act:

*"That, pursuant to and in accordance with section 411 of the Corporations Act 2001 (Cth):*

- (a) the scheme of arrangement proposed between Midway Limited and the holders of its ordinary shares, the terms of which are contained in and more particularly described in the Scheme Booklet (of which this Notice of Scheme Meeting forms part) is agreed to (with or without any alterations or conditions agreed in writing between Midway and BidCo and approved by the Court or any alterations or conditions as thought just by the Court to which Midway and BidCo agree in writing); and*
- (b) the directors of Midway are authorised, subject to the terms of the Scheme Implementation Deed:*
  - (1) to agree to any such modifications, alterations or conditions;*
  - (2) to agree to any modifications, alterations or conditions as are thought just by the Court; and*
  - (3) subject to approval of the Scheme by the Court, to implement the Scheme with any such modifications, alterations or conditions."*

## Chair

The Court has directed that Mr Gordon Davis is to act as Chair of the Scheme Meeting (and that, if Gordon Davis is unable or unwilling to attend, Ms Leanne Heywood is to act as Chair of the Scheme Meeting) and has directed the Chair to report the result of the Scheme Resolution to the Court.

By order of the Court and the Midway Board.

A handwritten signature in black ink that reads "R.F. Bennett".

Robert Bennett  
Company Secretary

**Dated:** 19 December 2024

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## Explanatory Notes for the Scheme Meeting

This notice of meeting and the Scheme Resolution should be read in conjunction with the booklet of which this notice forms part (**Scheme Booklet**). Terms used in this notice, unless otherwise defined, have the same meaning as set out in the Glossary in Section 11 of the Scheme Booklet.

A Proxy Form also accompanies this notice.

### How to vote

If you are a Midway Shareholder entitled to attend and vote at the Scheme Meeting, you may vote by:

- attending the Scheme Meeting in person;
- appointing a proxy to attend on your behalf;
- appointing an attorney to vote on your behalf; or
- in the case of a corporation which is a Midway Shareholder, by appointing an authorised corporate representative to attend on its behalf.

### Voting entitlement

Only Midway Shareholders registered at 7.00pm (AEDT) on the Meeting Record Date, being 7:00pm Tuesday, 28 January 2025, are entitled to attend and vote at the Scheme Meeting.

### Voting in person

To vote in person at the Scheme Meeting, you must attend the Scheme Meeting to be held at the offices of KPMG, Level 36, Tower 2, Collins Square, 727 Collins Street, Melbourne VIC 3008 on Thursday 30 January 2025. The meeting will commence at 11:00 am.

A Midway Shareholder who wishes to attend and vote at the Scheme Meeting in person will be admitted to the Scheme Meeting and given a voting card on disclosure at the point of entry to the Scheme Meeting of their name and address.

### Voting by attorney

A Midway Shareholder entitled to attend and vote at the Scheme Meeting may appoint an attorney to vote at the Scheme Meeting. An original or certified copy of the power of attorney must be received at any of the addresses, or via facsimile, as set out below at least 48 hours before the commencement of the Scheme Meeting.

By facsimile: +61 3 9473 2555

By mail: Computershare Investor Services Pty Limited, GPO Box 1282 Melbourne Victoria 3001 Australia

By delivery: Computershare Investor Services Pty Limited, Yarra Falls, 452 Johnston Street, Abbotsford, VIC, 3067.

### Voting by corporate representative

To vote at the Scheme Meeting (other than by proxy or by attorney), a corporation that is a Midway Shareholder, or has been appointed as a proxy by a Midway Shareholder, must appoint a person (either by name or position and whether a Midway Shareholder or not) to act as its representative. The appointment must comply with section 250D of the Corporations Act. Evidence of the appointment must be brought to the Scheme Meeting together with any authority under which it is signed. A pro-forma 'Certificate of Appointment of Corporate Representative' may be obtained from the Share Registry by calling the Shareholder Information Line on 1300 850 505 (within Australia) or +61 3 9415 4000 (outside Australia) between 8.15am and 5.00pm (Melbourne time), Monday to Friday.

## Proxies

A Midway Shareholder entitled to attend and vote at the Scheme Meeting is entitled to appoint not more than two proxies, who need not be Midway Shareholders.

Each proxy should be appointed to represent a specified percentage or specified number of the Midway Shareholder's voting rights. If the appointments do not specify the percentage or number of votes that each proxy may exercise, each proxy may exercise half the votes. Fractions of votes will be disregarded.

If you sign and return a Proxy Form and do not nominate a person to act as your proxy, the Chair will be appointed as your proxy by default.

## How the Chair will vote undirected proxies

The Chair intends to vote any available undirected proxy in favour of the Scheme Resolution.

You should note that if you appoint the Chair as your proxy, or the Chair is appointed as your proxy by default, and the Proxy Form does not specify whether to vote 'For', 'Against' or 'Abstain', this will be taken as a direction to the Chair to vote in accordance with his stated voting intention, which is to vote in favour of the Scheme Resolution. Midway Shareholders always have the ability to appoint the Chair as their proxy and direct him to cast the votes contrary to the Chair's stated voting intention or to abstain from voting on a resolution.

If you appoint the Chair as your proxy but do not wish him to vote in favour of the Scheme Resolution, it is important for you to complete the voting directions in respect of the Scheme Resolution on the Proxy Form.

## A Proxy Form is enclosed with this Notice of Scheme Meeting

For the appointment of a proxy to be valid, the following documents must be received at least 48 hours prior to the Scheme Meeting or any adjournment of the Scheme Meeting:

- the Proxy Form; and
- if the Proxy Form is signed by the appointor's attorney, the authority under which the Proxy Form was signed or a certified copy of the authority.

The documents must be received by Midway at any of the addresses, or via facsimile, as specified below by no later than 11:00am (AEDT) on Tuesday, 28 January 2025. Proxy Forms received after that time will not be valid for the scheduled Meeting.

Further directions for the proper completion of a Proxy Form are printed on the Proxy Form.

Online: [www.investorvote.com.au](http://www.investorvote.com.au). You will need control number 184630 and your SRN or HIN.

By facsimile: +61 2 9290 9655

By mail: Computershare Investor Services Pty Limited GPO Box 1282 Melbourne Victoria 3001 Australia

By delivery: Computershare Investor Services Pty Limited, Yarra Falls, 452 Johnston Street, Abbotsford, VIC, 3067

## Voting procedure

In general, each Midway Shareholder present in person or by proxy, attorney or corporate representative has one vote on a show of hands and one vote for each Scheme Share held on a poll (subject to any voting exclusion referred to earlier).

Voting at the Scheme Meeting will occur by poll.

All persons attending the Scheme Meeting are asked to arrive at least 30 minutes prior to the time the Scheme Meeting is to commence, so that either their shareholding may be

checked against the Register, their power of attorney or appointment as corporate representative can be verified (as the case may be), and their attendance noted.

### **Jointly held shares**

If the Scheme Shares are jointly held, only one of the Midway Shareholders can vote. If more than one joint Midway Shareholder votes, only the vote of the Midway Shareholder whose name appears first on the Register will be counted.

### **Quorum**

A quorum for a meeting of Midway Shareholders is three or more members present at the meeting and entitled to vote on a resolution at the meeting.

### **Majorities required**

In accordance with section 411(4)(a) of the Corporations Act, for the Scheme to be approved by Midway Shareholders, the Scheme Resolution must be agreed to by:

- unless the Court orders otherwise, a majority in number (more than 50%) of holders of ordinary shares present and voting (either in person or by proxy, attorney or, in the case of corporate Midway Shareholders, corporate representative) at the meeting; and
- at least 75% of the total number of votes cast on the Scheme Resolution (either in person or by proxy, attorney or, in the case of corporate Midway Shareholders, corporate representative).

### **Court approval**

In accordance with section 411(4)(b) of the Corporations Act, in order for the Scheme to become Effective, the Scheme must be approved by the order of the Court. If the Scheme Resolution set out in this notice is agreed to by the required majorities set out above and the other Conditions to the Scheme are satisfied or waived (where capable of waiver), Midway will apply to the Court for the necessary orders to give effect to the Scheme.

In order for the Scheme to become Effective, it must be approved by the Court and an office copy of the orders of the Court approving the Scheme of Arrangement must be lodged with ASIC.





## Corporate Directory

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### **Midway Limited**

10 The Esplanade  
North Shore, Victoria 3214  
Australia

### **Financial Adviser to Midway**

PricewaterhouseCoopers Securities Ltd

### **Australian Legal Adviser to Midway**

Nicholson Ryan Lawyers  
Level 7, 416-420 Collins Street  
Melbourne, Victoria 3000  
Australia

### **Share Registry**

Computershare Investor Services Pty Limited  
Yarra Falls 452 Johnston Street  
Abbotsford VIC 3067  
Australia

### **Shareholder Information Line**

1300 850 505 (within Australia)  
+61 3 9415 4000 (outside Australia)  
between 8.30am and 5.00pm (AEDT), Monday to Friday

