

27 November 2018

QANTM Intellectual Property and Xenith IP Group to merge, creating a leading intellectual property services group

QANTM Intellectual Property Ltd (ASX:QIP) and **Xenith IP Group Ltd** (ASX:XIP) enter into merger of equals, with QANTM shareholders owning 55% and Xenith shareholders 45% of the merged entity.

Implementation through a Scheme of Arrangement, with Xenith shareholders to receive 1.22 QANTM shares for each Xenith share held. Implementation expected in April 2019.

Creates a group of industry leading, independent IP services businesses with 349 professionals in Australia, New Zealand and Asia.

Merged Group FY18 pro forma EBITDA of \$45.2 million, with the merger expected to achieve cost synergies of \$7 million per annum to be fully realised at the end of year three, generating earnings per share accretion for both Xenith and QANTM shareholders.

Increased scale enables accelerated expansion into the high-growth Asian region, leveraging existing presence, and enhances the ability to drive innovation and efficiency through investment in world-class technology platforms.

QANTM Intellectual Property Limited (ASX:QIP) (**QANTM**) and Xenith IP Group Limited (ASX:XIP) (**Xenith**) are pleased to announce that they have today entered into the attached Scheme Implementation Deed, under which the two companies will merge through an all-scrip scheme of arrangement (**Scheme**) whereby Xenith shareholders will receive 1.22 QANTM shares for each Xenith share they hold (the **Transaction**).

The Transaction implies a value of \$1.598 per Xenith share, based on the most recent closing price of QANTM shares (\$1.310 per share as at 26 November 2018). This value represents premia of approximately 28.4% to the most recent closing price of Xenith shares (\$1.245 per share), and approximately 27.0% to the 1-month volume weighted average price (**VWAP**) of Xenith shares (\$1.258 per share).¹

The Transaction will create a market leading group of independent intellectual property services businesses in Australia, New Zealand and Asia with a pro forma market capitalisation of approximately \$285.2 million² (the **Merged Group**). On completion of the Transaction, QANTM and Xenith shareholders will own 55% and 45% respectively of the Merged Group.

The Scheme Implementation Deed and the Scheme are subject to usual conditions precedent for a scrip merger, including:

- no regulatory intervention;
- Xenith shareholder approval; and
- other customary conditions.

Xenith's Board of Directors unanimously recommends that Xenith shareholders vote in favour of the Scheme, in the absence of any superior proposal and subject to the Independent Expert concluding that the Scheme is in the best interests of Xenith shareholders.

¹ Based on the 1-month volume weighted average price of Xenith shares up to and including 26 November 2018, being the last trading day prior to the announcement of the Transaction

² On a diluted basis and based on share prices as at 26 November 2018. Excludes any benefit from synergies

Consistent with their recommendation, each member of the Xenith Board intends to vote the Xenith shares in his or her control in favour of the Scheme in the absence of any superior proposal and subject to the Independent Expert concluding that the Scheme is in the best interests of Xenith shareholders.

The obligations of QANTM and Xenith regarding the implementation of the Scheme, the conditions precedent and deal protections are set out in the attached Scheme Implementation Deed.

Merger rationale

With an existing alignment of heritage, culture and strategy, the merger of QANTM and Xenith will create a leading provider of IP origination services in Australia. The Merged Group will offer a broad base of highly complementary patent, trade mark, legal and strategic innovation advisory services.

Leveraging QANTM's existing presence in Asia with Xenith's growing operations and opportunities in the region, the Merged Group will be significantly better placed to develop an expanded presence in the high-growth region. A strengthened balance sheet will also support the pursuit of acquisitions and other growth opportunities in Asia.

Increased scale will enable the Merged Group to realise benefits of a streamlined corporate management and shared back-office services, and to invest in common, world-class technology platforms. The resulting operational efficiencies will drive margin improvement across the Merged Group of independent businesses with consistent practice management discipline. Furthermore, the increased scale will provide a strong foundation to drive automation and innovation.

Financial highlights

Significant value accretion is expected for both shareholder groups. The merger is expected to deliver pre-tax cost synergies of \$7 million per annum³, on a full run-rate basis and excluding one-off transaction and integration costs. Identified cost synergies primarily reflect benefits of transformation through technology, the elimination of duplication in the Merged Group, and include savings in general expenses, costs relating to back-office systems as well as enhanced productivity across the Merged Group. The full run-rate of these synergies is expected to be achieved by the end of year three from completion of the Transaction, while one-off implementation costs are projected to be approximately \$7 million.

As a result, the Merged Group's FY18 EBITDA on a pro forma basis would have been \$45.2 million, representing significant expansion in an EBITDA margin (relative to service fee revenue) of 27.4%. Furthermore, the scale and operational efficiencies driving this margin improvement will support sustainable dividends into the future.

Experienced Board and management team

The Merged Group will benefit from the experience and expertise from a combined management team and Board. The Merged Group's Board will comprise six Directors, with three each from QANTM's and Xenith's current respective Boards. Richard England will be appointed as the Merged Group's Chair, Sibylle Krieger as Deputy Chair, Craig Dower as Managing Director and CEO, and Leon Allen as Executive Director and Head of Business Integration.

³ Estimated cost synergies are separate and incremental to those already disclosed by Xenith as it relates to the business transformation described in its FY18 Results Presentation

Chair commentary

Richard England, Chair of QANTM said: *“The merger of QANTM and Xenith brings together two outstanding Groups, creating a single leading IP services group in Australia and Asia. It is clear that the businesses within the QANTM and Xenith Groups have great respect for each other, and while each of those businesses will continue to operate independently in supporting their clients, the increased scale will enable the Merged Group to achieve its strategic objectives more quickly and more effectively. With a high degree of strategic alignment already, and the synergies identified, we believe the transaction will generate significant value for shareholders.”*

Sibylle Krieger, Chair of Xenith said: *“The portfolio businesses of Xenith and QANTM come from similar long histories and the two Groups have strong alignment on values, vision and strategy for the future. The proposed merger of equals presents a unique opportunity for Xenith as a Group to partner with a like-minded Group, and for its shareholders to benefit from significant value and future earnings accretion through the Transaction.”*

Indicative timetable and next steps

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

Xenith shareholders will be given the opportunity to vote on the Scheme at a meeting expected to be held in late March 2019. Subject to the approval of Xenith shareholders and the other conditions of the Scheme being satisfied, the Scheme is expected to be implemented in April 2019.

A Scheme Booklet containing information relating to the Scheme, reasons for the Directors' recommendation, an Independent Expert's report and details of the Scheme Meeting is expected to be sent to Xenith shareholders in late February 2019.

Further information on the Transaction has been provided in the supporting investor presentation also released to the ASX today.

Advisers

Moelis Australia is acting as financial adviser and MinterEllison is acting as legal adviser to QANTM.

Investec is acting as financial adviser and Baker McKenzie is acting as legal adviser to Xenith.

Contact details

For further information on the Merger, please contact:

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Execution version

Scheme Implementation Deed

QANTM Intellectual Property Limited (**QIP**)
Xenith IP Group Limited (**XIP**)

Scheme Implementation Deed

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Details

Date 26 November 2018

Parties

Name **QANTM Intellectual Property Limited** ACN 612 441 326
Short form name **QIP**
Notice details 1 Nicholson Street, Melbourne, VIC 3002
Email: mcleaver@qantmip.com / nward@qantmip.com
Attention: Martin Cleaver / Nick Ward

Name **Xenith IP Group Limited** ACN 607 873 209
Short form name **XIP**
Notice details Level 21, 60 Margaret Street, Sydney, NSW 2000
Email: craig.dower@xenithip.com / lesley.kennedy@xenithip.com
Attention: Craig Dower / Lesley Kennedy

Background

- A The directors of XIP intend to propose to XIP Shareholders for their approval a merger with QIP under which QIP will acquire all of the XIP Shares by way of a scheme of arrangement under section 411 of the Corporations Act, the effect of which would be to make XIP a wholly owned subsidiary of QIP (**Proposed Transaction**).
- B QIP and XIP have agreed to implement the Proposed Transaction on the terms and conditions of this deed.

Agreed terms

1. Defined terms & interpretation

1.1 Defined terms

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

ACCC means the Australian Competition and Consumer Commission.

Adviser means in relation to an entity:

- (a) a financier to the entity in connection with the Scheme; or
- (b) a financial, corporate, legal, technical or other expert adviser or consultant, who provides advisory or consultancy services in a professional capacity in the ordinary course of its business and has been engaged in that capacity in connection with the Scheme by the entity.

AIFRS means the International Financial Reporting Standards as adopted in Australia.

ASIC means the Australian Securities and Investments Commission.

Associate has the meaning given in Division 2 of Part 1.2 of the Corporations Act as if section 12(1) of that Act included a reference to this deed and, when the term "Associate" is used in the definition of "QIP Competing Proposal", QIP was the designated body, and when the term "Associate" is used in the definition of "XIP Competing Proposal", XIP was the designated body.

ASX means ASX Limited ACN 008 624 691 or, if the context requires or permits, the financial market known as the Australian Securities Exchange operated by it.

Break Fee means the QIP Break Fee or the XIP Break Fee (as the context requires).

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

- (a) Melbourne, Australia; or
- (b) Sydney, Australia.

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

Competing Proposal means a XIP Competing Proposal or a QIP Competing Proposal, as the context requires.

Competition Act means the *Competition and Consumer Act 2010* (Cth).

Confidentiality Deed means the confidentiality deed between XIP and QIP dated 16 November 2017.

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

Consolidated Group means a Consolidated Group or a MEC group as those terms are defined in section 995-1 of the ITAA 1997.

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

Corporation Regulations means the *Corporation Regulations 2001* (Cth).

Court means the Federal Court of Australia or any other court of competent jurisdiction agreed between QIP and XIP.

Court Approval Date means the date the Court approves the Scheme for the purposes of section 411(4)(b) of the Corporations Act.

Deed Poll means the deed poll to be executed by QIP in favour of all Scheme Shareholders in the form set out in Schedule 9 (or such other form agreed in writing between the parties acting reasonably).

Director QIP Shares means QIP Shares that a QIP Board Member has a relevant interest in.

Director XIP Shares means XIP Shares that a XIP Board Member has a relevant interest in.

Disclosure Cut-off Time means immediately prior to execution of this deed.

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

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

End Date means 30 June 2019, subject to any extension under clause 3.4.

Excluded Shareholder means any XIP Shareholder who is QIP or any Associate of the QIP Group.

Exclusivity Period means the period from and including the date of this deed to the earlier of:

- (a) the termination of this deed;
- (b) the Effective Date; and
- (c) the End Date.

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

First Court Date means the first day on which an application made to the Court for orders under section 411(1) of the Corporations Act that the Scheme Meeting be convened is heard or, if the application is adjourned or subject to appeal for any reason, the day on which the adjourned application is heard.

Implementation Date means the fifth Business Day after the Scheme Record Date or such other date agreed to in writing between the parties.

Independent Expert means the independent expert in respect of the Scheme appointed by XIP.

Independent Expert's Report means a report (including any updates to such report) of the Independent Expert stating whether or not in its opinion the Scheme is in the best interest of XIP Shareholders.

Ineligible Foreign Scheme Shareholder means a Scheme Shareholder whose address in the XIP Share Register is a place outside:

- (a) Australia and its external territories,
- (b) New Zealand;
- (c) Singapore, provided they are an Institutional Shareholder; or
- (d) any other jurisdiction as may be agreed in writing by QIP and XIP, provided that QIP is satisfied, acting reasonably, that it is permitted to allot and issue New QIP Shares to that Scheme Shareholder under the Scheme by the laws of that place either unconditionally or after compliance with conditions that QIP in its sole discretion regards as acceptable and not unduly onerous or impracticable.

Head Company has the same meaning as that term is defined in section 995-1 of the ITAA 1997.

Institutional Shareholder means a shareholder as defined under the Securities and Futures Act (Singapore).

Insolvency Event means in the case of any entity:

- (a) it ceases, suspends, or threatens to cease or suspend the conduct of all or a substantial part of its business or disposes of or threatens to dispose of all or a substantial part of its assets;
- (b) it stops or suspends or threatens to stop or suspend payment of all or a class of its debts;

- (c) it is, or under legislation is presumed or taken to be, insolvent (other than as the result of a failure to pay a debt or Claim the subject of a good faith dispute);
- (d) it has an administrator, controller or similar officer appointed, or any step preliminary to the appointment of such an officer is taken;
- (e) an application or an order is made, proceedings are commenced, a resolution is passed or proposed in a notice of meeting, an application to a court or other steps are taken for:
 - (i) its winding up, dissolution or administration; or
 - (ii) it entering into an arrangement, compromise or composition with or assignment for the benefit of its creditors or a class of them,
 (other than frivolous or vexatious applications, orders, proceedings, notices or steps);
- (f) a receiver, receiver and manager, administrative receiver or similar officer is appointed to:
 - (i) a security interest becomes enforceable or is enforced over; or
 - (ii) a distress, attachment or other execution is levied or enforced or applied for over, all or a substantial part of its assets; or
- (g) anything analogous to anything referred to in the above paragraphs, or which has substantially similar effect, occurs with respect to it, including under any foreign law.

Investigating Accountant's Report means a report prepared by KPMG on some or all of the financial information included in the Explanatory Booklet.

ITAA 1997 means the *Income Tax Assessment Act 1997* (Cth).

Joint Conditions means the conditions precedent set out under the heading 'Joint Conditions' in clause 3.1.

Joint Information means the information to be included in the Explanatory Booklet regarding the profile of the combined XIP Group/QIP Group, assuming the Scheme is approved and implemented, and risk factors associated with the Scheme, being information that is to be prepared jointly by XIP and QIP.

Joint Public Announcement means the public announcement in relation to the Scheme to be issued by XIP and QIP to ASX in the form set out in Schedule 7, subject to any amendments agreed between the parties.

Liability means a debt, obligation, liability, loss, expense, cost or damage of any kind and however arising, including any penalty, fine or interest and including those which are prospective or contingent and those the amount of which for the time being is not ascertained or ascertainable.

Listing Rules means the official listing rules of ASX.

Material Agreements means the agreements specified in:

- (a) Schedule 5 for the purposes of the definition of Third Party Consents and Schedule 3; and
- (b) Schedule 6 for the purposes of Schedule 4.

New QIP Shares means the new QIP Shares to be issued under the terms of the Scheme as the Scheme Consideration.

Proposed Transaction has the meaning given in Recital A.

QIP Accounts means the audited individual and consolidated accounts (including the financial statements, notes forming part of or intended to be read with the financial statements, directors' report and declaration, and auditor's report) of QIP at and for the year ended 30 June 2018.

QIP Board means the board of directors of QIP and a **QIP Board Member** means any director of QIP comprising part of the QIP Board.

QIP Break Fee means \$1,600,000.

QIP Competing Proposal means any offer, proposal or expression of interest, transaction or arrangement (including, by way of takeover bid or scheme of arrangement) under which, if

ultimately completed substantially in accordance with its terms, a person or two or more persons who are Associates would directly or indirectly:

- (a) acquire a relevant interest or voting power in or become the holder of more than 20% of the QIP Shares;
- (b) acquire, obtain a right to acquire, or otherwise obtain an economic interest in, 20% or more by value of the business or property of QIP or any member of the QIP Group;
- (c) acquire Control of QIP;
- (d) otherwise acquire or merge with QIP or amalgamate with, or acquire a significant shareholding or economic interest in QIP or any member of QIP Group or 20% or more by value of the total assets or business of any member of QIP Group, whether by way of takeover bid, scheme of arrangement, shareholder approved acquisition, capital reduction, share buy-back or repurchases, sale or purchase of assets, joint venture, reverse takeover, dual-listed company structure, recapitalisation, establishment of a new holding entity for QIP or the QIP Group or other synthetic merger or any other transaction or arrangement; or
- (e) QIP will cease to be admitted to the official list of ASX or the QIP Shares will cease to be officially quoted on the market operated by ASX,

or which may otherwise compete with, or be inconsistent in any material respect with the consummation of, the Proposed Transaction.

QIP Conditions means the conditions precedent set out under the heading 'QIP Conditions' in clause 3.1.

QIP Consolidated Tax Group means the Consolidated Group of which QIP is the Head Company.

QIP Disclosure Letter means the letter so entitled provided by QIP to XIP on or before the execution of this deed and countersigned by XIP.

QIP Due Diligence Material means:

- (a) all documents and information that were at any time during the period ending on or before the Disclosure Cut-off Time contained in the electronic data room established by QIP and made available to XIP or its Representatives; and
- (b) all written answers given to written questions submitted by XIP or its Representatives as part of the question and answer process on or before the Disclosure Cut-off Time.

QIP Finance Facility means the Secured Facility Agreement in place between QANTM Intellectual Property Limited and Australia New Zealand Banking Group Limited and executed on 19 August 2016.

QIP Group means QIP and each of its subsidiaries (excluding, at any time, XIP and its subsidiaries to the extent that XIP and its subsidiaries are subsidiaries of QIP at that time). A reference to a **member of the QIP Group** or an **QIP Group Member** is a reference to QIP or any such subsidiary.

QIP Information means information about the QIP Group provided or approved by QIP or any of its Advisers to XIP in writing for inclusion in the Explanatory Booklet.

QIP Interim Dividend means a cash dividend, to be paid by QIP (in its absolute discretion and in accordance with its stated dividend policy, which provides for a payout ratio of 70-90% of NPATA) between the date of this deed and the Implementation Date in respect of the half year ending 31 December 2018 and which is not franked in excess of the then available franking credits of QIP, up to a maximum of 90% of statutory NPATA, calculated in accordance with the auditor reviewed consolidated accounts of QIP in respect of the half year ending 31 December 2018, where "NPATA" is statutory net profit after tax but before the amortization charge on acquired intangible assets of the QIP Group.

QIP Material Adverse Change means any event, occurrence or matter (or the disclosure or discovery of any event, occurrence or matter) that individually or when aggregated with all such events, occurrences or matters has, has had or would be reasonably likely to have the effect of:

- (a) a diminution in the consolidated net assets of the QIP Group (calculated on the basis of AIFRS as at the date of this deed) of at least \$6,972,000 compared to the consolidated net assets of the QIP Group as shown in the QIP Accounts but excluding any diminution caused by a non-cash impairment charge under the AIFRS; or
- (b) a diminution in the consolidated underlying net profit after tax but before the amortisation charge on acquired intangibles of the QIP Group (calculated on the basis of AIFRS as at the date of this deed) of at least \$1,300,000 per annum on a recurring basis; or
- (c) the QIP Group being unable to carry on its business in substantially the same manner as carried on as at the date of this deed,

other than changes, events, occurrences or matters:

- (d) required or permitted by this deed;
- (e) to the extent Fairly Disclosed on or before the Disclosure Cut-off Time in the QIP Due Diligence Material or Fairly Disclosed in the QIP Disclosure Letter;
- (f) to the extent Fairly Disclosed in public announcements issued by QIP on or by the day before the date of this deed on ASX; or
- (g) which do not relate specifically to the QIP Group and which are beyond the control of QIP and which arise from:
 - (i) changes in exchange rates or interest rates; or
 - (ii) general economic or business conditions; or
 - (iii) arising as a result of any changes of accounting standards or laws in Australia; or
 - (iv) to the extent any losses or liabilities arising from such change, event, occurrence or matter are covered by insurance which the QIP Group's insurers have agreed to pay; or
- (h) in the industry in which the QIP Group operates that do not disproportionately affect the QIP Group taken as a whole, as compared to other companies participating in the same industry as the QIP Group, including the XIP Group.

QIP Parties means the members of the QIP Group and their respective directors, officers, employees and Advisers.

QIP Prescribed Occurrences means any of the occurrences set out in Schedule 4, provided that none of the following will constitute an QIP Prescribed Occurrence:

- (a) anything required or permitted to be done by any member of the QIP Group by this deed;
- (b) anything approved in writing by XIP;
- (c) anything Fairly Disclosed on or before the Disclosure Cut-off Time in the QIP Due Diligence Material or Fairly Disclosed in the QIP Disclosure Letter; or
- (d) anything Fairly Disclosed in public announcements issued by QIP to ASX on or by the day before the date of this deed,

and provided further that the occurrences set out in Part 2 of Schedule 4 will not constitute QIP Prescribed Occurrences if they occur in the ordinary course of the QIP Group's ordinary business.

QIP Representation and Warranty means a representation and warranty of QIP set out in Schedule 1.

QIP Shareholder means a person who is registered as the holder of at least one QIP Share.

QIP Shares means a fully paid ordinary share in the capital of QIP.

QIP Sub means a direct or indirect wholly owned subsidiary of QIP, nominated in writing by QIP to XIP under clause 4.2.

QIP Superior Proposal means a bona fide QIP Competing Proposal which in the determination of the QIP Board acting in good faith in order to satisfy what the QIP Board considers to be its fiduciary or statutory duties (after having taken advice from their legal and, if appropriate, financial advisers):

- (a) is reasonably likely to be completed in accordance with its terms, taking into account all financial, regulatory and other aspects of such proposal, including the ability of the proposing party to consummate the transactions contemplated by the QIP Competing Proposal; and
- (b) would, if completed substantially in accordance with its terms, be reasonably likely to result in a transaction more favourable to QIP Shareholders as a whole than the Proposed Transaction, taking into account all of the terms and conditions of the QIP Competing Proposal.

Regulatory Approvals means:

- (a) ACCC approval (as set out in 3.1(a));
- (b) any approval, consent, authorisation, registration, filing, lodgement, permit, franchise, agreement, notarisation, certificate, permission, licence, direction, declaration, authority or exemption from, by or with a Regulatory Authority; or
- (c) in relation to anything that would be fully or partly prohibited or restricted by law if a Regulatory Authority intervened or acted in any way within a specified period after lodgement, filing, registration or notification, the expiry of that period without notification.

Regulatory Authority means:

- (a) the ACCC;
- (b) any government or governmental, semi-governmental, administrative, monetary, fiscal or judicial body, tribunal, agency or entity;
- (c) a minister, department, office, commission, delegate, instrumentality, agency, board, authority or organisation of any government; or
- (d) any regulatory organisation established under statute,

in Australia whether federal, state, territorial or local or other applicable jurisdiction.

Relevant Date means in relation to a condition precedent, the date or time specified in this deed for its fulfilment (or where no such date or time is specified, the Business Day before the End Date), subject to extension under clause 3.4.

Representative means in relation to QIP or XIP:

- (a) each other member of the QIP Group or the XIP Group (as applicable);
- (b) an officer or employee of a member of the QIP Group or the XIP Group (as applicable); or
- (c) an Adviser to a member of the QIP Group or the XIP Group (as applicable).

RG 60 means Regulatory Guide 60 issued by ASIC on 20 September 2011.

Scheme means the scheme of arrangement under Part 5.1 of the Corporations Act between XIP and the Scheme Shareholders under which QIP proposes to acquire all of the XIP Shares substantially in the form of Schedule 8, subject to any alterations or conditions:

- (a) agreed to in writing by QIP and XIP, and approved by the Court; or
- (b) made or required by the Court under section 411(6) of the Corporations Act and agreed to by QIP and XIP.

Scheme Consideration has the meaning set out in the Scheme.

Scheme Meeting means the meeting of the XIP Shareholders (other than Excluded Shareholders) ordered by the Court to be convened under section 411(1) of the Corporations Act.

Scheme Record Date means 7.00pm on the fifth Business Day after the Effective Date or such other time and date agreed to in writing between the parties.

Scheme Resolution means the approval of the Scheme by the XIP Shareholders at the Scheme Meeting by the majorities required under section 411(4)(a)(ii) of the Corporations Act.

Scheme Share means a XIP Share held by a Scheme Shareholder.

Scheme Shareholder means a XIP Shareholder (other than an Excluded Shareholder) at the Scheme Record Date.

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.

Superior Proposal means a QIP Superior Proposal or a XIP Superior Proposal, as the context requires.

Tax means all forms of taxes, duties, imposts, charges, withholdings, rates, levies or other governmental impositions of whatever nature and by whatever authority imposed, assessed or charged together with all costs, charges, interest, penalties, fines, expenses and other additional statutory charges, incidental or related to the imposition.

Tax Law means any law in relation to any Tax.

Tax Relief means any relief, allowance, exemption, credit, exclusion set-off, deduction, loss, refund or rebate granted or available in respect of Tax under any Tax Law.

Third Party means any person or entity (including a Regulatory Authority) other than a member of the QIP Group or a member of the XIP Group.

Third Party Consent means the waiver or consent in writing in a form reasonably satisfactory to QIP from the relevant counterparty to a Material Agreement (or any other agreement or arrangement to which a member of the XIP Group is party which QIP considers material (acting reasonably) in the context of the XIP Group) and which if not provided results or could result in such agreement or arrangement being terminated or varied or any action being taken or arising in each case as a result of the implementation of the Scheme.

Timetable means the indicative timetable for the implementation of the Scheme set out in Schedule 10, including any amendments to that timetable agreed by the parties in writing and acting reasonably.

XIP Accounts means the audited individual and consolidated accounts (including the financial statements, notes forming part of or intended to be read with the financial statements, directors' report and declaration, and auditor's report) of XIP at and for the year ended 30 June 2018.

XIP Board means the board of directors of XIP and a **XIP Board Member** means any director of XIP comprising part of the XIP Board.

XIP Break Fee means \$1,600,000.

XIP Competing Proposal means any offer, proposal or expression of interest, transaction or arrangement (including, by way of takeover bid or scheme of arrangement other than the Proposed Transaction) under which, if ultimately completed substantially in accordance with its terms, a person or two or more persons who are Associates would directly or indirectly:

- (a) acquire a relevant interest or voting power in or become the holder of more than 20% of the XIP Shares;
- (b) acquire, obtain a right to acquire, or otherwise obtain an economic interest in, 20% or more by value of the business or property of XIP or any member of the XIP Group;
- (c) acquire Control of XIP;

- (d) otherwise acquire or merge with XIP or amalgamate with, or acquire a significant shareholding or economic interest in XIP or any member of XIP Group or 20% or more by value of the total assets or business of any member of XIP Group, whether by way of takeover bid, scheme of arrangement, shareholder approved acquisition, capital reduction, share buy-back or repurchases, sale or purchase of assets, joint venture, reverse takeover, dual-listed company structure, recapitalisation, establishment of a new holding entity for XIP or the XIP Group or other synthetic merger or any other transaction or arrangement; or
- (e) XIP will cease to be admitted to the official list of ASX or the XIP Shares will cease to be officially quoted on the market operated by ASX,

or which may otherwise compete with, or be inconsistent in any material respect with the consummation of, the Proposed Transaction.

XIP Conditions means the conditions precedent set out under the heading 'XIP Conditions' in clause 3.1.

XIP Consolidated Tax Group means the Consolidated Group of which XIP is the Head Company.

XIP Disclosure Letter means the letter so entitled provided by XIP to QIP on or before the execution of this deed and countersigned by QIP.

XIP Due Diligence Material means:

- (a) all documents and information that were at any time during the period ending on or before the Disclosure Cut-off Time contained in the electronic data room established by XIP and made available to QIP or its Representatives; and
- (b) all written answers given to written questions submitted by QIP or its Representatives as part of the question and answer process on or before the Disclosure Cut-off Time.

XIP Finance Facility means the senior facility agreement between, among others, XIP and Australia and New Zealand Banking Group Limited as amended and restated pursuant to the Amendment and Restatement Deed dated 2 February 2017.

XIP Group means XIP and each of its subsidiaries. A reference to a **member of the XIP Group** or **XIP Group Member** is a reference to XIP or any such subsidiary.

XIP Information means information about the XIP Group prepared by XIP or any of its Advisers for inclusion in the Explanatory Booklet.

XIP Interim Dividend means a cash dividend to be paid by XIP (in its absolute discretion and in accordance with its stated dividend policy, which provides for a payout ratio of 70-90% of NPATA) between the date of this deed and the Implementation Date in respect of the half year ending 31 December 2018 and which is not franked in excess of the then available franking credits of XIP, up to a maximum of 90% of statutory NPATA, calculated in accordance with the auditor reviewed consolidated accounts of XIP in respect of the half year ending 31 December 2018, where "NPATA" is statutory net profit after tax but before the amortization charge on acquired intangible assets of the XIP Group.

XIP Material Adverse Change means any event, occurrence or matter (or the disclosure or discovery of any event, occurrence or matter) that individually or when aggregated with all such events, occurrences or matters has, has had or would be reasonably likely to have the effect of:

- (a) a diminution in the consolidated net assets of the XIP Group (calculated on the basis of AIFRS as at the date of this deed), of at least \$12,553,000 compared to the consolidated net assets of the XIP Group as shown in the XIP Accounts but excluding any diminution caused by a non-cash impairment charge under the AIFRS; or
- (b) a diminution in the consolidated underlying net profit after tax but before the amortisation charge on acquired intangibles of the XIP Group (calculated on the basis of AIFRS as at the date of this deed) of at least \$1,100,000 per annum on a recurring basis; or
- (c) the XIP Group being unable to carry on its business in substantially the same manner as carried on as at the date of this deed,

other than changes, events, occurrences or matters:

- (d) required or permitted by this deed;
- (e) to the extent Fairly Disclosed in the XIP Due Diligence Material on or before the Disclosure Cut-off Time or Fairly Disclosed in the XIP Disclosure Letter;
- (f) to the extent Fairly Disclosed in public announcements issued by XIP to ASX on or by the day before the date of this deed; or
- (g) which do not relate specifically to the XIP Group and which are beyond the control of XIP and which arise from:
 - (i) changes in exchange rates or interest rates; or
 - (ii) general economic or business conditions;
 - (iii) arising as a result of any changes to accounting standards or laws in Australia; or
 - (iv) to the extent any losses or liabilities arising from such change, event, occurrence or matter are covered by insurance which the XIP Group's insurers have agreed to pay; or
- (h) in the industry in which the XIP Group operates that do not disproportionately affect the XIP Group taken as a whole, as compared to other companies participating in the same industry as the XIP Group, including the QIP Group.

XIP Parties means the members of the XIP Group and their respective directors, officers, employees and Advisers.

XIP Performance Rights means the XIP performance rights currently on issue in respect of XIP Shares granted or to be granted under XIP's Long Term Incentive Plan.

XIP Prescribed Occurrence means any of the occurrences set out in Schedule 3, provided that none of the following will constitute a XIP Prescribed Occurrence:

- (a) anything required or permitted to be done by any member of the XIP Group by this deed;
- (b) anything approved in writing by QIP;
- (c) anything Fairly Disclosed on or before the Disclosure Cut-off Time in the XIP Due Diligence Material or Fairly Disclosed in the XIP Disclosure Letter; or
- (d) anything Fairly Disclosed in public announcements issued by XIP to ASX on or before the day before the date of this deed,

and provided further that the occurrences set out in Part 2 of Schedule 3 will not constitute XIP Prescribed Occurrences if they occur in the ordinary course of the XIP Group's ordinary business.

XIP Registry means Computershare Investor Services Pty Limited or any replacement provider of share registry services to XIP.

XIP Representation and Warranty means a representation and warranty of XIP set out in Schedule 2.

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

XIP Share Plan means the Xenith IP Group Limited Performance Rights Plan approved by the XIP Board in the financial year ended 30 June 2016.

XIP Shareholder means a person who is registered as the holder of at least one XIP Share.

XIP Share Register means the register of members of XIP maintained in accordance with the Corporations Act.

XIP Superior Proposal means a bona fide XIP Competing Proposal which in the determination of the XIP Board acting in good faith in order to satisfy what the XIP Board considers to be its fiduciary or statutory duties (after having taken advice from their legal and, if appropriate, financial advisers):

- (a) is reasonably likely to be completed in accordance with its terms, taking into account all financial, regulatory and other aspects of such proposal, including the ability of the

proposing party to consummate the transactions contemplated by the XIP Competing Proposal; and

- (b) would, if completed substantially in accordance with its terms, be reasonably likely to result in a transaction more favourable to XIP Shareholders as a whole than the Proposed Transaction, taking into account all of the terms and conditions of the XIP Competing Proposal.

1.2 Interpretation

Headings are for convenience only and do not affect interpretation. The rules below apply unless the context requires otherwise.

- (a) The singular includes the plural, and the converse also applies.
- (b) A gender includes all genders.
- (c) If a word or phrase is defined, its other grammatical forms have a corresponding meaning.
- (d) A reference to a person, corporation, trust, partnership, unincorporated body or other entity includes any of them.
- (e) A reference to a clause, schedule or attachment is a reference to a clause of, or schedule or attachment to, this deed.
- (f) A reference to an agreement or document (including a reference to this deed) is to the agreement or document as amended, supplemented, novated or replaced, except to the extent prohibited by this deed or that other agreement or document, and includes the recitals, schedules and attachments to that agreement or document.
- (g) A reference to a party to this deed or another agreement or document includes the party's successors, permitted substitutes and permitted assigns (and, where applicable, the party's legal personal representatives).
- (h) A reference to legislation or to a provision of legislation includes a modification or re-enactment of it, a legislative provision substituted for it and a regulation or statutory instrument issued under it.
- (i) A reference to conduct includes an omission, statement or undertaking, whether or not in writing.
- (j) A reference to an agreement includes any undertaking, deed, agreement and legally enforceable arrangement, whether or not in writing, and a reference to a document includes an agreement (as so defined) in writing and any certificate, notice, instrument and document of any kind.
- (k) A reference to dollars and \$ is to Australian currency.
- (l) All references to time are to Melbourne, Australia time.
- (m) Mentioning anything after 'includes', 'including', 'for example', or similar expressions, does not limit what else might be included.
- (n) Nothing in this deed is to be interpreted against a party solely on the ground that the party put forward this deed or a relevant part of it.
- (o) A reference to 'officer', 'related body corporate', 'subsidiary', 'relevant interest' or 'voting power' is to that term as it is defined in the Corporations Act.
- (p) A reference to Fairly Disclosed means disclosed to any of QIP or XIP, as the context requires, or any of their respective Representatives in sufficient detail so as to enable a reasonable and sophisticated recipient of the relevant information who is experienced in the patent and trademark industries to identify and understand the nature and scope of the relevant matter, event or circumstance.

1.3 Business Day

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

1.4 Consents or approvals

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

1.5 Listing requirements included as law

A listing rule or business rule of a securities exchange will be regarded as a law, and a reference to such a rule is to be taken to be subject to any waiver or exemption granted to the compliance of those rules by a party.

1.6 Statements on the basis of knowledge

- (a) Any statement made by XIP on the basis of its knowledge is made on the basis that its knowledge is limited to the knowledge that any of its directors, chief executive officer or chief financial officer has or would have if he had made all reasonable inquiries of the officers, managers, employees and other persons with responsibility for the matters to which the statement relates.
- (b) Any statement made by QIP on the basis of its knowledge is made on the basis that its knowledge is limited to the knowledge that any of its directors, chief executive officer or chief financial officer has or would have if he had made all reasonable inquiries of the officers, managers, employees and other persons with responsibility for the matters to which the statement relates.

1.7 Reasonable endeavours

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

- (a) to pay any money or provide any financial compensation, valuable consideration or any other incentive to or for the benefit of any person except for payment of any applicable fee for the lodgement or filing of any relevant application with any Regulatory Authority; or
 - (b) to commence any legal action or proceeding against any person,
- except where that provision expressly specifies otherwise.

2. Agreement to Proceed with Scheme

2.1 XIP to propose the Scheme

XIP agrees to propose and implement the Scheme on and subject to the terms of this deed.

2.2 QIP to assist

QIP agrees to assist XIP to propose and implement the Scheme on and subject to the terms of this deed.

3. Conditions Precedent and Pre-implementation Steps

3.1 Conditions precedent

Subject to this clause 3, the Scheme will not become Effective, and the obligations of QIP under clauses 4.4 and 4.5 are not binding, unless each of the following conditions precedent is satisfied or waived in accordance with clauses 3.3 and 3.4:

Joint Conditions

(Conditions precedent for the benefit of all parties)

- (a) **(ACCC Approval)** QIP has received written notice from the ACCC to the effect that the ACCC does not propose to oppose, intervene or seek to prevent the implementation of the

Scheme under or by reference to section 50 of the Competition Act, which notification is either unconditional or is on or requires conditions or undertakings acceptable to the parties;

- (b) (**ASIC and ASX consents**) before 8.00am on the Second Court Date, ASIC and ASX issue or provide such consents or approvals or have done such other acts which are reasonably necessary to implement the Scheme and such consent, approval or other act has not been withdrawn or revoked before 8.00am on the Second Court Date;
- (c) (**Other Regulatory Authority approvals**) before 8.00am on the Second Court Date:
 - (i) all other approvals of a Regulatory Authority which XIP and QIP agree are necessary to implement the Scheme are obtained and have not been withdrawn or revoked; and
 - (ii) none of the following has been issued or made:
 - (A) a conditional or unconditional decision, determination or statement by any Regulatory Authority to the effect that it objects to the Scheme, and that decision, determination or statement would have the effect or likely effect of materially impeding the implementation of the Scheme;
 - (B) a preliminary or final decision, determination, or order issued by any Regulatory Authority preventing the Scheme; or
 - (C) a temporary restraining order, preliminary or permanent injunction or other order issued by any court of competent jurisdiction or the Takeovers Panel or other legal restraint or prohibition preventing the Scheme;
- (d) (**ASX Quotation**) before 8.00am on the Second Court Date ASX grants quotation of all the New QIP Shares subject only to the approval of the Scheme by the Court, the implementation of the Scheme as approved by the Court and usual and customary conditions of ASX of a procedural or administrative nature;
- (e) (**XIP Shareholder approval**) before 8.00am on the Second Court Date, the Scheme is approved by XIP Shareholders at the Scheme Meeting by the majorities required under section 411(4)(a)(ii) of the Corporations Act;
- (f) (**Court approval**) the Scheme is approved by the Court in accordance with section 411(4)(b) of the Corporations Act either unconditionally or on conditions that do not impose unduly onerous obligations upon either party (acting reasonably);
- (g) (**Independent Expert's Report**) the Independent Expert's Report contains an opinion of the Independent Expert to the effect that the Scheme is in the best interests of XIP Shareholders and the Independent Expert maintains that opinion (including by not withdrawing or changing that opinion) at all times up to 8.00am on the Second Court Date;

QIP Conditions

(Conditions precedent for the benefit of QIP only)

- (h) (**No XIP Material Adverse Change**) no XIP Material Adverse Change occurs between the date of this deed and 8.00am on the Second Court Date;
- (i) (**No XIP Prescribed Occurrence**) no XIP Prescribed Occurrence occurs between the date of this deed and 8.00am on the Second Court Date;
- (j) (**XIP Warranties**) the XIP Representations and Warranties being true and correct in all material respects on the date of this deed and at 8.00am on the Second Court Date; and
- (k) (**XIP Performance Rights**) before 8.00am on the Second Court Date, arrangements have been put in place and all necessary Regulatory Approvals, consents and waivers have been obtained so that all of the XIP Performance Rights will be dealt with as contemplated by 4.6.
- (l) (**XIP Finance Facility**) before 8.00am on the Second Court Date, all necessary approvals, consents and waivers have been obtained from XIP's financier under the XIP Finance Facility in relation to the Proposed Transaction.

XIP Conditions

(Conditions precedent for the benefit of XIP only)

- (m) **(No QIP Material Adverse Change)** no QIP Material Adverse Change occurs between the date of this deed and 8.00am on the Second Court Date;
- (n) **(No QIP Prescribed Occurrence)** no QIP Prescribed Occurrence occurs between the date of this deed and 8.00am on the Second Court Date; and
- (o) **(QIP Warranties)** the QIP Representations and Warranties being true and correct in all material respects on the date of this deed and at 8.00am on the Second Court Date.
- (p) **(QIP Finance Facility)** before 8.00am on the Second Court Date, the QIP Finance Facility has been extended for a further 12 month term in accordance with its terms.

3.2 Satisfaction

- (a) QIP and XIP must use reasonable endeavours to procure that the Joint Conditions (other than the condition precedent in clause 3.1(e)) are satisfied.
- (b) QIP must use reasonable endeavours to procure that the XIP Conditions are satisfied.
- (c) XIP must use reasonable endeavours to procure that the QIP Conditions (and the condition precedent in clause 3.1(e)) are satisfied.
- (d) QIP and XIP must provide reasonable assistance in satisfying the other conditions precedent in clause 3.1, and ensure that there is no occurrence within the control of a member of the QIP Group or the XIP Group (as the context requires) that would prevent any condition precedent in clause 3.1 being satisfied.
- (e) XIP must ensure that no XIP Prescribed Occurrence occurs, and that no occurrence within the control of a member of the XIP Group takes place which would cause a XIP Material Adverse Change to occur, in each case on or before the End Date.
- (f) QIP must ensure that no QIP Prescribed Occurrence occurs, and that no occurrence within the control of a member of the QIP Group takes place which would cause an QIP Material Adverse Change to occur, in each case on or before the End Date.
- (g) QIP and XIP must, subject to 3.2(i):
 - (i) consult and co-operate fully with the other party in relation to the satisfaction of the conditions precedent, including in relation to all material communications with Regulatory Authorities in relation to Regulatory Approvals;
 - (ii) consult with each other in advance in relation to the progress of obtaining, and all material communications with Regulatory Authorities regarding any of, the Regulatory Approvals (provided that a party is not prevented from taking any step (including communicating with a Regulatory Authority) in respect of a Regulatory Approval if the other party has unduly delayed responding under this clause and has been notified of the same);
 - (iii) provide all assistance and information reasonably requested by the other party in connection with any application or material communication to be made by that other party to a Regulatory Authority in relation to a Regulatory Approval;
 - (iv) keep each other informed of progress in relation to each Regulatory Approval (including in relation to any material matters raised by, or conditions or other arrangements proposed by, or to, any Regulatory Authority in relation to a Regulatory Approval);
 - (v) promptly provide to the other party all material communications with Regulatory Authorities in relation to Regulatory Approvals;
 - (vi) promptly notify the other if it becomes aware that any condition precedent has been satisfied; and
 - (vii) promptly notify the other of any failure to satisfy a condition precedent or of any fact or circumstance that may result in a condition precedent becoming incapable of being satisfied or that may result in a condition precedent not being satisfied in

accordance with its terms (having regard to the obligations of the parties under this clause).

- (h) Without in any way limiting the obligations of the parties under this clause, in relation to the ACCC Approval referred to in clause 3.1 and subject to 3.2(i):
- (i) both parties will dedicate the resources necessary to secure ACCC approval (acting reasonably) and work co-operatively and together to secure that approval;
 - (ii) QIP must promptly apply for ACCC approval, and promptly respond to requests for information from the ACCC in relation to the ACCC Approval;
 - (iii) XIP must provide QIP with all information reasonably requested in connection with the application for ACCC Approval, any information request from the ACCC and any material communication with the ACCC in relation to ACCC approval; and
 - (iv) each party will:
 - (A) allow the other party and its representatives a reasonable opportunity to review and comment on the content of any application and related material correspondence with the ACCC in relation to the ACCC Approval;
 - (B) invite and allow the other party and its representatives the opportunity to be present at any meetings with the ACCC (whether held in person, by telephone or any other audio or visual link) in relation to the ACCC Approval;
 - (C) promptly provide the other party and its representatives with an accurate summary of any oral communication with the ACCC in relation to the ACCC Approval to which a representative of that other party is, for any reason, not present; and
 - (D) promptly provide the other party with a copy of any communications or requests from the ACCC in relation to the ACCC Approval.
- (i) Before providing any document or other information to the other party (in this clause 3.2(i), the **Recipient**) pursuant to clause 3.2(h), a party (in this clause 3.2(i), the **Discloser**) may redact any part of that document, or not disclose any part of that information, which contains or is confidential, non-public information (**Sensitive Confidential Information**) if the Discloser reasonably believes that:
- (i) the Sensitive Confidential Information is of a commercially sensitive nature; or
 - (ii) the disclosure of the Sensitive Confidential Information to the Recipient would be damaging to the commercial or legal interest of the Discloser or any of its related bodies corporate,
- and may provide the document or disclose the information to the Recipient with any Sensitive Confidential Information redacted or excluded, provided that, where Sensitive Confidential Information is so redacted or excluded, the Discloser must provide:
- (iii) the Recipient with as much details about the relevant communication, submission or correspondence (and any other relevant circumstances) as is reasonably possible without disclosing Sensitive Confidential Information; and
 - (iv) a complete version of the document or other information, without any redaction or exclusion of information, to the Recipient's external lawyers on the basis that the Recipient's external lawyers will not disclose the Sensitive Confidential Information to the Recipient or any other third party including the ACCC without the Discloser's prior written consent and will only use the information for the purpose of satisfying the Condition in clause 3.1(a).
- (j) On the Second Court Date:
- (i) QIP and XIP must give the Court a joint certificate (or such other evidence as the Court requires) confirming whether or not the Joint Conditions (other than the condition precedent at clause 3.1(f)) have been satisfied or waived;

- (ii) QIP and XIP must give the Court a joint certificate confirming whether the condition in clause 3(a)(ii) of the Scheme has been satisfied;
- (iii) QIP must:
 - (A) give the Court a certificate (or such other evidence as the Court requires) confirming (in respect of matters within its knowledge) whether or not the XIP Conditions have been satisfied or waived; and
 - (B) give XIP a draft of its certificate by 5.00pm on the Business Day before the Second Court Date; and
- (iv) XIP must:
 - (A) give the Court a certificate (or such other evidence as the Court requires) confirming (in respect of matters within its knowledge) whether or not the QIP Conditions have been satisfied or waived; and
 - (B) give QIP a draft of its certificate by 5.00pm on the Business Day before the Second Court Date.

3.3 Waiver of conditions precedent

- (a) The conditions precedent in clauses 3.1(a), 3.1(c), 3.1(e) and 3.1(f) cannot be waived.
- (b) The remaining Joint Conditions are for the benefit of QIP and XIP and may only be waived by both of them in writing.
- (c) The QIP Conditions are for the sole benefit of QIP and may only be waived by QIP in writing.
- (d) The XIP Conditions are for the sole benefit of XIP and may only be waived by XIP in writing.
- (e) A party entitled to waive a condition precedent may do so conditionally or unconditionally in its absolute discretion provided that any waiver must take place on or prior to the 8.00am on the Second Court Date.
- (f) If a party waives the breach or non-fulfilment of a condition precedent, that waiver will not preclude it from suing the other party for any breach of this deed that resulted from the breach or non-fulfilment of the condition precedent that was waived or arising from the same event which gave rise to the breach or non-fulfilment of the condition precedent.
- (g) Waiver of a breach or non-fulfilment in respect of a condition precedent does not constitute:
 - (i) a waiver of the breach or non-fulfilment of any other condition precedent resulting from the same event; or
 - (ii) a waiver of the breach or non-fulfilment of that condition precedent resulting from any other event.

3.4 If a condition precedent is not fulfilled or waived

If a condition precedent cannot be fulfilled (or has not been fulfilled or waived) by the Relevant Date, or the Scheme has not become Effective by the End Date, XIP and QIP must, prior to any termination under clause 3.7, consult in good faith and act reasonably (and obtain appropriate advice) for a period of at least 10 Business Days to develop potential structures and approaches and to determine whether:

- (a) the Scheme may proceed by way of alternative means or methods and, if so, agree on the terms of such alternative means or methods (to avoid doubt, any such alternative means or methods must not involve any material additional economic cost (including increasing the amount of any Tax payable or reducing any Tax Relief available) to QIP or to XIP or any XIP Shareholder or be materially less advantageous to QIP or XIP Shareholders);
- (b) to extend the Relevant Date;
- (c) to adjourn or change the date of the Scheme Meeting; and/or
- (d) to extend the End Date.

Without limiting the above, if a condition precedent is not satisfied by the date contemplated in the Timetable as the Second Court Date, XIP and QIP agree (unless there is no reasonable prospect that the condition precedent will be satisfied) that the Second Court Date be deferred until such date (not later than the Business Day before the End Date) as reasonably required to enable more time to satisfy the condition precedent.

3.5 Appeal process

- (a) Without limiting clause 3.4, if the Court refuses to make any orders convening the Scheme Meeting or approving the Scheme, XIP must appeal the Court's decision to the fullest extent possible (except to the extent that the parties agree otherwise, or an independent barrister who is a Queens Counsel or Senior Counsel with at least 15 years' experience advises in writing, a copy of which is provided to QIP, that in their view an appeal would have no reasonable prospect of success).
- (b) Any costs incurred as a result of the operation of clause 3.5(a) are to be borne equally by XIP and QIP.

3.6 Scheme voted down

Without limiting clause 3.4 or clause 3.5, if the Scheme is not approved by a majority in number of the XIP Shareholders (other than Excluded Shareholders) present and voting (in person or by proxy) at the Scheme Meeting (headcount test), that fact will not of itself be treated as preventing the condition precedent in clause 3.1(e) from being satisfied, and XIP must, if counsel for QIP has certified that there are reasonable prospects of success on such an application, do everything it reasonably can to obtain Court approval of the Scheme in accordance with section 411(4)(b) of the Corporations Act, and an order of the Court in accordance with section 411(4)(a)(ii)(A) of the Corporations Act that the headcount test need not be satisfied, and must consult and co-operate fully with QIP in that regard.

3.7 Termination on failure of condition precedent

- (a) Subject to clause 3.4, if:
 - (i) the Scheme has not become Effective by the End Date; or
 - (ii) any event occurs which would, or in fact does, prevent a condition precedent being satisfied and that condition precedent is not waived by XIP or QIP or both (as applicable) in accordance with clause 3.3,then, subject to clause 3.7(b):
 - (iii) where the condition precedent is a Joint Condition either party may terminate this deed by giving notice to the other party;
 - (iv) where the condition precedent is a QIP Condition, QIP may terminate this deed by giving notice to XIP; and
 - (v) where the condition precedent is a XIP Condition, XIP may terminate this deed by giving notice to QIP.
- (b) A party will not be entitled to terminate this deed under clause 3.7(a) if the relevant occurrence, or the failure of the satisfaction of a condition precedent, or of the Scheme becoming Effective, arises out of, or is substantially contributed to by:
 - (i) a breach of this deed by that party; or
 - (ii) a deliberate act or omission of that party.
- (c) Subject to any rights or obligations arising under or under clauses that are expressed to survive termination of this deed, on termination of this deed no party will have any rights against or obligations to any other party under this deed except for those rights and obligations which accrued before termination.

4. Transaction Steps

4.1 Scheme

XIP must propose the Scheme under which:

- (a) all of the Scheme Shares will be transferred to QIP; and
- (b) the Scheme Shareholders will be entitled to receive the Scheme Consideration.

4.2 No amendment to the Scheme without consent

XIP must not consent to any modification of, or amendment to, or the making or imposition by the Court of any condition in respect of, the Scheme without the prior written consent of QIP.

4.3 QIP Sub

- (a) QIP may notify XIP in writing no later than 3 Business Days prior to the Implementation Date that QIP nominates the QIP Sub as the party to whom all of the Scheme Shares are to be transferred under the Scheme.
- (b) If QIP gives XIP a notice under clause 4.2(a):
 - (i) references in this deed to QIP as the transferee of the Scheme Shares are references to the QIP Sub;
 - (ii) QIP must procure that the QIP Sub accepts the transfer of the Scheme Shares and otherwise takes whatever actions are required of the QIP Sub to facilitate the implementation of the Scheme; and
 - (iii) QIP remains liable to XIP for the due performance of the actions attributed to the QIP Sub under clause 4.2(b).

4.4 Scheme Consideration

- (a) Each Scheme Shareholder is entitled to receive the Scheme Consideration in respect of each Scheme Share held by that Scheme Shareholder in accordance with the terms of this deed and the Scheme.
- (b) QIP undertakes to XIP (in its own right and as trustee on behalf of the Scheme Shareholders) that, in consideration of the transfer to QIP of each Scheme Share under the terms of the Scheme, on the Implementation Date it will accept that transfer and QIP will provide each Scheme Shareholder the Scheme Consideration in accordance with the terms of the Scheme.

4.5 Allotment and issue of New QIP Shares

- (a) Subject to the Scheme becoming Effective, QIP must:
 - (i) allot and issue the New QIP Shares to Scheme Shareholders in accordance with the Scheme on terms such that each New QIP Share will rank equally in all respects with each existing QIP Share;
 - (ii) do everything reasonably necessary to ensure that the New QIP Shares are approved for official quotation on ASX and that trading in the New QIP Shares commences as soon as practicable after the Effective Date, initially on a deferred settlement basis and thereafter on an ordinary (T+2) settlement basis by the first Business Day after the Implementation Date; and
 - (iii) ensure that on issue, each New QIP Share will be fully paid and free from any mortgage, charge, lien, encumbrance or other security interest.
- (b) To facilitate the issue of the New QIP Shares to Scheme Shareholders, XIP must provide to QIP, or procure the provision to QIP of, a complete copy of the XIP Share Register as at the Scheme Record Date (which must include the name, address and registered holding of each Scheme Shareholder as at the Scheme Record Date), within 1 Business Day after the Scheme Record Date. The details and information to be provided under this clause must be provided in such form as QIP, its Representatives or share registry may reasonably require.

- (c) QIP will not issue any New QIP Shares to Ineligible Foreign Scheme Shareholders, and instead will issue the New QIP Shares that would otherwise have been issued to the Ineligible Foreign Scheme Shareholders to a nominee appointed by QIP. QIP will procure that the nominee sells those New QIP Shares on-market at such price and on such other terms as the nominee determines in good faith and, promptly after the last sale of those New QIP Shares, remits the proceeds from that sale (after deducting any brokerage and other selling costs and taxes) to QIP. QIP will then remit the proceeds it receives to the Ineligible Foreign Scheme Shareholders in accordance with their entitlement.
- (d) Any fractional entitlement of a Scheme Shareholder to Scheme Consideration:
 - (i) which is 0.5 or greater will be rounded up to the nearest whole number of New QIP Shares; and
 - (ii) which is less than 0.5 will be rounded down to the nearest whole number of New QIP Shares.

4.6 XIP Performance Rights

XIP must take all steps in accordance with the plan rules governing the XIP Performance Rights to give notice to:

- (a) Craig Dower that 227,440 of the XIP Performance Rights held by or to be granted to him have vested early, with the balance held by or to be granted to him lapsing; and
- (b) Lesley Kennedy that 103,769 of the XIP Performance Rights held by or to be granted to her have vested early, with the balance held by or to be granted to Lesley Kennedy lapsing,

and issue the corresponding number of XIP Shares to those holders by no later than the Scheme Record Date and XIP must otherwise ensure that there are no XIP Performance Rights on issue on the Scheme Record Date.

5. Implementation

5.1 XIP's obligations

XIP must take all necessary steps to propose and (subject to all of the conditions in clause 3.1 being satisfied or waived in accordance with their terms) implement the Scheme as soon as is reasonably practicable and, without limiting the foregoing, must use reasonable endeavours to ensure that each step in the Timetable is met by the date set out beside that step (and must consult with QIP on a regular basis about its progress in that regard), including by doing any acts it is authorised and able to do on behalf of the XIP Shareholders and each of the matters below.

- (a) **(Preparation of Explanatory Booklet)** Prepare the Explanatory Booklet in accordance with clause 5.3.
- (b) **(Directors' recommendation)** include in the Explanatory Booklet a statement by the XIP Board:
 - (i) unanimously recommending that XIP Shareholders vote in favour of the Scheme in the absence of a Superior Proposal; and
 - (ii) that each XIP Board Member will (in the absence of a Superior Proposal) vote, or procure the voting of, any Director XIP Shares at the time of the Scheme Meeting in favour of the Scheme at the Scheme Meeting.
- (c) **(Confirmation of the XIP Information)** Before the Explanatory Booklet is provided to ASIC under section 411(2) of the Corporations Act and again before the Explanatory Booklet is despatched to the XIP Shareholders, either:
 - (i) confirm in writing to QIP that the XIP Information in the form and context in which it appears in the Explanatory Booklet is not misleading or deceptive in any material respect and does not contain any material omission; or

- (ii) make the changes required to ensure that the XIP Information in the form and context in which it appears in the Explanatory Booklet is not misleading or deceptive in any material respect and does not contain any material omission.
- (d) **(Joint Information)** Promptly contribute to and assist with the preparation and verification of the Joint Information.
- (e) **(Confirmation of Joint Information)** Before the Explanatory Booklet is provided to ASIC under section 411(2) of the Corporations Act and again before the Explanatory Booklet is despatched to the XIP Shareholders, either:
 - (i) confirm in writing to QIP that the Joint Information in the form and context in which it appears in the Explanatory Booklet is not misleading or deceptive in any material respect and does not contain any material omission; or
 - (ii) provide to QIP the changes required to ensure that the Joint Information in the form and context in which it appears in the Explanatory Booklet is not misleading or deceptive in any material respect and does not contain any material omission, to the extent that any part of the Joint Information is prepared or contributed solely by XIP.
- (f) **(Regulatory notifications)** In relation to the Regulatory Approvals (other than ACCC Approval), lodge with any Regulatory Authority within the relevant time periods all documentation and filings required by law to be so lodged by XIP in relation to the Scheme.
- (g) **(Independent Expert)** Appoint the Independent Expert and provide all assistance and information reasonably requested by the Independent Expert to enable the Independent Expert to prepare the Independent Expert's Report as soon as practicable (but ensuring that clause 5.1(z) is complied with in briefing the Independent Expert).
- (h) **(Consult with QIP on ancillary documents)** Consult with QIP as to the content and presentation of all relevant originating process, affidavits, submissions and draft minutes of Court orders and other civil procedure documents to be filed with the Court in connection with the Scheme, such consultation to include allowing QIP a reasonable opportunity to review and make comments on drafts of those documents, consider in good faith, for the purpose of amending those drafts, comments from QIP and its Representatives on those drafts, and provide QIP with copies of any correspondence with ASIC and ASX in connection with the Scheme (and an opportunity to comment on drafts of any substantive written communications to ASIC or ASX).
- (i) **(approval of draft for ASIC)** As soon as reasonably practicable after the preparation of an advanced draft of the Explanatory Booklet suitable for review by ASIC, procure that a meeting of the XIP Board, or of a committee of the XIP Board appointed for the purpose, is held to consider approving that draft as being in a form appropriate for provision to ASIC for its review and approval for the purposes of section 411(2) of the Corporations Act.
- (j) **(liaison with ASIC)** As soon as reasonably practicable after the date of this deed:
 - (i) provide an advanced draft of the Explanatory Booklet, in a form approved in accordance with this deed to ASIC for its review and approval for the purposes of section 411(2) of the Corporations Act; and
 - (ii) liaise with ASIC during the period of its consideration of that draft of the Explanatory Booklet and keep QIP reasonably informed of any matters raised by ASIC in relation to the Explanatory Booklet and use reasonable endeavours, in consultation with QIP, to resolve any such matters.
- (k) **(approval of Explanatory Booklet)** As soon as reasonably practicable after the conclusion of the review by ASIC of the Explanatory Booklet, procure that a meeting of the XIP Board, or of a committee of the XIP Board appointed for the purpose, is held to consider approving the Explanatory Booklet for despatch to the XIP Shareholders, subject to orders of the Court under section 411(1) of the Corporations Act.
- (l) **(Section 411(17)(b) statement)** Apply to ASIC for a statement under section 411(17)(b) of the Corporations Act that ASIC has no objection to the Scheme.

- (m) **(first Court hearing)** Apply to the Court under section 411(1) of the Corporations Act for orders directing XIP to convene the Scheme Meeting.
- (n) **(ASIC registration)** Request ASIC to register under section 412(6) of the Corporations Act the explanatory statement for the Scheme as contained in the Explanatory Booklet.
- (o) **(Scheme Meeting)** Use all reasonable endeavours necessary to comply with the orders of the Court including, as required, despatching the Explanatory Booklet to the XIP Shareholders and convening and holding the Scheme Meeting, and using reasonable endeavours to ensure that all the XIP Shareholders vote as a single class and with equal weight being given to their votes.
- (p) **(updating Explanatory Booklet)** until the date of the Scheme Meeting, promptly update the Explanatory Booklet with any information that arises after the Explanatory Booklet has been dispatched that is necessary to ensure that the Explanatory Booklet does not contain any material statement that is false or misleading in a material respect (including because of any material omission from that statement);
- (q) **(Proxy reports)** Cause the XIP Registry to report to it and QIP on the status of proxy forms received by the XIP Registry for the Scheme Meeting, at 10 Business Days before the Scheme Meeting, at each subsequent Business Day up to the deadline for receipt of proxy forms and at such deadline, and provide such other information as it may receive concerning the voting intentions of the XIP Shareholders to QIP.
- (r) **(Court approval)** Subject to the conditions precedent in clause 3.1 (other than that in clause 3.1(f)) being or likely to be satisfied or waived in accordance with this deed, apply to the Court for orders approving the Scheme, and consult with QIP as to the content of all relevant affidavits, submissions and draft minutes of Court orders.
- (s) **(Court order)** Lodge with ASIC an office copy of any Court order approving the Scheme in accordance with the Timetable (or such later date as QIP may agree in writing).
- (t) **(Third Party Consents)** XIP must consult with QIP concerning Third Party Consents and use its best endeavours to obtain any Third Party Consents. XIP must involve QIP in meetings or discussions with Third Parties relating to the obtaining of Third Party Consents and keep QIP informed of progress in obtaining any such Third Party Consents (and must do everything it can to ensure that the relevant counterparties provide information promptly as to how they propose to exercise their rights and keep QIP informed of all such information) and assist QIP generally in relation to matters required for the implementation of the Scheme, and consult with QIP in relation to the foregoing.
- (u) **(Implementation of Scheme)** If the Scheme is approved by the Court:
 - (i) subject to the Listing Rules, lodge with ASIC an office copy of the orders approving the Scheme in accordance with section 411(10) of the Corporations Act, within the timeframe contemplated by the Timetable;
 - (ii) procure ASX to suspend trading in the XIP Shares from the close of trading on the Effective Date;
 - (iii) with effect from the Scheme Record Date, determine the identity of Scheme Shareholders and their entitlements to the Scheme Consideration;
 - (iv) subject to QIP satisfying its obligations under clause 4.4 execute proper instruments of transfer of the Scheme Shares on behalf of the Scheme Shareholders and procure the registration in the XIP Share Register of all transfers of Scheme Shares to QIP under those instruments on the Implementation Date;
 - (v) use its best endeavours to ensure that the termination of official quotation and removal of XIP from the official list of the ASX does not occur until after the Implementation Date; and
 - (vi) do all other things contemplated by or necessary to give effect to the Scheme and the orders of the Court approving the Scheme.
- (v) **(Acquirer Information)** Without the prior written consent of QIP, not use the QIP Information or the Joint Information (to the extent any part of the latter is prepared or

contributed solely by QIP) for any purposes other than those expressly contemplated by this deed or the Scheme.

- (w) **(Compliance with laws)** Do everything reasonably within its power to ensure that the Scheme are effected in accordance with all applicable laws and regulations.
- (x) **(Engagement with major XIP Shareholders)** In co-operation with QIP, consult with major XIP Shareholders regarding the Scheme and encourage the public support of the Scheme by major XIP Shareholders.
- (y) **(Practical assistance)** Make its officers and employees available for any meetings with the XIP Shareholders which QIP may seek, and permit QIP to accompany them at such meetings and take such other steps as QIP may require to facilitate an explanation by QIP of the merits of the Scheme.
- (z) **(Presentation of information to the Independent Expert)** Allow QIP such opportunities as it reasonably requests (and equal opportunity with XIP) to present to the Independent Expert in relation to its business, to assist the Independent Expert's understanding of those matters, and, to the extent any parts of the Independent Expert's Report are made available for review, provide those to QIP and convey QIP's comments to the Independent Expert (and enable QIP to meet with the Independent Expert), and ensure that the Independent Expert is briefed in a manner which is balanced and fair to QIP. XIP must ensure that QIP receives equal access with XIP in briefing the Independent Expert. Any correspondence with the Independent Expert must be copied to all parties.
- (aa) **(Suspension of trading)** apply to ASX to suspend trading in XIP Shares with effect from the close of trading on the Effective Date.

5.2 QIP's obligations

QIP must take all necessary steps to facilitate the Scheme as soon as is reasonably practicable and, without limiting the foregoing, must use reasonable endeavours to ensure that each step in the Timetable is met by the date set out beside that step (and must consult with XIP on a regular basis about its progress in that regard), including by doing each of the following:

- (a) **(QIP Information)** Prepare and provide to XIP the QIP Information for inclusion in the Explanatory Booklet to comply with all applicable laws, including the Corporations Act, RG 60 and the ASX Listing Rules relevant to the QIP Information and consult with XIP as to the content and presentation of the QIP Information in the Explanatory Booklet, such consultation to include allowing XIP a reasonable opportunity to review and make comments on successive drafts of the QIP Information before lodgement of the Explanatory Booklet with ASIC.
- (b) **(Joint Information)** Promptly contribute to and assist with the preparation and verification of the Joint Information.
- (c) **(Confirmation of Joint Information)** Before the Explanatory Booklet is provided to ASIC under section 411(2) of the Corporations Act and again before the Explanatory Booklet is despatched to the XIP Shareholders, either:
 - (i) confirm in writing to XIP that the Joint Information in the form and context in which it appears in the Explanatory Booklet is not misleading or deceptive in any material respect and does not contain any material omission; or
 - (ii) provide to XIP the changes required to ensure that the Joint Information in the form and context in which it appears in the Explanatory Booklet is not misleading or deceptive in any material respect and does not contain any material omission,to the extent that any part of the Joint Information is prepared or contributed solely by QIP.
- (d) **(Regulatory notifications)** In relation to the Regulatory Approvals, lodge with any Regulatory Authority within the relevant time periods all documentation and filings required by law to be so lodged by QIP in relation to the Scheme.
- (e) **(Assist Independent Expert)** Promptly provide all assistance and information reasonably requested by the Independent Expert to enable it to prepare the Independent Expert's Report as soon as practicable.

- (f) **(Review drafts of Explanatory Booklet)** As soon as practicable after delivery, review drafts of the Explanatory Booklet prepared by XIP and provide any comments on those drafts, with this review to incorporate a review of any parts of the Independent Expert's Report that have been supplied for review.
- (g) **(Confirmation of the QIP Information)** Before the Explanatory Booklet is provided to ASIC under section 411(2) of the Corporations Act and again before the Explanatory Booklet is despatched to the XIP Shareholders, either:
 - (i) confirm in writing to XIP that the QIP Information in the form and context in which it appears in the Explanatory Booklet is not misleading or deceptive in any material respect and does not contain any material omission; or
 - (ii) provide to XIP the changes required to ensure that the QIP Information in the form and context in which it appears in the Explanatory Booklet is not misleading or deceptive in any material respect and does not contain any material omission.
- (h) **(Consult with XIP on ancillary documents)** Consult with XIP as to the content and presentation of all relevant affidavits and other civil procedure documents to be filed by QIP with the Court.
- (i) **(Deed Poll)** Before the First Court Date, enter into the Deed Poll and deliver it to XIP. If the Scheme becomes Effective, discharge its obligations under and in accordance with the Deed Poll.
- (j) **(Court representation)** If requested by XIP or if QIP acting reasonably considers it necessary or appropriate, procure that it is represented by counsel at the Court hearings convened for the purpose of sections 411(1) and 411(4)(b) of the Corporations Act, at which, through its counsel or solicitors, QIP will undertake (if requested by the Court) to do all such things and take all such steps within its power as may be reasonably necessary in order to ensure the fulfilment of its obligations under this deed, the Scheme and the Deed Poll.
- (k) **(XIP Information)** Without the prior written consent of XIP, not use the XIP Information or the Joint Information (to the extent any part of the latter is prepared or contributed solely by XIP) for any purposes other than those expressly contemplated by this deed or the Scheme.
- (l) **(Scheme Consideration)** If the Scheme becomes Effective, provide the Scheme Consideration in the manner and amount contemplated by clause 4.4 on the Implementation Date and apply for the New QIP Shares issued to Scheme Shareholders to be officially quoted on ASX and that trading in the New QIP Shares commences as soon as practicable after the Effective Date, initially by deferred settlement trading and thereafter on a normal settlement basis.
- (m) **(Compliance with laws)** Do everything reasonably within its power to ensure that the Scheme is effected in accordance with all applicable laws and regulations.

5.3 Explanatory Booklet - preparation principles

- (a) As soon as reasonably practicable after the date of this deed and substantially in accordance with the Timetable, XIP must prepare the Explanatory Booklet in compliance with:
 - (i) all applicable laws, in particular with the Corporations Act, RG 60 and the Listing Rules; and
 - (ii) this clause 5.3.
- (b) The Explanatory Booklet will include:
 - (i) the terms of the Scheme;
 - (ii) the notice of Scheme Meeting and any other notice of meeting in respect of any resolution that is necessary, expedient or incidental to give effect to the Scheme, together with a proxy form for the Scheme Meeting;
 - (iii) the XIP Information;

- (iv) the QIP Information;
 - (v) the Joint Information;
 - (vi) a copy of this deed (without the schedules or annexures) or a summary of it;
 - (vii) a copy of the executed Deed Poll; and
 - (viii) a copy of the Independent's Expert Report.
- (c) The Explanatory Booklet must include a statement that:
- (i) other than the QIP Information, the Independent Expert's Report and the Investigating Accountant's Report, the Explanatory Booklet has been prepared by XIP and is the responsibility of XIP, and that no QIP Party assumes any responsibility for the accuracy or completeness of the Explanatory Booklet (other than the QIP Information and the Joint Information);
 - (ii) the QIP Information has been provided by QIP and is the responsibility of QIP, and that no XIP Party assumes any responsibility for the accuracy or completeness of QIP Information; and
 - (iii) the Joint Information has been provided by QIP and XIP and is their joint responsibility.
- (d) The Explanatory Booklet must include information on the XIP Directors' recommendations in connection with the Scheme in compliance with paragraph 8301 of Schedule 8 to the Corporations Regulations.
- (e) XIP must make available to QIP drafts of the Explanatory Booklet (including any part of the draft of the Independent Expert's Report that has been made available to XIP), consult with QIP in relation to the content of those drafts, and consider in good faith, for the purpose of amending those drafts, comments from QIP on those drafts, such consultation to include allowing QIP a reasonable opportunity to review and make comments on successive drafts of the XIP Information before lodgement of the Explanatory Booklet with ASIC. QIP acknowledges and agrees that XIP has ultimate discretion with respect to the preparation, form and content of the Explanatory Booklet, other than as expressly provided in this deed with respect to the QIP Information.
- (f) XIP must seek approval from QIP for the form and context in which the QIP Information appears in the Explanatory Booklet, which approval QIP must not unreasonably withhold or delay, and XIP must not lodge the Explanatory Booklet with ASIC until such approval is obtained from QIP.
- (g) XIP must take all reasonable steps to ensure that the Explanatory Booklet (other than the QIP Information) is not misleading or deceptive in any material respect (whether by omission or otherwise) as at the date it is despatched to the XIP Shareholders.
- (h) QIP must take all reasonable steps to ensure that the QIP Information is not misleading or deceptive in any material respect (whether by omission or otherwise) as at the date on which the Explanatory Booklet is despatched to the XIP Shareholders.
- (i) QIP and XIP must jointly take all reasonable steps to ensure that the Joint Information is not misleading or deceptive in any material respect (whether by omission or otherwise) as at the date on which the Explanatory Booklet is despatched to the XIP Shareholders.
- (j) XIP must provide to QIP all such further or new information of which XIP becomes aware that arises after the Explanatory Booklet has been despatched until the date of the Scheme Meeting where this is or may be necessary to ensure that the Explanatory Booklet continues to comply with the Corporations Act, RG 60 and the Listing Rules.
- (k) QIP must provide to XIP all such further or new information of which QIP becomes aware that arises after the Explanatory Booklet has been despatched until the date of the Scheme Meeting where this is or may be necessary to ensure that the QIP Information continues to comply with the Corporations Act, RG 60 and the Listing Rules.
- (l) XIP and QIP each agree that the efficient preparation of the Explanatory Booklet and the implementation of the Scheme are in the interests of the XIP Shareholders and the QIP and that they will use all reasonable endeavours and utilise all necessary resources

(including management resources and the resources of external advisers) to comply with their respective obligations under this clause 5.3 and to implement the Scheme as soon as reasonably practicable and substantially in accordance with the Timetable.

- (m) QIP must undertake appropriate verification processes in relation to the QIP Information and the Joint Information (to the extent any part of the latter is prepared or contributed solely by QIP) contained in the Explanatory Booklet.
- (n) XIP must undertake appropriate verification processes in relation to the XIP Information and the Joint Information (to the extent any part of the latter is prepared or contributed solely by XIP) contained in the Explanatory Booklet.

5.4 Conduct of the XIP business

- (a) Subject to clause 5.6, from the date of this deed up until and including the Implementation Date, XIP must ensure that XIP and the other members of the XIP Group:
 - (i) conduct their businesses in the ordinary course and substantially (subject to any applicable laws, regulations and Regulatory Approvals) in the manner in which each such business and operation has been conducted in the period before the date of this deed and in compliance in all material respects with all applicable laws, regulations and Regulatory Approvals;
 - (ii) make all reasonable efforts to:
 - (A) keep available the services of their officers and employees; and
 - (B) preserve their relationships with Regulatory Authorities, ratings agencies, customers, suppliers, landlords, trade unions, licensors, licensees and others with whom they have business dealings;
 - (iii) not enter any lines of business or other activities in which members of the XIP Group are not engaged at the date of this deed;
 - (iv) respond to any reasonable request from QIP and its Representatives (including in response to requests for information from securities exchanges and Regulatory Authorities) for information concerning the XIP Group and its business and operations; and
 - (v) provide QIP and its Representatives reasonable access to officers and employees, offices and other facilities, and books and records of members of the XIP Group, and otherwise provide reasonable co-operation to QIP and its Representatives, for the purpose of doing all things necessary or desirable under this deed or in connection with the Scheme (including compliance with any regulatory or securities exchange reporting requirements), any financing undertaken by QIP in connection with the Scheme and any plans for the integration of the XIP Group into the QIP Group following the Implementation Date.
- (b) Nothing in this clause 5.4 requires XIP to provide QIP with any information:
 - (i) in breach of an obligation of confidentiality to any person; or
 - (ii) concerning the consideration of the Scheme by the XIP Board or the XIP management,

or to provide access or co-operation to the extent it would result in a disruption to any material aspects of the XIP Group's businesses and operations.

5.5 Conduct of QIP business

- (a) Subject to clause 5.6, from the date of this deed up until and including the Implementation Date, QIP must ensure that QIP and the QIP Group:
 - (i) conduct their businesses in the ordinary course and substantially (subject to any applicable laws, regulations and Regulatory Approvals) in the manner in which each such business and operation has been conducted in the period before the date of this deed and in compliance in all material respects with all applicable laws, regulations and Regulatory Approvals;

- (ii) make all reasonable efforts to:
 - (A) keep available the services of their officers and employees; and
 - (B) preserve their relationships with Regulatory Authorities, ratings agencies, customers, suppliers, landlords, trade unions, licensors, licensees and others with whom they have business dealings;
 - (iii) not enter any lines of business or other activities in which members of the QIP Group are not engaged at the date of this deed;
 - (iv) respond to any reasonable request from XIP and its Representatives (including in response to requests for information from securities exchanges and Regulatory Authorities) for information concerning the QIP Group and its business and operations; and
 - (v) provide XIP and its Representatives reasonable access to officers and employees, offices and other facilities, and books and records of members of the QIP Group, and otherwise provide reasonable co-operation to XIP and its Representatives, for the purpose of doing all things necessary or desirable under this deed or in connection with the Scheme (including compliance with any regulatory or securities exchange reporting requirements), and any plans for the integration of the XIP Group into the QIP Group following the Implementation Date.
- (b) Nothing in this clause 5.5 requires QIP to provide XIP with any information:
- (i) in breach of an obligation of confidentiality to any person; or
 - (ii) concerning the consideration of the Scheme by the QIP Board or QIP management,
- or to provide access or co-operation to the extent it would result in a disruption to any material aspects of the QIP Group's businesses and operations.

5.6 Permitted activities

- (a) The obligations of XIP or QIP under clauses 5.4 and 5.5 respectively, do not apply in respect of any matter:
- (i) undertaken by a member of the XIP Group or the QIP Group, as the case may be, in conducting its businesses in the usual and ordinary course and consistent with past practice, including, in the case of QIP, the declaration or payment of any QIP Interim Dividend or, in the case of XIP, the declaration or payment of any XIP Interim Dividend
 - (ii) undertaken by a member of the XIP Group or the QIP Group which was the subject of an announcement to the ASX in respect of the matter prior to the date of this deed;
 - (iii) required to be done or procured by XIP or QIP, as the case may be, under, or which is otherwise contemplated by this deed or the Scheme;
 - (iv) subject to clause 5.6(b), Fairly Disclosed:
 - (A) in the case of XIP, either in the XIP Due Diligence Material on or before the Disclosure Cut-off Time or in the XIP Disclosure Letter; and
 - (B) in the case of QIP, either in the QIP Due Diligence Material on or before the Disclosure Cut-off Time or in the QIP Disclosure Letter,
 as being actions that the XIP Group or the QIP Group, as the case may be, may carry out between the date of this deed and the Implementation Date; or
 - (v) the undertaking of which:
 - (A) in the case of XIP, QIP; and
 - (B) in the case of QIP, XIP,
 has approved in writing (which approval must not be unreasonably withheld or delayed).

- (b) XIP and QIP must, in respect of any matter referred to in clause 5.6(a)(iv) above that it proposes to undertake:
 - (i) if the XIP Due Diligence Material, the XIP Disclosure Letter, the QIP Due Diligence Material or the QIP Disclosure Letter, as the case may be, permits the carrying out of the action only in accordance with certain conditions, ensure those conditions are met;
 - (ii) not undertake that matter (or commit to undertake that matter) without first consulting with:
 - (A) in the case of XIP, QIP; and
 - (B) in the case of QIP, XIP; and
 - (iii) promptly provide QIP or XIP, as the case may be, with any information regarding the matter reasonably requested by the other party.

For the avoidance of doubt, clause 5.6(b) does not operate to provide QIP or XIP, as the case may be, with a veto right in respect of any matter referred to in clause 5.6(a)(iv).

5.7 XIP Board Recommendations and Intentions

- (a) The parties acknowledge that the Joint Public Announcement will state that the XIP Board:
 - (i) unanimously considers the Scheme to be in the best interests of the XIP Shareholders; and
 - (ii) recommends that the XIP Shareholders approve the Scheme Resolution, in each case in the absence of a Superior Proposal for XIP and subject to the Independent Expert's Report concluding that the Scheme is in the best interests of the XIP Shareholders (**Recommendation**).
- (b) XIP represents and warrants that the XIP Board and each of the XIP Directors will:
 - (i) not withdraw the statements and recommendations set out in the Joint Public Announcement;
 - (ii) in the Explanatory Booklet, state that the XIP Board unanimously considers the Scheme to be in the best interests of the XIP Shareholders and unanimously recommends that the XIP Shareholders approve the Scheme Resolution, in the absence of a Superior Proposal for XIP, and will not withdraw those statements or recommendations once made; and
 - (iii) does not make any public statement to the effect, or take any other action that suggests, that the Scheme is no longer so considered or recommended, unless any of the following occur:
 - (iv) the Independent Expert concludes in the Independent Expert's Report (either initially or in any updated report) that the Scheme is not in the best interests of the XIP Shareholders;
 - (v) XIP receives a Competing Proposal and, subject to XIP complying with clause 10.7, a majority of the XIP Board determines that the Competing Proposal constitutes a Superior Proposal and any XIP Director, after considering the matter in good faith, no longer considers the Scheme to be in the best interests of the XIP Shareholders;
 - (vi) an QIP Material Adverse Change occurs; or
 - (vii) an QIP Prescribed Occurrence occurs.
- (c) XIP must ensure that the Joint Public Announcement and the Explanatory Booklet state that each XIP Director intends to cause any XIP Shares in which they have a relevant interest to be voted in favour of the Scheme Resolution (**Voting Intention**), which statement must not be qualified in any way other than by words to the effect of 'in the absence of a Superior Proposal' and other than in the case of the Explanatory Booklet or any other document issued after the issue of the Explanatory Booklet, 'subject to the

Independent Expert concluding that the Scheme is in the best interests of the XIP Shareholders'.

- (d) QIP acknowledges that each XIP Director may, at any time after the date of this deed, publicly (or otherwise) withdraw, change or in any way qualify their Voting Intention if:
- (i) a Superior Proposal is made;
 - (ii) the Independent Expert concludes in the Independent Expert's Report (either initially or in any updated report) that the Scheme is not in the best interests of XIP Shareholders;
 - (iii) an QIP Material Adverse Change occurs; or
 - (iv) an QIP Prescribed Occurrence occurs.
- (e) XIP represents and warrants to QIP that each XIP Director has confirmed their agreement not to do anything inconsistent with their Voting Intention (including withdrawing, changing, or in any way qualifying their Recommendation or Voting Intention) other than in circumstances referred to in clause 5.7(d).

5.8 Integration Committee

- (a) From the date of the announcement of the Scheme the parties agree to form an operational integration committee (**Integration Committee**) to facilitate and plan for the Scheme and integration of the businesses of the XIP Group with the businesses of the QIP Group following the Implementation Date. The Integration Committee will comprise members of the management each of XIP and QIP and such other persons as the chief executive officers may agree from time to time.
- (b) The Integration Committee will meet (in person or by telephone) as and when deemed necessary from the date of this deed until the Scheme is fully implemented.
- (c) The Integration Committee will consider all matters relevant to implementing the Scheme, including the following:
- (i) the structure and timetable for accomplishing the Scheme;
 - (ii) integration planning issues;
 - (iii) superannuation funds;
 - (iv) communication strategies, including with ASX, employees, shareholders and other stakeholders of each party and the media; and
 - (v) consultation with appropriate Regulatory Authorities in relation to any Regulatory Approvals.
- (d) Without limiting clause 5.8(c), XIP must procure that its members of the Integration Committee provide to QIP's members of the Integration Committee all such input and assistance as those members may reasonably require or reasonably request with respect to the development of QIP's merger integration plan.

6. Actions on and following Implementation Date

6.1 QIP Board composition

QIP represents and warrants to XIP that it has been advised by each QIP Director that he or she will, and QIP must procure that the QIP Board will, on the Implementation Date, take all actions necessary to ensure that:

- (a) three nominees of XIP are lawfully appointed as directors of QIP (such nominees being directors of XIP as at the date of this deed or persons otherwise acceptable to QIP, acting reasonably), be subject to the persons having provided a consent to act as directors of QIP and any prudent background checks; and
- (b) two existing directors of QIP, nominated by QIP, resign from their office as a QIP Director by providing to the QIP Board their resignation in writing (such resignation to include a

statement to the effect that the outgoing director has no claim outstanding against any member of the QIP Group,

such that, at the Implementation Date, the QIP Board comprises three nominees from QIP and three nominees from XIP, but so that a properly constituted board of directors exists at all relevant times.

6.2 XIP Board composition

XIP represents and warrants to QIP that it has been advised by each XIP Director that he or she will, and XIP must procure that the XIP Board will, on the Implementation Date, take all actions necessary to ensure that:

- (a) at least three nominees of QIP are lawfully appointed as directors of XIP, subject to the relevant persons having provided a consent to act as directors of XIP; and
- (b) all existing directors of XIP (other than Craig Dower) resign from their office as a XIP Director by providing to the XIP Board their resignation in writing (such resignation to include a statement to the effect that the outgoing director has no claim outstanding against any member of the XIP Group,

such that, on the Implementation Date, the XIP Board comprises three nominees from QIP, but so that a properly constituted board of directors exists at all relevant times.

6.3 Chair and Officers

The parties agree that on the Implementation Date:

- (a) the Chair of QIP will be Richard England;
- (b) the Deputy Chair of QIP will be Sibylle Krieger;
- (c) the Chief Executive Officer and Managing Director of QIP will be Craig Dower; and
- (d) an Executive Director of QIP will be Leon Allen.

6.4 Sequence of actions on the Implementation Date

On the Implementation Date, the transactions which form part of the Scheme will be implemented in the following sequence:

- (a) QIP will provide the Scheme Consideration in accordance with the Scheme;
- (b) the QIP Board will be reconstituted in accordance with clause 6.1;
- (c) the XIP Board will be reconstituted in accordance with clause 6.2; and
- (d) QIP will acquire all of the Scheme Shares.

7. Representations and Warranties

7.1 QIP Representations and Warranties

- (a) QIP represents and warrants to XIP (in its own right and separately as trustee or nominee for each of the other XIP Parties) that each QIP Representation and Warranty is true and correct.
- (b) Each QIP Representation and Warranty is subject to matters required or permitted to be done by this deed and to matters:
 - (i) Fairly Disclosed in the QIP Disclosure Letter;
 - (ii) Fairly Disclosed on or before the Disclosure Cut-off Time in the QIP Due Diligence Materials; or
 - (iii) Fairly Disclosed in announcements issued by QIP on ASX up to and including the day before the date of this deed.

7.2 XIP Representations and Warranties

- (a) XIP represents and warrants to QIP (in its own right and separately as trustee or nominee for each of the other QIP Parties) that each XIP Representation and Warranty is true and correct.
- (b) Each XIP Representation and Warranty is subject to matters required or permitted to be done by this deed and to matters:
 - (i) Fairly Disclosed in the XIP Disclosure Letter;
 - (ii) Fairly Disclosed on or before the Disclosure Cut-off Time in the XIP Due Diligence Materials; or
 - (iii) Fairly Disclosed in announcements issued by XIP on ASX up to and including the day before the date of this deed.

7.3 Timing of representations and warranties

Unless expressed to be given at a particular time (in which case it is given at that time), each QIP Representation and Warranty and each XIP Representation and Warranty is given:

- (a) at the date of this deed; and
- (b) at all times up until 8.00am on the Second Court Date.

7.4 Survival of representations

Each QIP Representation and Warranty and XIP Representation and Warranty:

- (a) is severable; and
- (b) survives the termination of this deed (but does not survive, and will be taken to have no further force or effect following implementation of the Scheme).

8. Releases

8.1 XIP Parties

- (a) Without limiting QIP's rights under clause 12, QIP (for itself and as agent of every member of the QIP Group) releases all rights against and agrees with XIP that it will not make a Claim against any XIP Party (other than XIP) in connection with:
 - (i) XIP's execution or delivery of this deed;
 - (ii) any breach of any representation, covenant and warranty of XIP in this deed;
 - (iii) the implementation of the Scheme; or
 - (iv) any disclosure made by any XIP Party including in the XIP Due Diligence Material or the XIP Disclosure Letter that contains any statement which is false or misleading whether in content or by omission,except to the extent the relevant XIP Party has not acted in good faith or has engaged in wilful misconduct.
- (b) This clause is subject to any Corporations Act restriction and will (if and to the extent required) be read down accordingly. XIP receives and holds the benefit of this clause as trustee for each other XIP Party.

8.2 QIP Parties

- (a) Without limiting XIP's rights under clause 12, XIP releases its rights against and agrees with QIP that it will not make a Claim against any QIP Party (other than QIP) in connection with:
 - (i) QIP's execution or delivery of this deed;
 - (ii) any breach of any representation, covenant and warranty of QIP in this deed;
 - (iii) the implementation of the Scheme; or

- (iv) any disclosure made by the QIP Party including in the QIP Due Diligence Material or the QIP Disclosure Letter that contains any statement which is false or misleading whether in content or by omission,

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

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

8.3 Directors' and officers' insurance

- (a) QIP acknowledges that XIP will:
 - (i) prior to the Effective Date, arrange for the cover currently provided under its directors' and officers' insurance policy which expires on 28 September 2019 (**XIP Policy**) to be extended for a further period of 12 months; and
 - (ii) by no later than the Implementation Date, to the extent practicable at normal commercial rates, arrange for the cover provided under the XIP Policy to be amended so as to provide run off cover in accordance with the terms of the XIP Policy for a 7 year period from the end of the term of the XIP Policy, and pay all premiums required so as to ensure that insurance cover is provided under the XIP Policy on those terms until that date.

8.4 Obligations in relation to directors' and officers' insurance

- (a) From the Implementation Date, XIP must not:
 - (i) vary or cancel the XIP Policy; or
 - (ii) unless required under the XIP Policy, commit any act or omission that may prejudice any claim by a director or officer of XIP under the XIP Policy as extended under clause 8.3(a)(ii) above.
- (b) Nothing in clauses 8.3 or 8.4 shall require QIP or XIP to incur any additional premium after the Implementation Date or require XIP to not fulfil its contractual obligations under the XIP Policy.
- (c) XIP receives and holds the benefit of this clause as trustee for each other XIP Party.

9. Public Announcements

9.1 Announcement of the Scheme

Immediately after the execution of this deed, the parties must each issue the Joint Public Announcement.

9.2 Other public announcements

Subject to clause 9.3, prior to making any public announcement or disclosure of or in relation to the Scheme or any other transaction the subject of this deed or the Scheme each party must use its reasonable endeavours to consult with the other party as to, and seek to agree with the other party (each party acting reasonably and in good faith), the timing, form and content of that announcement or disclosure.

9.3 Required announcement

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

9.4 Statements on termination

The parties must act in good faith and use all reasonable endeavours to issue agreed statements in respect of any termination of this deed and, to that end but without limitation, clauses 9.2 and 9.3 apply to any such statements or disclosures.

10. Exclusivity

10.1 No existing negotiations

Other than in relation to the discussions between the parties in connection with the Proposed Transaction and this deed, each party represents and warrants to the other, that as at the date of this deed, it, its Representatives and Related Bodies Corporate and the Representatives of those Related Bodies Corporate are not participating in negotiations with a third party that concern, or that could reasonably be expected to lead to a Competing Proposal or to a party abandoning or not proceeding with the Proposed Transaction.

10.2 No shop restriction

During the Exclusivity Period, each party must not, and must ensure that its Representatives and Related Bodies Corporate and the Representatives of those Related Bodies Corporate do not, directly or indirectly, solicit, invite, initiate or encourage any Competing Proposal or any enquiries, proposals, discussions or negotiations with any third party in relation to (or that could reasonably be expected to lead to) a Competing Proposal or to a party abandoning or not proceeding with the Proposed Transaction.

10.3 No talk restriction

Subject to clause 10.5, during the Exclusivity Period, each party must not, and must ensure that its Representatives and Related Bodies Corporate and the Representatives of those Related Bodies Corporate do not, directly or indirectly:

- (a) negotiate or enter into or participate in negotiations or discussions with any person; or
- (b) communicate any intention to do any of the things referred to in clause 10.3(a),

in relation to (or which may reasonably be expected to lead to) a Competing Proposal, even if that person's Competing Proposal was not directly or indirectly solicited, encouraged or initiated by a party or any of its Related Bodies Corporate, or that person has publicly announced the Competing Proposal.

10.4 No due diligence

Without limiting the general nature of clause 10.3 and subject to clause 10.5, during the Exclusivity Period each party must not, and must ensure that its Representatives and Related Bodies Corporate and the Representatives of those Related Bodies Corporate do not make available to any Third Party, or permit any Third Party, to receive any non public information relating to any member of the XIP Group or the QIP Group in connection with such Third Party formulating, developing or finalising, or assisting in the formulation, development or finalisation of, a Competing Proposal

10.5 Exceptions

The restrictions in clause 10.3 and 10.4 do not prohibit any action or inaction by a party, any of its Related Bodies Corporate or any of the Representatives of those Related Bodies Corporate from taking or refusing to take any action with respect to a Competing Proposal (in relation to which there has been no contravention of this clause 10.5) provided that:

- (a) the Competing Proposal has not been directly or indirectly solicited, invited, encouraged or initiated in breach of clause 10.2;
- (b) the Competing Proposal is bona fide and is made by or on behalf of a person that the party's board considers is of reputable commercial standing; and
- (c) the party's board has determined in good faith (after consultation with its financial and legal advisers) that the Competing Proposal is or may reasonably be expected to lead to a

Superior Proposal and that failing to take the action or refuse to take the action (as the case may be) with respect to the Competing Proposal would be likely to constitute a breach of the fiduciary or statutory obligations of its board.

10.6 Notification

- (a) Subject to clause 10.6(c), during the Exclusivity Period, each party must promptly notify the other party if:
 - (i) it is approached, directly or indirectly, by any Third Party to take any action of a kind referred to in clauses 10.3 or 10.4; or
 - (ii) it proposes to take any action of a kind referred to in clauses 10.3 or 10.4 (for the avoidance of doubt, such notice being given before the taking of the relevant action).
- (b) A notification given under clause 10.6(a) must include a summary of all material terms and conditions of the actual, proposed or potential Competing Proposal including price and the identity of the Third Party making the actual, proposed or potential Competing Proposal.
- (c) Despite anything in clauses 10.6(a) and 10.6(b), each obligation of a party under that clause does not apply:
 - (i) to the extent it restricts the QIP Board or the XIP Board from taking (or refusing to take) any action with respect to a Competing Proposal which was not directly or indirectly solicited, invited, encouraged or initiated in breach of clause 10.2; and
 - (ii) to the extent that the QIP Board or the XIP Board, after receiving legal advice from its external legal advisers, determines that complying with such obligation would be likely to involve a breach of the fiduciary or statutory duties owed by any members of the QIP Board or the XIP Board or other contractual obligation.

10.7 Response to Competing Proposal

- (a) During the Exclusivity Period, each party must not, and must ensure that its Representatives and Related Bodies Corporate and the Representatives of those Related Bodies Corporate do not publicly recommend a Competing Proposal or enter into any legally binding agreement, arrangement or understanding to give effect to or implement a Competing Proposal unless the party (**Notifying Party**) has provided the other party (**Matching Party**) with full details of the Competing Proposal, including, without limitation, the identity of the relevant Third Party, the consideration offered under its Competing Proposal and any conditions to the Competing Proposal, and at least 3 Business Days to match the terms of the Competing Proposal. The Notifying Party's obligations under this clause 10.7 apply in respect of each new Competing Proposal and any material variation or amendment to a Competing Proposal.
- (b) If the Notifying Party determines that the Matching Party matches or exceeds the terms of a Competing Proposal (**Counter Proposal**), then the Notifying Party and the Matching Party and each of their respective Representatives must use their best endeavours to agree the amendments to this deed that are reasonably necessary to reflect the Counter Proposal and to enter into an amended deed to give effect to those amendments and to implement the Counter Proposal, and the Notifying Party must use its best endeavours to procure that its board unanimously recommends the Counter Proposal to its shareholders and not recommend the applicable Competing Proposal.

10.8 Normal provision of information

Nothing in this clause prevents a party or its Representatives or agents from:

- (a) providing information to its Representatives;
- (b) providing information to any Regulatory Authority;
- (c) providing information to its auditors, customers, financiers, joint venturers and suppliers acting in that capacity in the ordinary course of business;
- (d) providing information required to be provided by law, including to satisfy its obligations of disclosure under the ASX Listing Rules or to any Regulatory Authority; or

- (e) making presentations to brokers, portfolio investors, analysts and other third parties in the ordinary course of business.

10.9 Acknowledgement

Each of XIP and QIP has required the other to agree to the obligations set out in this clause in consideration of it proceeding with the Scheme and incurring significant costs in doing so. In the absence of obtaining these obligations from the other party, each of XIP and QIP would not have entered into this deed.

11. Break Fee

11.1 Background

- (a) The parties acknowledge that, if the parties enter into this deed and the Scheme is subsequently not implemented, each party will incur significant costs including those described in 11.2.
- (b) In the circumstances, the parties have agreed that provision be made for the payments outlined in clauses 11.3 and 11.4, without which the parties would not have entered into this deed or otherwise agreed to implement the Scheme.
- (c) QIP and the QIP Board and XIP and the XIP Board believe, each having taken advice from its external legal adviser and Financial Adviser, that the implementation of the Scheme will provide benefits to it and its shareholders and that it is appropriate for QIP (in respect of the QIP Break Fee) and XIP (in respect of the XIP Break Fee) to agree to the payments referred to in clauses 11.3 and 11.4.

11.2 Calculation of Break Fees

- (a) The XIP Break Fee and the QIP Break Fee have been calculated to reimburse QIP (in the case of the XIP Break Fee) or XIP (in the case of the QIP Break Fee) for the following:
 - (i) fees for legal and financial advice in planning and implementing the Proposed Transaction;
 - (ii) reasonable opportunity costs incurred in engaging in the Proposed Transaction or in not engaging in other alternative acquisitions or strategic initiatives;
 - (iii) costs of management and directors' time in planning and implementing the Proposed Transaction;
 - (iv) out of pocket expenses incurred in planning and implementing the Proposed Transaction; and
 - (v) any damage to the counterparty's reputation associated with a failed transaction and the implications of those damages if the counterparty seeks to execute alternative acquisitions in the future,in each case, incurred by the counterparty directly or indirectly as a result of having entered into this deed and pursuing the Proposed Transaction.
- (b) The parties acknowledge that:
 - (i) the amount of fees, costs and losses referred to in this clause 11.2 are inherently unascertainable and that, even after termination of this deed, the costs will not be able to be accurately ascertained; and
 - (ii) the XIP Break Fee and the QIP Break Fee are genuine and reasonable pre-estimates of those fees, costs and losses (it being acknowledged by the parties that the costs would most likely be in excess of this amount).

11.3 Payment by XIP to QIP

Subject to clauses 11.5 and 11.11, XIP agrees to pay to QIP the XIP Break Fee if:

- (a) **(XIP Competing Proposal)** a XIP Competing Proposal is publicly announced prior to the End Date and within twelve months from the date of the public announcement of such XIP Competing Proposal the proponent of that XIP Competing Proposal:
 - (i) completes, implements and consummates that XIP Competing Proposal; or
 - (ii) without limiting clause 11.3(a)(i), acquires a relevant interest in at least 50% of the XIP Shares under a transaction that is or has become unconditional or otherwise acquires Control of XIP or the XIP Group;
- (b) **(Termination)** QIP terminates this deed in accordance with its rights under clause 12.1, other than clause 12.1(c);
- (c) **(XIP Material Adverse Change)** the Condition in clause 3.1(h) is breached or not satisfied prior to 8.00am on the Second Court Date (except if that Condition is breached as a sole result of a change in any applicable law) and QIP terminates this deed in accordance with clause 12.1(c); or
- (d) **(XIP Prescribed Occurrence)** the Condition in clause 3.1(i) is breached or not satisfied prior to 8.00am on the Second Court Date and QIP terminates this deed in accordance with clause 12.1(c),

within five Business Days of receipt by XIP of a demand for payment from QIP made after the occurrence of an event referred to in this clause 11.3.

11.4 Payment by QIP to XIP

Subject to clauses 11.5 and 11.11, QIP agrees to pay to XIP the QIP Break Fee if:

- (a) **(QIP Competing Proposal)** a QIP Competing Proposal is publicly announced prior to the End Date and within twelve months from the date of the public announcement of such QIP Competing Proposal the proponent of that QIP Competing Proposal:
 - (i) completes, implements and consummates that QIP Competing Proposal; or
 - (ii) without limiting clause 11.4(a)(i), acquires a relevant interest in at least 50% of the QIP Shares under a transaction that is or has become unconditional or otherwise acquires Control of QIP or the QIP Group;
- (b) **(Termination)** XIP terminates this deed in accordance with its rights under clause 12.1, other than 12.1(c);
- (c) **(QIP Material Adverse Change)** the Condition in clause 3.1(m) is breached or not satisfied prior to 8.00am on the Second Court Date (except if that Condition is breached as a sole result of a change in any applicable law) and XIP terminates this deed in accordance with clause 12.1(c); or
- (d) **(QIP Prescribed Occurrence)** the Condition in clause 3.1(n) is breached or not satisfied prior to 8.00am on the Second Court Date and XIP terminates this deed in accordance with clause 12.1(c); or
- (e) **(Scheme Consideration)** QIP does not provide the Scheme Consideration in accordance with the terms and conditions of this deed and the Deed Poll,

within five Business Days of receipt by QIP of a demand for payment from XIP made after the occurrence of an event referred to in this clause 11.4.

11.5 Payment conditions

- (a) Despite the occurrence of any event under clause 11.3 or 11.4, no amount is payable under the clause if the Scheme becomes Effective.
- (b) XIP or the QIP can only ever be liable to pay the XIP Break Fee (in respect of XIP) or the QIP Break Fee (in respect of QIP) once.

11.6 XIP Limitation of liability

Despite any other provisions of this deed but subject to clause 11.2(a):

- (a) the maximum liability of XIP to QIP under or in connection with this deed including in respect of any breach of the agreement will be the XIP Break Fee;
- (b) a payment by XIP to QIP in accordance with this clause 11 represents the sole and absolute liability of XIP under or in connection with this deed and no further damages, fees, expenses or reimbursements of any kind will be payable by XIP in connection with this deed.

11.7 QIP Limitation of liability

Despite any other provisions of this deed but subject to clause 11.2(b):

- (a) the maximum liability of QIP to XIP under or in connection with this deed including in respect of any breach of the agreement will be the QIP Break Fee;
- (b) a payment by QIP to XIP in accordance with this clause 11 represents the sole and absolute liability of QIP under or in connection with this deed and no further damages, fees, expenses or reimbursements of any kind will be payable by QIP in connection with this deed.

11.8 Timing of payment

If a Break Fee is payable under this clause, XIP or QIP (as the case may be) must pay that Break Fee without set-off or withholding within 5 Business Days of receipt of a tax invoice for payment from the other party.

11.9 QIP exclusive remedy

- (a) Subject to clause 11.9(b), each party agrees that if an amount is paid by XIP to QIP as required under this clause 11, that payment constitutes QIP's sole and exclusive remedy for any liability arising under or in connection with this deed in respect of that act or event.
- (b) Clause 11.9(a) will not apply in relation to any wilful misconduct by XIP, in which case QIP will retain all rights and remedies it has or may have in connection with this deed in respect of that act or event in excess of any payment made by XIP under this clause 11.

11.10 XIP exclusive remedy

- (a) Subject to clause 11.10(b), each party agrees that if an amount is paid by QIP to XIP as required under this clause 11, that payment constitutes XIP's sole and exclusive remedy for any liability arising under or in connection with this deed in respect of that act or event.
- (b) Clause 11.10(a) will not apply in relation to any wilful misconduct by QIP, in which case XIP will retain all rights and remedies it has or may have in connection with this deed in respect of that act or event in excess of any payment made by QIP under this clause 11.

11.11 Compliance with law

- (a) This clause 11 imposes obligations on XIP only to the extent that the performance of all or part of those obligations:
 - (i) do not constitute unacceptable circumstances, as declared by the Australian Takeovers Panel;
 - (ii) do not breach the fiduciary or statutory duties of the XIP Board, as determined by a court; and
 - (iii) are not otherwise held to be unlawful or unenforceable by a court.

If and to the extent any of the above apply, QIP must reimburse all or part of the XIP Break Fee within 5 Business Days of receipt of a demand for reimbursement from XIP, which demand must be accompanied by reasonable evidence of any of the above applying and the extent to which it applies.

- (b) This clause 11 imposes obligations on QIP only to the extent that the performance of all or part of those obligations:
 - (i) do not constitute unacceptable circumstances, as declared by the Australian Takeovers Panel;

- (ii) do not breach the fiduciary or statutory duties of the QIP Board, as determined by a court; and
- (iii) are not otherwise held to be unlawful or unenforceable by a court.

If and to the extent any of the above apply, XIP must reimburse all or part of the QIP Break Fee within 5 Business Days of receipt of a demand for reimbursement from QIP, which demand must be accompanied by reasonable evidence of any of the above applying and the extent to which it applies.

12. Termination

12.1 General rights

- (a) QIP or XIP (**Non-Defaulting Party**) may terminate this deed by written notice to the other at any time before 8.00am on the Second Court Date if:
 - (i) the other has breached any material provision of this deed including any XIP Representation and Warranty or QIP Representation and Warranty (as applicable);
 - (ii) the party wishing to terminate has given written notice to the other in a timely manner setting out the relevant circumstances and stating an intention to terminate this deed; and
 - (iii) the relevant circumstances are not remedied within 5 Business Days after the time the notice of intention to terminate is given (or any shorter period ending at 5.00pm on the Business Day before the Second Court Date).
- (b) A party (**Party A**) may terminate this deed by written notice to the other party (**Party B**) if Party B fails to issue the Joint Public Announcement in accordance with clause 9.1 or if, after issuing the Joint Public Announcement, the board of Party B:
 - (i) makes a public statement withdrawing or adversely changing or modifying its or their recommendation that the XIP Shareholders vote in favour of the Scheme Resolution or makes a recommendation or statement that is inconsistent with such recommendation or statement; or
 - (ii) without limiting the foregoing, makes a public statement indicating that they no longer support the Scheme or that they support another transaction (including, without limitation, a Competing Proposal).
- (c) QIP or XIP may terminate this deed by written notice to the other in the circumstances set out in, and in accordance with, clause 3.7.
- (d) QIP may terminate this deed by written notice to XIP if XIP has materially breached any provision of clause 10.
- (e) XIP may terminate this deed by written notice to QIP if QIP has materially breached any provision of clause 10.

12.2 Automatic termination

This deed will terminate automatically without the need for action by any party in the event that:

- (a) the XIP Shareholders fail to approve the Scheme Resolution; or
- (b) if clause 3.6 requires XIP to apply for the order referred to in that clause, the order is refused with the result that the Scheme is not approved by the XIP Shareholders.

12.3 Effect of termination

If this deed is validly terminated by a party in compliance with clauses 3.7 or 12.1, this deed will be of no force or effect, without any liability or obligation on the part of any party, other than in relation to rights and obligations that accrued before termination and the provisions of this clause and of clauses 1, 7.4, 8.1, 8.2, 9, 11, 13, 14, 15 and 16, which will remain in force after the termination.

12.4 Termination by written agreement

The parties may terminate this deed by another written agreement between them.

13. Confidentiality

13.1 Confidentiality Obligation

Subject to clause 13.2, the parties acknowledge and agree that:

- (a) they continue to be bound by the Confidentiality Deed after the date of this deed; and
- (b) the rights and obligations of the parties under the Confidentiality Deed survive termination of this deed.

13.2 Exceptions to confidentiality

Nothing in the Confidentiality Deed restricts any party (**Recipient**) from disclosing any confidential information of the other party (**Discloser**) where that disclosure is required for the purpose of implementing the Scheme or any other transaction the subject of this deed or the Scheme.

14. GST

14.1 Recovery of GST

If GST is payable, or notionally payable, on a supply made under or in connection with this deed, the party providing the consideration for that supply must pay as additional consideration an amount equal to the amount of GST payable, or notionally payable, on that supply (**GST Amount**). Subject to the prior receipt of a tax invoice, the GST Amount is payable at the same time that the other consideration for the supply is provided. This clause does not apply to the extent that the consideration for the supply is expressly stated to be GST inclusive or the supply is subject to reverse charge.

14.2 Liability net of GST

Where any indemnity, reimbursement or similar payment under this deed is based on any cost, expense or other liability, it may be reduced by any input tax credit entitlement, or notional input tax credit entitlement, in relation to the relevant cost, expense or other liability.

14.3 Adjustment events

If an adjustment event occurs in relation to a supply under or in connection with this deed, the GST Amount will be recalculated to reflect that adjustment and an appropriate payment will be made between the parties and the supplier shall issue an adjustment note to the recipient.

14.4 Survival

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

14.5 Definitions

Unless the context requires otherwise, words used in this clause that have a specific meaning in the GST law (as defined in the *A New Tax System (Goods and Services Tax) Act 1999* (Cth)) have the same meaning in this clause.

15. Notices

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

- (a) must be in writing and signed by a person duly authorised by the sender;
- (b) must be delivered to the intended recipient by prepaid post (if posted to an address in another country, by registered airmail) or by hand or email to the email address specified in the Details or the last notified details of the intended recipient to the sender;

- (c) will be conclusively taken to be duly given or made:
- (i) in the case of delivery in person, when delivered;
 - (ii) in the case of delivery by post, 2 Business Days after the date of posting (if posted to an address in the same country) or 7 Business Days after the date of posting (if posted to an address in another country); and
 - (iii) in the case of email, immediately unless the sender receives a message indicating delivery to the recipient has not been successful,

but if the result is that a Notice would be taken to be given or made on a day that is not a business day in the place to which the Notice is sent or is later than 5.00pm (local time) it will be taken to have been duly given or made at the 9.00am on the next business day in that place.

16. General Provisions

16.1 Amendment

This deed may be amended only by another deed executed by all the parties.

16.2 Assignment

A party cannot assign, charge, encumber or otherwise deal with at law or in equity any of its rights or obligations under this deed, or attempt or purport to do so, without the prior consent of each other party.

16.3 Costs and stamp duty

Each party must each bear their own costs arising out of the negotiation, preparation and execution of this deed. All stamp duty (including fines, penalties and interest) payable on or in connection with this deed and any instrument executed under or any transaction evidenced by this deed must (subject to the remaining provisions of this clause) be borne by QIP.

16.4 Counterparts

This deed may be executed in any number of counterparts. All counterparts together will be taken to constitute one instrument.

16.5 Entire agreement

This deed and the Confidentiality Deed contain the entire agreement between the parties with respect to their subject matter. They set out the only conduct relied on by the parties and supersede all earlier conduct and prior agreements and understandings between the parties in connection with their subject matter.

16.6 Further assurances

Each party must do anything reasonably necessary (including executing agreements and documents) to give full effect to this deed.

16.7 Governing law and jurisdiction

This deed is governed by the laws of Victoria. In relation to it and related non contractual matters each party irrevocably submits to the non exclusive jurisdiction of courts with jurisdiction there, and waives any right to object to the venue on any ground.

16.8 No merger

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

16.9 No third party beneficiary

This deed is binding upon and inures solely to the benefit of each party to it and each of their respective permitted successors and assigns, and nothing in this deed, express or implied, is intended to or will confer it on any other person, other than the QIP Parties and the XIP Parties (to the extent set out in clause 8), any third party beneficiary rights.

16.10 No waiver

A failure to exercise or a delay in exercising any right, power or remedy under this deed does not operate as a waiver. A single or partial exercise or waiver of the exercise of any right, power or remedy does not preclude any other or further exercise of that or any other right, power or remedy. A waiver is not valid or binding on the party granting that waiver unless made in writing.

16.11 Severability of provisions

Any provision of this deed that is prohibited or unenforceable in any jurisdiction is ineffective as to that jurisdiction to the extent of the prohibition or unenforceability. That does not invalidate the remaining provisions of this deed nor affect the validity or enforceability of that provision in any other jurisdiction.

Schedule 1 - QIP Representations and Warranties

1. QIP is a validly existing corporation registered under the laws of its place of incorporation.
2. The execution and delivery of this deed has been properly authorised by all necessary corporate action and QIP has full corporate power and lawful authority to execute and deliver this deed and to perform or cause to be performed its obligations under this deed.
3. This deed constitutes legal, valid and binding obligations on it and this deed does not result in a breach of or default under any deed or any writ, order or injunction, rule or regulation to which QIP is a party or is bound.
4. As at the date of this deed, there are 133,050,724 QIP Shares on issue, and QIP has not issued (and is not required to issue) any other securities or instruments which are still outstanding (or may become outstanding) and which may convert into QIP securities by way of new issue other than under a dividend reinvestment plan (including under any underwriting of that plan) or an incentive scheme or option or performance share plans for the benefit of employees and directors only (including any security issued upon conversion, vesting or exercise of rights attaching to any security issued under an incentive scheme, option or performance share plan).
5. To the best of QIP's knowledge, after making due and proper enquiry, all information QIP has provided to XIP or its Representatives on or before the Disclosure Cut-off Time is not misleading in any material respect (whether by omission or otherwise), including that there are reasonable grounds for all statements as to future matters and a reasonable basis for all statements of opinion in that information.
6. After making due and proper enquiry, QIP is not aware of any material information relating to its businesses that has not been disclosed to XIP or its Representatives on or before the Disclosure Cut-off Time which:
 - (a) is objectively necessary for XIP to make an informed decision as to whether to proceed with the Scheme; or
 - (b) might reasonably be expected to cause XIP not to proceed with the Scheme at all or to only proceed with the Scheme on materially different terms.
7. The QIP Due Diligence Materials and each disclosure in the QIP Disclosure Letter have been disclosed in good faith and, so far as the QIP Board and the senior management of QIP are aware after due enquiry, QIP has not knowingly or recklessly:
 - (a) omitted anything from such information such as to make any part of that information materially false or misleading; or
 - (b) included anything materially false or misleading in such information;
8. The QIP Information provided to XIP for inclusion in the Explanatory Booklet will:
 - (a) be provided in good faith;
 - (b) comply in all material respects with the requirements of the Corporations Act, the Listing Rules and RG 60, including disclosure of all the information that would be required under paragraphs (c), (f), (g), (h), (i), (k), (l) and (m) of section 636(1) of the Corporations Act to be included in a bidder's statement if QIP were offering the Scheme Consideration as consideration under a takeover bid; and
 - (c) be provided on the understanding that XIP will rely on that information for the purposes of preparing the Explanatory Booklet and proposing and implementing the Scheme in accordance with the requirements of the Corporations Act.
9. The Joint Information provided by QIP to XIP for inclusion in the Explanatory Booklet will, to the extent that the Joint Information relates solely to QIP or has been prepared by QIP:
 - (a) be provided in good faith;

- (b) comply in all material respects with the requirements of the Corporations Act, the Listing Rules and RG 60, including disclosure of all the information that would be required under paragraphs (c), (f), (g), (h), (i), (k), (l) and (m) of section 636(1) of the Corporations Act to be included in a bidder's statement if QIP were offering the Scheme Consideration as consideration under a takeover bid; and
 - (c) be provided on the understanding that XIP will rely on that information for the purposes of preparing the Explanatory Booklet and proposing and implementing the Scheme in accordance with the requirements of the Corporations Act.
10. All information provided by or on behalf of QIP to the Independent Expert to enable the Independent Expert's Report to be included in the Explanatory Booklet to be prepared and completed will be provided in good faith and on the understanding that the Independent Expert will rely upon that information for the purposes of preparing the Independent Expert's Report for inclusion in the Explanatory Booklet.
 11. As at the date the Explanatory Booklet is despatched to the XIP Shareholders, the QIP Information, in the form and context in which that information appears in the version of the Explanatory Booklet registered by ASIC under section 412(6) of the Corporations Act will not be misleading or deceptive in any material respect (whether by omission or otherwise).
 12. As at the date of this deed, QIP is not in breach of its continuous disclosure obligations under the Listing Rules and is not relying on the exclusion in Listing Rule 3.1A to withhold any information from disclosure (other than in relation to the Scheme or as disclosed in writing to XIP on or before the Disclosure Cut-off Time) and its public disclosures to ASX (taken as a whole) are not misleading in any material respect (whether by omission or otherwise).
 13. QIP will, as a continuing obligation, provide to XIP all such further or new information which may arise after the Explanatory Booklet has been despatched until the date of the Scheme Meeting which is necessary to ensure that the QIP Information (and any Joint Information provided by QIP to XIP or contributed to by QIP), in the form and context in which that information appears in the version of the Explanatory Booklet registered by ASIC under section 412(6) of the Corporations Act, is not misleading or deceptive in any material respect (whether by omission or otherwise).
 14. No QIP Prescribed Occurrence has occurred.
 15. There are no restrictions on QIP issuing New QIP Shares to Scheme Shareholders in accordance with the Scheme and there are no restrictions to those New QIP Shares being quoted on the financial market conducted by ASX (initially on a deferred settlement basis and thereafter on an ordinary settlement basis), other than receiving permission from ASX to have those QIP Shares so quoted.
 16. The New QIP Shares to be issued in accordance with clause 4.5 and the terms of the Scheme will be duly authorised and validly issued or transferred, fully paid and free of all security interests and third party rights and will rank equally with all other QIP Shares then on issue.

Schedule 2 - XIP Representations and Warranties

1. XIP is a validly existing corporation registered under the laws of its place of incorporation.
2. The execution and delivery of this deed by XIP has been properly authorised by all necessary corporate action and XIP has full corporate power and lawful authority to execute and deliver this deed and to perform or cause to be performed its obligations under this deed.
3. This deed constitutes legal, valid and binding obligations on XIP and the execution of this deed of itself does not result in a breach of or default under any agreement or deed or any writ, order or injunction, rule or regulation to which XIP or any of its Subsidiaries is a party or to which they are bound.
4. As at the date of this deed, there are 88,717,931 XIP Shares and 309,655 XIP Performance Rights on issue, and XIP has not issued (and is not required to issue) any other securities or instruments which are still outstanding (or may become outstanding) and which may convert into XIP securities by way of new issue other than under a dividend reinvestment plan (including under any underwriting of that plan) or an incentive scheme or option or performance share plans for the benefit of employees and directors only (including any security issued upon conversion, vesting or exercise of rights attaching to any security issued under an incentive scheme, option or performance share plan).
5. The XIP Due Diligence Materials and each disclosure in the XIP Disclosure Letter have been disclosed in good faith and, so far as the XIP Board and the senior management of XIP are aware after due enquiry, XIP has not knowingly or recklessly:
 - (a) omitted anything from such information such as to make any part of that information materially false or misleading; or
 - (b) included anything materially false or misleading in such information;
6. The XIP Information contained in the Explanatory Booklet:
 - (a) will be prepared and included in the Explanatory Booklet in good faith; and
 - (b) will comply in all material respects with the requirements of the Corporations Act, Listing Rules and RG 60.
7. The Joint Information provided by XIP for inclusion in the Explanatory Booklet will, to the extent that the Joint Information relates solely to XIP or has been prepared by XIP:
 - (a) be provided in good faith; and
 - (b) comply in all material respects with the requirements of the Corporations Act, the Listing Rules and RG 60; and
 - (c) be provided on the understanding that QIP will rely on that information for the purposes of preparing the section of the Explanatory Booklet containing the Joint Information,
8. As at the date the Explanatory Booklet is despatched to the XIP Shareholders, the Explanatory Booklet registered by ASIC under section 412(6) of the Corporations Act (excluding the QIP Information and the Independent Expert's Report) will not be misleading or deceptive in any material respect (whether by omission or otherwise).
9. XIP will, as a continuing obligation (but in respect of the QIP Information and Joint Information, only to the extent that QIP provides XIP with updates to the QIP Information and Joint Information), ensure that the Scheme Booklet is updated or supplemented to include all further or new information which arises after the Scheme Booklet has been despatched to XIP Shareholders until the date of the Scheme Meeting which is necessary to ensure that the Scheme Booklet is not misleading or deceptive (including by way of omission).
10. As at the date of this deed, XIP is not in breach of its continuous disclosure obligations under the Listing Rules and is not relying on the exclusion in Listing Rule 3.1A to withhold any information from disclosure (other than in relation to the Scheme or as disclosed in writing to QIP on or before

the Disclosure Cut-off Time) and its public disclosures to ASX (taken as a whole) are not misleading in any material respect (whether by omission or otherwise).

11. No XIP Prescribed Occurrence has occurred.
12. To the best of XIP's knowledge, after making due and proper enquiry, all information XIP has provided to QIP or its Representatives as at and from the Disclosure Cut-off Time is not misleading in any material respect (whether by omission or otherwise), including that there are reasonable grounds for all statements as to future matters and a reasonable basis for all statements of opinion in that information.
13. After making due and proper enquiry, XIP is not aware of any material information relating to its businesses that has not been disclosed to QIP or its Representatives as at the date of this deed which:
 - (a) is objectively necessary for QIP to make an informed decision as to whether to proceed with the Scheme; or
 - (b) might reasonably be expected to cause QIP not to proceed with the Scheme at all or to only proceed with the Scheme on materially different terms.
14. As at the date of this deed, the total issued capital of XIP is:
 - (a) 88,717,931 XIP Shares; and
 - (b) 309,655 XIP Performance Rights,and there are no other XIP options, performance rights, shares, convertible notes or other securities (or offers or agreements to issue any of the foregoing).

Schedule 3 - XIP Prescribed Occurrences

Part 1

Changes to capital structure, distributions

1. XIP converts all or any of its shares into a larger or smaller number of shares.
2. Any XIP Group Member (other than a direct or indirect wholly-owned subsidiary of XIP) resolves to reduce its share capital in any way or reclassify, combine, split, redeem or repurchase directly or indirectly any of its shares.
3. Any XIP Group Member (other than a direct or indirect wholly-owned subsidiary of XIP):
 - (a) enters into a buy-back agreement; or
 - (b) resolves to approve the terms of a buy-back agreement under the Corporations Act.
4. Any XIP Group Member (other than a direct or indirect wholly-owned subsidiary of XIP) declares, pays or distributes any dividend, bonus or other share of its profits or assets or agrees to return any capital to its members.
5. Any XIP Group Member issues, agrees to issue or incurs any obligation (including any contingent obligation) to issue or have transferred to any person securities in or of it or any other XIP Group Member, other than:
 - (a) to XIP or a direct or indirect wholly-owned subsidiary of XIP; or
 - (b) the XIP Shares, to the holders as at the date of this deed of XIP Performance Rights as required by their terms following a valid exercise or vesting of XIP Performance Rights.
6. Any XIP Group Member issues or grants, agrees to issue or grant or incurs any obligation (including any contingent obligation) to issue, grant or have transferred to any person:
 - (a) options over shares or other securities convertible into shares in or of it or any other XIP Group Member; or
 - (b) any debt securities (including any performance rights or options).

Entering into, varying or terminating agreements

7. Except with respect to agreements or arrangements with clients in relation to provision of professional services in relation to trademark or patents or legal professional services, a XIP Group Member:
 - (a) enters into, varies in a materially adverse respect or terminates:
 - (i) a Material Agreement;
 - (ii) an agreement with respect to derivative instruments (including swaps, futures, contracts, forward commitments, commodity or currency derivatives or options) or similar investments;
 - (iii) a joint venture, partnership or similar arrangement; or
 - (iv) an agreement or understanding restraining any XIP Group Member from competing with any person or conducting activities in any market;
 - (b) enters into, varies in a materially adverse respect or terminates any agreement or arrangement where the agreement or arrangement concerned involves an amount (including any payment, incurring of expenditure or foregoing of revenue by a XIP Group Member) or assets or liabilities to the value, of more than \$750,000 (per annum, in any case involving recurring payments), other than in the ordinary course of business; or
 - (c) waives a default or accepts a compromise, where the waiver or compromise involves an amount of more than \$750,000 (per annum, in any case involving recurring payments) (and for the purposes of the above a number of separate transactions shall be treated as

a single transaction if they are with the same or associated parties or if a reasonable person would otherwise consider them to be related),

without XIP having first obtained the approval of QIP in respect of such event (and for the purposes of the foregoing a number of separate transactions shall be treated as a single transaction if they are with the same or associated parties or if a reasonable person would otherwise consider them to be related).

Borrowing or lending other than in the ordinary course

8. A XIP Group Member incurs or makes available any finance debt other than in the ordinary course of business.

Encumbering assets

9. A XIP Group Member creates, or agrees to create, any mortgage, charge, lien or other encumbrance over the whole, or substantially all, of its business or property, other than by operation of law in the ordinary course of business.

Insolvency Events

10. A XIP Group Member suffers an Insolvency Event or (without limitation) becomes unable to pay its debts as and when due.

Changes to the nature of business

11. A XIP Group Member ceases, or threatens to cease, to carry on its business or makes a material change to the nature of its business.

Varying or granting employee benefits

12. Except as specifically provided for in an existing contract or in an existing entitlement under an employee incentive scheme, in each case in place prior to the date of this deed, details of which have been Fairly Disclosed on or before the Disclosure Cut-off Time in the XIP Disclosure Materials, any XIP Group Member:
 - (a) paying any bonus to, or increasing the compensation of, any officer or employee of any XIP Group Member;
 - (b) accelerating the rights of any officer or employee of any XIP Group Member to compensation or benefits of any kind (including under any XIP executive or employee share plan);
 - (c) granting to any officer or employee of any XIP Group Member any increase in severance or termination pay or superannuation entitlements or issuing any XIP Shares or securities convertible to the XIP Shares to any of those persons; or
 - (d) establishing, adopting, entering into or amending in any material respect (including by taking any action to accelerate any rights or benefits due under) any enterprise bargaining agreement, Australian workplace agreement, employee benefit plan or superannuation scheme of XIP or relating to the officers or employees of any XIP Group Member,

where the aggregate incremental cost to the XIP Group of all such actions exceeds \$500,000, provided that paragraphs 12(a) to (d) above will not prevent the entry into:

- (e) any agreements or arrangements with new lateral principals or new employees hired to replace a person ceasing employment with an XIP Group Member (**XIP Ex-Employee**), provided that the new principal or employee is hired on materially the same terms as the XIP Ex-Employee, with any costs greater than 110% of the XIP Ex-Employee's costs reducing the \$500,000 cap referred to immediately above;
- (f) any enterprise bargaining agreement, Australian workplace agreement or other similar agreement with a group of the XIP Group operational employees if that occurs in the ordinary course of business as a result of the fact that existing arrangements of that kind with that group of operational employees will expire before the End Date.

Disposing of subsidiaries etc

13. XIP or a XIP Group member disposes, or agrees to dispose, of shares in a subsidiary or any XIP Group Member is deregistered or dissolved.

Part 2

Changes to accounting methods

14. Any XIP Group Member making a change in its accounting methods, principles or practices which would materially affect the reported consolidated assets, liabilities or results of operations of any XIP Group Member, other than as required to comply with any changes to generally accepted accounting principles, standards, guidelines or practices in the jurisdiction of the relevant entity's incorporation.

Related party Scheme

15. A XIP Group Member entering into or resolving to enter into a transaction with any related party of XIP (other than a related party which is a XIP Group Member) as defined in section 228 of the Corporations Act which would require shareholder approval under Chapter 2E or under Chapter 10 of the ASX Listing Rules.

Changes to arrangements with financial advisers

16. A XIP Group Member amending in any material respect any arrangement with its financial adviser, or entering into arrangements with a new financial adviser which arrangements with any such new financial adviser may involve the payment of any further fees in respect of the Scheme.

Tax deconsolidation

17. A XIP Group Member doing anything that would result in a de-consolidation of the XIP Consolidated Tax Group, other than acquiring or disposing of a wholly owned subsidiary (subject always to the other provisions of this deed).

Part 3

Consultation and co-operation

18. Notwithstanding anything else in this deed, in respect of:
 - (a) the issue of any benefits under a long-term incentive scheme (including, in the case of a QIP Group Member, the QIP employee share trust); or
 - (b) any variation of the employment arrangements (including remuneration packages) in place in respect of the principals of a QIP Group Member or XIP Group Member,subject to any restrictions or requirements under applicable law (including competition law), before taking an action referred to above, QIP or XIP (as relevant) must consult with the other party and co-operate in good faith to agree a course of action that is in the best interests of the parties.
19. For the avoidance of doubt, the carve out in limb (c) of the definition of XIP Prescribed Occurrence does not apply to any action referred to in item 18(a) or 18(b) above unless the requirements of item 18 have been complied with.

Schedule 4 - QIP Prescribed Occurrences

Part 1

Changes to capital structure, distributions

1. QIP converts all or any of its shares into a larger or smaller number of shares.
2. Any QIP Group Member (other than a direct or indirect wholly-owned subsidiary of QIP) resolves to reduce its share capital in any way or reclassify, combine, split, redeem or repurchase directly or indirectly any of its shares.
3. Any QIP Group Member (other than a direct or indirect wholly-owned subsidiary of QIP):
 - (a) enters into a buy-back agreement; or
 - (b) resolves to approve the terms of a buy-back agreement under the Corporations Act.
4. Any QIP Group Member (other than a direct or indirect wholly-owned subsidiary of QIP) declares, pays or distributes any dividend, bonus or other share of its profits or assets or agrees to return any capital to its members.
5. Any QIP Group Member issues, agrees to issue or incurs any obligation (including any contingent obligation) to issue or have transferred to any person securities in or of it or any other QIP Group Member, other than:
 - (a) to QIP or a direct or indirect wholly-owned subsidiary of QIP; or
 - (b) the QIP Shares, to the holders as at the date of this deed of QIP options as required by their terms following a valid exercise of QIP options.
6. Any QIP Group Member issues or grants, agrees to issue or grant or incurs any obligation (including any contingent obligation) to issue, grant or have transferred to any person:
 - (a) options over shares or other securities convertible into shares in or of it or any other QIP Group Member; or
 - (b) any debt securities (including any performance rights or options).

Entering into, varying or terminating agreements

7. Except with respect to agreements or arrangements with clients in relation to provision of professional services in relation to trademark or patents or legal professional services, a QIP Group Member:
 - (a) enters into, varies in a material respect or terminates:
 - (i) a Material Agreement;
 - (ii) an agreement with respect to derivative instruments (including swaps, futures, contracts, forward commitments, commodity or currency derivatives or options) or similar investments;
 - (iii) a joint venture, partnership or similar arrangement; or
 - (iv) an agreement or understanding restraining any QIP Group Member from competing with any person or conducting activities in any market;
 - (b) enters into, varies in a materially adverse respect or terminates any agreement or arrangement where the agreement or arrangement concerned involves an amount (including any payment, incurring of expenditure or foregoing of revenue by a QIP Group Member) or assets or liabilities to the value, of more than \$750,000 (per annum, in any case involving recurring payments), other than in the ordinary course of business; or
 - (c) waives a default or accepts a compromise, where the waiver or compromise involves an amount of more than \$750,000 (per annum, in any case involving recurring payments) (and for the purposes of the above a number of separate transactions shall be treated as a single transaction if they are with the same or associated parties or if a reasonable person would otherwise consider them to be related),

without QIP having first obtained the approval of XIP in respect of such event (and for the purposes of the foregoing a number of separate transactions shall be treated as a single transaction if they are with the same or associated parties or if a reasonable person would otherwise consider them to be related).

Borrowing or lending other than in the ordinary course

8. A QIP Group Member incurs or makes available any finance debt other than in the ordinary course of business.

Encumbering assets

9. A QIP Group Member creates, or agrees to create, any mortgage, charge, lien or other encumbrance over the whole, or substantially all, of its business or property, other than by operation of law in the ordinary course of business.

Insolvency Events

10. A QIP Group Member suffers an Insolvency Event or (without limitation) becomes unable to pay its debts as and when due.

Changes to the nature of business

11. A QIP Group Member ceases, or threatens to cease, to carry on its business or makes a material change to the nature of its business.

Varying or granting employee benefits

12. Except as specifically provided for in an existing employment contract or in an existing entitlement under an employee incentive scheme, in each case in place prior to the date of this deed, details of which have been Fairly Disclosed on or before the Disclosure Cut-off Time in the QIP Disclosure Materials, any QIP Group Member:

- (a) paying any bonus to, or increasing the compensation of, any officer or employee of any QIP Group Member;
- (b) accelerating the rights of any officer or employee of any QIP Group Member to compensation or benefits of any kind (including under any executive or employee share plan);
- (c) granting to any officer or employee of any QIP Group Member any increase in severance or termination pay or superannuation entitlements or issuing any shares in QIP or securities convertible to shares in QIP to any of those persons; or
- (d) establishing, adopting, entering into or amending in any material respect (including by taking any action to accelerate any rights or benefits due under) any enterprise bargaining agreement, Australian workplace agreement, employee benefit plan or superannuation scheme of the QIP Group or relating to the officers or employees of any QIP Group Member,

where the aggregate incremental cost to the QIP Group of all such actions exceeds \$500,000 provided that paragraphs 12(a) to (d) inclusive above will not prevent the entry into:

- (e) any agreements or arrangements with new lateral principals or new employees hired to replace a person ceasing employment with an QIP Group Member (**QIP Ex-Employee**), provided that the new principal or employee is hired on materially the same terms as the QIP Ex-Employee, with any costs greater than 110% of the QIP Ex-Employee's costs reducing the \$500,000 cap referred to immediately above; or
- (f) any enterprise bargaining agreement, Australian workplace agreement or other similar agreement with a group of the QIP Group operational employees if that occurs in the ordinary course of business as a result of the fact that existing arrangements of that kind with that group of operational employees will expire before the End Date.

Disposing of subsidiaries etc

13. A QIP Group Member disposes, or agrees to dispose, of shares in a subsidiary or any QIP Group Member is deregistered or dissolved.

Part 2

Changes to accounting methods

14. Any QIP Group Member making a change in its accounting methods, principles or practices which would materially affect the reported consolidated assets, liabilities or results of operations of any QIP Group Member, other than as required to comply with any changes to generally accepted accounting principles, standards, guidelines or practices in the jurisdiction of the relevant entity's incorporation.

Related party Scheme

15. A QIP Group Member entering into or resolving to enter into a transaction with any related party of QIP (other than a related party which is a QIP Group Member) as defined in section 228 of the Corporations Act which would require shareholder approval under Chapter 2E or under Chapter 10 of the ASX Listing Rules.

Changes to arrangements with financial advisers

16. An QIP Group Member amending in any material respect any arrangement with its financial adviser, or entering into arrangements with a new financial adviser which arrangements with any such new financial adviser may involve the payment of any further fees in respect of the Scheme.

Tax deconsolidation

17. An QIP Group Member doing anything that would result in a de-consolidation of the QIP Consolidated Tax Group, other than acquiring or disposing of a wholly owned subsidiary (subject always to the other provisions of this deed).

Part 3

Consultation and co-operation

18. Notwithstanding anything else in this deed, in respect of:
 - (a) the issue of any benefits under a long-term incentive scheme (including, in the case of a QIP Group Member, the QIP employee share trust); or
 - (b) any variation of the employment arrangements (including remuneration packages) in place in respect of the principals of a QIP Group Member or XIP Group Member,subject to any restrictions or requirements under applicable law (including competition law), before taking an action referred to above, QIP or XIP (as relevant) must consult with the other party and co-operate in good faith to agree a course of action that is in the best interests of the parties.
19. For the avoidance of doubt, the carve out in limb (c) of the definition of QIP Prescribed Occurrence does not apply to any action referred to in item 18(a) or 18(b) above unless the requirements of item 18 have been complied with.

Schedule 5 - XIP Material Agreements

1. XIP Finance Facility
2. Service Agreement for Patent Renewals between CPA Global Limited and ShelstonIP dated 26 November 2009
3. Service Agreement for Trade Mark Renewals between CPA Global Limited and ShelstonIP dated 26 November 2009
4. Agency Agreement between inovia Holdings Pty Ltd and ShelstonIP dated 1 May 2013
5. Voluntary Escrow Agreement in relation to Artmarn Pty Ltd in its capacity as trustee of The Robert Wulff Family Trust (as Holder) entered into by the Holder, Xenith IP Group Limited, and Robert Philip Wulff & Sara Jane Wulff dated 24 November 2016 Deed of Consent to Assignment of Lease between Mirvac Funds Limited MTAA Superannuation Fund (60 Margaret St, Sydney) Property Pty Ltd (as landlord), Shelford Services Pty Limited (as tenant) and Xenith IP Services Pty Limited (Assignee) in respect of Level 21 and Suites 2203 and 2204, 60 Margaret Street, Sydney
6. Lease between Mirvac Funds Limited and One Managed Investments Funds Limited (as lessor) and Xenith IP Services Pty Ltd (as lessee) in relation to level 8, 60 Margaret Street, Sydney
7. Lease between Mirvac Capital Pt Ltd (as lessor) and Xenith IP Services Pty Ltd (as lessee) in relation to Part Volume 2222 Folio 295, being Suite 1, Part Level 20 Allendale Square, 77 St Georges Terrace, Perth, dated 1 December 2017
8. Incentive Deed between Mirvac Capital Pty Ltd (as lessor) and Xenith IP Services Pty Ltd (as lessee) in relation to Suite 1, Part Level 20, Allendale Square, 77 St Georges Terrace, Perth, Western Australia dated 1 December 2017
9. GPT Commercial Lease between GPT Platform Limited (as owner) and Watermark Australasia Pty Limited (as tenant) in relation Part Level 1, 'Vantage', 109-13 Burwood Road, Hawthorn dated 2 August 2016
10. Lease between Mirvac Capital Pty Ltd (as lessor) and Xenith IP Services Pty Ltd (as lessee) in relation to Lot 50 on Diagram 46143 and being the whole of the land in Certificate of Title Volume 2222 Folio 295, being Part Level 22 Allendale Square, 77 St George's Terrace, Perth dated 1 December 2017
11. Incentive Deed between Mirvac Capital Pty Ltd (as lessor) and Xenith IP Services Pty Ltd (as tenant) in relation to Part Level 22, Allendale Square, 77 St Georges Terrace, Perth, Western Australia dated 1 December 2017
12. Lease between The Trust Company (Australia) Limited (as lessor) and Griffith Hack Pty Ltd (as lessee) in relation to Part level 22, 300 Queen Street, Brisbane
13. Deed of Consent to Assignment of Lease between Horizon MP Management Pty Ltd (as landlord), Griffith Hack Lawyers Pty Ltd (as tenant) and GH PTM Pty Ltd (as new tenant) in relation to Part Level 10, 161 Collins Street, Melbourne dated 6 March 2017
14. Consent to Assignment of Lease between Cromwell Seven Hills Pty Ltd (as landlord, Griffith Hack Pty Ltd (as existing tenant) and GH PTM Pty Ltd (as new tenant) in relation to Part level 28, Suite 28.02 and Level 29, Northpoint Tower, 100 Miller Street, North Sydney dated 30 January 2017
15. Consent to assignment of lease between Cromwell Seven Hills Pty Ltd (as landlord), Griffith Hack Pty Ltd in as trustee for Griffith Hack Unit Trust (as existing tenant) GH PTM Pty Ltd (as new tenant) in respect of part level 28, suite 28.01, suite 28.02 and level 29, Northpoint Tower, 100 Miller Street, North Sydney dated 30 January 2017
16. Sublease between Ozton Pty Limited (as sublessor), Russell Andrew Berry, Antony John Fowler Ward, Gregory Richard Munt and Anthony Paul Mizzi (as tenants in common in equal shares) in respect of suites 28.01, 28.02 (comprising the whole of level 28) and level 29, 100 Miller Street, North Sydney dated 16 September 2011
17. Deed of Consent to Assignment of Lease between Horizon MP Management Pty Ltd (as landlord), Griffith Hack Lawyers Pty Ltd in its capacity as trustees for the Griffith Hack Lawyers

Unit Trust and Griffith Hack Pty Ltd in its capacity as trustee for Griffith Hack Unit Trust (as tenant) and GH PTM Pty Ltd (as new tenant) in respect of Part Level 10, 161 Collins Street, Melbourne dated 6 March 2017

18. Lease between The Trust Company (Australia) Limited (as lessor) and Griffith Hack Pty Ltd (as lessee) in respect of Part of the 22nd floor of 300 Queen Street, Brisbane dated 13 October 2016
19. Licence over storeroom #9, Level 6, 100 Miller Street, North Sydney between Cromwell Property Services Pty Ltd and Griffith Hack dated 2 August 2016

Schedule 6 - QIP Material Agreements

1. QIP Finance Facility
2. Strategic Alliance Agreement between Davies Collison Cave and CPA Global Limited dated 1 January 2010
3. FPA Relationship Deed between FPA Patent Attorneys Pty Ltd and Herbert Smith Freehills dated August 2016
4. FPA Transitional Services Agreement between FPA and Exchange House Services Australia Pty Ltd dated July 2016
5. Lease between H A Bachrach (Nom) Pty Limited (as Lessor) and DCC Holdings Pty Limited (as lessee) in respect of Lot 1 on RP 139280 dated 31 August 2010
6. Incentive Deed between H A Bachrach (Nom) Pty Ltd (as lessor), QIP Services Pty Ltd (as lessee) and QANTM Intellectual Property Ltd (as guarantor) dated 1 December 2017
7. Lease between H A Bachrach (Nom) Pty Limited (as Lessor) and QIP Services Pty Ltd (as lessee) in respect of Lot 1 on RP 139280 dated 1 December 2017
8. Deed of Consent to Transfer of Lease between H A Bachrach (Nom) Pty Ltd (as lessor), DCC Holdings Pty Ltd (as lessee), QIP Services Pty Ltd (as transferee) and QANTM Intellectual Property Ltd (as new guarantor) dated 8 September 2016
9. Novation Agreement between Davies Collison Cave LLP (as Retiring Party), Davies Collison Cave Asia Pte. Ltd (as Substitute Party) and Ocean Properties LLP (as Continuing Party) dated 28 October 2016
10. Lease between Ocean Properties LLP (as Landlord) and Davies Collison Cave LLP (as Tenant) in respect of the premises at Unit 07-01 at Ocean Financial Centre dated 15 December 2015
11. Sublease between Navitas Limited (as Sublessor) and QIP Services Pty Ltd (as Sublessee) in respect of Part Folio Identifier 1/800413 being level 14 in the building known as 255 Elizabeth Street, Sydney pursuant to head lease dated 26 July 2016 commencing 1 March 2018 and terminating 28 February 2023
12. Sublease between Navitas Limited (as Sublessor) and QIP Services Pty Ltd (as Sublessee) in respect of Part Folio Identifier 1/800413 being level 14 in the building known as 255 Elizabeth Street, Sydney commencing 1 December 2017 and terminating 27 February 2018
13. Lease of part Level 46 at 101 Collins Street, Melbourne between Exchange House Services Australia Pty Limited (as Lessor) and QIP Services Pty Ltd (as Lessee) dated 8 September 2017
14. Lease between Ocean Properties LLP (as Landlord) and FPA Patent Attorneys Asia Pte. Ltd (as Tenant) in respect of the premises at Unit 07-03 at Ocean Financial Centre dated 30 October 2018
15. Notice of exercise of option to renew - Sublease to QIP Services Pty Ltd from Exchange House Services Australia Pty Ltd in respect of part of Level 35, 161 Castlereagh Street, Sydney NSW 2000
16. Sublease between Exchange House Services Australia Pty Ltd (as Sublessor) and QIP Services Pty Limited (as Sublessee) in respect of part of Level 35, 161 Castlereagh Street, Sydney NSW 2000
17. Deed of Assignment of Lease and Licences between The Trust Company Limited, Charter Hall Direct Property Management Limited, DCC Holdings Pty Ltd, QIP Services Pty Ltd, QANTM Intellectual Property Limited in respect of the premises as Levels 11 to 15, 1 Nicholson Street, East Melbourne, Victoria
18. Deed of Renewal and Variation of Lease and Licences between The Trust Company Limited, Charter Hall Direct Property Management Limited, DCC Holdings Pty Ltd in respect of Levels 11, 12, 13, 14 and 15, 1 Nicholson Street, East Melbourne

Schedule 7 - Form of Joint Public Announcement

27 November 2018

QANTM Intellectual Property and Xenith IP Group to merge, creating a leading intellectual property services group

QANTM Intellectual Property Ltd (ASX:QIP) and **Xenith IP Group Ltd** (ASX:XIP) enter into merger of equals, with QANTM shareholders owning 55% and Xenith shareholders 45% of the merged entity.

Implementation through a Scheme of Arrangement, with Xenith shareholders to receive 1.22 QANTM shares for each Xenith share held. Implementation expected in April 2019.

Creates a group of industry leading, independent IP services businesses with 349 professionals in Australia, New Zealand and Asia.

Merged Group FY18 pro forma EBITDA of \$45.2 million, with the merger expected to achieve cost synergies of \$7 million per annum to be fully realised at the end of year three, generating earnings per share accretion for both Xenith and QANTM shareholders.

Increased scale enables accelerated expansion into the high-growth Asian region, leveraging existing presence, and enhances the ability to drive innovation and efficiency through investment in world-class technology platforms.

QANTM Intellectual Property Limited (ASX:QIP) (**QANTM**) and Xenith IP Group Limited (ASX:XIP) (**Xenith**) are pleased to announce that they have today entered into the attached Scheme Implementation Deed, under which the two companies will merge through an all-scrip scheme of arrangement (**Scheme**) whereby Xenith shareholders will receive 1.22 QANTM shares for each Xenith share they hold (the **Transaction**).

The Transaction implies a value of \$1.598 per Xenith share, based on the most recent closing price of QANTM shares (\$1.310 per share as at 26 November 2018). This value represents premia of approximately 28.4% to the most recent closing price of Xenith shares (\$1.245 per share), and approximately 27.0% to the 1-month volume weighted average price (**VWAP**) of Xenith shares (\$1.258 per share).¹

The Transaction will create a market leading group of independent intellectual property services businesses in Australia, New Zealand and Asia with a pro forma market capitalisation of approximately \$285.2 million² (the **Merged Group**). On completion of the Transaction, QANTM and Xenith shareholders will own 55% and 45% respectively of the Merged Group.

The Scheme Implementation Deed and the Scheme are subject to usual conditions precedent for a scrip merger, including:

- no regulatory intervention;
- Xenith shareholder approval; and
- other customary conditions.

Xenith's Board of Directors unanimously recommends that Xenith shareholders vote in favour of the Scheme, in the absence of any superior proposal and subject to the Independent Expert concluding that the Scheme is in the best interests of Xenith shareholders.

¹ Based on the 1-month volume weighted average price of Xenith shares up to and including 26 November 2018, being the last trading day prior to the announcement of the Transaction

² On a diluted basis and based on share prices as at 26 November 2018. Excludes any benefit from synergies

Consistent with their recommendation, each member of the Xenith Board intends to vote the Xenith shares in his or her control in favour of the Scheme in the absence of any superior proposal and subject to the Independent Expert concluding that the Scheme is in the best interests of Xenith shareholders.

The obligations of QANTM and Xenith regarding the implementation of the Scheme, the conditions precedent and deal protections are set out in the attached Scheme Implementation Deed.

Merger rationale

With an existing alignment of heritage, culture and strategy, the merger of QANTM and Xenith will create a leading provider of IP origination services in Australia. The Merged Group will offer a broad base of highly complementary patent, trade mark, legal and strategic innovation advisory services.

Leveraging QANTM's existing presence in Asia with Xenith's growing operations and opportunities in the region, the Merged Group will be significantly better placed to develop an expanded presence in the high-growth region. A strengthened balance sheet will also support the pursuit of acquisitions and other growth opportunities in Asia.

Increased scale will enable the Merged Group to realise benefits of a streamlined corporate management and shared back-office services, and to invest in common, world-class technology platforms. The resulting operational efficiencies will drive margin improvement across the Merged Group of independent businesses with consistent practice management discipline. Furthermore, the increased scale will provide a strong foundation to drive automation and innovation.

Financial highlights

Significant value accretion is expected for both shareholder groups. The merger is expected to deliver pre-tax cost synergies of \$7 million per annum³, on a full run-rate basis and excluding one-off transaction and integration costs. Identified cost synergies primarily reflect benefits of transformation through technology, the elimination of duplication in the Merged Group, and include savings in general expenses, costs relating to back-office systems as well as enhanced productivity across the Merged Group. The full run-rate of these synergies is expected to be achieved by the end of year three from completion of the Transaction, while one-off implementation costs are projected to be approximately \$7 million.

As a result, the Merged Group's FY18 EBITDA on a pro forma basis would have been \$45.2 million, representing significant expansion in an EBITDA margin (relative to service fee revenue) of 27.4%. Furthermore, the scale and operational efficiencies driving this margin improvement will support sustainable dividends into the future.

Experienced Board and management team

The Merged Group will benefit from the experience and expertise from a combined management team and Board. The Merged Group's Board will comprise six Directors, with three each from QANTM's and Xenith's current respective Boards. Richard England will be appointed as the Merged Group's Chair, Sibylle Krieger as Deputy Chair, Craig Dower as Managing Director and CEO, and Leon Allen as Executive Director and Head of Business Integration.

³ Estimated cost synergies are separate and incremental to those already disclosed by Xenith as it relates to the business transformation described in its FY18 Results Presentation

Chair commentary

Richard England, Chair of QANTM said: *“The merger of QANTM and Xenith brings together two outstanding Groups, creating a single leading IP services group in Australia and Asia. It is clear that the businesses within the QANTM and Xenith Groups have great respect for each other, and while each of those businesses will continue to operate independently in supporting their clients, the increased scale will enable the Merged Group to achieve its strategic objectives more quickly and more effectively. With a high degree of strategic alignment already, and the synergies identified, we believe the transaction will generate significant value for shareholders.”*

Sibylle Krieger, Chair of Xenith said: *“The portfolio businesses of Xenith and QANTM come from similar long histories and the two Groups have strong alignment on values, vision and strategy for the future. The proposed merger of equals presents a unique opportunity for Xenith as a Group to partner with a like-minded Group, and for its shareholders to benefit from significant value and future earnings accretion through the Transaction.”*

Indicative timetable and next steps

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

Xenith shareholders will be given the opportunity to vote on the Scheme at a meeting expected to be held in late March 2019. Subject to the approval of Xenith shareholders and the other conditions of the Scheme being satisfied, the Scheme is expected to be implemented in April 2019.

A Scheme Booklet containing information relating to the Scheme, reasons for the Directors' recommendation, an Independent Expert's report and details of the Scheme Meeting is expected to be sent to Xenith shareholders in late February 2019.

Further information on the Transaction has been provided in the supporting investor presentation also released to the ASX today.

Advisers

Moelis Australia is acting as financial adviser and MinterEllison is acting as legal adviser to QANTM.

Investec is acting as financial adviser and Baker McKenzie is acting as legal adviser to Xenith.

Contact details

For further information on the Merger, please contact:

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Schedule 8 - Form of Scheme



Execution version

Scheme of Arrangement

Xenith IP Group Limited ABN 88 607 873 209

Scheme Shareholders

Scheme of Arrangement

Xenith IP Group Limited ABN 88 607 873 209

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Details

This scheme of arrangement is made under section 411 of the *Corporations Act 2001* (Cth).

Between the parties

Xenith IP Group Limited ABN 88 607 873 209 Level 21, 60 Margaret Street, Sydney NSW 2000 (**XIP**)

and

Each Scheme Shareholder

Agreed terms

1. Defined terms & interpretation

1.1 Definitions

In this Scheme:

ASIC means the Australian Securities and Investments Commission.

Associate has the meaning given in Division 2 of Part 1.2 of the Corporations Act as if section 12(1) of that Act included a reference to this Scheme and XIP or QIP (as the context requires) was the designated body.

ASX means ASX Limited ACN 008 624 691, or as the context requires or permits, the financial market known as the Australian Securities Exchange operated by it.

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

- (a) Melbourne, Australia; or
- (b) Sydney, Australia..

CHESS means the clearing house electronic subregister system of share transfers operated by ASX Settlement Pty Limited ABN 49 008 504 532.

CHESS Holdings has the meaning given in the Settlement Rules.

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

Court means the Federal Court of Australia or any other court of competent jurisdiction under the Corporations Act agreed in writing between XIP and QIP.

Deed Poll means the deed poll executed by QIP under which QIP covenants in favour of the Scheme Shareholders to perform the actions attributed to them respectively under this Scheme.

Delivery Time means, in relation to the Second Court Date, 8am before the commencement of the hearing or, if the commencement of the hearing is adjourned, the commencement of the adjourned hearing, of the Court to approve this Scheme in accordance with section 411(4)(b) of the Corporations Act.

Effective means 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 this Scheme.

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

End Date means:

- (a) 30 June 2019; or
- (b) such other date and time agreed in writing between QIP and XIP.

Excluded Shareholder means

any XIP Shareholder who is QIP or an Associate of the QIP Group.

Foreign Scheme Shareholder means a Scheme Shareholder whose address in the Share Register as at the Record Date is a place outside:

- (a) Australia or its external territories.
- (b) New Zealand;
- (c) Singapore, provided they are an Institutional Shareholder; or
- (d) any other jurisdiction as may be agreed in writing by QIP and XIP, provided that QIP is satisfied, acting reasonably, that it is permitted to allot and issue New QIP Shares to that

Scheme Shareholder under the Scheme by the laws of that place either unconditionally or after compliance with conditions that QIP in its sole discretion regards as acceptable and not unduly onerous or impracticable.

Implementation Date means the fifth Business Day after the Record Date or such other date after the Record Date agreed to in writing between XIP and QIP.

Issuer Sponsored Holdings has the meaning given in the Settlement Rules.

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

Market Integrity Rules means any rules made by ASIC under section 798G of the Corporations Act that apply to ASX or any other prescribed financial market on which shares are quoted.

New QIP Shares means the new QIP Shares to be issued under the terms of the Scheme as the Scheme Consideration.

Performance Right means a performance right granted by XIP to acquire by way of issue one or more Shares on satisfaction of particular performance conditions.

QIP means QANTM Intellectual Property Limited ACN 612 441 326.

QIP Group means QIP and each of its Related Bodies Corporate (excluding, at any time, XIP and its Subsidiaries to the extent that XIP and its Subsidiaries are subsidiaries of QIP at that time). A reference to a **member of the QIP Group** or a **QIP Group Member** is a reference to QIP or any of its Related Bodies Corporate.

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

Record Date means 7.00pm on the fifth Business Day after the Effective Date or such other time and date agreed to in writing between XIP and QIP.

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

Regulatory Authority means:

- (a) any government or governmental, semi-governmental, administrative, monetary, fiscal or judicial body, tribunal, agency or entity;
- (b) a minister, department, office, commission, delegate, instrumentality, agency, board, authority or organisation of any government; or
- (c) any regulatory organisation established under statute,

in Australia whether federal, state, territorial or local.

Sale Agent means a person appointed by QIP, in consultation with XIP, to sell the Sale Shares under clause 5.2(b).

Sale Proceeds means the gross proceeds of sale of the Sale Shares under clause 5.2(b), less any applicable taxes and charges incurred by QIP or the Sale Agent in connection with the sale.

Sale Shares means the QIP Shares to which Foreign Scheme Shareholders would have been entitled under this Scheme but for the operation of clause 5.2.

Scheme means this scheme of arrangement under Part 5.1 of the Corporations Act between XIP and the Scheme Shareholders, subject to any alterations or conditions agreed or any alterations or conditions that are:

- (a) agreed to in writing by XIP and QIP, and approved by the Court; or
- (b) made or required by the Court under section 411(6) of the Corporations Act and agreed to by XIP and QIP.

Scheme Consideration means 1.22 New QIP Shares per Scheme Share, subject in the case of Foreign Scheme Shareholders to the operation of clauses 5.2 and 5.3.

Scheme Implementation Deed means the Scheme Implementation Deed dated 26 November 2018 between XIP and QIP.

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

Scheme Share means a Share on issue as at the Record Date other than any Share then held by an Excluded Shareholder.

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

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

Settlement Rules means the ASX Settlement Operating Rules.

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

Share Register means the register of members of XIP maintained in accordance with the Corporations Act.

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

Trust Account means an Australian dollar denominated trust account operated by XIP as trustee for the benefit of Scheme Shareholders.

XIP Registry means Link Market Services Limited ACN 083 214 537 or any replacement provider of share registry services to XIP.

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

1.2 Interpretation

Headings are for convenience only and do not affect interpretation. The following rules apply unless the context requires otherwise.

- (a) The singular includes the plural, and the converse also applies.
- (b) A gender includes all genders.
- (c) If a word or phrase is defined, its other grammatical forms have a corresponding meaning.
- (d) A reference to a person, corporation, trust, partnership, unincorporated body or other entity includes any of them.
- (e) A reference to a clause or schedule is a reference to a clause of or schedule to this Scheme.
- (f) A reference to an **agreement** or **document** (including a reference to this Scheme) is to the agreement or document as amended, supplemented, novated or replaced, except to the extent prohibited by this Scheme or that other agreement or document, and includes, except to the extent this Scheme expressly provides otherwise the recitals, schedules and annexures to that agreement or document.
- (g) A reference to a party to this Scheme or an agreement or document includes the party's successors, permitted substitutes and permitted assigns (and, where applicable, the party's legal personal representatives).

- (h) A reference to legislation or to a provision of legislation includes a modification or re-enactment of it, a legislative provision substituted for it and a regulation or statutory instrument issued under it.
- (i) A reference to conduct includes an omission, statement or undertaking, whether or not in writing.
- (j) A reference to an agreement includes any undertaking, deed, agreement and legally enforceable arrangement, whether or not in writing, and a reference to a document includes an agreement (as so defined) in writing and any certificate, notice, instrument and document of any kind.
- (k) A reference to **dollars** and **\$** is to Australian currency.
- (l) All references to time are to Melbourne, Australia time.
- (m) Mentioning anything after *includes, including, for example*, or similar expressions, does not limit what else might be included.
- (n) Unless otherwise defined, a word or expression defined in the Corporations Act has the meaning given to it in the Corporations Act.

1.3 Business Day

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

1.4 Listing requirements included as law

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

2. Preliminary

2.1 XIP

- (a) XIP is a public company limited by shares, registered in New South Wales and admitted to the official list of ASX.
- (b) The Shares are officially quoted on ASX. As at the date of the Scheme Implementation Deed:
 - (i) 88,717,931 Shares were on issue which are officially quoted on ASX; and
 - (ii) 309,655 Performance Rights were on issue which are not quoted on any financial market.

2.2 QIP

QIP is a publicly listed company limited by shares registered in Victoria, Australia.

2.3 General

- (a) XIP and QIP have agreed by executing the Scheme Implementation Deed to implement this Scheme.
- (b) This Scheme attributes actions to QIP but does not itself impose an obligation on it to perform those actions, as QIP is not a party to this Scheme. QIP has agreed, by executing the Deed Poll, to perform the actions attributed to QIP under this Scheme, including the provision of the Scheme Consideration to the Scheme Shareholders.

2.4 Consequence of this Scheme becoming Effective

If this Scheme becomes Effective:

- (a) QIP will provide or procure the provision of the Scheme Consideration to Scheme Shareholders in accordance with this Scheme; and
- (b) all the Scheme Shares, together with all rights and entitlements attaching to the Scheme Shares, will be transferred to QIP, and XIP will enter QIP in the Share Register as the holder of the Scheme Shares with the result that XIP will become a wholly-owned subsidiary of QIP.

3. Conditions

- (a) This Scheme is conditional on, and will have no force or effect until, the satisfaction of each of the following conditions precedent:
 - (i) all the conditions precedent in clause 3.1 of the Scheme Implementation Deed (other than the condition in clause 3.1(f) of the Scheme Implementation Deed (Court approval)) having been satisfied or waived in accordance with the terms of the Scheme Implementation Deed by no later than the Delivery Time on the Second Court Date;
 - (ii) neither the Scheme Implementation Deed nor the Deed Poll having been terminated in accordance with their terms by no later than the Delivery Time on the Second Court Date;
 - (iii) approval of this Scheme by the Court under section 411(4)(b) of the Corporations Act, including with any alterations made or required by the Court under section 411(6) of the Corporations Act as are agreed to in writing by XIP and QIP;
 - (iv) such other conditions imposed by the Court under section 411(6) of the Corporations Act, as are acceptable to the parties, having been satisfied; and
 - (v) the orders of the Court made under section 411(4)(b) (and if applicable section 411(6)) of the Corporations Act approving the Scheme coming into effect, pursuant to section 411(10) of the Corporations Act, on or before the End Date (or any later date XIP and QIP agree in writing).
- (b) The satisfaction of the conditions referred to in clause 3(a) of this document is a condition precedent to the operation of clauses 4 and 5.

4. Implementation

4.1 Lodgement of Court orders

XIP must lodge with ASIC office copies of any Court orders under section 411(4)(b) (and if applicable section 411(6)) of the Corporations Act approving this Scheme as soon as reasonably practicable after the Court approves this Scheme and in any event no later than by 5.00pm on the first Business Day after the Court approves this Scheme.

4.2 Transfer of Scheme Shares

On the Implementation Date:

- (a) subject to the issue by QIP of the Scheme Consideration in the manner contemplated by clause 5.3, the Scheme Shares, together with all rights and entitlements attaching to the Scheme Shares at the Implementation Date, will be transferred to QIP, without the need for any further act by any Scheme Shareholder (other than acts performed by XIP or its officers as agent and attorney of the Scheme Shareholders under clause 8.6 or otherwise), by:

- (i) XIP delivering to QIP a duly completed and executed share transfer form to transfer all the Scheme Shares to QIP, executed on behalf of the Scheme Shareholders by XIP; and
 - (ii) QIP duly executing such transfer form and delivering it to XIP for registration; and
- (b) immediately after receipt of the transfer form in accordance with clause 4.2(a)(ii), XIP must enter, or procure the entry of, the name of QIP in the Share Register in respect of the Scheme Shares transferred to QIP in accordance with this Scheme.

5. Scheme Consideration

5.1 Amount of Scheme Consideration

Each Scheme Shareholder is entitled to receive the Scheme Consideration.

5.2 Foreign Scheme Shareholders

- (a) QIP will be under no obligation to issue, and must not issue, any QIP Shares under the Scheme to Foreign Scheme Shareholders.
- (b) Instead, QIP must procure that:
 - (i) the Sale Shares are issued by QIP to the Sale Agent on the Implementation Date (rounded down, if necessary, to the nearest whole number);
 - (ii) as soon as practicable and, in any event, not more than 15 Business Days after the Implementation Date, the Sale Agent sells the Sale Shares in such manner, at such price or prices and on such other terms as the Sale Agent determines in good faith; and
 - (iii) promptly after the last sale of Sale Shares in accordance with clause 5.2(b)(ii), the Sale Agent pays the Sale Proceeds into the Trust Account (for payment by XIP to the Foreign Scheme Shareholders in accordance with clauses 5.3(c) to 5.3(f) (inclusive) of this Scheme).
- (c) None of QIP, XIP or the Sale Agent gives any assurance as to the price that will be achieved for the sale of Sale Shares by the Sale Agent. The sale of Sale Share by the Sale Agent will be at the risk of the Foreign Scheme Shareholders.
- (d) Each Foreign Scheme Shareholder appoints XIP as its agent to receive on its behalf any financial services guide or other notices (including any updates of those documents) that the Sale Agent is required to provide to Foreign Scheme Shareholders under the Corporations Act.

5.3 Provision of Scheme Consideration

- (a) QIP must before 5.00pm on the Implementation Date:
 - (i) procure that the name of each Scheme Shareholder entitled to receive QIP Shares under this Scheme is entered in the QIP's register of members as the holder of those QIP Shares (in holdings having the same holding name and address and other details as the holding of the relevant Scheme Shares, and in CHESS Holdings if the relevant Scheme Shares were held in the CHESS Holdings and in Issuer Sponsored Holdings if the relevant Scheme Shares were held in Issuer Sponsored Holdings); and
 - (ii) procure that the name of the Sale Agent is entered in QIP's register of members as the holder of the Sale Shares (with such holding details as the Sale Agent notifies).
- (b) On or before the date that is 5 Business Days after the Implementation Date, QIP must send or procure the sending of an allotment advice or holding statement (or equivalent document) to each Scheme Shareholder entitled to receive QIP Shares under this Scheme, reflecting the issue of such QIP Shares in accordance with clause 5.3.
- (c) As soon as practicable following payment into the Trust Account of the Sale Proceeds, XIP must pay from the Trust Account to each Foreign Scheme Shareholder such amount of cash as is due to that Scheme Shareholder as Scheme Consideration in respect of their

Scheme Shares, being in the case of each such person the amount they would have received had they:

- (i) received the QIP Shares to which they would have been entitled under this Scheme but for the operation of clause 5.5; and
 - (ii) sold them for an amount per QIP Share equal to that part of the Sale Proceeds which is attributable to the sale of QIP Shares divided by the total number of QIP Shares included in the Sale Shares, provided that for the purposes of the foregoing the total cash amount payable to a Foreign Scheme Shareholder in respect of its parcel of Scheme Shares shall be rounded down to the nearest whole cent.
- (d) The amount referred to in clause 5.3(c) must be paid by XIP doing any of the following at its election:
- (i) sending (or procuring the XIP Registry to send) it to the Scheme Shareholder's Registered Address by cheque in Australian currency drawn out of the Trust Account; or
 - (ii) depositing (or procuring the XIP Registry to deposit) it into an account with any Australian ADI (as defined in the Corporations Act) notified to XIP (or the XIP Registry) by an appropriate authority by the Scheme Shareholder.
- (e) If there is any surplus in the amount held by XIP in the Trust Account, that surplus must be paid by XIP to QIP following the satisfaction of XIP's obligations under this clause. Any interest on the amounts deposited in the Trust Account (less bank fees and other charges) will be to QIP's account.
- (f) If any amount is required under any Australian law or by any Australian Regulatory Authority to be:
- (i) withheld from an amount payable under clauses 5.3(c) or 5.3(e) and paid to that entity or authority; or
 - (ii) retained by XIP out of an amount payable under clauses 5.3(c) or 5.3(e),
- its payment or retention by XIP (or the XIP Registry) will constitute the full discharge of XIP's obligations under this clause with respect to the amount so paid or retained until, in the case of 5.3(f)(ii), it is no longer required to be retained.

5.4 Foreign resident capital gains withholding

- (a) If QIP determines that it must pay an amount to the Commissioner of Taxation (**Commissioner**) under Subdivision 14-D of Schedule 1 to the *Taxation Administration Act 1953* (Cth) (**TAA**) with respect to the acquisition of the Scheme Shares from a Scheme Shareholder, QIP will, for any such Scheme Shareholder:
- (i) determine the amount to be paid to the Commissioner (**Payment Amount**);
 - (ii) remit the Payment Amount to the Commissioner within the time required under the TAA; and
 - (iii) reduce the amount of Scheme Consideration payable to that Scheme Shareholder by the Payment Amount for the purposes of the Deed Poll, this Scheme and the Scheme Implementation Deed.
- (b) QIP will, for the purposes of the Deed Poll, this Scheme and the Scheme Implementation Deed, be deemed to have satisfied its obligations to pay the Scheme Consideration to a Scheme Shareholder if the amount paid to the Scheme Shareholder is the amount of the Scheme Consideration that would have otherwise been payable to the Scheme Shareholder pursuant to the Scheme, less the Payment Amount for that Scheme Shareholder.

5.5 Joint holders

In the case of Scheme Shares held in joint names:

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

5.6 Fractional entitlements

Where the calculation of the Scheme Consideration to be provided to a Scheme Shareholder would result in the Scheme Shareholder becoming entitled to a fraction of a cent, that fractional entitlement will be rounded down to the nearest whole cent.

5.7 Unclaimed monies

- (a) XIP may cancel a cheque sent under this clause 5 if the cheque:
 - (i) is returned to XIP; or
 - (ii) has not been presented for payment within six months after the date on which the cheque was sent.
- (b) During the period of 11 months commencing on the Implementation Date, on request in writing from a Scheme Shareholder to XIP (or XIP Registry) (which request may not be made until the date which is 20 Business Days after the Implementation Date), XIP must reissue a cheque that was previously cancelled under clause 5.7(a).
- (c) The *Unclaimed Moneys Act 2008* (Vic) will apply in relation to any Scheme Consideration which becomes “unclaimed money” (as defined in section 3 of the *Unclaimed Moneys Act 2008* (Vic)).
- (d) Any interest or other benefit accruing from unclaimed Scheme Consideration will be to the benefit of QIP.

5.8 Order of a court or Regulatory Authority

If:

- (a) written notice is given to XIP (or XIP Registry) of an order or direction made by a court of competent jurisdiction or by another Regulatory Authority that requires payment to a third party of a sum in respect of Scheme Shares held by a particular Scheme Shareholder, which would otherwise be payable to that Scheme Shareholder by XIP in accordance with this clause 5, then XIP may procure that payment is made in accordance with that order or direction; or
- (b) written notice is given to XIP (or XIP Registry) of an order or direction made by a court of competent jurisdiction or by another Regulatory Authority that prevents XIP from making a payment to any particular Scheme Shareholder in accordance with clause 5.3(c), or such payment is otherwise prohibited by applicable law, XIP may retain an amount equal to the number of Scheme Shares held by that Scheme Shareholder multiplied by the Scheme Consideration until such time as payment in accordance with this clause 5 is permitted by that order or direction or otherwise by law,

and the payment or retention by XIP (or XIP Registry) will constitute the full discharge of XIP's obligations under clause 5.3(c) with respect of the amount so paid or retained until, in the case of clause 5.8(b), it is no longer required to be retained.

5.9 Definition of 'sending'

For the purposes of clause 5, the expression **sending** means, in relation to each Scheme Shareholder:

- (a) sending by ordinary pre-paid post or courier to the Registered Address of that Scheme Shareholder as at the Record Date; or
- (b) delivery to the Registered Address of that Scheme Shareholder as at the Record Date by any other means at no cost to the recipient.

6. Dealings in Shares

6.1 Determination of Scheme Shareholders

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

- (a) in the case of dealings of the type to be effected using CHESSE, the transferee is registered in the Share Register as the holder of the relevant Shares on or before 7.00pm on the Record Date; and
- (b) in all other cases, registrable transmission applications or transfers in respect of those dealings are received at the place where the Share Register is kept, on or before 5.00pm on the Record Date,

and XIP will not accept for registration, nor recognise for any purpose (except a transfer to QIP under this Scheme and any subsequent transfer by QIP or its successors in title), any transfer or transmission application or other request received after such times, or received prior to such times but not in registrable or actionable form, as appropriate.

6.2 Register

- (a) **(Registration of transfers)** XIP must register registrable transmission applications or transfers of the kind referred to in clause 6.1(b) by or as soon as reasonably practicable after the Record Date (provided that for the avoidance of doubt nothing in this clause 6.2 requires XIP to register a transfer that would result in a XIP Shareholder holding a parcel of Shares that is less than a 'marketable parcel' (as defined in the Settlement Rules).
- (b) **(No registration after Record Date)** XIP will not accept for registration or recognise for any purpose any transmission application or transfer in respect of Shares received after 5.00pm on the day on which the Record Date occurs, other than to QIP in accordance with this Scheme and any subsequent transfer by QIP or its successors in title.
- (c) **(Maintenance of Share Register)** For the purpose of determining entitlements to the Scheme Consideration, XIP must maintain the Share Register in accordance with the provisions of this clause until the Scheme Consideration has been delivered to the Scheme Shareholders. The Share Register in this form will solely determine entitlements to the Scheme Consideration.
- (d) **(No disposal after Record Date)** From the Record Date until registration of QIP in respect of all Scheme Shares under clause 4, no XIP Shareholder may dispose or otherwise deal with Shares (or purport to do so) in any way except as set out in this Scheme and any attempt to do so will have no effect and XIP shall be entitled to disregard any such disposal or dealing.
- (e) **(Statements of holding from Record Date)** All statements of holding for Shares will cease to have effect from the Record Date as documents of title in respect of those shares (other than statements of holding in favour of any Excluded Shareholders). As from the

Record Date, each entry current at that date on the Share Register (other than entries in respect of any Excluded Shareholder) will cease to have effect except as evidence of entitlement to the Scheme Consideration in respect of the Shares relating to that entry.

- (f) (**Provision of Scheme Shareholder details**) As soon as practicable after the Record Date and in any event within one Business Day after the Record Date, XIP will ensure that details of the names, Registered Addresses and holdings of Shares for each Scheme Shareholder are available to QIP in the form QIP reasonably requires.

7. Quotation of Shares

- (a) XIP will apply to ASX to suspend trading on the ASX in Shares with effect from the close of trading on the Effective Date.
- (b) On a date after the Implementation Date to be determined by QIP, and only after the transfer of the Scheme Shares has been registered in accordance with clause 4.2(b), XIP will apply:
- (i) for termination of the official quotation of Shares on ASX; and
 - (ii) to have itself removed from the official list of ASX.

8. General Scheme provisions

8.1 Consent to amendments to this Scheme

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

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

8.2 Binding effect of Scheme

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

8.3 Scheme Shareholders' agreements and acknowledgment

Each Scheme Shareholder:

- (a) agrees to the transfer of their Shares together with all rights and entitlements attaching to those Shares in accordance with this Scheme;
- (b) agrees to any variation, cancellation or modification of the rights attached to their Shares constituted by or resulting from this Scheme;
- (c) agrees to, on the direction of QIP, destroy any share certificates relating to their Shares;
- (d) agrees to become a shareholder of QIP and to be bound by its constitution; and
- (e) acknowledges and agrees that this Scheme binds XIP and all Scheme Shareholders (including those who did not attend the Scheme Meeting or did not vote at that meeting or voted against this Scheme at that Scheme Meeting).

8.4 Warranties by Scheme Shareholders

- (a) Each Scheme Shareholder is deemed to have warranted to XIP, in its own right and for the benefit of QIP, that as at the Implementation Date:
- (i) all of its Shares which are transferred to QIP under this Scheme, including any rights and entitlements attaching to those Shares, will, at the time of transfer, be

free from all mortgages, charges, liens, encumbrances, pledges, security interests (including any “security interests” within the meaning of section 12 of the *Personal Property Securities Act 2009* (Cth)) and interests of third parties of any kind, whether legal or otherwise, and restrictions on transfer of any kind;

- (ii) all of its Shares which are transferred to QIP under this Scheme will, on the date on which they are transferred to QIP, be fully paid;
 - (iii) it has full power and capacity to transfer its Shares to QIP together with any rights attaching to those Shares; and
 - (iv) it has no existing right to be issued any Shares, options exercisable into XIP shares, options, convertible notes or any other securities, other than, in the case of any Scheme Shareholder who is also the holder of Performance Rights, the right to be issued Shares on the exercise of those Performance Rights before the Record Date in accordance with their terms.
- (b) XIP undertakes that it will provide the warranties in clause 8.4(a) to QIP as agent and attorney of each Scheme Shareholder.

8.5 Title to and rights in Scheme Shares

- (a) To the extent permitted by law, the Scheme Shares (including all rights and entitlements attached to Scheme Shares) transferred under this Scheme will be transferred free from all mortgages, charges, liens, encumbrances, pledges, security interests (including any “security interests” within the meaning of section 12 of the *Personal Property Securities Act 2009* (Cth)) and interests of third parties of any kind, whether legal or otherwise, and restrictions on transfer of any kind.
- (b) On and from the Implementation Date, immediately after QIP satisfies its obligations in clause 5.3(a), QIP will be beneficially entitled to the Scheme Shares transferred to it under this Scheme pending registration by XIP of QIP in the Share Register as the holder of the Scheme Shares.

8.6 Authority given to XIP

- (a) Scheme Shareholders will be deemed to have authorised XIP to do and execute all acts, matters, things and documents on the part of each Scheme Shareholder necessary for or incidental to the implementation of this Scheme, including executing and delivering, as agent and attorney of each Scheme Shareholder a share transfer or transfers in relation to Scheme Shares as contemplated by clause 4.2.
- (b) Each Scheme Shareholder, without the need for any further act, irrevocably appoints XIP and all of its directors, secretaries and officers (jointly and severally) as its attorney and agent for the purpose of:
- (i) enforcing the Deed Poll against QIP, and XIP undertakes in favour of each Scheme Shareholder that it will enforce the Deed Poll against QIP on behalf of and as agent and attorney for each Scheme Shareholder; and
 - (ii) executing any document necessary to give effect to this Scheme including, a proper instrument of transfer of its Scheme Shares for the purposes of section 1071B of the Corporations Act which may be a master transfer of all the Scheme Shares,

and XIP accepts each such appointment.

8.7 Appointment of sole proxy

Immediately after QIP satisfies its obligations in clause 5.3(a) until XIP registers QIP as the holder of all Scheme Shares in the Share Register, each Scheme Shareholder:

- (a) is deemed to have irrevocably appointed QIP as its attorney and agent (and directed QIP in such capacity) to appoint an officer or agent nominated by QIP as its sole proxy and,

where applicable, corporate representative to attend shareholders' meetings of XIP, exercise the votes attaching to the Scheme Shares registered in its name and sign any Shareholders' resolution;

- (b) undertakes not to otherwise attend Shareholders' meetings, exercise the votes attaching to Scheme Shares registered in their names or sign or vote on any resolutions (whether in person, by proxy or by corporate representative) other than pursuant to clause 8.7(a);
- (c) must take all other actions in the capacity of a registered holder of Scheme Shares as QIP reasonably directs; and
- (d) acknowledges and agrees that in exercising the powers referred to in clause 8.7(a), QIP and any officer or agent nominated by QIP under clause 8.7(a) may act in the best interests of QIP as the intended registered holder of the Scheme Shares.

8.8 Instructions and elections

If not prohibited by law (and including where permitted or facilitated by relief granted by a Regulatory Authority), all instructions, notifications or elections by a Scheme Shareholder to XIP binding or deemed binding between the Scheme Shareholder and XIP relating to XIP or Shares (including any email addresses, instructions relating to communications from XIP, whether dividends are to be paid by cheque or into a specific bank account, notices of meetings or other communications from XIP) will be deemed from the Implementation Date (except to the extent determined otherwise by QIP in its sole discretion), by reason of this Scheme, to be made by the Scheme Shareholder to QIP until that instruction, notification or election is revoked or amended in writing addressed to QIP at its registry.

9. General

9.1 Stamp duty

QIP must pay all stamp duty payable in connection with the transfer of the Scheme Shares to QIP pursuant to this Scheme.

9.2 Notices

- (a) If a notice, transfer, transmission application, direction or other communication referred to in this document is sent by post to XIP, it will not be taken to be received in the ordinary course of post or on a date and time other than the date and time (if any) on which it is actually received at XIP's registered office or at the office of XIP Registry.
- (b) The accidental omission to give notice of the Scheme Meeting or the non receipt of such a notice by any Shareholder may not, unless so ordered by the Court, invalidate the Scheme Meeting or the proceedings of the Scheme Meeting.

9.3 Further assurances

- (a) XIP must do anything necessary (including executing agreements and documents) or incidental to give full effect to this Scheme and the transactions contemplated by it.
- (b) Each Scheme Shareholder consents to XIP doing all things necessary or incidental to give full effect to this Scheme and the transactions contemplated by it.

9.4 Governing law and jurisdiction

- (a) This Scheme is governed by the laws of New South Wales.
- (b) The parties irrevocably submit to the non-exclusive jurisdiction of courts exercising jurisdiction in New South Wales and courts of appeal from them in respect of any proceedings arising out of or in connection with this Scheme.

Schedule 9 - Form of Deed Poll



Execution version

Deed poll

QANTM Intellectual Property Limited ACN 612 441
326 (**QIP**)

In favour of each Scheme Shareholder

Deed poll

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Details

Date

Parties

Name	QANTM Intellectual Property Limited
ACN	612 441 326
Short form name	QIP
Notice details	1 Nicholson Street, Melbourne VIC 3002 Email: mcleaver@qantmip.com / nward@qantmip.com Attention: Martin Cleaver / Nick Ward

Name	In favour of each Scheme Shareholder
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Background

- A On 26 November 2018, QIP and XIP entered into the Scheme Implementation Deed to provide for (among other matters) the implementation of the Scheme.
- B The effect of the Scheme will be to transfer all Scheme Shares to QIP in return for the Scheme Consideration.
- C QIP enters this deed poll to covenant in favour of Scheme Shareholders to:
 - (i) perform the actions attributed to it under the Scheme; and
 - (ii) provide the Scheme Consideration in accordance with the Scheme.

Agreed terms

1. Defined terms & interpretation

1.1 Defined terms

In this document:

Scheme means the scheme of arrangement which forms Annexure 8 to the Scheme Implementation Deed.

Scheme Implementation Deed means the Scheme Implementation Deed dated 26 November 2018 between QIP and XIP.

XIP means Xenith IP Group Limited ABN 88 607 873 209.

Trust Account has the meaning given in the Scheme.

1.2 Terms defined in Scheme Implementation Deed

Words and phrases defined in the Scheme Implementation Deed or the Scheme have the same meaning in this deed poll unless the context requires otherwise.

1.3 Incorporation by reference

The provisions of clauses 1.1 (if not otherwise defined in this deed poll), 1.2 and 1.3 of the Scheme Implementation Deed form part of this deed poll as if set out at length in this deed poll but with 'deed poll' substituted for 'deed' and with any reference to 'party' being taken to include the Scheme Shareholders.

2. Nature of this deed poll

2.1 Reliance

QIP agrees that 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 a party to it.

2.2 Enforcement

QIP agrees that under the Scheme, each Scheme Shareholder irrevocably appoints XIP and each of its directors and officers of XIP (jointly and severally) as its agent and attorney to enforce this Deed Poll against QIP on behalf of each Scheme Shareholder.

3. Conditions

3.1 Conditions

QIP's obligations under clause 4 are subject to the Scheme becoming Effective.

3.2 Termination

This deed poll and the obligations of QIP under this deed poll will automatically terminate and this deed poll will be of no further force or effect if:

- (a) the Scheme Implementation Deed is terminated in accordance with its terms prior to the Scheme becoming Effective; or
- (b) the Scheme is not Effective by the End Date or any later date as the Court, with the consent of QIP and XIP, may order,

unless XIP and QIP otherwise agree in writing.

3.3 Consequences of termination

If this deed poll terminates under clause 3.2, in addition and without prejudice to any other rights, powers or remedies available to it:

- (a) QIP is released from its obligations to further perform this deed poll; and
- (b) each Scheme Shareholder retains the rights they have against QIP in respect of any breach of this deed poll which occurred before it terminated.

4. Performance of obligations

4.1 Generally

Subject to clause 3, QIP covenants in favour of Scheme Shareholders to perform the actions attributed to it under, and otherwise comply with, the Scheme as if it were a party to the Scheme.

4.2 Provision of Scheme Consideration

- (a) Subject to clause 3, QIP undertakes in favour of each Scheme Shareholder to provide or procure the provision of the Scheme Consideration to each Scheme Shareholder in accordance with the terms of the Scheme.
- (b) QIP must before 5.00pm on the Implementation Date:
 - (i) procure that the name of each Scheme Shareholder entitled to receive New QIP Shares under this Scheme is entered in the QIP's register of members as the holder of those New QIP Shares (in holdings having the same holding name and address and other details as the holding of the relevant Scheme Shares, and in CHESS Holdings if the relevant Scheme Shares were held in the CHESS Holdings and in Issuer Sponsored Holdings if the relevant Scheme Shares were held in Issuer Sponsored Holdings); and
 - (ii) procure that the name of the Sale Agent is entered in QIP's register of members as the holder of the Sale Shares (with such holding details as the Sale Agent notifies).
- (c) The obligations of QIP under clause 4.2(a) will be satisfied if, on or before 5.00pm on the Implementation Date, it issues all of the New QIP Shares which it is obliged to issue to Scheme Shareholders and to the Sale Agent under the Scheme and provides XIP with written confirmation that it has done so.
- (d) On or before the date that is 5 Business Days after the Implementation Date, QIP must send or procure the sending of an allotment advice or holding statement (or equivalent document) to each Scheme Shareholder entitled to receive QIP Shares under this Scheme, reflecting the issue of such New QIP Shares in accordance with clause 4.2(b)(ii).

5. Warranties

QIP represents and warrants to each Scheme Shareholder that:

- (a) (**status**) it is a corporation duly incorporated and validly existing under the laws of the place of its incorporation;
- (b) (**power**) it has the power to enter into and perform its obligations under this deed poll and to carry out the transactions contemplated by this deed poll;
- (c) (**corporate authorisations**) it has taken all necessary corporate action to authorise the entry into and performance of this deed poll and to carry out the transactions contemplated by this deed poll;
- (d) (**documents binding**) this deed poll is its valid and binding obligation enforceable in accordance with its terms;
- (e) (**transactions permitted**) the execution and performance by it of this deed poll and each transaction contemplated by this deed poll did not and will not violate in any respect a provision of:
 - (i) a law or treaty or a judgment, ruling, order or decree of a Governmental Agency binding on it;
 - (ii) its constitution or other constituent documents; or

- (iii) any other document which is binding on it or its assets; and
- (f) (**solvency**) it is solvent and no resolutions have been passed nor has any other step been taken or legal action or proceedings commenced or threatened against it for its winding up or dissolution or for the appointment of a liquidator, receiver, administrator or similar officer over any or all of its assets.

6. Continuing Obligations

6.1 Deed poll irrevocable

This deed poll is irrevocable and, subject to clause 3, remains in full force and effect until the earlier of:

- (a) QIP having fully performed its obligations under this deed poll; and
- (b) termination of this deed poll under clause 3.2.

6.2 Variation

A provision of this deed poll may not be varied unless:

- (a) before the Second Court Date, the variation is agreed to in writing by XIP; or
- (b) on or after the Second Court Date, the variation is agreed to in writing by XIP and is approved by the Court,

in which event QIP will enter into a further deed poll in favour of each Scheme Shareholder giving effect to the amendment.

7. Notices

Any notice, demand or other communication (a **Notice**) to QIP in respect of this deed poll:

- (a) must be in writing;
- (b) must be sent to the address for service of the addressee specified in the Details;
- (c) must be signed by the sender or a person duly authorised by it;
- (d) must be delivered to the intended recipient or posted by prepaid post (if posted to an address in another country, by registered airmail), or sent by email to the email address, of the addresses, in accordance with the Details;
- (e) will be conclusively taken to be duly given or made:
 - (i) **(in the case of delivery by prepaid post)**, on the third Business Day after the date of posting (if posted to an address within Australia) or the fifth Business Day after the date of posting (if posted to an address outside Australia); or
 - (ii) **(in the case of delivery in hand)**, on delivery at the address of the addressee as provided in the Details, unless that delivery is not made on a Business Day, or is made before 9.00am or after 5.00pm on a Business Day, in which case that Notice will be deemed to be received at 9.00am on that or the next Business Day (as the context requires); and
 - (iii) **(in the case of email)**, immediately after the time sent (as recorded on the device from which the sender sent the email) unless the sender receives an automated message that the email has not been delivered, unless that local time is not a Business Day, or is before 9.00am or after 5.00pm on a Business Day, when that communication will be deemed to be received at 9.00am on that or the next Business Day (as the context requires).

8. General Provisions

8.1 Assignment

- (a) The rights and obligations of QIP and each Scheme Shareholder under this deed poll are personal. They cannot be assigned, charged, encumbered or otherwise dealt with at law or in equity without the prior written consent of QIP and XIP.
- (b) Any purported dealing in contravention of clause 8.1(a) is invalid.

8.2 Cumulative rights

The rights, powers and remedies of QIP and each Scheme Shareholder under this deed poll are cumulative with and do not exclude any other rights, powers or remedies provided by law independently of this deed poll.

8.3 No waiver

- (a) QIP may not rely on the words or conduct of any Scheme Shareholder as a waiver of any right unless the waiver is in writing and signed by the Scheme Shareholder granting the waiver.
- (b) If a Scheme Shareholder does not exercise a right arising from a breach of this deed poll at a given time, it may, unless it has waived that right in writing, exercise the right at a later point in time.
- (c) No Scheme Shareholder may rely on words or conduct of QIP as a waiver of any right unless the waiver is in writing and signed by QIP.
- (d) The meanings of the terms used in this clause 8.3 are set out below.

conduct includes delay in the exercise of a right.

right means any right arising under or in connection with this deed poll and includes the right to rely on this clause.

waiver includes an election between rights and remedies, and conduct which might otherwise give rise to an estoppel.

8.4 Stamp duty

QIP must pay or procure the payment of all stamp duty (if any) any related fines, penalties and interest in respect of the Scheme and this deed poll (including the acquisition or transfer of Scheme Shares pursuant to the Scheme), the performance of this deed poll and each transaction effected by or made under or pursuant to the Scheme and this deed poll.

8.5 Further assurances

QIP will, at its own expense, do all things reasonably required of it to give full effect to this deed poll.

8.6 Governing law and jurisdiction

This deed poll is governed by the laws of the State of New South Wales. In relation to it and related non-contractual matters QIP irrevocably:

- (a) submit to the non-exclusive jurisdiction of courts with jurisdiction there; and
- (b) waive any right to object to the venue on any ground.

Signing page

EXECUTED and delivered as a deed poll.

Executed by QANTM Intellectual Property Limited in accordance with Section 127 of the *Corporations Act 2001*

Signature of director

Name of director (print)

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

Name of director/company secretary (print)

Schedule 10 - Indicative timetable

Event	Date
Enter into Scheme Implementation Deed and announce Scheme to ASX	27 November 2018
Lodge Explanatory Booklet with ASIC for review and comment	28 January 2019
First Court Date	Week commencing 18 February 2018
Explanatory Booklet registered with ASIC	Week commencing 18 February 2018
Despatch Explanatory Booklet to the XIP Shareholders	Week commencing 25 February 2018
Scheme Meeting	Week commencing 1 April 2018
Second Court Date	Week commencing 8 April 2018
Effective Date – lodge office copy of Court order approving the Scheme with ASIC	Week commencing 8 April 2018
Record Date	Week commencing 15 April 2018
Implementation Date (refer to clause 6.4 for actions on this date)	Week commencing 22 April 2018

Signing page

EXECUTED as a deed.

Executed by **QANTM Intellectual Property Limited ACN 612 441 326** in accordance with Section 127 of the *Corporations Act 2001*



Signature of director

LEON KEITH ALLEN

Name of director (print)



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

MARTIN CLEMER

Name of director/company secretary (print)

Executed by **Xenith IP Group Limited ACN 607 873 209** in accordance with Section 127 of the *Corporations Act 2001*



Signature of director



Name of director (print)



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



Name of director/company secretary (print)

Signing page

EXECUTED as a deed.

Executed by QANTM Intellectual Property Limited ACN 612 441 326 in accordance with Section 127 of the *Corporations Act 2001*

Signature of director

Name of director (print)

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

Name of director/company secretary (print)

Executed by Xenith IP Group Limited ACN 607 873 209 in accordance with Section 127 of the *Corporations Act 2001*



Signature of director

CRAIG DOWER

Name of director (print)



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

LESLEY KENNEDY

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