

**SCHEME IMPLEMENTATION
AGREEMENT FOR THE
ACQUISITION OF MHM
AUTOMATION LIMITED**

BETTCHER INDUSTRIES, INC. (Acquirer)

and

MHM AUTOMATION LIMITED (Company)

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SCHEME IMPLEMENTATION AGREEMENT

DATED

3 November

2023

PARTIES

1. **BETTCHER INDUSTRIES, INC.** (Registration number 2145492) a duly incorporated company in Delaware, United States having its registered office at 6801 State Route 60, Birmingham, Ohio 44889, United States (**Acquirer**)
2. **MHM AUTOMATION LIMITED** (New Zealand company number 125412) a duly incorporated company in New Zealand having its registered office at 53 Lunns Road, Middleton, Christchurch, 8024, New Zealand (**Company**)

BACKGROUND

- A. The Acquirer and the Company have agreed that the Acquirer (or, if applicable, the Acquirer Nominee) will acquire all of the Scheme Shares by means of the Scheme.
- B. The parties have agreed to enter into this agreement to record and give effect to the terms and conditions on which the Acquirer and the Company intend to propose and implement the Scheme.

AGREEMENT

1. DEFINITIONS AND INTERPRETATION

- 1.1 **Defined terms:** In this agreement, unless the context requires otherwise:

Acquirer Group means the Acquirer and its Related Companies (but excluding members of the MHM Automation Group);

Acquirer Indemnified Persons means each member of the Acquirer Group and each of their respective directors, officers, employees and other Representatives;

Acquirer Information means all information given by the Acquirer to the Company for inclusion in the Scheme Booklet concerning the Acquirer, the Acquirer Nominee (if applicable), their Related Companies, business and interests and dealings in the Shares;

Acquirer Nominee has the meaning given in clause 2.8(a);

Acquirer Undertakings means the undertakings set out in Part 2 of Schedule 3;

Acquirer Warranties means the statements set out in Part 1 of Schedule 3;

Additional Amount has the meaning given in clause 18.3;

Associate has the meaning given to that term in the Takeovers Code;

Authorisation means any permit, licence, consent, approval, registration, accreditation, certification or other authorisation given or issued by any Government Agency;

Board means the board of directors of the Company;

Break Fee means NZ\$1,500,000 plus GST, if any;

Business means the business carried on by the MHM Automation Group as at the date of this agreement;

Business Day means any day (other than a Saturday, Sunday or a statutory public holiday) in Auckland or Christchurch, New Zealand and excluding any day between 27 December 2023 and 12 January 2024 (inclusive);

Change of Control Consent has the meaning given to that term in clause 9.4(a);

Companies Act means the Companies Act 1993;

Company Indemnified Persons means each member of the MHM Automation Group and each of their respective directors, officers and employees and other Representatives;

Company Information means all information included in the Scheme Booklet other than the Acquirer Information and the Independent Adviser's Report;

Company Undertakings means the undertakings set out in Part 2 of Schedule 2;

Company Warranties means the warranties set out in Part 1 of Schedule 2;

Competing Proposal means any proposed:

- (a) full or partial takeover under the Takeovers Code in respect of the Company;
- (b) scheme of arrangement in respect of the Company;
- (c) transfer or issue of financial products of the Company to a Third Party:
 - (i) where Shareholder approval is required under the Takeovers Code; or
 - (ii) in respect of financial products which are convertible into, or exchangeable for, Shares, where Shareholder approval would be required under the Takeovers Code on conversion or exchange of those financial products;
- (d) sale of assets or financial products by any member of the MHM Automation Group to a Third Party, where such sale constitutes a material part of the Business (and, for clarity, will not include any sale, disposal of assets or winding up in relation to any business, division, subsidiary or other interest of the MHM Automation Group having a value of less than \$1,000,000); or
- (e) reverse takeover, sale of securities, strategic alliance, joint venture, partnership, economic or synthetic merger or combination or other transaction or arrangement which, if completed, would result in a Third Party:
 - (i) directly or indirectly acquiring or being entitled to acquire a Relevant Interest or any other direct or indirect legal, beneficial or economic interest in, or control over, more than 20% of:
 - (1) the Shares; or
 - (2) the shares in any other member or members of the MHM Automation Group that, individually or collectively, contribute 20% or more of the consolidated

EBITDAF of the MHM Automation Group or whose assets represent 20% or more of the total consolidated assets of the MHM Automation Group;

- (ii) directly or indirectly acquiring, or being entitled to acquire, the whole or substantially all of the Business or assets of the MHM Automation Group or any part of the Business or assets of the MHM Automation Group that, individually or collectively, contributes 20% or more of the consolidated EBITDAF of the MHM Automation Group or that represents 20% or more of the total consolidated assets of the MHM Automation Group; or
- (iii) acquiring Control of the Company or merging or amalgamating with the Company or with any other member or members of the MHM Automation Group that, individually or collectively, contribute 20% or more of the consolidated EBITDAF of the MHM Automation Group or whose assets represent 20% or more of the total consolidated assets of the MHM Automation Group.

For the purposes of this definition of Competing Proposal:

- (a) any such proposal may be an expression of interest, indicative, conditional or otherwise non-binding;
- (b) paragraphs (c), (d) or (e) above include any agreement (within the meaning of section 6 of the FMCA) whereby such a transaction is effected through a series of linked or related transactions which if conducted as a single transaction would constitute a Competing Proposal within the meaning of any of paragraphs (c), (d) or (e) above;
- (c) each successive material modification to, or variation of, a Competing Proposal will constitute a new Competing Proposal; and
- (d) references to a Third Party include all Associates of the Third Party;

Condition Satisfaction Date means the date that is seven Business Days prior to the End Date or any other date agreed in writing by the parties (including in connection with clause 3.11);

Conditions mean the conditions precedent set out in the first column of the table in clause 3.1;

Confidentiality Agreement means the confidentiality agreement between the Acquirer and the Company (among others), dated 22 August 2023;

Conflicted Director means any Director that abstains from providing the recommendation and undertaking referred to in clause 8.1 due to a conflict of interest;

Consideration means NZ\$1.70 in cash in respect of each Share held by a Scheme Shareholder;

Constitution means the constitution of the Company for the time being;

Control means, in relation to a person (the **relevant person**) and one or more other persons, where those one or more persons, directly or indirectly, whether by the legal or beneficial ownership of shares, securities or other equity, the possession of voting power, by contract, trust, or otherwise:

- (a) has the power to appoint or remove the majority of the members of the governing body of the relevant person;
- (b) controls or has the power to control the affairs or policies of the relevant person; or

- (c) is in a position to derive more than 50% of the economic benefit of the existence or activities of the relevant person;

Counter Proposal has the meaning given in clause 13.7(b);

Court means the High Court of New Zealand, Christchurch Registry;

Data Room Index means the index of Data Room Information disclosed in writing in the Datasite data room located at <https://americas.datasite.com/platform/container/650b5bb685f1903910e6cd9a>, in a form agreed between the parties in writing on or prior to the date of this agreement;

Data Room Information means:

- (a) the written information and documents made available to the Acquirer or its Representatives (including the written answers or written confirmations, together with any documents attached to those written answers or confirmations provided to the Acquirer or its Representatives) on or before 2 November 2023 through the Datasite data room located at <https://americas.datasite.com/platform/container/650b5bb685f1903910e6cd9a>, as listed in the Data Room Index; and
- (b) the Disclosure Letter;

Deed Poll means the deed poll to be entered into by the Acquirer and the Acquirer Nominee (if applicable) in favour of the Scheme Shareholders, in the form attached as Annexure 2 or in such other form as the parties agree in writing;

Disclosure Letter means the letter delivered by the Company to the Acquirer prior to entry into this agreement, together with the attachments to that letter, and which:

- (a) discloses, facts, matters and circumstances that add further context to certain matters or are, or may be, inconsistent with the Company Warranties; and
- (b) contains certain agreements between the Company and the Acquirer regarding certain disclosures;

Director means each director of the Company from time to time;

Duty means any stamp, transaction or registration duty or similar charge imposed by any Government Agency and any penalty, fine, interest or additional charge payable in relation to any such duty or charge;

EBITDAF means earnings before interest, tax, depreciation, amortisation and fair value adjustments;

Effective means, when used in relation to the Scheme, the coming into effect under section 236(3) of the Companies Act of the order of the Court made under section 236(1) of the Companies Act in relation to the Scheme and all of the Conditions having been satisfied or waived (where capable of being waived) in accordance with this agreement and the Scheme;

Encumbrance means any security interest (within the meaning of section 17(1)(a) of the Personal Property Securities Act 1999) and any option, right to acquire, right of pre-emption, assignment by way of security, trust arrangement for the purpose of providing security, retention arrangement or

other security interest of any kind (other than any reservation of title by suppliers in the ordinary course of business), and any agreement to create any of the foregoing;

End Date means the date that is six months following the date of this agreement (subject to extension under clause 7.4), or such later date agreed in writing by the parties (including in connection with clause 3.11);

Exclusivity Period means the period starting on the date of this agreement and ending on the first to occur of:

- (a) termination of this agreement;
- (a) the Implementation Date; and
- (b) the End Date;

Expert means, upon application by either party, an expert appointed by the President, or their nominee, of the New Zealand Law Society, who must be:

- (a) a King's Counsel with appropriate experience in New Zealand commercial disputes; and
- (b) genuinely independent from either party (for example, has not advised either party in the three years prior to appointment);

Final Orders means orders of the Court on application of the Company, that the Scheme shall be binding on the Company, the Acquirer, the Acquirer Nominee (if applicable), Shareholders and such other persons or class of persons as the Court may specify, in accordance with section 236(1) (and section 237, if applicable) of the Companies Act;

Final Orders Date means the day on which the Final Orders are granted by the Court;

First Court Date means the first date on which the application is made to the Court for the Initial Orders in accordance with section 236(2) of the Companies Act;

FMCA means the Financial Markets Conduct Act 2013;

Forward Looking Information means:

- (a) any information about the future performance, future prospects, future financial condition, future results of operations or future results of the strategy and plans of the MHM Automation Group; and
- (b) any other information about the future, including any budget, forecast, outlook about the future, scenario about the future, projection, prediction, estimate, opinion or other forward looking statement;

Fundamental Warranties means the Company Warranties set out in clauses 1 to 10 and clause 14 of Part 1 of Schedule 2;

Government Agency means any government, department, officer or minister of any government and any governmental, semi-governmental, administrative, fiscal, judicial or quasi-judicial agency, authority, board, commission, tribunal or entity;

GST means goods and services tax charged or levied under the GST Act and includes any GST Default Amounts;

GST Act means the Goods and Services Tax Act 1985 or any other applicable legislation or law imposing a goods and services tax, value added tax or equivalent tax;

GST Default Amounts means any penalties, additional tax or interest payable in respect of the non or late payment of GST;

GST Exclusive Consideration has the meaning given in clause 18.2;

Implementation Date means the day on which the Scheme is to be implemented, being five Business Days after the Record Date, or such other date agreed between the parties in writing;

Independent Adviser means the person appointed by the Company, and approved by the Takeovers Panel, as independent adviser to prepare the Independent Adviser's Report;

Independent Adviser's Report means the independent adviser's report prepared by the Independent Adviser in relation to the Scheme as amended or updated from time to time and including any supplementary or replacement report;

Initial Orders means, on application by the Company, orders by the Court for the purposes of section 236(2) of the Companies Act;

Insolvency Event means, in relation to a person, the occurrence of any of the following:

- (a) the person ceases or threatens to cease to carry on all or substantially all of its business or operations;
- (b) an application or an order is made, or a resolution is passed or proposed, for the person's dissolution;
- (c) the person is or becomes unable to pay its debts when due (as defined in the Companies Act), or enters into dealings with any of its creditors with a view to avoiding or in expectation of insolvency, or makes a general assignment or an arrangement or composition with or for the benefit of any of its creditors, or stops or threatens to stop payments generally;
- (d) the person goes into receivership or has a receiver, receiver and manager, official manager, trustee, statutory manager or other similar officer appointed in respect of all or any of its property;
- (e) a distress, attachment or other execution is levied or enforced upon or commenced against any of its assets;
- (f) any resolution is passed, or any proceeding is commenced, for the dissolution of that person;
- (g) the person takes any action in furtherance of, or indicating its consent to, approval of, or acquiescence in, any of the acts referred to in this definition; and
- (h) anything analogous to anything referred to in the above paragraphs, or which has substantially similar effect, occurs with respect to it, including under any applicable foreign law;

Letter of Intention means the letter from the Takeovers Panel stating that it:

- (a) intends to provide a No-objection Statement; and
- (b) does not intend to appear at the Court in respect of the application for Initial Orders;

LINK means Link Market Services Limited;

Loss means all losses, damages, costs, expenses, charges and other liabilities provided however that the parties shall not be liable for any indirect loss, economic loss, loss of opportunity or loss of profit whatsoever and however arising, including:

- (a) consequential loss or damage; or
- (b) loss of use, production, revenue, income, profits, business and savings or business interruption (whether or not the indirect loss or damage was foreseeable);

Matching Period has the meaning given to that term in clause 13.7(a)(v)(3);

Material Adverse Change means any matter, event, or change in circumstances which occurs on or after the date of this agreement (each a **Specified Event**) and which individually, or when aggregated with all other Specified Events, reduces or is reasonably likely to reduce:

- (a) the consolidated net assets of the MHM Automation Group taken as a whole by \$15 million or more; or
- (b) the EBITDAF of the MHM Automation Group in any 12 month period following the Specified Event or Specified Events by 25% or more against what the EBITDAF would have reasonably been expected to have been for that period but for the Specified Event or Specified Events,

determined after excluding:

- (c) any out-of-pocket costs reasonably incurred in connection with:
 - (i) the Transaction (provided such costs have been fairly disclosed in the Data Room Information); or
 - (ii) without limiting paragraph (c)(i), the MHM Automation Group performing its obligations under this agreement (including, for the avoidance of doubt, under clauses 6.1, 9.4 and 9.6 but excluding compliance with its obligations under clause 9.2 or actions taken by any member of the MHM Automation Group under clause 9.3 (other than clause 9.3(a), 9.3(c) or 9.3(f)); or
 - (iii) the D&O Run-off Policy;
- (d) matters, events and circumstances:
 - (i) to the extent fairly disclosed:
 - (1) in the Data Room Information; or
 - (2) by the Company through the NZX market announcement platforms during the three-year period ending on the date falling two Business Days' prior to the date of this Agreement;
 - (ii) done or not done at the written request or with the written approval of the Acquirer, or resulting from compliance with the terms of, or the taking or omission of any action expressly required by, this agreement, and any reasonably foreseeable consequences arising as a result of the relevant action or omission;
 - (iii) resulting from legal or regulatory requirements generally affecting businesses in the industry in which any member of the MHM Automation Group operates;

- (iv) resulting from any change:
 - (1) to generally accepted accounting principles or the interpretation or enforcement of them by a court of competent jurisdiction or Government Agency;
 - (2) to the accounting policies of any member of the MHM Automation Group that is required by law; or
 - (3) in securities, equity, credit, financial or other capital markets conditions;
- (v) resulting from or relating to geopolitical conditions, the outbreak or escalation of hostilities (including any escalation or expansion of the conflict in Ukraine or the Israel-Hamas war), any generalised or localised rioting or public unrest, civil disobedience, acts of war and military conditions or activity, sabotage or terrorism (excluding cyberattacks), or any escalation or worsening of any of the foregoing; and
- (vi) resulting from any natural disaster (including an earthquake, fire, landslide, volcanic eruption or tidal wave) or weather developments (including a storm, flood, hurricane, tornado, cyclone or lightning) or other comparable natural events,

provided that, in relation to the exclusions in paragraphs (iii), (iv) and (v) above, the effects of such matter, event or circumstance are not materially disproportionately adverse to the MHM Automation Group as compared to the effects of such matter, event or circumstance on entities in the industry in which the relevant member of the MHM Automation Group operates;

MHM Automation Group means the Company and its Related Companies;

Non-Conflicted Director means as at the date of this agreement, each of the "independent directors" (as that term is defined in the NZX Listing Rules) as advised by the Company to NZX;

No-objection Statement means a written statement under section 236A(2)(b)(ii) of the Companies Act stating that the Takeovers Panel has no objection to the Court granting the Final Orders;

NZX means NZX Limited and, where the context requires, the main board financial market that it operates;

NZX Listing Rules means the NZX Listing Rules for the NZX main board;

OIO means the New Zealand Overseas Investment Office;

OIO Application means the Acquirer's application under the Overseas Investment Act 2005 and the Overseas Investment Regulations 2005 for consent to implement the Scheme;

OIO Condition means the Condition set out in clause 3.1(a);

OIO Standard Terms and Conditions means the standard terms and conditions for a consent of the type published on the overseas investment section of the website maintained by Toitū Te Whenua Land Information New Zealand and any conditions of consent required by law, in each case, on the date of this agreement, as are applicable to the Transaction;

Options means the Options (as that term is defined in the Option Deeds) issued or transferred pursuant to the relevant Option Deed;

Option Deeds means the senior management and director share options deeds between the Company and each of the Option Participants amended on 14 October 2022, pursuant to which the Options were granted to the relevant Option Participants and the terms of the Options provided for;

Option Participants means each of:

- (a) Ian Alexander McGregor; and
- (b) Richard George Rookes;

Permitted Encumbrances means in respect of the MHM Automation Group's assets, but not the Scheme Shares:

- (a) a reservation of ownership or other purchase money security interest entered into in respect of supplies to a member of the MHM Automation Group in the ordinary course of business;
- (b) a right or set-off or combination thereof arising by operation of law or practice over money deposited with a bank or financial institution in the ordinary course of business;
- (c) a security interest arising by operation of law and in the ordinary course of business provided that the debt it secures is paid when due or contested in good faith by appropriate proceedings; and
- (d) a security interest arising under section 17(1)(b) of the Personal Property Securities Act 1999 that does not secure payment or performance of an obligation,

in each case, existing on the date of this agreement or is granted by the MHM Automation Group in the period between the date of this agreement and the Implementation Date without breach of clause 9.2;

PPSR means the Personal Property Securities Register.

Prescribed Occurrence means the occurrence of any of the events listed in Schedule 1 other than an event for which the Acquirer has given its prior approval in writing;

Record Date means 7.00pm on the date which is five Business Days after the later of:

- (a) the Final Orders Date; and
 - (b) the date on which the OIO Condition is satisfied,
- or such other date agreed between the parties in writing;

Reference Rate means in relation to interest payable on any payment due under this agreement, the mid or "FRA" rate for 90 day bank accepted bills (expressed as a percentage) as quoted on Reuters page BKBM (or any successor page) at or about 10.45am on the first Business Day of the period in respect of which such rate of interest is to be calculated, and thereafter on each succeeding Business Day of the period;

Register means the register of Shares maintained by LINK on behalf of the Company;

Registrar has the meaning given to that term in the Companies Act;

Related Company has the meaning given to that term in section 2(3) of the Companies Act, read as if a reference to a company was a reference to a body corporate wherever incorporated, and:

- (a) in respect of the Acquirer, also means any other person who directly or indirectly Controls the Acquirer, is under the Control of the Acquirer, or is under common Control with the Acquirer; and
- (b) in respect of the Company, also means any other person who directly or indirectly Controls the Company, is under the Control of the Company, or is under common Control with the Company, provided that in no circumstances shall the Acquirer or any member of the Acquirer Group be deemed a Related Company of the Company;

Relevant Interest has the meaning given in section 235(1) of the FMCA;

Representative means in relation to a person:

- (a) any director, officer or employee or agent of, and any accountant, auditor, financier, financial adviser, legal adviser, technical adviser or other expert adviser or consultant to, that person; and
- (b) when used in clauses 2.5, 13.1, 13.2, 13.4, 13.6, 13.7 and 16.2 only, also includes any Related Company and any director, officer or employee or agent of, and any accountant, auditor, financier, financial adviser, legal adviser, technical adviser or other expert adviser or consultant to, any Related Company;

Reverse Break Fee means an amount equal to the same amount as the Break Fee;

Scheme means a scheme of arrangement under Part 15 of the Companies Act under which all of the Scheme Shares held by Scheme Shareholders will be transferred to the Acquirer or the Acquirer Nominee (if applicable) and the Scheme Shareholders will receive the Consideration, in the form of the Scheme Plan;

Scheme Booklet means the booklet to be prepared in accordance with this agreement in connection with the Scheme Meeting and Scheme Resolution (including the notice of meeting, explanatory materials and disclosures and proxy form), the despatch of which is to be, or has been, approved by the Court and which is to be, or has been, sent to Shareholders in advance of the Scheme Meeting;

Scheme Meeting means the meeting of Shareholders which (as applicable) is to be, or has been, ordered by the Court to be convened pursuant to the Initial Orders in respect of the Scheme and includes any adjournment of that meeting;

Scheme Plan means the scheme plan in the form set out in Annexure 1 (or in any other form the parties agree in writing), which (as applicable) is to be, or has been, approved by the Court under section 236(1) of the Companies Act;

Scheme Resolution means the resolution to be put to Shareholders at the Scheme Meeting to approve the Scheme;

Scheme Shareholder means a person who is registered in the Register as the holder of one or more Scheme Shares as at the Record Date;

Scheme Shares means all of the Shares on issue at 7.00pm on the Record Date;

Schemes Guidance Note means the guidance note issued by the Takeovers Panel regarding schemes of arrangement, published on 1 November 2023 (as may be amended, modified, revised or replaced from time to time), as available on the Takeovers Panel website;

Second Court Date means the later of:

- (a) if there is no Court hearing in respect of the Final Orders, the last date the Company files affidavit(s) verifying the results of the Scheme Meeting and such other information as prescribed in the Initial Orders so as to obtain the Final Orders; and
- (b) if there is a Court hearing in respect of the Final Orders, the first date of such hearing, provided that if such hearing is adjourned, it means the first date on which the adjourned application is heard;

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

Shareholder means a person who is registered in the Register as the holder of one or more Shares from time to time;

Superior Proposal means a written bona fide Competing Proposal received by the Company after the date of this agreement that:

- (a) does not result from a breach by the Company of any of its obligations under clause 13, or from any act by a member of the MHM Automation Group or its Representatives which, if done by the Company, would constitute a breach of clause 13 by the Company; and
- (b) the relevant members of the Board determine, acting reasonably and in good faith and after having received written advice from its external financial and legal advisers:
 - (i) is reasonably capable of being valued and implemented, taking into account all relevant aspects of the Competing Proposal, including its conditions precedent, its timing considerations, the nature and amount of the consideration payable, the identity and financial condition and capacity of the proponent, any regulatory requirements or obligations applying to it and any other matters affecting the implementation (including any matters affecting the probability of implementation occurring or the level of certainty in respect of any required funding) of the Competing Proposal (together, the **relevant aspects**);
 - (ii) assuming it is completed substantially in accordance with its terms, is more favourable to Shareholders as a whole than the Scheme (if applicable, as amended or varied under any Counter Proposal provided under clause 13.7(b)), taking into account all the terms and conditions and the other relevant aspects of the Competing Proposal and the Scheme; and
 - (iii) failing to attempt to advance such Competing Proposal would be likely to constitute a breach of the fiduciary duties or statutory obligations by or of a relevant Director;

Supplier has the meaning given in clause 18.3;

Surviving Clauses means clause 1 (definitions and interpretation), clause 11.1 (release of Company Indemnified Persons), clause 11.2 (release of Acquired Indemnified Persons), clause 14 (Break Fee and Reverse Break Fee), clause 15.13 (effect of termination), clause 16

(announcements), clause 17 (payments), clause 18 (GST), clause 19 (notices) and clause 20 (general) (other than clause 20.7 (further assurance));

Takeovers Code means the takeovers code set out in the schedule to the Takeovers Regulations 2000 (SR2000/210), as amended by any applicable exemption granted by the Takeovers Panel under the Takeovers Act 1993;

Takeovers Panel means the Takeovers Panel established by section 5(1) of the Takeovers Act 1993;

Tax means a tax, levy, charge, impost, fee, deduction, withholding or Duty of any nature, including stamp and transaction Duty or any goods and services tax, value added tax or consumption tax, which is imposed or collected by a Government Agency and includes any interest, fine, penalty, charge, fee or other amount imposed in addition to those amounts;

Third Party means a person other than a member of the Acquirer Group;

Timetable means the timetable set out in Schedule 4, or such other timetable as the Company and the Acquirer agree in writing, subject to any amendments made in accordance with this agreement (including in connection with clause 3.11);

Transaction means the acquisition by the Acquirer or the Acquirer Nominee (if applicable) of all the Scheme Shares through implementation of the Scheme in accordance with the terms of this agreement;

Trigger Dispute means any dispute between the parties in relation to the obligations of the parties under clause 14; and

Voting Agreements means each of the agreements between the Acquirer and the relevant Shareholders whereby the relevant Shareholder covenants to vote in favour of the Scheme Resolution.

1.2 **Knowledge:**

- (a) Where any Company Warranty is qualified by the expression “so far as the Company is aware” or any similar expression, this is deemed to be a reference to matters and circumstances actually known to Trevor Burt, Richard Rookes, Ian McGregor, Paul Smart, Andrew Barclay and George Rolleston as at the date the statement is made or given.
- (b) Other than as contemplated by this clause 1.2, the knowledge, belief or awareness of any person will not be imputed to the Company.
- (c) For avoidance of doubt, and without limiting clause 11.1, none of the individuals referred to in this clause 1.2 has any personal liability in respect of the Company Warranties.

1.3 **Things required to be done other than on a Business Day:** Unless otherwise indicated, if the day on which any act, matter or thing is to be done is a day other than a Business Day, that act, matter or thing must be done on or by the next Business Day.

1.4 **Other rules of interpretation:** In this agreement, unless the context otherwise requires:

- (a) any reference, express or implied, to any legislation in any jurisdiction includes:

- (i) that legislation as amended, extended or applied by or under any other legislation made before or after execution of this agreement;
 - (ii) any legislation which that legislation re-enacts with or without modification; and
 - (iii) any subordinate legislation made before or after execution of this agreement under that legislation, including (where applicable) that legislation as amended, extended or applied as described in clause 1.4(a)(i), or under any legislation which it re-enacts as described in clause 1.4(a)(ii);
- (b) a reference to the NZX Listing Rules includes any variation, consolidation or replacement of those rules and is to be taken to be subject to any waiver or exemption granted to the compliance of those rules by a party;
 - (c) references to persons or entities include natural persons, bodies corporate, partnerships, trusts and unincorporated associations of persons;
 - (d) references to an individual or a natural person include his or her estate and personal representatives;
 - (e) a reference to a clause, schedule or annexure is a reference to a clause, schedule or annexure of or to this agreement (and the schedules and annexures form part of this agreement);
 - (f) subject to clause 20.2, references to a party to this agreement include the successors or assigns (immediate or otherwise) of that party;
 - (g) a reference to any instrument or document includes any variation or replacement of it which has been, where relevant, fairly disclosed in the Data Room Information;
 - (h) a reference to any time is a reference to that time in New Zealand;
 - (i) a reference to \$, NZ\$ or dollars is to New Zealand currency;
 - (j) singular words include the plural and vice versa;
 - (k) a word of any gender includes the corresponding words of any other gender;
 - (l) if a word or phrase is defined, other grammatical forms of that word have a corresponding meaning;
 - (m) general words must not be given a restrictive meaning just because they are followed by particular examples intended to be embraced by the general words;
 - (n) headings are to be ignored in construing this agreement; and
 - (o) a reference to a matter, information or a circumstance being “disclosed” or “fairly disclosed” (or similar expression) means disclosed in writing such that the matter, information or circumstance might reasonably be expected to come to the knowledge of a diligent and reasonable purchaser or any of its Representatives in the ordinary course of carrying out a due diligence exercise in respect of the MHM Automation Group and the Business based on the Data Room Information and publicly available information, in such a way that such a

purchaser (experienced in transactions of this nature) might reasonably be expected to understand the relevance and importance of the matter, information or circumstance.

- 1.5 **Consents:** If the doing of any act, matter or thing under this agreement is dependent on the consent or approval of a party or is within the discretion of a party, such consent or approval may be given or such discretion may be exercised conditionally or unconditionally or withheld by the party in its absolute discretion (unless this agreement specifies otherwise).
- 1.6 **No contra proferentem:** No term or condition of this agreement will be construed adversely to a party solely because that party was responsible for the preparation of this agreement or a provision of it.

2. PROPOSAL OF SCHEME

- 2.1 **Proposal:** The Company must, as soon as reasonably practicable, propose and, subject to the Scheme becoming Effective, implement the Scheme on and subject to the terms of this agreement.
- 2.2 **Acquirer to assist:** The Acquirer must co-operate with the Company and assist the Company to propose and, subject to the Scheme becoming Effective, implement the Scheme on and subject to the terms of this agreement.
- 2.3 **Consideration:** Each Scheme Shareholder is entitled to receive the Consideration in respect of each Scheme Share held by that Scheme Shareholder subject to and in accordance with the terms of this agreement and the Scheme.
- 2.4 **Acquirer to pay Consideration:** The Acquirer undertakes in favour of the Company (in its own right and on behalf of the Scheme Shareholders) to, in consideration for and simultaneously with the transfer to the Acquirer (or, if nominated under clause 2.8, the Acquirer Nominee) of each Scheme Share from each Scheme Shareholder under the terms of the Scheme, pay (or procure the payment of) the Consideration to each Scheme Shareholder in accordance with the Scheme and the Deed Poll.
- 2.5 **General implementation obligations:** Each party must do everything reasonably necessary, including by procuring that its Representatives work in good faith and in a timely and co-operative manner with, in the case of the Acquirer, the Company and its Representatives and, in the case of the Company, the Acquirer and its Representatives, to implement the Scheme in accordance with this agreement and all applicable laws and regulations applicable to the Scheme.
- 2.6 **Timetable:**
- (a) Subject to clauses 2.6(c) and 2.6(d), each party must use their reasonable endeavours to propose and implement the Scheme in accordance with the Timetable or otherwise as soon as reasonably practicable.
 - (b) Failure by a party to meet any timeframe or deadline set out in the Timetable will not constitute a breach of clause 2.6(a) to the extent that such failure is due to circumstances and matters outside the party's control, provided that such party has used reasonable endeavours to meet the Timetable.

- (c) Each party must keep the other promptly informed about its progress towards implementation of the Transaction in accordance with the Timetable and promptly notify the other if it believes that any of the dates in the Timetable are not achievable.
- (d) If any date in the Timetable becomes unachievable, the parties must consult in good faith with a view to amending the Timetable as required to permit the Scheme to be implemented before the End Date.
- (e) For clarity, nothing in this clause 2.6 or the Timetable limits the Company's ability to deal with a Competing Proposal to the extent and in the manner permitted by clause 13.

2.7 **No amendment:** Unless otherwise specified in this agreement, the Company must not promote, or consent to, any modification of, or amendment to, the Scheme or the Final Orders, or the making or imposition by the Court or any Government Agency of any condition to the Scheme, without:

- (a) the Acquirer's counsel's consent, where a modification or amendment is made, imposed or requested at a Court hearing (and the Acquirer must procure that such consent is not unreasonably withheld or delayed); or
- (b) the Acquirer's prior written consent, in the case of any other modification or amendment (such consent not to be unreasonably withheld or delayed).

2.8 **Acquirer Nominee:**

- (a) The Acquirer may elect to have a directly or indirectly wholly-owned subsidiary of the Acquirer (or a directly or indirectly wholly-owned subsidiary of a holding company of the Acquirer) (**Acquirer Nominee**) acquire all of the Scheme Shares under the Scheme by giving written notice to the Company of the relevant subsidiary at least five Business Days before the First Court Date.
- (b) If the Acquirer nominates an Acquirer Nominee to acquire all of the Scheme Shares pursuant to clause 2.8(a):
 - (i) the Acquirer and the Acquirer Nominee will both enter into the Deed Poll;
 - (ii) the Acquirer will continue to be bound by this agreement and shall, for the avoidance of doubt, remain liable for the Acquirer's obligations under this agreement and the Scheme; and
 - (iii) the Acquirer will procure that the Acquirer Nominee completes the acquisition of the Scheme Shares in accordance with the terms of this agreement and the Deed Poll.

3. CONDITIONS PRECEDENT

3.1 **Conditions:** The Scheme will not become Effective and the obligations of the Acquirer under clause 2.4 do not become binding unless and until each of the conditions set out in the first column of the following table has been satisfied or waived in accordance with this clause 3.1:

Condition	Responsibility	Waiver
(a) (OIO approval) the Acquirer has obtained all consents required under the Overseas Investment Act 2005 and the Overseas	Acquirer	None

Condition	Responsibility	Waiver
<p>Investment Regulations 2005 to implement the Scheme on terms or conditions acceptable to the Acquirer, acting reasonably, provided that the Acquirer may not withhold its approval to terms or conditions of any such consent if the terms or conditions imposed:</p> <p>(i) are the OIO Standard Terms and Conditions or are consistent in all material respects with the OIO Standard Terms and Conditions; or</p> <p>(ii) arise from or relate to the performance or fulfilment of, or are consistent with, any of the Acquirer's undertakings, plans or intentions referred to in the Acquirer's OIO application or any subsequent correspondence with the OIO;</p>		
<p>(b) (Independent Adviser) the Independent Adviser's Report concludes that the Consideration is within or above the Independent Adviser's valuation range for the Shares;</p>	Company	Company
<p>(c) (Court approval) subject to clause 3.2, the Court approves the Scheme in accordance with section 236 of the Companies Act;</p>	Company	None
<p>(d) (Shareholder approval) Shareholders approve the Scheme at the Scheme Meeting by the requisite majorities in accordance with sections 236A(2)(a) and 236A(4) of the Companies Act;</p>	Company	None
<p>(e) (No restraint) no judgment, order, restraint or prohibition enforced or issued by any Government Agency is in effect at 8.00am on the Implementation Date, that prohibits, prevents or materially restricts the implementation of the Scheme;</p>	Acquirer and Company	Acquirer and Company
<p>(f) (No Prescribed Occurrence) no Prescribed Occurrence occurs between the date of this agreement and 8.00am on the Implementation Date; and</p>	Company	Acquirer

Condition	Responsibility	Waiver
(g) (Material Adverse Change) no Material Adverse Change occurs between (and including) the date of this agreement and 8.00am on the Implementation Date.	None	Acquirer

3.2 **Court approval:** If the Court's approval of the Scheme in accordance with section 236(1) of the Companies Act would impose any terms or conditions other than those set out in the Scheme Plan, then each such term or condition must be approved in writing by the Company and the Acquirer (both acting reasonably) prior to the Court granting the Final Orders.

3.3 **Satisfaction of Conditions:** In respect of each Condition:

- (a) Each party specified in the "Responsibility" column of the table in clause 3.1 opposite that Condition must use reasonable endeavours to promptly apply for, seek or procure that the Condition is satisfied:
 - (i) in the case of the Conditions in clauses 3.1(a) to (d), as soon as practicable and in any event before the End Date; and
 - (ii) in the case of the Conditions in clauses 3.1(e) to (g), at all times before 8.00am on the Implementation Date.
- (b) Regardless of whether a party is primarily responsible for the satisfaction of a particular Condition in accordance with clause 3.3(a), each party must:
 - (i) co-operate with the other party towards satisfying each Condition; and
 - (ii) promptly provide all information and other assistance reasonably required by the party referred to in clause 3.3(a) for the purposes of procuring the satisfaction of the Condition.
- (c) Each party must not take any action for the purpose of hindering, subverting, undermining or preventing the satisfaction of the Condition, except to the extent that such action is required by law.
- (d) No party will be in breach of its obligations under clause 3.3(b) or 3.3(c) to the extent it takes an action or omits to take an action that is expressly required to be done, or expressly permitted not to be done, under or in accordance with this agreement.
- (e) The Company will not be in breach of its obligations under clause 3.3(b) or 3.3(c) if it takes, or omits to take, an action in response to a Competing Proposal in a manner, and only to the extent, permitted by clause 13.
- (f) Nothing in this clause 3.3 or clause 3.4 will require either party to incur any costs other than customary adviser costs and filing fees or to offer, agree to or accept any undertakings, commitments or conditions (other than as required under clause 3.1(a) or 3.2).
- (g) Nothing in this clause 3.3 or clause 3.4 shall require the Acquirer to take, or agree to take, any action with respect to its affiliates, any investment fund or investment vehicle, or any portfolio company or portfolio investment (as such terms are commonly understood in the

private equity industry) of any of the funds or persons managed and / or advised by Kohlberg Kravis Roberts & Co. L.P.

3.4 Specific obligations relating to OIO Condition: Without limiting clauses 3.3 and 3.5:

- (a) the Acquirer must:
 - (i) submit the OIO Application, in substantially the same form as the draft OIO Application provided to the Company prior to the date of this agreement, and having considered any reasonable comments promptly provided by the Company, to the OIO by the dates specified in the Timetable, for the purpose of fulfilling the OIO Condition;
 - (ii) promptly and diligently progress the OIO Application (including responding to the OIO in a fulsome and timely manner, and where applicable in compliance with prescribed timeframes, in respect of all of its questions and other correspondences) so as to expedite satisfaction of the OIO Condition;
 - (iii) use its reasonable endeavours to provide all notices, information and documents requested by the OIO to the OIO promptly, and in any event must provide such notices, information and documents within the timeframes set by the OIO;
 - (iv) not resile from or change, with a consequence that may be adverse to the prospects of satisfying the OIO Condition, any of the assurances or commitments provided by the Acquirer to the OIO in connection with the OIO Application; and
 - (v) other than on termination of this agreement, not (without the Company's prior written consent):
 - (1) withdraw or procure the withdrawal of the OIO Application; and
 - (2) amend the OIO Application in any matter that may be adverse to the prospects of satisfying the OIO Condition.
- (b) Each party must:
 - (i) consult with the other party in advance of all material communications (written or oral) with the OIO relating to the OIO Application or the Transaction (provided that any commercially sensitive or personal information may be redacted from the information provided) and consider any reasonable comments made by the other party in good faith before finalising the relevant communication (provided that such comments are provided promptly and within a timeframe that allows the other party to consider them in advance of any response timeframe indicated or imposed by the OIO); and
 - (ii) if requested by a party, provide the requesting party with copies of any material written communications sent to or received from the OIO and either oral or written summaries of any material conversations with the OIO, in relation to the OIO Application or the Transaction (provided that any commercially sensitive or personal information may be redacted from the information provided), promptly upon despatch or receipt or conclusion of the conversation (as the case may be).
- (c) The Company must submit the vendor information form, in substantially the same form as the draft vendor information form provided to the Acquirer and having considered the Acquirer's reasonable comments, to the OIO by the date specified in the Timetable.

3.5 Notifications:

- (a) Each party will keep the other party fully informed as to the progress made towards procuring the satisfaction of the Conditions.
- (b) If it becomes known that a Condition has become incapable of satisfaction, the party with that knowledge will promptly inform the other party in writing, and in any event within two Business Days of the relevant fact having become known to that party.
- (c) Each party must notify the other party in writing of the satisfaction of a Condition as soon as reasonably practicable after that party becomes aware of it. Any notification delivered pursuant to this clause 3.5(c) must be accompanied by sufficient evidence to reasonably satisfy the other party of the fulfilment of the Condition, including a copy of any consent, approval, order or other documentation.

3.6 Notice of Adverse Circumstances:

- (a) If, prior to 8.00am on the Implementation Date, the Company or the Acquirer becomes aware of a matter, event or circumstance that it considers in good faith will give rise to, or there is a reasonable possibility that it will give rise to, a Material Adverse Change (**Adverse Circumstance**), it must promptly notify the other party of the relevant Adverse Circumstance (which notice must state that it is a notice for the purposes of this clause 3.6).
- (b) After giving notice of an Adverse Circumstance, the parties must consult in good faith for at least five Business Days or, if shorter, until 5.00pm on the day prior to the Implementation Date, regarding the appropriate method of calculating the adverse financial consequences of the Adverse Circumstance, having regard to the various matters which are to be excluded under the definition of Material Adverse Change.

3.7 Additional Material Adverse Change requirements: If the Company:

- (a) gives notice to the Acquirer under clause 3.6(a), then that notice must also include:
 - (i) all material details of the relevant Adverse Circumstance, including the Company's good faith quantification of the estimated financial impact of the Adverse Circumstance and copies of all workings and relevant materials used to calculate such financial impact; and
 - (ii) the details, to the extent that such details are reasonably practical to provide in the circumstances, of any matters that it believes should be excluded under the definition of Material Adverse Change in relation to that Adverse Circumstance (including, where practical, its good faith estimate of the financial impact of any such matters); or
- (b) receives notice from the Acquirer of an Adverse Circumstance under clause 3.6(a), then provided the Acquirer has included in its notice reasonable details of the Adverse Circumstance including its good faith quantification of the estimated financial impact (to the extent the estimated financial impact is reasonably able to be determined by the Acquirer at the time of the giving of the notice), the Company must respond in writing to the Acquirer within five Business Days of receiving that notice (or, if shorter, by no later than 5.00pm on the Business Day prior to the Implementation Date) with such information as the Acquirer reasonably requests in that notice in order for the Acquirer to be able to determine:

- (i) the financial impact of the Adverse Circumstance; and
- (ii) any matters that should be excluded under the definition of Material Adverse Change in relation to that Adverse Circumstance (including the financial impact of that matter).

3.8 **Waiver of Conditions:** Where the "Waiver" column of the table in clause 3.1 opposite a Condition states "none", that Condition may not be waived. Each other Condition is only for the benefit of, and may only be waived in writing by:

- (a) if one party is specified in the "Waiver" column of the table in clause 3.1 opposite that Condition, that party; or
- (b) if both the Company and the Acquirer are specified in the "Waiver" column of the table in clause 3.1 opposite that Condition, those parties jointly.

A party entitled to waive, or to join in the waiver of, a Condition may do so in its absolute discretion.

3.9 **Method of waiver:** Where a Condition may be waived by one party, that party may only waive the Condition by giving notice in writing to the other party. Where a Condition may only be waived by both the Company and the Acquirer jointly, those parties may only waive the Condition by agreeing in writing to do so.

3.10 **Effect of waiver:** If a party waives or joins in the waiver of a Condition in accordance with this clause 3, that waiver does not:

- (a) preclude that party from bringing a claim against the other party for any breach of this agreement; or
- (b) constitute a waiver of any other Condition.

3.11 **Delay in satisfaction of Conditions:**

- (a) Without limiting clause 3.5:
 - (i) the Acquirer must promptly notify the Company if the OIO Condition has not been satisfied by 5.00pm on the day that is 10 Business Days prior to the Condition Satisfaction Date; and
 - (ii) each party must promptly notify the other party if any event or change in circumstances occurs that prevents or is reasonably likely to prevent any Condition (other than the Condition in clause 3.1(f)) being satisfied before the Condition Satisfaction Date, and the failure to satisfy the Condition which would otherwise occur has not been (or cannot be) waived.
- (b) If a party gives notice under clause 3.11(a), then, without limiting clause 2.5, the parties must:
 - (i) if a change to the Timetable or an extension of the Condition Satisfaction Date (and, if necessary, a corresponding extension to the End Date) would, in the reasonable opinion of the parties, assist with the satisfaction of the relevant Condition, consult in good faith about whether to change the Timetable and/or extend the Condition Satisfaction Date (and, if necessary, the End Date); or
 - (ii) if a change of the Timetable would not, in the reasonable opinion of the parties, assist with the satisfaction of the relevant Condition, consult in good faith about whether the Transaction may proceed by way of alternative means or methods.

- (c) For the avoidance of doubt, if the Condition Satisfaction Date or the End Date is extended by agreement between the parties in accordance with this agreement, then this clause 3.11 will apply in respect of each successive Condition Satisfaction Date or End Date (as applicable).

3.12 **Termination:** Notwithstanding anything in this clause 3 or any rights of termination implied by law, this agreement may only be terminated in respect of a Condition in accordance with clause 15.

4. SCHEME BOOKLET

4.1 **Company's obligations:** Without limiting clause 2, the Company must:

- (a) subject to clauses 4.1(c), 4.1(d) and 4.2(a), prepare the Scheme Booklet so that it contains:
 - (i) all information required by the Schemes Guidance Note, the Companies Act, the NZX Listing Rules and any other applicable laws or regulations or as requested or required by the Takeovers Panel in order for the Company to obtain from the Takeovers Panel a Letter of Intention and a No-objection Statement;
 - (ii) the responsibility statements referred to in clause 4.4; and
 - (iii) a statement by the Non-Conflicted Directors reflecting the recommendation and undertaking referred to in clause 8 (unless the Consideration is not within or above the Independent Adviser's valuation range for the Shares);
- (b) if not already appointed, appoint the Independent Adviser (including obtaining approval from the Takeovers Panel for that appointment), and provide all assistance and information reasonably requested by the Independent Adviser to enable it to prepare the Independent Adviser's Report;
- (c) provide the Acquirer with successive drafts of the Scheme Booklet (excluding the Independent Adviser's Report) in a timely manner, and so that the Acquirer has a reasonable opportunity to review the drafts;
- (d) consider in good faith the reasonable comments of the Acquirer and its Representatives when preparing revised drafts of the Scheme Booklet;
- (e) as soon as practicable after preparation of an advanced draft of the Scheme Booklet suitable for review by the Takeovers Panel, provide that draft to the Acquirer;
- (f) as soon as practicable after receipt of the confirmation from the Acquirer referred to in clause 4.2(e), provide the Takeovers Panel and NZX the draft Scheme Booklet;
- (g) keep the Acquirer reasonably informed of any issues raised by Takeovers Panel or NZX in relation to the Scheme Booklet and consult with the Acquirer in good faith, and use all reasonable endeavours in co-operation with the Acquirer to resolve, any such issues;
- (h) as soon as practicable after the NZX and the Takeovers Panel have completed their review of the Scheme Booklet and the Takeovers Panel has indicated in writing that it intends to issue a No-objection Statement before the Second Court Date, procure that a meeting of the relevant members of the Board is convened to approve the Scheme Booklet for lodgement with the Court and, subject to the Initial Orders, for despatch to Shareholders;

- (i) send the Scheme Booklet to Shareholders in accordance with the requirements set out in the Initial Orders in accordance with the Timetable; and
- (j) advise the Acquirer if the Company becomes aware:
 - (i) of new information which, had it been known at the time the Scheme Booklet was prepared, should have been included in the Scheme Booklet under clause 4.1(a)(i);
 - (ii) that any part of the Company Information in the Scheme Booklet is misleading or deceptive in any material respect, including by omission by reference to the information known at the time the Scheme Booklet was prepared; or
 - (iii) that any information that was required to be disclosed in the Scheme Booklet under applicable law was not included,

and in any case, if the Company becomes aware at any time, or receives advice from the Acquirer under clause 4.2(f) (in each case, after consulting with the Acquirer in good faith as to the need for and content and presentation of the disclosures discussed below):

- (iv) between the approval of the Scheme Booklet in accordance with clause 4.1(h) and the date of the Scheme Meeting, then, if considered by the Company that supplementary disclosure to Shareholders is required, provide supplementary disclosure to Shareholders in accordance with applicable law and after consulting with the Acquirer as to the content and presentation of that supplementary disclosure, and will if it considers it necessary or appropriate:
 - (1) seek the Court's guidance in respect of the supplementary disclosure; and
 - (2) adjourn the Scheme Meeting to the earliest date possible; and
- (v) between the date of the Scheme Meeting and the Second Court Date, then, if considered by the Company that supplementary disclosure to Shareholders is required, apply to the Court for orders as to the procedure to be followed for the provision of supplementary disclosure to Shareholders and the effect on the approval of the Scheme, after consulting with the Acquirer.

4.2 Acquirer's obligations: Without limiting clause 2, but subject to this clause 4 as applicable, the Acquirer must:

- (a) prepare and give to the Company for inclusion in the Scheme Booklet:
 - (i) information about the Acquirer Group;
 - (ii) information of the arrangements that the Acquirer has in place so that it will have sufficient funds to fund the Consideration (without disclosing commercially sensitive terms); and
 - (iii) information equivalent to the information that would meet the requirements of Schedule 1 to the Takeovers Code,

as required to be included in Scheme Booklet under the Schemes Guidance Note, the Companies Act, the NZX Listing Rules and any other applicable laws or regulations or as requested or required by the Takeovers Panel in order for the Company to obtain from the Takeovers Panel a Letter of Intention and a No-objection Statement;

- (b) provide the Company with successive drafts of the information referred to in clause 4.2(a) in a timely manner, to give the Company a reasonable opportunity to review those drafts and consider in good faith the reasonable comments of the Company and its Representatives when preparing revised drafts of that information;
- (c) provide all assistance and information reasonably requested by the Independent Adviser to enable it to prepare the Independent Adviser's Report;
- (d) as soon as practicable after receipt of any draft of the Scheme Booklet from the Company, review and provide comments on that draft;
- (e) before the Company provides the Scheme Booklet to the Takeovers Panel in accordance with clause 4.1(f) deliver to the Company written consent from the Acquirer to the inclusion of the Acquirer Information in the Scheme Booklet in the form and context it appears;
- (f) notify the Company if the Acquirer becomes aware at any time either:
 - (i) of new information which, had it been known at the time the Scheme Booklet was prepared, should have been included in the Acquirer Information under any applicable law, the Schemes Guidance Note or any Takeovers Panel requirement in connection with the Letter of Intention contemplated by clause 5.1(a) or the No-objection Statement contemplated by clause 5.1(g); or
 - (ii) that any part of the Acquirer Information is misleading or deceptive in a material respect, including by omission;
- (g) procure that it is represented by counsel at the Court hearings convened for the purposes of considering the Initial Orders and the Final Orders (it being understood, for the avoidance of doubt, that the Company will prepare the Court documentation for the Initial Orders and Final Orders and the Acquirer's Counsel will only prepare submissions to the Court, if required, in support of the Company's application); and
- (h) before a draft of the Scheme Booklet is lodged with the Takeovers Panel, and again before the Scheme Booklet is despatched to Shareholders, confirm to the Company the accuracy and completeness of the Acquirer Information in the Scheme Booklet, including that it does not contain any material statement that is false or misleading in a material respect including because of any omission.

4.3 Acquirer confirmations and approvals: If the Acquirer requires any change to be made to the form or content of the Acquirer Information as a condition of giving its consent as referred to in clause 4.2(e) then:

- (a) if the Company disagrees with the change the parties must consult in good faith about the change and the reasons for it with a view to agreeing an alternative change that satisfies both parties; and
- (b) if the parties are unable to reach agreement, the Company must make such changes to the Acquirer Information as the Acquirer reasonably requires.

4.4 Responsibility statements: The Scheme Booklet must contain responsibility statements, in a form to be agreed between the parties, to the effect that:

- (a) the Company has provided, and is responsible for, the Company Information in the Scheme Booklet, and that none of the Acquirer, the Acquirer Nominee (if nominated under clause 2.8) or their respective Representatives assumes any responsibility for the accuracy or completeness of the Company Information;
- (b) the Acquirer has provided, and is responsible for, the Acquirer Information, and that none of the Company or its Representatives assumes any responsibility for the accuracy or completeness of the Acquirer Information; and
- (c) the Independent Adviser has provided the Independent Adviser's Report and none of the Acquirer, the Company or their respective Representatives assumes any responsibility for the accuracy or completeness of the Independent Adviser's Report.

5. SCHEME IMPLEMENTATION STEPS

5.1 Company's obligations: Without limiting clause 2, the Company must, in accordance with the Timetable:

- (a) before the First Court Date, in consultation with the Acquirer, to the extent reasonably appropriate, apply to the Takeovers Panel for a Letter of Intention;
- (b) prior to sending any material correspondence to the Takeovers Panel relating to the Scheme (other than correspondence to the extent relating to the actual or purported termination of this agreement or any claim under, or disagreement or dispute between the parties in respect of, this agreement or the Transaction), provide the Acquirer with a draft of that correspondence and consider in good faith all of the reasonable comments of the Acquirer on that correspondence;
- (c) promptly provide the Acquirer with a copy of all material correspondence to and from the Takeovers Panel relating to the Scheme (other than correspondence to the extent relating to the actual or purported termination of this agreement or any claim under, or disagreement or dispute between the parties in respect of, this agreement or the Transaction);
- (d) after the Takeovers Panel has provided the Letter of Intention contemplated by clause 5.1(a), apply to the Court for Initial Orders convening the Scheme Meeting;
- (e) if the Court makes and seals the Initial Orders:
 - (i) despatch the Scheme Booklet to Shareholders and hold the Scheme Meeting in accordance with, and otherwise complying in all respects with, the Initial Orders; and
 - (ii) deliver a copy of the Initial Orders to the Registrar for registration in accordance with section 236(4) of the Companies Act, by no later than 10 Business Days after the date the Initial Orders are granted;
- (f) upon sending the Scheme Booklet to Scheme Shareholders, lodge a copy of that Scheme Booklet with the NZX in accordance with the NZX Listing Rules;
- (g) if the Scheme Resolution is passed by the requisite majorities of Shareholders as set out under section 236A(4) of the Companies Act, promptly apply to:
 - (i) the Takeovers Panel for the production of a No-objection Statement; and

- (ii) the Court for its approval of Final Orders; and
- (h) if the Court grants the Final Orders:
 - (i) promptly deliver to the Registrar for registration, a copy of the Final Orders in accordance with section 236(4) of the Companies Act, by no later than 10 Business Days after the date the Final Orders are granted;
 - (ii) prior to sending any material correspondence to NZX in respect of the suspension or cessation of quotation of Shares or de-listing of the Company in connection with the Transaction, provide the Acquirer with a draft of that correspondence and consider in good faith any reasonable comments promptly provided by the Acquirer;
 - (iii) apply to NZX to:
 - (1) suspend trading in the Shares from the close of trading on the later of two Business Days after:
 - A. the Final Orders Date; and
 - B. the date on which the OIO Condition is satisfied,
 or such other date as is agreed between the parties in writing; and
 - (2) de-list the Company with effect from close of trading on the Implementation Date (or such other date as agreed with the Acquirer);
 - (iv) promptly provide the Acquirer with a copy of all material correspondence to and from the NZX in respect of the suspension or cessation of quotation of Shares or de-listing of the Company in accordance with clause 5.1(h)(iii) and keep the Acquirer reasonably informed of any issues raised by the NZX in respect of the suspension or cessation of quotation of Shares or de-listing of the Company and consult with the Acquirer to resolve any such issues expeditiously;
 - (v) close the Register as at the Record Date to determine the identity of the Scheme Shareholders and their entitlements to the Consideration; and
- (i) if the Scheme becomes Effective:
 - (i) subject to the Acquirer satisfying its obligations under clause 5.2(b), effect the transfer of the Scheme Shares to the Acquirer in accordance with the Scheme on the Implementation Date; and
 - (ii) do all other things contemplated of it under the Scheme and all other things (if any) within its power as may be reasonably necessary for the implementation of the Scheme and the Transaction on a basis consistent with this agreement or necessary for the Company to lawfully give effect to the Scheme and the orders of the Court.

5.2 Acquirer's obligations: Without limiting clause 2, the Acquirer must:

- (a) at least five Business Days before the Second Court Date, deliver to the Company a copy of the Deed Poll executed by the Acquirer and, if nominated under clause 2.8, the Acquirer Nominee;

- (b) procure that, if the Scheme becomes Effective, the Acquirer or the Acquirer Nominee (if nominated under clause 2.8) accepts a transfer of the Scheme Shares and provides the Consideration in accordance with clause 2.4 and the Deed Poll on or before the Implementation Date;
- (c) notify the Company prior to exercising its termination right under any of the Voting Agreements; and
- (d) do all other things contemplated of it under the Scheme for the implementation of the Scheme and the Transaction and all other things (if any) within its power as may be reasonably necessary for the implementation of the Scheme and the Transaction in accordance with the Scheme Plan and the Final Orders.

5.3 **Provision of information to the Independent Adviser:** The Company must, in relation to any information that it or any of its Representatives provides to the Independent Adviser after the date of this agreement in connection with the preparation of the Independent Adviser's Report (**IAR Information**):

- (a) prepare and provide that IAR Information to the Independent Adviser in good faith (including by having regard to material risks, opportunities and adverse circumstances); and
- (b) ensure that any information that the Company considers (acting in good faith) is, or is reasonably likely to be, material to the financial performance, position or prospects of the MHM Automation Group which becomes known by any Non-Conflicted Director or Senior Manager (as defined in the NZX Listing Rules) but which had not previously been provided to the Independent Adviser, has been provided to the Independent Adviser.

6. OTHER IMPLEMENTATION OBLIGATIONS

6.1 Promotion of Transaction:

- (a) During the Exclusivity Period, the Company will provide all reasonable cooperation to the Acquirer in promoting the merits of the Transaction to Shareholders, including:
 - (i) complying with any reasonable request by the Acquirer to require disclosure of information in accordance with sections 290 and 291 of the FMCA, subject to its statutory and contractual obligations, and providing the information obtained as a result of requiring such disclosure to the Acquirer;
 - (ii) providing (subject to the Company's statutory or contractual obligations) such information regarding Shareholders and their holdings as the Acquirer reasonably requests and will direct LINK to provide all information reasonably requested by the Acquirer;
 - (iii) procuring that senior executives of the MHM Automation Group are available on reasonable notice to meet (in person or remotely, as is convenient for the relevant senior executive) with key Shareholders if reasonably requested to do so by the Acquirer to discuss and promote the Transaction;
 - (iv) promptly report to Acquirer any material information the Company becomes aware of regarding opposition to the Scheme by the Shareholders (excluding unsubstantiated

rumours or similar information or opposition by any individual Shareholder holding an immaterial number of Shares); and

- (v) undertaking, in cooperation with the Acquirer, other reasonable actions to promote the affirmative vote of Shareholders for the Transaction, as reasonably requested by the Acquirer and provided that the Company is not required to incur unreasonable out-of-pocket costs in relation to promoting the Transaction to Shareholders.

in each case, subject to there being no Superior Proposal and the Independent Adviser's Report concluding that the Consideration is within or above the Independent Adviser's valuation range for the Shares.

- (b) The Company and the Acquirer will use reasonable endeavours to agree, as soon as practicable after the date of this agreement, key messaging and principles to govern all communications between the Acquirer (or any Representative of the Acquirer) and Shareholders, which will apply throughout the period that the Non-Conflicted Directors continue to unanimously recommend that Shareholders vote in favour of the Scheme.

6.2 **Board changes:** Subject to the Consideration having been paid to the Shareholders, the Company must procure that:

- (a) such persons as the Acquirer nominates (by notice to the Company no later than five Business Days before the Implementation Date) and who are legally entitled to be appointed and who have provided to the Company a signed consent to act by that time (as well as any other information required to be provided to the Registrar) are appointed as directors of the Company on the Implementation Date (by no later than 5.00pm); and
- (b) unless otherwise agreed by the Acquirer in writing, each Director, other than those appointed in accordance with clause 6.2(a), resigns as a director of the Company with effect from the Implementation Date (by no later than 5.00pm) and acknowledges in writing that he or she has no claim against any member of the MHM Automation Group other than for accrued directors fees and expenses (or, in respect of any executive directors, any accrued employee remuneration).

7. COURT PROCEEDINGS

7.1 Court documents:

- (a) In relation to each Court application made in relation to the Scheme, including any appeal, the Company must prepare and provide the Acquirer with successive drafts of all documents required to be given by the Company to the Court (including the originating applications, affidavits, memoranda, submissions and draft Court orders) a reasonable time before they are due to be submitted to the Court (and in any event not less than 72 hours before submission unless it is impractical in the circumstances) and must consider in good faith the reasonable comments of the Acquirer and its Representatives on those documents. Notwithstanding the previous sentence, unless required by law, the Company is not required to provide to the Acquirer any document, or any part of a document, that relates to any claim under, or disagreement or dispute between the parties in respect of, this agreement or the Transaction.

- (b) The Company must not provide the Court with any Court orders (whether in draft or not) or applications for Court orders, or consent to any changes to any Court orders, without the Acquirer having approved such documents being submitted to the Court or such changes being consented to (such approval or consent not being unreasonably withheld).

7.2 **Representation:** In relation to each Court application made in relation to the Scheme, including any appeal:

- (a) the Company must, if requested by the Acquirer, consent to the separate representation of the Acquirer by counsel; and
- (b) the Acquirer may appear and be represented in relation to the Court applications.

7.3 **Court proceedings and conditionality:**

- (a) If the Court declines to make the orders sought by the Company under clause 5.1(d) or 5.1(g)(ii), due in whole or in part to the lack of satisfaction of, or the potential timing for satisfaction of (or where capable of waiver, waiver of) the Conditions, the Company must promptly make a further application for Initial Orders or Final Orders (as applicable), as soon as practicable after the earlier of:
 - (i) the parties satisfying the steps or matters specified by the Court or apparent from its directions or reasons as required, or desirable, in order to grant the Initial Orders or Final Orders (as the case may be) (**Court Guidance**); or
 - (ii) the OIO Condition having been satisfied.
- (b) The Company will use its best endeavours to follow the Court Guidance and any guidance or requirements of the Takeovers Panel including, if indicated, providing supplementary information to Shareholders and/or convening a second Scheme Meeting.

7.4 **Appeal if orders not made:** If the Court does not make any order sought by the Company under clause 5 (**Decision**), to the extent clause 7.3 does not apply:

- (a) the Company and the Acquirer must consult in good faith as to the effect of the refusal and whether to appeal the Decision; and
- (b) if, within 10 Business Days after the Decision, the Company and the Acquirer agree to appeal the Decision or either of those parties obtains an opinion from an independent King's Counsel, practising in the field of corporate and securities law litigation, to the effect that there are reasonable prospects of successfully appealing the Decision, then:
 - (i) the Company must appeal the Court's decision within the timeframe set out in rule 29 of the Court of Appeal (Civil) Rules 2005;
 - (ii) the cost of any such appeal is to be borne:
 - (1) if the Company and the Acquirer agreed to appeal the Decision, equally between the parties; or
 - (2) if the Company and the Acquirer did not agree to appeal the Decision, by the party who obtained the opinion from the independent King's Counsel;

- (iii) if the End Date would otherwise occur before the appeal is finally determined, the End Date is deferred to the date that is 10 Business Days after the appeal from the Decision is finally determined; and
- (iv) if the appeal is successful and the relevant order is made, the End Date is further deferred to the date which is X days after the original End Date (disregarding the effect of clause 7.4(b)(iii)) where X is equal to the number of days between the date of the Decision and the date on which the appeal from the Court's decision is finally determined, or to such other date as the parties agree in writing.

8. RECOMMENDATION AND VOTING INTENTIONS

8.1 Recommendation and voting intentions of Non-Conflicted Directors: The Company must ensure that each Non-Conflicted Director recommends that Shareholders vote in favour of the Scheme; and undertakes to vote, or procure the voting of, all Shares held or controlled by him or her in favour of the Scheme subject to:

- (a) there being no Superior Proposal; and
- (b) the Independent Adviser's Report concluding that the Consideration is within or above the Independent Adviser's valuation range for the Shares,

(Director Recommendation).

8.2 Change to recommendation or voting intentions: The Company must ensure that no Non-Conflicted Director changes, qualifies, withdraws or fails to give effect to the Director Recommendation or makes any statement inconsistent with the Director Recommendation unless:

- (a) the Independent Adviser's Report concludes that the Consideration is below the Independent Adviser's valuation range for the Shares; or
- (b) the Company receives a Superior Proposal and such change, qualification, withdrawal or statement is made in accordance with clause 13.7,

provided that, for the avoidance of doubt, reliance by the Company on the exclusions to this clause 8.2 will not prevent the Acquirer from having the benefit of, and enforcing its rights under, clauses 13.7 and 14.2.

8.3 Notification of new circumstances: Without limiting the operation of clauses 8.1, 8.2 or 13, if during the Exclusivity Period a Non-Conflicted Director notifies the Company that he or she intends to, or the Company otherwise expects that a Non-Conflicted Director is reasonably likely to change, qualify, withdraw, adversely modify or make a statement inconsistent with the Director Recommendation (except as permitted by clause 8.2(b)), the Company must:

- (a) immediately notify the Acquirer of this fact and any public statement that the relevant members of the Board intend to make if such event occurs; and
- (b) consult with the Acquirer in good faith for not less than two Business Days after the date on which the notice under clause 8.3(a) is given to consider and determine whether there are any steps that can be taken to avoid such a change, qualification, withdrawal, modification or inconsistent statement,

and if the Company is required to consult with the Acquirer under clause 8.3(b) then the Company will ensure that the Director Recommendation is not changed, qualified, withdrawn or modified or an inconsistent statement made until the end of the consultation period and, notwithstanding any other provision of this agreement, the Company may, in its discretion, delay any action contemplated by the Timetable (including adjourning the Scheme Meeting) to allow that consultation to occur.

8.4 Customary qualifications and information for Shareholders:

- (a) For the avoidance of doubt, the statement by each Non-Conflicted Director that his or her recommendation of, and his or her stated intention to vote in favour of, the Scheme is made in the absence of a Superior Proposal and subject to the Independent Adviser's Report concluding that the Consideration is within or above the Independent Adviser's valuation range for the Shares will not be regarded as a failure to make, a withdrawal of, or an adverse revision, qualification or modification of, a recommendation of, or statement of intention to vote in favour of, the Scheme.
- (b) If a Director is a Non-Conflicted Director on the date of this agreement but subsequently becomes a Conflicted Director, such Conflicted Director abstaining from providing the recommendation and undertaking referred to in clause 8.1 will not be considered to be a change, qualification, withdrawal or adverse modification of the recommendation or undertaking referred to in clause 8.1 or the making of a statement inconsistent with that recommendation or that undertaking, and such abstention shall not constitute a circumstance which would give rise to payment of the Break Fee under clause 14.2(a)(ii) or give rise to a termination right under clause 15.1(c).

9. ACCESS, INFORMATION AND CONDUCT OF BUSINESS

9.1 Access, information and collaboration:

- (a) From the date of this agreement, until and including the Implementation Date, the Company must:
 - (i) procure that the Acquirer and its Representatives are given reasonable access to:
 - (1) the properties, books and records and senior management of the MHM Automation Group during normal business hours and on reasonable notice to the Company; and
 - (2) information about the Business reasonably requested by the Acquirer or its Representatives,for the purposes of:
 - (3) implementing the Scheme, funding the Transaction and enabling the Acquirer to prepare for the transition of ownership of the MHM Automation Group to the Acquirer; and
 - (4) any other purpose agreed between the Company and the Acquirer in writing (acting reasonably),except to the extent that the provision of such access is prohibited by law or any confidentiality obligations owed to Third Parties and provided that:

- (5) the Acquirer will focus on issues that it considers to be material, having regard to management commitments and the impact of information requests on the Business;
- (6) providing access or information pursuant to this clause 9.1(a)(i) does not:
 - A. in the opinion of the Company (acting reasonably) result in unreasonable disruptions to the Business; or
 - B. require the Company to make further disclosure to any other entity or Government Agency or require the disclosure of any document that would compromise the MHM Automation Group's legal professional privilege; and
- (7) nothing in this clause 9.1(a)(i) will require the Company to provide information concerning:
 - A. its directors' and management's consideration of the Scheme or any Competing Proposal;
 - B. any actual or purported termination of this agreement; or
 - C. any claim under or in connection with, or disagreement or dispute between the parties with respect to, the agreement or the Transaction,

but this proviso does not limit the Company's obligations under clause 13 to:

- (ii) provide the Acquirer copies of papers provided to the Board (including monthly management accounts for the MHM Automation Group), however, the Company may redact information from such papers to the extent it is commercially sensitive or relates to the Transaction or a Competing Proposal; and
 - (iii) keep the Acquirer informed of developments in relation to its Business that the Company (acting in good faith) determines are material and procure that senior management of the MHM Automation Group meet with representatives of the Acquirer (at and during times and at frequencies which do not unreasonably interfere with or disrupt the operation of the Business) to discuss and consult in good faith with the Acquirer in respect of any such material developments.
- (b) From the date of this agreement, until and including the Implementation Date, the Company must, and must procure that each other member of the MHM Automation Group will, provide all reasonably requested co-operation and assistance to the Acquirer and its Representatives for the purposes of:
- (i) implementing the Scheme and enabling the Acquirer to prepare for the transition of ownership of the MHM Automation Group to the Acquirer; and
 - (ii) any other purpose agreed between the Company and the Acquirer in writing (acting reasonably).

9.2 Conduct of business: From the date of this agreement, until and including completion of the Scheme on the Implementation Date, the Company must ensure that it and each other member of the MHM Automation Group:

- (a) carries on its business in the ordinary course and in substantially the same manner as conducted on the date of this agreement and does not make any significant change to the nature or scale of its business or enter any business or undertake any activities that are material to the Business as a whole in which it was not engaged as at the date of this agreement;
- (b) maintains insurance in respect of the MHM Automation Group's business and assets covering such risks and for such amounts as would be maintained in accordance with the MHM Automation Group's ordinary practice and in any event to a level no less than that in place immediately prior to the date of this agreement;
- (c) uses all reasonable endeavours to:
 - (i) keep available the services of its Directors and the senior executives of the Company; and
 - (ii) preserve its relationships with Government Agencies and customers, suppliers, licensors, licensees and others with whom it has material business dealings;
- (d) to the extent permitted by law, notifies the Acquirer of:
 - (i) any action, claim, litigation, prosecution or other form of proceeding, brought by or against any member of the MHM Automation Group, or any director or employee of any member of the MHM Automation Group (of which it becomes aware), other than any claim or legal proceeding that has potential liability less than \$100,000; and
 - (ii) any actual or threatened material enquiry or investigation by a Government Agency (including in relation to Tax) of any member of the MHM Automation Group that is notified to a member of the MHM Automation Group;
- (e) does not:
 - (i) create or incur any liability or indebtedness (whether contingent or otherwise), except normal liabilities or indebtedness incurred in the ordinary course of Business and provided, however, that:
 - (1) any additional indebtedness incurred by a member of the MHM Automation Group under its debt financing arrangements is drawn solely for working capital purposes; and
 - (2) in respect of any indebtedness which is not solely for working capital purposes, the Company must consult with the Acquirer prior to a member of the MHM Automation Group incurring any indebtedness in the ordinary course of the Business where the value of such indebtedness (when aggregated with any other such indebtedness incurred after the date of this agreement) exceeds \$500,000;
 - (ii) increase the MHM Automation Group's indebtedness above the aggregate credit or facilities limits available to the MHM Automation Group (as fairly disclosed in the Data Room Information) or increase the underlying credit or facility limits applying to the MHM Automation Group's debt financing arrangements;

- (iii) incur or commit to any unbudgeted capital expenditure, except in the ordinary course of its Business, other than payments not exceeding, when aggregated with all other payments made in reliance on this clause 9.2(e)(iii), \$300,000;
- (iv) create or otherwise permit to arise any Encumbrance except a Permitted Encumbrance;
- (v) acquire or dispose of any shares or other securities in any body corporate or any units in any trust, except for the acquisition of shares or securities in an entity which, at the time of the acquisition, was a wholly owned member of the MHM Automation Group;
- (vi) enter into, or terminate any participation in, any partnership, joint venture or similar commitment;
- (vii) acquire or dispose of, transfer, assign, license, abandon or allow to lapse or expire any assets, rights or properties (excluding shares or other securities, which are addressed in clause 9.2(e)(v)) other than assets, rights or properties acquired or disposed of, transferred, assigned, licensed, abandoned or allowed to lapse or expire, in each case in the ordinary course of the Business or from or to members of the MHM Automation Group with a book value (either singularly or in the aggregate) not exceeding \$300,000;
- (viii) enter into, waive any material rights under, or seek a waiver of material rights from the counterparty to, vary or terminate any contract (except for termination of a contract for breach by, or insolvency affecting, the counterparty), commitment or arrangement which:
 - (1) involves any member of the MHM Automation Group acquiring or agreeing to acquire any material business or assets, or incurring or agreeing to incur any liabilities, with a value in excess of \$300,000;
 - (2) may require expenditure by any member of the MHM Automation Group in excess of \$300,000 per year or \$750,000 in aggregate;
 - (3) may result in annual revenues to any member of the MHM Automation Group in excess of \$300,000 other than any contract entered into, rights waived, or variation or termination agreed to, in the ordinary course of business and on arm's length terms; or
 - (4) restrains any member of the MHM Automation Group from engaging in or competing with any business in any place;
- (ix) acquire any interest in "sensitive land" for the purposes of the Overseas Investment Act 2005;
- (x) give any guarantee of, or security for, or indemnity in connection with the obligations of any person other than a member of the MHM Automation Group;
- (xi) increase the remuneration of, make any bonus payment, retention payment or termination payment to, grant any equity or equity-based awards to, or otherwise change the terms and conditions of employment of any Director or any employee of any member of the MHM Automation Group, except:

- (1) in accordance with any contractual entitlement existing as at the date of this agreement that has been fairly disclosed to the Acquirer in the Data Room Information; and
 - (2) for salary increases in the normal course and consistent with past business practice of the MHM Automation Group with it being noted that an annual remuneration review process was undertaken during October 2023;
- (xii) accelerate the time of payment or vesting, or fund or otherwise secure payment of, any compensation, rights or benefits (including any equity or equity-based awards) or make any material determinations under any employee benefit plan sponsored or maintained by the MHM Automation Group;
- (xiii) terminate (other than for “cause”, as determined consistent with past practice) the employment of, or hire or promote:
- (1) any employee or contractor for personal services of any member of the MHM Automation Group with an aggregate annual remuneration package that exceeds \$200,000 per annum; or
 - (2) any Senior Manager (as defined in the NZX Listing Rules);
- (xiv) make or forgive any loans to any current or former employees or contractors for personal services of any member of the MHM Automation Group (other than salary advances in the ordinary course of business consistent with past practice);
- (xv) amend or terminate any employee benefit plan sponsored or maintained by the MHM Automation Group (except for administrative amendments to or annual renewals of such plans in the ordinary course of business), or establish, adopt, or enter into any new such arrangement;
- (xvi) enter (or commit to enter) into, amend, terminate or extend any collective bargaining agreement or other agreement with a labour union or similar organisation (or enter into negotiations to do any of the foregoing) or recognise or certify any labour union or similar organisation or group of employees of any member of the MHM Automation Group as the bargaining representative for any employees of any member of the MHM Automation Group;
- (xvii) except as required by the terms of any contractual entitlement which exists as at the date of this agreement and which was fairly disclosed in the Data Room Information, waive the restrictive covenant obligations of any employee or contractor for personal services;
- (xviii) alter, adopt or revoke the provisions of the Constitution (other than to comply with law, including the NZX Listing Rules) or any constitution of any other member of the MHM Automation Group;
- (xix) do anything which might reasonably be expected to give rise to a material breach of law or regulation or do or omit to do anything which results in a material risk of termination, revocation, suspension, modification or non-renewal of any material Authorisation held by it;

- (xx) commence, compromise or settle any litigation or similar proceedings for an amount exceeding \$300,000;
- (xxi) make any change in accounting methods, principles or practices used by it (except if required by a change in International Financial Reporting Standards);
- (xxii) enter into, amend or close out any material foreign exchange, interest rate, swap, derivative or hedge with a transaction value exceeding \$200,000 (other than to the extent reasonably required to manage the foreign exchange or interest rate risk of the MHM Automation Group);
- (xxiii) make any material Tax election (other than an election in the ordinary course of business consistent with past practice), or settle, compromise or prejudice any material Tax liability, or initiate or engage in any disputes procedures or challenge proceedings relating to Tax;
- (xxiv) make any material change to any publicly stated corporate strategy; or
- (xxv) agree, conditionally or otherwise, to do any of the things referred to in the preceding paragraphs of this clause 9.2(e), or announce or represent to any person that any of those things will be done.

9.3 **Exception:** Any member of the MHM Automation Group may do any thing referred to in clause 9.2(e), or not do any thing required to be done under clauses 9.2(a) or 9.2(c):

- (a) with the prior written consent of the Acquirer (such consent not to be unreasonably withheld, conditioned or delayed);
- (b) as fairly disclosed in the Data Room Information (including in any operating or capex budgets disclosed in the Data Room Information but excluding any information or document relating to any proposed reorganisation or restructure of the MHM Automation Group) or by the Company through the NZX markets announcements platform during the three year period ending on the date of this agreement;
- (c) necessary for that member of the MHM Automation Group to comply with any law, generally accepted accounting principles, any regulatory requirement or any direction or order of a Government Agency;
- (d) necessary for any member of the MHM Automation Group to perform its contractual obligations (in each case, as fairly disclosed in the Data Room Information or entered into in compliance with this clause 9);
- (e) necessary to respond to any emergency, act of god or other disaster; or
- (f) that it is expressly required to do, permitted to do, or is permitted not to do, under or in accordance with this agreement (including, for the avoidance of doubt, the treatment of the Options in accordance with clause 9.7),

and in the case of the situations described in (c), (e) or (f) (except in relation to the treatment of the Options in accordance with clause 9.7 which, for the avoidance of doubt, is not subject to the following limitations) above, only for so long as and to the extent that those things are strictly required and provided that the Company informs the Acquirer as soon as possible of the actions taken or proposed to be taken, and, to the extent practicable, considers in good faith any feedback

or suggestions made by the Acquirer as to the proposed course of action. The parties note that the objective of this clause 9.3 is that no action is taken or not taken, which may affect the future prospects of the MHM Automation Group, including its relationships with constituencies, without reasonable involvement of the Acquirer.

9.4 **Consents to change of control:**

- (a) The parties acknowledge that the MHM Automation Group's material contracts may contain provisions requiring:
 - (i) the consent of the counterparty to that contract to a change of control, "deemed assignment" or similar that arises under the terms of that contract as a result of the Transaction; or
 - (ii) a waiver from the counterparty to that contract of any breach or termination or cancellation right which will arise or otherwise be enforceable under the terms of that contract as a result of the Transaction,(each a **Change of Control Consent**).
- (b) Subject to clause 9.4(c):
 - (i) the Company will, and will procure that each member of the MHM Automation Group will, use reasonable endeavours to obtain each Change of Control Consent that the Acquirer identifies and requests that it obtain; and
 - (ii) the Acquirer must cooperate with and use reasonable endeavours to assist the Company to obtain each required Change of Control Consent (but without contacting any contractual counterparties directly without the Company's consent).
- (c) Nothing in this clause 9.4 will require either party to pay any money or provide any other valuable consideration to or for the benefit of any person or otherwise be contrary to the interests of either party, as the case may be.
- (d) The parties agree that:
 - (i) the Scheme is not conditional on the Company making or obtaining any required Change of Control Consents;
 - (ii) the implementation of the Scheme will not be delayed if all or any required Change of Control Consents have not been obtained or issued on or before the Implementation Date; and
 - (iii) failure by a member of the MHM Automation Group to make or obtain any Change of Control Consent or any other third party consent or confirmation in connection with the Scheme, or the exercise by a contractual counterparty of a termination right or any other contractual rights in connection with the Scheme:
 - (1) will not affect the parties' obligations to implement the Scheme;
 - (2) will not constitute a breach of this agreement by the Company; and
 - (3) together with any consequences that arise, will be disregarded when assessing the operation of any other provision of this agreement.

9.5 **Release of Encumbrances:** After the signing of this agreement and in addition to its obligations under clause 9.1, the Company will:

- (a) provide reasonable assistance to the Acquirer to:
 - (i) identify any Encumbrances over the assets of the MHM Automation Group which are not Permitted Encumbrances; and
 - (ii) procure the release of any such Encumbrances identified under clause 9.5(a)(i); and
- (b) use reasonable endeavours to procure the:
 - (i) removal of any financing statements relating to such Encumbrances identified under clause 9.5(a)(i) from the PPSR and
 - (ii) amendment of any financing statements which the Company and the Acquirer agree (acting reasonably) are overly broad or do not reflect the extent of the collateral secured by the Encumbrance to which they relate,

in each case, on or before the Implementation Date.

9.6 **Assistance with financing:** The Company agrees to provide reasonable co-operation and assistance (and procure that its Representatives provide reasonable co-operation and assistance) in connection with the arrangement or provision of any debt and/or equity financing by the Acquirer or any member of the Acquirer Group for the purposes of funding the Consideration as may be reasonably requested the Acquirer, including:

- (a) facilitating liaison between the Acquirer and existing financiers for the purposes of the Company notifying and discussing change of control procedures and/or managing the repayment and/or continuation of those counterparties on or after the Implementation Date and the efficient termination and/or continuation of some or all of their existing financing arrangements with the Company with effect from that time;
- (b) making available (on an in-person or remote basis, as is convenient for the executive) senior executives of the Company to meet with the financiers of the Acquirer or Acquirer Group (at convenient times);
- (c) executing and delivering any customary prepayment/cancellation notices and any other similar customary documentation reasonably requested by the Acquirer or the financiers of the Acquirer or Acquirer Group, in each case that are subject to the Scheme becoming Effective, relating to the repayment of the Company's existing indebtedness identified by the Acquirer, and the release on the Implementation Date of all related Encumbrances;
- (d) solely with respect to the MHM Automation Group, using reasonable endeavours to facilitate the pledging of, granting a security interest in and obtaining perfection of any Encumbrances on, collateral to take effect immediately following implementation of the Scheme; and
- (e) providing as promptly as reasonably practicable (and in any event, no less than 4 Business Days prior to the Implementation Date) all documentation and other information required by any member of the Acquirer Group or any person providing debt financing to the Acquirer, any member of the Acquirer Group or the MHM Automation Group under applicable "know your customer" and anti-money laundering rules and regulations,

provided that:

- (f) no MHM Automation Group member shall be required to enter into any agreements or arrangements in respect of any debt and/or equity financing prior to implementation of the Scheme on the Implementation Date (except as contemplated by clause 9.6(c) and "know your customer information as described above);
- (g) no MHM Automation Group member shall be required to provide any confidential, competitively sensitive, or privileged information where the provision of such information is reasonably likely to cause prejudice to the commercial or legal interests of any member of the MHM Automation Group, or would be reasonably likely to jeopardise any lawyer-client or other legal privilege;
- (h) if this agreement is terminated under clause 15 (other than clause 15.1, 15.4 or 15.11 in relation to a Prescribed Occurrence), the Acquirer must promptly reimburse the Company for all reasonable out-of-pocket costs properly incurred by the Company (and supported by valid tax invoices addressed to a member of the MHM Automation Group) directly in connection with providing cooperation under this clause 9.6;
- (i) the MHM Automation Group and its Representatives are not required to do any act, matter or thing under this clause 9.6 to the extent such act, matter or thing would breach any applicable law or any confidentiality obligations owed by any member of the MHM Automation Group to third parties; and
- (j) clauses 9.1(a)(i)(5) to (7) will apply to this clause 9.6 with all necessary modifications.

9.7 **Options:** The parties acknowledge and agree that:

- (a) as at the date of this agreement, there are 300,000 Options (in aggregate) (corresponding to 300,000 shares), which have not vested and become exercisable in accordance with the terms of the Option Deeds (**Outstanding Options**);
- (b) prior to the Record Date, the Board will determine that:
 - (i) vesting of all Outstanding Options be accelerated, such that the Outstanding Options will become available for immediate vesting;
 - (ii) following receipt by the Company of an Exercise Notice (as that term is defined in the Option Deeds) from each of the Option Participants, 300,000 Shares (in aggregate) be issued to the Option Participants (in proportion to the Tranche 3 amounts under each Option Deed) and such Shares will be included and treated as Scheme Shares;
 - (iii) that the restrictions imposed by clause 5.1 of each Option Deed on selling, assigning, transferring, or otherwise disposing of the Shares issued in accordance with paragraph 9.7(b)(ii) be waived; and
 - (iv) following the actions contemplated by paragraph 9.7(b), the Option Deeds will have no further effect; and
- (c) for the avoidance of doubt, the Shares issued in accordance with paragraph 9.7(b)(ii):
 - (i) are Shares and not a separate class of share issued by the Company; and

- (ii) will be released from any restrictions under the Option Deeds as anticipated in paragraph 9.7(b)(ii) and treated as Scheme Shares.

10. REPRESENTATIONS, WARRANTIES AND UNDERTAKINGS

10.1 Company representations, warranties and undertakings:

- (a) The Company represents and warrants to the Acquirer that each of the Company Warranties is true, accurate and not misleading as at:
 - (i) the date of this agreement;
 - (ii) 8.00am on the date that the Scheme Booklet is sent to the Shareholders;
 - (iii) immediately prior to the last affidavits being filed in respect of the Final Orders; and
 - (iv) 8.00am on the Implementation Date,except that a Company Warranty which refers to a specific date is given only at that date.
- (b) The Company undertakes to the Acquirer to comply with each of the Company Undertakings.
- (c) Subject to clause 14.9, the Company indemnifies the Acquirer against, and must pay to the Acquirer on demand an amount equal to, all Losses directly incurred or suffered by the Acquirer Indemnified Persons arising out of or in connection with:
 - (i) any matter or circumstance that results in any of the Company Warranties being untrue, inaccurate or misleading when given; or
 - (ii) any breach of the Company Undertakings.
- (d) The Company Warranties (other than the Fundamental Warranties) are given subject to, and are qualified by, and no person will have a claim for breach of a Company Warranty in respect of, any matter:
 - (i) expressly provided for in this agreement (including under clause 9.7);
 - (ii) fairly disclosed to the Acquirer prior to the date of this agreement in the Data Room Information;
 - (iii) fairly disclosed through the NZX market announcement platform during the three year period ending on the date falling two Business Days prior to the date of this agreement;
 - (iv) any matter disclosed by a search in the name of the relevant member of the MHM Automation Group of:
 - (1) the New Zealand Companies Office register on the date 3 Business Days prior to the date of this agreement in respect of the Company, MHM IP Limited, MHM Land Limited, Wyma Engineering (NZ) Limited, Xenos Limited, MHM New Zealand Limited and MHM International Limited;
 - (2) the Australian Securities and Investments Commission on the date 3 Business Days prior to the date of this agreement in respect of Wyma Australia Pty Ltd and MHM Wyma Australia Pty Ltd and on 27 September 2023 in respect of Milmeq 2018 Pty Ltd, MHM New Zealand Pty Ltd and Mercer Products Pty Ltd;

- (3) the United Kingdom Companies House on the date 3 Business Days prior to the date of this agreement in respect of Wyma UK;
 - (4) the Intellectual Property Office of New Zealand on the date 3 Business Days prior to the date of this agreement in respect of the Company, MHM IP Limited, MHM Land Limited, Wyma Engineering (NZ) Limited, Xenos Limited, MHM New Zealand Limited and MHM International Limited;
 - (5) IP Australia on the date 3 Business Days prior to the date of this agreement in respect of Wyma Australia Pty Ltd and MHM Wyma Australia Pty Ltd and 5 October 2023 in respect of Milmeq 2018 Pty Ltd, MHM New Zealand Pty Ltd and Mercer Products Pty Ltd;
 - (6) the New Zealand Personal Property Securities Register on the date 3 Business Days prior to the date of this agreement in respect of the Company, MHM IP Limited, MHM Land Limited, Wyma Engineering (NZ) Limited, Xenos Limited, MHM New Zealand Limited and MHM International Limited;
 - (7) the Australian Personal Properties Securities Register on the date 3 Business Days prior to the date of this agreement in respect of Wyma Australia Pty Ltd and MHM Wyma Australia Pty Ltd and 5 October 2023 in respect of Milmeq 2018 Pty Ltd, MHM New Zealand Pty Ltd and Mercer Products Pty Ltd;
 - (8) Land Information New Zealand on the date 3 Business Days prior to the date of this agreement in respect of the Company, MHM IP Limited, MHM Land Limited, Wyma Engineering (NZ) Limited, Xenos Limited, MHM New Zealand Limited and MHM International Limited;
 - (9) the High Court of New Zealand on 3 October 2023 in respect of the Company, MHM IP Limited, MHM Land Limited, Wyma Engineering (NZ) Limited, Xenos Limited, MHM New Zealand Limited and MHM International Limited; or
 - (10) the:
 - A. Supreme Courts of Queensland, South Australia and Victoria on 8 October 2023; and
 - B. Supreme Court of New South Wales on 24 October 2023,
in each case, in respect of Wyma Australia Pty Ltd, MHM Wyma Australia Pty Ltd, Milmeq 2018 Pty Ltd, MHM New Zealand Pty Ltd and Mercer Products Pty Ltd.
- (v) within the actual knowledge of the Acquirer as at the date of this agreement, which for these purposes will be taken to include (and be limited to) the facts, matters and circumstances which the following individuals are actually aware as at the date of this agreement after due enquiry in the context of the Transaction:
- (1) Massimo Bizzi; and
 - (2) Mark Dowdle; and

- (vi) anything done or omitted to be done at the written request, or with the written approval of, the Acquirer.

10.2 Forward looking information: No warranty or representation is given by or on behalf of the Company, and the Acquirer may not bring a claim of any nature under this agreement or in connection with the Transaction, with respect to any Forward Looking Information, in each case whether contained in the Data Room Information or otherwise.

10.3 Acquirer representations, warranties and undertakings:

- (a) The Acquirer represents and warrants to the Company that each of the Acquirer Warranties is true, accurate and not misleading as at:
 - (i) the date of this agreement or, in respect of matters relating to the Acquirer Nominee (if applicable), the date of nomination under clause 2.8(a);
 - (ii) 8.00am on the date that the Scheme Booklet is sent to the Shareholders;
 - (iii) immediately prior to the last affidavits being filed in respect of the Final Orders; and
 - (iv) 8.00am on the Implementation Date.
- (b) The Acquirer undertakes to the Company to comply with each of the Acquirer Undertakings.
- (c) Subject to clause 14.10, the Acquirer indemnifies the Company against, and must pay to the Company on demand an amount equal to, all Losses directly incurred or suffered by the Company Indemnified Persons arising out of or in connection with:
 - (i) any matter or circumstance that results in any of the Acquirer Warranties being untrue, inaccurate or misleading when given; or
 - (ii) any breach of the Acquirer Undertakings.

10.4 Status of representations, warranties and undertakings: Each representation, warranty and undertaking made or given under this clause 10 is severable and survives termination of this agreement and each undertaking given in this clause 10 is a continuing obligation.

10.5 Scheme becoming Effective: After the Scheme becomes Effective, any breach of the representations and warranties or the undertakings made or given under this clause 10 may only give rise to a claim for damages or under the indemnities in this clause 10 and does not entitle a party to terminate this agreement.

10.6 No other warranties, representations or additional rights:

- (a) Each party acknowledges and agrees that, except for the express warranties and the other express provisions of this agreement:
 - (i) it has entered into this agreement in reliance solely on its own judgment and not in reliance on any representations, promises, assurances or collateral arrangements of any party or any other person;
 - (ii) all other representations or warranties, whether express or implied, are expressly excluded to the maximum extent permitted by law; and
 - (iii) except for the Company Warranties in clauses 6 and 7 of Schedule 2, no party and no other person gives or makes any warranty or representation as to the accuracy,

content, completeness, value or otherwise of, nor has or accepts any liability in respect of, any information (written, oral or otherwise) directly or indirectly provided or made available to or used by any other party in connection with the Transaction.

- (b) To the maximum extent permitted by law, other than a party's right to bring a claim for:
- (i) breach of an express warranty or express obligation set out in this agreement; or
 - (ii) fraud or wilful misconduct by another party,
- each party agrees that it is not entitled to, must not bring, encourage or facilitate, and irrevocably waives any right to bring, any other or separate claim, complaint, proceeding or cause of action for damages or other relief of any nature (including under the Takeovers Code, the Takeovers Act 1993, the FMCA or the Fair Trading Act 1986) arising from any alleged misrepresentation or breach of warranty made or given in connection with this agreement or the Transaction.
- (c) The parties agree that, for the purposes of section 5D of the Fair Trading Act 1986 and section 43 of the Consumer Guarantees Act 1993:
- (i) the Scheme Shares are being acquired in trade;
 - (ii) the parties are all in trade;
 - (iii) sections 9, 12A, 13 and 14(1) of the Fair Trading Act 1986 and the provisions of the Consumer Guarantees Act 1993 do not apply to this agreement or to any matters, information, representations or circumstances covered by this agreement;
 - (iv) it is fair and reasonable that the parties are bound by this clause 10.6; and
 - (v) each party has been able to fully negotiate the terms of this agreement and has been represented by and received advice from a lawyer during the negotiations leading to this agreement.

11. RELEASES

11.1 Release of Company Indemnified Persons:

- (a) The Acquirer waives and releases, and must procure that each member of the Acquirer Group waives and releases, all rights and claims which it may have against any Company Indemnified Person (other than the Company) in respect of:
- (i) any misrepresentation, inaccuracy or omission in or from any information or advice given by that Company Indemnified Person;
 - (ii) the preparation of the Company Information or the Data Room Information;
 - (iii) any breach of warranty or obligation of the Company under this agreement;
 - (iv) any statement which is false or misleading, whether in content or by omission, in connection with the Transaction; or
 - (v) any other act or omission in connection with this agreement or the Transaction, except where the Company Indemnified Person has engaged in wilful misconduct or fraud.
- (b) The parties acknowledge and agree that:

- (i) the Company has sought and obtained the waiver and release in this clause 11.1 as agent for and on behalf of each Company Indemnified Person and may enforce the provisions of this clause 11.1 on behalf of any Company Indemnified Person;
- (ii) any Company Indemnified Person may plead this clause 11.1 in response to any claim made by any member of the Acquirer Group against them; and
- (iii) the undertakings contained in this clause 11.1 are given for the benefit of each Company Indemnified Person and are intended to be enforceable against the Acquirer by each Company Indemnified Person in accordance with the provisions of the Contract and Commercial Law Act 2017.

11.2 Release of Acquirer Indemnified Persons:

- (a) The Company waives and releases, and must procure that each member of the MHM Automation Group waives and releases, all rights and claims which it may have against any Acquirer Indemnified Person (other than the Acquirer) in respect of:
 - (i) any misrepresentation, inaccuracy or omission in or from any information or advice given by that Acquirer Indemnified Person;
 - (ii) the preparation of the Acquirer Information;
 - (iii) any breach of warranty or obligation of the Acquirer under this agreement;
 - (iv) any statement which is false or misleading, whether in content or by omission, in connection with the Transaction; or
 - (v) any other act or omission in connection with this agreement or the Transaction, except where the Acquirer Indemnified Party has engaged in wilful misconduct or fraud.
- (b) The parties acknowledge and agree that:
 - (i) the Acquirer has sought and obtained the waiver and release in this clause 11.2 as agent for and on behalf of each Acquirer Indemnified Person and may enforce the provisions of this clause 11.2 on behalf of any Acquirer Indemnified Person;
 - (ii) any Acquirer Indemnified Person may plead this clause 11.2 in response to any claim made by any member of the MHM Automation Group against them; and
 - (iii) the undertakings contained in this clause 11.2 are given for the benefit of each Acquirer Indemnified Person and are intended to be enforceable against the Company by each Acquirer Indemnified Person in accordance with the provisions of the Contract and Commercial Law Act 2017.

12. INSURANCE

12.1 Insurance policies:

- (a) The Acquirer acknowledges that, subject to clause 12.1(b), the Company may, prior to the Implementation Date, enter into a run-off directors' and officers' liability insurance policy in respect of any Directors or officers (or the directors or officers of any other member of the MHM Automation Group) for a 7-year period (**D&O Run-off Policy**) and pay all premiums required.

- (b) Provided that the D&O Run-off Policy is, to the extent practicable, obtained in consultation with the Acquirer at normal commercial rates and the cover is not more favourable than those of the Company's directors' and officers' liability insurance at the date of this agreement, the Acquirer agrees that the Company entering into and paying the premium for the D&O Run-off Policy does not breach any provision of this agreement.
- (c) Subject to the Scheme becoming Effective, the Acquirer undertakes in favour of the Company and each director, officer or employee of a member of the MHM Automation Group that the Acquirer and its Related Companies (including, for the avoidance of doubt, the Acquirer Nominee (if applicable)) will:
 - (i) subject to clause 12.1(d) below, for a period of seven years from the Implementation Date, ensure that the constitutional documents of the Company and each member of the MHM Automation Group contain equivalent obligations to those currently contained in their constitutions as at the date of this agreement (provided that such constitutions have been fairly disclosed in the Data Room Information) that provide for each company to indemnify each of its current and former directors and officers against any liability (excluding for fraud or wilful misconduct) incurred by that person in his or her capacity as a director or officer of the company to any person other than a member of the MHM Automation Group; and
 - (ii) procure that the Company and each member of the MHM Automation Group complies with the provisions of any deeds of indemnity, access and insurance made by them in favour of all of their respective directors and officers from time to time (provided that such deeds have been fairly disclosed in the Data Room Information) who held office prior to the Implementation Date and without limiting the forgoing, the Acquirer will not, and will procure that no member of the MHM Automation Group will, vary or cancel the D&O Run-off Policy put in place in accordance with clause 12.1(a), subject to clause 12.1(d), for a period of seven years from the Implementation Date.
- (d) The undertakings contained in clause 12.1(c) are given until the earlier of the end of the relevant period specified in that clause or the relevant MHM Automation Group member ceasing to be a part of the Acquirer Group.
- (e) In this section, a reference to director includes a former director and a reference to officer includes a former officer.

13. EXCLUSIVITY AND MATCHING RIGHTS

13.1 No shop restriction: Subject to clause 13.11, during the Exclusivity Period, the Company must not, and must procure that each of its Representatives does not, directly or indirectly:

- (a) solicit, invite, encourage, initiate or otherwise seek to procure any Competing Proposal or any other offer, proposal, expression of interest, enquiry, negotiation or discussion with any Third Party in relation to, or for the purpose of, or that may reasonably be expected to encourage or lead to, a Competing Proposal; or
- (b) assist, encourage, procure or induce any person to do any of the things referred to in clause 13.1(a) on its behalf.

- 13.2 **No talk restriction:** Subject to clause 13.3 and clause 13.11, during the Exclusivity Period, the Company must not, and must procure that none of its Representatives, directly or indirectly:
- (a) enter into, permit, continue or participate in, negotiations or discussions with any Third Party in relation to a Competing Proposal or for the purpose of or that may reasonably be expected to encourage or lead to a Competing Proposal; or
 - (b) assist, encourage, procure or induce any person to do any of the things referred to in clause 13.2(a) on its behalf; or
 - (c) communicate to any person an intention to do any of the things referred to in clause 13.2(a), even if the Competing Proposal was not directly or indirectly solicited, invited, encouraged or initiated by the Company or any of its Representatives, was received before the date of this agreement and/or has been publicly announced.
- 13.3 **No talk exception:** The restriction in clause 13.2 does not apply to the extent that it restricts the Company or its Representatives from taking or refusing to take any action with respect to a bona fide Competing Proposal (in either case, which was not encouraged, solicited, invited, facilitated or initiated in contravention of clause 13.1 or 13.2) if all of the following requirements are satisfied:
- (a) the relevant members of the Board have reasonably determined, after taking advice from its external financial and legal advisers, that such Competing Proposal is, or is reasonably capable of becoming, a Superior Proposal; and
 - (b) acting in good faith and after having taken advice from its external legal advisers, the relevant members of the Board have determined that it is necessary to respond to such Competing Proposal in order to fulfil the fiduciary duties or statutory obligations of any relevant member of the Board.
- 13.4 **No due diligence restriction:** Subject to clause 13.5 and clause 13.11, but without limiting clause 13.2, during the Exclusivity Period, the Company must not, and must procure that each of its Representatives does not, directly or indirectly:
- (a) make available to any Third Party, or cause or permit any Third Party to receive, any non-public information relating to the Company or any of its Related Companies that may reasonably be expected to assist such Third Party in formulating, developing or finalising a Competing Proposal; or
 - (b) assist, encourage, procure or induce any person to do any of the things referred to in clause 13.4(a) on its behalf.
- 13.5 **No due diligence exception:** The restriction in clause 13.4 does not apply in respect of a bona fide Competing Proposal (in either case, which was not encouraged, solicited, invited, facilitated or initiated in contravention of clause 13.1 or 13.2) if all of the following requirements are satisfied:
- (a) the relevant members of the Board have reasonably determined, after taking advice from its external financial and legal advisers, that such Competing Proposal is, or is reasonably capable of becoming, a Superior Proposal;
 - (b) acting in good faith and after having obtained advice from its external legal advisers, the relevant members of the Board have determined that it is necessary to respond to such

Competing Proposal in order to fulfil the fiduciary duties or statutory obligations of any relevant member of the Board;

- (c) the Third Party has first entered into a written agreement in favour of the Company restricting the use and disclosure by the Third Party and its affiliates and advisers of the information made available to the Third Party, on terms, the Company acting in good faith, reasonably believes are not substantially more favourable to the Third Party than those in the Confidentiality Agreement; and
- (d) to the extent that any information made available to the Third Party is material and has not previously been provided to the Acquirer, the Company provides or makes that information available to the Acquirer at the same time as it is provided to the Third Party or promptly thereafter.

13.6 General notification obligations:

- (a) During the Exclusivity Period, the Company must as soon as practicable in the circumstances, and in any event within 24 hours, notify the Acquirer if:
 - (i) the Company or any of its Representatives receives any Competing Proposal or any inquiry, approach, correspondence or other communication from a Third Party to initiate any discussions or negotiations that could reasonably be expected to lead to a transaction in the nature of a Competing Transaction;
 - (ii) the Company or any of its Representatives receives any request for information relating to the MHM Automation Group or its Business or any request for access to non-public information of any member of the MHM Automation Group in connection with a current or future Competing Proposal; or
 - (iii) the Company proposes to take any action in reliance on the exceptions in clause 13.3 or clause 13.5,

and such notification will include reasonable detail of the terms of such approach, action or circumstances (including, for the avoidance of doubt and to the extent applicable), the information specified in clause 13.6(b)).

- (b) A notice given under clause 13.6(a) must be accompanied by all applicable material details of the relevant event, including (as the case may be):
 - (i) the identity of the person who provided the Competing Proposal or made the relevant inquiry or approach to initiate discussions or to whom any information is proposed to be provided as referred to in clause 13.6(a);
 - (ii) all material terms and conditions of the Competing Proposal, such as the amount and form of consideration to be offered, the conditions to which it is subject, the proposed timetable and any break fee arrangements (to the extent known);
 - (iii) whether or not the Company intends to progress or respond to the relevant inquiry, approach, offer, bid, proposal or request (or whether, acting in good faith, the Company has not yet been able to make a decision) and how the Company proposes to respond (if applicable); and

- (iv) the nature of the information or access requested and/or provided or action proposed to be taken.
- (c) Without limiting the Company's other obligations under this clause 13.6, the Company shall keep the Acquirer reasonably informed on a prompt and timely basis of the status and any developments regarding any Competing Proposal which the Company (acting reasonably) considers are material, within 24 hours after receipt or delivery thereof, including:
 - (i) any update or amendment to the terms of the Competing Proposal; and
 - (ii) if a notice given under clause 13.6(a) states, in accordance with clause 13.6(b)(iii), that the Company has not yet decided whether it intends to progress or respond to the relevant inquiry, approach, offer, bid, proposal or request (or similar statement), updating the Acquirer on a prompt and timely basis when it makes such a decision).

13.7 Matching rights:

- (a) Without limiting clause 13.1 and 13.2, during the Exclusivity Period, the Company:
 - (i) must not, and must procure that each of its Representatives does not, enter into, or agree to enter into, any agreement, arrangement or understanding to undertake, give effect to or implement any Competing Proposal;
 - (ii) must procure that no Non-Conflicted Director changes, qualifies or withdraws his or her recommendation in favour of the Scheme in order to publicly recommend any Competing Proposal; and
 - (iii) must not make, and ensure that no Director makes, any public statement recommending any Competing Proposal to Shareholders,
 unless and until:
 - (iv) acting in good faith and after having taken advice from its external financial and legal advisers, the relevant members of the Board have reasonably determined that the Competing Proposal is a Superior Proposal and failing to take one or more of the actions specified in clause 13.7(a)(i) to (iii) would be likely to constitute a breach of the fiduciary duties or statutory obligations of any relevant member of the Board;
 - (v) the Company has, as soon as reasonably practicable after the relevant members of the Board have determined that the Competing Proposal is a Superior Proposal in accordance with clause 13.7(a)(iv), given the Acquirer:
 - (1) a notice setting out:
 - A. all material terms of the Competing Proposal in accordance with clause 13.6 to the extent not already provided; and
 - B. a written explanation as to why the Company considers the Competing Proposal to be a Superior Proposal; and
 - (2) at the same time, to the extent not already provided under clause 13.5(d), provide any information that is required to be provided to the Acquirer under clause 13.5(d); and

- (3) the Company has given the Acquirer at least five Business Days after the date that the Company gives the notice to the Acquirer under clause 13.7(a)(v)(1) in respect of the Competing Proposal in which to provide a Counter Proposal in accordance with clause 13.7(b) (**Matching Period**); and
- (vi) upon expiry of the Matching Period:
 - (1) the Acquirer has not provided a Counter Proposal under clause 13.7(b); or
 - (2) if the Acquirer has provided a Counter Proposal under clause 13.7(b) and the Company having complied with clause 13.8, acting in good faith and after having taken advice from its external financial and legal advisers, the relevant members of the Board have determined that (1) the Competing Proposal remains a Superior Proposal (taking into account both the Competing Proposal and the Counter Proposal); and (2) failing to respond to such Competing Proposal would be likely to continue to constitute a breach of the fiduciary duties or statutory obligations of the relevant members of the Board.
- (b) During the Matching Period, the Acquirer may (but is not required to) make an irrevocable written offer to the Company or Shareholders (in a form which, if accepted by the Company, will be legally binding on the Acquirer) to amend the terms of the Scheme and this agreement, with a view to providing an outcome to Shareholders that, taken as a whole, is no less favourable to Shareholders than that offered under the relevant Superior Proposal (**Counter Proposal**).
- (c) If the Company gives notice to the Acquirer under clause 13.7(a)(v)(1), then the Company may:
 - (i) in its discretion, delay any action contemplated by the Timetable to allow the Matching Period to be exhausted and, if applicable, to agree a Counter Proposal under clause 13.8(b); and
 - (ii) make any announcement to NZX that the Company, acting in good faith, considers appropriate in the circumstances to ensure that it complies with applicable law and/or the NZX Listing Rules.

13.8 Company's response to Counter Proposal: If, during the Matching Period, the Acquirer makes a Counter Proposal:

- (a) the Company must use all reasonable endeavours to procure that the relevant members of the Board consider the Counter Proposal in good faith; and
- (b) if the relevant members of the Board acting in good faith determine that the terms and conditions of the Counter Proposal taken as a whole are no less favourable to Shareholders than those in the relevant Competing Proposal, then:
 - (i) the parties must each use all reasonable endeavours to agree and enter into such documentation as is necessary to give effect to and implement the Counter Proposal as soon as reasonably practicable; and
 - (ii) the Company must procure that each Non-Conflicted Director makes a public statement recommending the Counter Proposal to Shareholders (which

recommendation, if applicable, may be expressed to be subject to there being no further Superior Proposal and the Independent Adviser concluding that the consideration contemplated by the Counter Proposal being within or above the Independent Adviser's valuation range for the Shares).

13.9 Changes to proposals: Any material change to a Competing Proposal including any material change to the matters notified under clause 13.6, will be taken to constitute a new Competing Proposal in respect of which the Company must separately comply with its obligations under clause 13.6 to clause 13.8.

13.10 No matching: If:

(a) the Company has complied with clause 13.6(c)(ii) and 13.7 in relation to a Competing Proposal; and

(b) clause 13.7(a)(vi) applies,

then:

(c) clause 13 (other than this clause 13.10) will cease to apply;

(d) the Exclusivity Period will end;

(e) the Company may enter into a binding implementation agreement or similar binding arrangement to implement, and the Company and the relevant members of the Board may take any action in respect of, any Competing Proposal; and

(f) either party may terminate this agreement by notice in writing to the other party.

13.11 Normal provision of information: Nothing in this clause 13 prevents a party from:

(a) providing information required to be provided by law, any court of competent jurisdiction, any Government Agency or the NZX Listing Rules or in connection with investor presentations or roadshows conducted in a manner consistent with the Company's usual investor relations practice; or

(b) making presentations to, and responding to bona fide enquiries from, stockbrokers, portfolio investors and equity market analysts in relation to the promotion of the Scheme or in accordance with its usual investor relations practices.

14. BREAK FEE AND REVERSE BREAK FEE

14.1 Acknowledgement and agreement The Company (on the one hand) and the Acquirer (on the other hand) each acknowledges and agrees that:

(a) the other and its Related Companies have incurred and will continue to incur significant costs and expenses in pursuing the Transaction including:

(i) advisory costs;

(ii) costs of management and directors' time;

(iii) in respect of the Acquirer and members of the Acquirer Group, funding costs;

(iv) out of pocket expenses; and

- (v) opportunity costs of pursuing the Transaction or in not pursuing alternative transactions or business opportunities;
- (b) the costs and expenses actually incurred by each party and its Related Companies are of such nature that they cannot accurately be ascertained;
- (c) the Break Fee and Reverse Break Fee are each liquidated damages based on a genuine and reasonable estimate of the costs and expenses that have been or will be actually incurred by the relevant party and its Related Companies in pursuing the Transaction;
- (d) the parties have negotiated the inclusion of this clause 14 in this agreement and would not have entered into this agreement without it; and
- (e) each party has received external legal and financial advice in relation to this clause 14 and has concluded that it is reasonable and appropriate for it to agree to payment of the Break Fee or Reverse Break Fee (as applicable) in the circumstances described in clause 14.2 or 14.3 (as applicable) in order to secure the other party's entry into this agreement.

14.2 Circumstances where Break Fee payable:

- (a) Subject to clause 14.5 and 14.7, the Company must pay the Break Fee to the Acquirer if:
 - (i) at any time before this agreement is terminated, a Competing Proposal is announced and within 12 months after the date of that announcement, the person making the Competing Proposal, or one or more persons that Control or are under the Control of that person, completes in all material respects a transaction of the kind referred to in the definition of Competing Proposal;
 - (ii) any Non-Conflicted Director:
 - (1) fails to make the recommendation or any Non-Conflicted Director fails to give or effect the undertaking referred to in clause 8.1; or
 - (2) changes, qualifies or withdraws the recommendation or undertaking referred to in clause 8.1 or makes any statement materially inconsistent with that recommendation or that undertaking, except as a result of one of the following:
 - A. the Company receiving a Superior Proposal, subject to the Company's compliance with clause 13.7; or
 - B. subject to clause 14.2(b), the Independent Adviser issuing an Independent Adviser's Report which concludes that the Consideration is not within or above the Independent Adviser's valuation range for the Shares;
 - (iii) the Acquirer terminates this agreement under clause 15.1 or 15.11 due, in relation to termination under clause 15.11, to a Prescribed Occurrence occurring on or after the date of this agreement (but not, for the avoidance of doubt, where the Acquirer terminates this agreement due to a Material Adverse Change); or
 - (iv) either party terminates this agreement under clause 15.4.
- (b) If the exception in paragraph 14.2(a)(ii)(2)B applies, the Break Fee will nonetheless be payable by the Company to the Acquirer if, prior to the issue of the Independent Adviser's Report concluding that the Consideration was not within or above the Independent Adviser's

valuation range, a Competing Proposal is received by the Company or made public and within 12 months after the date that the Competing Proposal is received or made public, the person making the Competing Proposal or one or more persons that Control or are under the Control of that person completes in all material respects a transaction of the kind referred to in the definition of Competing Proposal.

14.3 Circumstances where Reverse Break Fee payable: Subject to clause 14.5 and clause 14.7, the Acquirer must pay the Reverse Break Fee to the Company if:

- (a) the Company terminates this agreement as permitted under clause 15.2; or
- (b) the Acquirer or the Acquirer Nominee (if applicable) is in material breach of the Deed Poll.

14.4 Payment of Break Fee or Reverse Break Fee: If the Break Fee or the Reverse Break Fee become payable under this agreement, the Company or the Acquirer (as the case requires) must pay it to or as directed by the other party without withholding or set-off (except as required by law) within 10 Business Days after receipt of a written demand for payment from the other party. The obligation to make the payment described in the preceding sentence will be satisfied by the payment of the relevant amount in immediately available funds to the recipient's nominated account. For the avoidance of doubt, if only a portion of the Break Fee or the Reverse Break Fee is held by a Court to be enforceable, that portion which is payable must be paid within 10 Business Days of the relevant determination.

14.5 Break Fee and Reverse Break Fee not payable: Notwithstanding anything else in this agreement:

- (a) neither the Break Fee nor the Reverse Break Fee are payable if the Scheme becomes Effective; and
- (b) each of the Break Fee and Reverse Break Fee are payable only once.

14.6 Sole and exclusive remedy:

- (a) The Acquirer acknowledges and agrees that payment of the Break Fee is the sole and exclusive remedy available to the Acquirer in connection with any event or occurrence referred to in clause 14.2 and the Company is not liable for any loss or damage arising in connection with any such event or occurrence other than for any liability that it may have to pay the Acquirer the Break Fee under this clause 14.
- (b) The Company acknowledges and agrees that payment of the Reverse Break Fee is the sole and exclusive remedy available to the Company in connection with any event or occurrence referred to in clause 14.3 and the Acquirer is not liable for any loss or damage arising in connection with any such event or occurrence other than for any liability that it may have to pay the Company the Reverse Break Fee under this clause 14.

14.7 Amendments to Break Fee Arrangements: If either of the following occurs:

- (a) the Takeovers Panel indicates to either party in writing that it requires any reduction to the amount of the Break Fee or the Reverse Break Fee or the circumstances in which either is to be paid (**Break Fee Arrangements**) as a condition of granting a Letter of Intention or No-objection Statement or not otherwise opposing the Scheme; or

- (b) the Court requires any modification to the Break Fee Arrangements (provided that any such modification does not result in an increase in the amount of the Break Fee or Reverse Break Fee or any broadening of the circumstances in which either is to be paid) as a condition of making orders convening the Scheme Meeting,

then the parties must amend this clause 14 to the extent required to give effect to the requirements of the Court or the Takeovers Panel, as the case may be, and in the circumstances referred to in clause 14.7(b) must give any required undertakings.

14.8 Specific performance and other rights:

- (a) Subject to clause 14.6 and 14.10, nothing in this agreement precludes the Company from suing the Acquirer for specific performance or from otherwise terminating this agreement in accordance with its terms and/or suing the Acquirer for damages (the amount of which it is acknowledged will be limited to the amount of any Reverse Break Fee actually paid to the Company by the Acquirer in accordance with this agreement).
- (b) Subject to clause 14.6 and 14.9, nothing in this agreement precludes the Acquirer from suing the Company for specific performance or from otherwise terminating this agreement in accordance with its terms and/or suing the Company for damages (the amount of which it is acknowledged will be limited to the amount of the Break Fee actually paid to the Acquirer by the Company in accordance with this agreement).

14.9 Company's limitation of liability: Notwithstanding any other provision of this agreement:

- (a) the maximum aggregate liability of the Company to the Acquirer under or in connection with this agreement, howsoever arising and including in respect of any breach of this agreement, will be the amount of the Break Fee; and
- (b) a payment by the Company of the Break Fee represents the sole and absolute liability of the Company to the Acquirer under or in connection with this agreement and no further damages, fees, expenses or reimbursements of any kind will be payable by the Company to the Acquirer in connection with this agreement.

14.10 Acquirer's limitation of liability: Notwithstanding any other provision of this agreement:

- (a) the maximum aggregate liability of the Acquirer to the Company under or in connection with this agreement, howsoever arising and including in respect of any breach of this agreement, will be the amount of the Reverse Break Fee; and
- (b) a payment by the Acquirer of the Reverse Break Fee represents the sole and absolute liability of the Acquirer to the Company under or in connection with this agreement and no further damages, fees, expenses or reimbursements of any kind will be payable by the Acquirer to the Company in connection with this agreement.

14.11 Trigger Disputes: If there is a Trigger Dispute between the parties which is not resolved within two Business Days of one party notifying the other:

- (a) the Trigger Dispute must be referred to the Expert;
- (b) the parties must instruct the Expert to determine the Trigger Dispute within 10 Business Days;

- (c) in determining the dispute, the Expert must act as an expert and not an arbitrator;
- (d) the determination of the Expert will, in the absence of manifest error, be final and binding on the parties; and
- (e) the Expert's fees will be borne equally by the parties.

15. TERMINATION

15.1 **Events affecting the MHM Automation Group:** Subject to clause 15.3, the Acquirer may terminate this agreement by giving notice in writing to the Company before 8.00am on the Implementation Date if:

- (a) the Company is in breach of any Company Warranty or any event occurs or circumstance arises that would cause any Company Warranty to be untrue as at 8.00am on the Implementation Date, in each case where the consequences of that breach (other than in respect of a Fundamental Warranty) are material in the context of the Scheme and the MHM Automation Group taken as a whole;
- (b) the Company is in breach of any Company Undertaking or any other provision under this agreement and that breach is material in the context of the Scheme and the MHM Automation Group taken as a whole; or
- (c) the Company breaches clauses 8.1, 8.2 or 13.

15.2 **Events affecting Acquirer:** Subject to clause 15.3, the Company may terminate this agreement by giving notice in writing to the Acquirer before 8.00am on the Implementation Date if:

- (a) a breach of any Acquirer Warranty or any event occurs or circumstance arises that would cause any Acquirer Warranty to be untrue as at 8.00am on the Implementation Date where the consequences of that breach are material in the context of the Scheme taken as a whole;
- (b) the Acquirer or the Acquirer Nominee (if applicable) is in breach of any Acquirer Undertaking or any other provision of this agreement and that breach is material in the context of the Scheme taken as a whole; or
- (c) an Insolvency Event occurs in respect of the Acquirer or the Acquirer Nominee (if applicable).

15.3 **Notice of termination:** A party may only exercise a right of termination under clause 15.1 or clause 15.2 if:

- (a) the party wishing to terminate has given notice to the other party before 8.00am on the Implementation Date setting out the circumstances that it considers permit it to do so and stating its intention to do so;
- (b) if the relevant circumstances are remediable, such circumstances have not been remedied within 10 Business Days after the time that the notice is given or any shorter period ending at 5.00pm on the day before the Implementation Date; and
- (c) the party wishing to terminate does so before the earlier to occur of 15 Business Days after the time that the notice is given and 8.00am on the Implementation Date.

15.4 **Counter Proposal:** Either party may, by notice to the other party, terminate this Agreement in accordance with clause 13.10(f) at any time before 8.00am on the Implementation Date.

15.5 **Condition failure:** Subject to any waiver of a Condition under clause 3.8 (in respect of a Condition which is capable of waiver), this agreement may be terminated for non-satisfaction of a Condition in accordance with clauses 15.6 to 15.11 (inclusive).

15.6 **Condition 3.1(a) – OIO Condition:** If the OIO Condition becomes incapable of satisfaction by the Condition Satisfaction Date and:

- (a) the Acquirer has delivered notice to that effect to the Company under clause 3.11(a)(i) (**Regulatory Condition Notice**); and
- (b) the parties have not reached agreement to extend the Condition Satisfaction Date under clause 3.11(b) within five Business Days after the Acquirer's delivery of the Regulatory Condition Notice,

then either party may terminate this agreement by notice to the other before 8.00am on the Implementation Date, provided that the terminating party has complied in all material respects with its obligations under clauses 3.3 and 3.4.

15.7 **Condition 3.1(b) – Independent Adviser's Report:** The Company may terminate this agreement by notice to the Acquirer at any time before the Scheme Meeting if the Independent Adviser's Report concludes that the Consideration is not within or above the Independent Adviser's valuation range for the Shares.

15.8 **Condition 3.1(c) – Court determines not to grant the Final Orders:**

- (a) If:
 - (i) the Court determines not to grant the Final Orders; and
 - (ii) the parties have not reached agreement under clause 7.4(a) to appeal that determination or the determination is not required to be appealed under clause 7.4(b) within 10 Business Days after the determination,

then the Company may terminate this agreement by notice to the Acquirer before 8.00am on the Implementation Date, provided that the terminating party has complied in all material respects with its obligations under this agreement that are relevant to seeking Final Orders.

- (b) If an appeal under clause 7.4(a) or 7.4(b) is unsuccessful or is withdrawn, then either party may terminate this agreement by notice to the other before 8.00am on the Implementation Date.

15.9 **Condition 3.1(d) – Scheme Resolution not passed:** If:

- (a) at the Scheme Meeting, the Scheme Resolution is not passed by the requisite majorities in accordance with sections 236A(2)(a) and 236A(4) of the Companies Act; and
- (b) the parties do not agree, by the earlier of 5.00pm on the fifth Business Day after the Scheme Meeting and the End Date, to hold another Scheme Meeting,

then either party may terminate this agreement by notice to the other before 8.00am on the Implementation Date, provided that the terminating party has complied in all material respects with its obligations in respect of the Scheme Meeting and the Scheme Resolution.

15.10 Condition 3.1(e) – No restraints: If the Condition in clause 3.1(e) is not satisfied at 8.00am on the Implementation Date, then either party may terminate this agreement by notice to the other at any time before 8.00am on the Implementation Date, provided that the terminating party has complied in all material respects with that party's obligations under clause 3 in respect of the Condition in clause 3.1(e), including clause 3.11.

15.11 Conditions 3.1(f) and (g)– Prescribed Occurrences or Material Adverse Change: If a Prescribed Occurrence or a Material Adverse Change occurs after the date of this agreement and before 8.00am on the Implementation Date, the Acquirer may terminate this agreement by notice to the Company.

15.12 End Date: Either the Company or the Acquirer may terminate this agreement by giving notice in writing to the other if the Scheme has not become Effective by 5.00pm on the End Date, provided that, if relevant the parties have complied with their obligations under clause 3.11, and the terminating party's failure to comply with its obligations under this agreement has not directly and materially contributed to the Scheme not becoming Effective by the End Date.

15.13 Effect of termination: If this agreement is terminated under this clause 15 then:

- (a) except as provided in clause 15.13(b) and 15.13(c), all the provisions of this agreement cease to have effect and each party is released from its obligations to further perform this agreement;
- (b) each party retains all rights that it has against the other party in respect of any breach of this agreement occurring before termination; and
- (c) the provisions of, and the rights and obligations of each party under, this clause 15 and each of the Surviving Clauses survive termination of this agreement.

15.14 No other termination:

- (a) This clause 15 sets out the only rights for the parties to cancel, rescind or terminate this agreement. No party has any right to cancel or terminate this agreement whether before or after the implementation of the Scheme on any other basis (as a result of any matter, information or circumstance), including:
 - (i) for misrepresentation;
 - (ii) for repudiation, anticipatory breach or breach of this agreement; or
 - (iii) in respect of any matter giving rise to, or the subject of, a claim arising out of or in connection with this agreement (whether arising in tort (including negligence), in contract, statute, by operation of law or otherwise).
- (b) The parties agree that sections 35 to 49 of the Contract and Commercial Law Act 2017 do not apply to this agreement.

16. ANNOUNCEMENTS

16.1 Initial announcements: As soon as reasonably practicable after this agreement is signed, the Company must issue to the NZX an announcement in a form agreed with the Acquirer and including a statement that:

- (a) each Non-Conflicted Director recommends that Shareholders vote in favour of the Scheme; and
- (b) each Non-Conflicted Director undertakes to vote, or procure the voting of, all Shares held or controlled by him or her in favour of the Scheme,

in each case in the absence of a Superior Proposal and subject to the Independent Adviser's Report concluding that the Consideration is within or above the Independent Adviser's valuation range for the Shares.

16.2 Other announcements: Each party must not make, and must procure that its Representatives do not make, any public announcement concerning the Scheme or the subject matter of this agreement other than:

- (a) the announcement referred to in clause 16.1;
- (b) in the case of the Company, the announcement of any administrative information in relation to the Shareholders approving the Scheme at the Scheme Meeting by the requisite majorities in accordance with sections 236A(2)(a) and 236A(4) of the Companies Act;
- (c) with the written consent of the other party, which must not be unreasonably withheld or delayed;
- (d) in accordance with clause 13.7(c)(ii); or
- (e) if, and to the minimum extent, required by law, any court of competent jurisdiction, any Government Agency or the NZX Listing Rules, but if either party is so required to make any announcement, it must promptly notify the other party, where practicable and lawful to do so, before the announcement is made and must, if practicable, co-operate with the other party regarding the timing and content of such announcement or any action which the other party may reasonably elect to take to challenge the validity of such requirement.

16.3 Permitted communications: Clause 16.2 shall not prevent the announcing party from:

- (a) merely referring to the other party by name;
- (b) repeating any material in relation to the other party from an announcement which has previously been released or approved by, or agreed with the other party (in which case, where practicable, the announcing party will give the other party advance notice);
- (c) responding to media and other stakeholders with statements or responses which are not inconsistent with announcements that are permitted to be made in accordance with the terms of this agreement, including clauses 16.2 and 16.3; or
- (d) making disclosures regarding:
 - (i) the actual or purported termination of this agreement; or
 - (ii) any claim, disagreement, or dispute under or in connection with this agreement.

17. PAYMENTS

17.1 Manner of payments: Unless otherwise expressly stated (or as otherwise agreed in the case of a given payment), each payment to be made under this agreement must be made in New Zealand dollars by transfer of the relevant amount into the relevant account on or before the date on which

the payment is due and in immediately available funds, without set-off or withholding (except as required by law). The relevant account for a given payment is the account that the party due to receive the payment specifies, not less than 10 Business Days before the date on which payment is due, by giving notice to the party due to make the payment.

17.2 **Default interest:** If a party defaults in making any payment when due of any sum payable under this agreement, it must pay interest on that sum from (and including) the date on which payment is due until (but excluding) the date of actual payment (after as well as before judgment) at an annual rate of 5% above the Reference Rate on that sum, which interest accrues from day to day and must be compounded monthly.

18. GST

18.1 **Interpretation:** Words and expressions that are defined in the GST Act have the same meaning when used in this clause 18. For the purposes of this clause 18, references to GST chargeable and input tax credit entitlements of any entity include GST chargeable against, and the input tax credit entitlements of, the representative member of the GST group of which the entity is a member.

18.2 **Consideration exclusive of GST:** For avoidance of doubt, the parties agree that the supply of Scheme Shares pursuant to this agreement is an exempt supply of a financial service and therefore not subject to GST. Except for the Break Fee and the Reverse Break Fee, all other stated amounts payable or consideration to be provided under or in connection with this agreement do not include GST (**GST Exclusive Consideration**).

18.3 **Payment of GST:** If GST is chargeable on any supply made under or in connection with this agreement the recipient must pay to the party that has made or will make the supply (**Supplier**), in addition to the GST Exclusive Consideration, an additional amount equal to the GST chargeable on that supply (**Additional Amount**). The recipient must pay the Additional Amount without set-off, demand or deduction, at the same time and in the same manner as any GST Exclusive Consideration for that supply is required to be paid, except that the recipient is not required:

- (a) to pay the Additional Amount unless and until the Supplier has issued a tax invoice (or other similar document or information) under clause 18.4; or
- (b) to pay any GST Default Amounts included in the Additional Amount if those GST Default Amounts result from the Supplier failing to comply with its obligations under the GST Act.

18.4 **Tax invoice or taxable supply information:** For any supply to which clause 18.3 applies, the Supplier must issue to the recipient a tax invoice (or other similar document or information) which complies with the GST Act.

18.5 **Adjustments:** If an event referred to in section 25(1) of the GST Act occurs in relation to a taxable supply made under or in connection with this agreement, the GST payable on that supply will be recalculated to reflect that adjustment, a debit note or credit note (or other similar document or information) will be issued as required by the GST Act and an appropriate payment will be made between the relevant parties.

18.6 **Input tax credits:** Notwithstanding any other provision of this agreement, if an amount payable under or in connection with this agreement is calculated by reference to any loss, damage, cost, expense, charges or other liability incurred or suffered by a party, then the amount payable must be

reduced by the amount of any input tax credit or other deduction from output tax to which that entity is entitled in respect of the acquisition of any supply to which the loss, damage, cost, expense, charge or other liability relates.

19. NOTICES

19.1 **Manner of giving notice:** Any notice or other communication to be given under this agreement must be in writing (which includes email) and may be physically delivered or sent by email to the party to be served as follows:

(a) to the Company at:

Address: 53 Lunn's Road, Christchurch, New Zealand

Email: trevor@breakawayinvestments.co.nz

For the attention of: Trevor Burt

with a copy (which does not constitute notice) to:

Address: Buddle Findlay, Level 18, HSBC Tower 188 Quay Street, Auckland 1010

Email: sarah.mcewan@buddlefindlay.com / mark.odlin@buddlefindlay.com

For the attention of: Sarah McEwan / Mark Odlin

(b) to the Acquirer at:

Address: 6801 State Route 60, Birmingham, Ohio 44889, United States

Email: MarkDowdle@bettcher.com

For the attention of: Mark Dowdle

With a copy (which does not constitute notice) to:

Address: Mayne Wetherell, Level 5, Bayleys House, 30 Gaunt Street, Auckland 1010

Email: matthew.olsen@maynewetherell.com / cameron.reeves@maynewetherell.com

For the attention of: Matthew Olsen / Cameron Reeves

or at any such other address or email address notified for this purpose to the other party under this clause 19.1.

19.2 **When notice given:** Any notice or other communication is deemed to have been given:

(a) if delivered, on the date of delivery; or

(b) if sent by email, four business hours (being the hours between 9.00am and 5.00pm on a business day in the jurisdiction of the recipient) 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 (excluding an "out of office" automated message), but if the notice or other communication would otherwise be taken to be received after 5.00pm or on a Saturday, Sunday or public holiday in the place of receipt then the notice or communication is taken to be received at 9.00am on the next day that is not a Saturday, Sunday or public holiday in the place of receipt.

19.3 Proof of service: In proving service of a notice or other communication, it is sufficient to prove that delivery was made or that the e-mail was properly addressed and transmitted by the sender's server into the network and there was no apparent error in the operation of the sender's e-mail system, as the case may be.

19.4 Documents relating to legal proceedings: This clause 19 does not apply in relation to the service of any claim form, notice, order, judgment or other document relating to or in connection with any proceedings, suit or action arising out of or in connection with this agreement.

20. GENERAL

20.1 Amendments:

- (a) This agreement may only be amended prior to the Scheme becoming Effective.
- (b) Any amendment to this agreement will only be effective if it is in writing and signed by both parties.
- (c) Subject to clause 20.1(b), this agreement may be varied by the parties to it without the approval of any Shareholder, any Company Indemnified Person, any Acquirer Indemnified Person or any director, officer or employee of the Company or of any other member of the MHM Automation Group.

20.2 Assignments: None of the rights or obligations of a party under this agreement may be assigned, transferred or novated without the prior written consent of the other party (such consent not to be unreasonably withheld).

20.3 Costs: Except as otherwise expressly provided in this agreement, each party must pay the costs and expenses incurred by it in connection with entering into and performing its obligations under this agreement, the Scheme and the Deed Poll.

20.4 Entire agreement: This agreement contains the entire agreement between the parties relating to the Transaction and supersedes all previous agreements, whether oral or in writing, between the parties relating to the Transaction except for the Confidentiality Agreement.

20.5 Execution in counterparts: This agreement may be executed in counterparts, which taken together must constitute one and the same agreement, and any party (including any duly authorised representative of a party) may enter into this agreement by executing a counterpart. Scanned signatures are taken to be valid and binding to the same extent as original signatures.

20.6 Exercise and waiver of rights: The rights of each party under this agreement:

- (a) may be exercised as often as necessary;

(b) except as otherwise expressly provided by this agreement, are cumulative and not exclusive of rights and remedies provided by law; and

(c) may be waived only in writing and specifically,

and delay in exercising or non exercise of any such right is not a waiver of that right.

20.7 **Further assurance:** Each party undertakes, at the request, cost and expense of the other party, to sign all documents and to do all other acts, which may be necessary to give full effect to this agreement.

20.8 **Severability:** The provisions contained in each clause of this agreement are enforceable independently of each other clause of this agreement and the validity and enforceability of any clause of this agreement will not be affected by the invalidity or unenforceability of any other clause, provided that where any provision of this agreement offends any law applicable to it and the offending clause can be read down so as to give it a valid and enforceable operation of a partial nature, it must be read down to the minimum extent necessary to achieve that result.

20.9 **Governing law:** This agreement is governed by the laws of New Zealand and the parties submit to the non-exclusive jurisdiction of the courts of New Zealand in respect of any dispute or proceeding arising out of this agreement. The parties irrevocably waive any objection to the venue of any legal process in these courts on the basis that the process has been brought in an inconvenient forum.

20.10 **Service of process:** The Acquirer appoints Matthew Olsen of Mayne Wetherell as its agent in New Zealand for service of process and other documents in any legal action or proceedings arising out of or in connection with this agreement and will ensure that at all times prior to the Implementation Date or termination of this agreement, Mayne Wetherell or a replacement appointed by the Acquirer and approved by the Company, is authorised and able to accept service of process and other documents on its behalf in New Zealand.

EXECUTION PAGE

EXECUTED for and on behalf of
BETTCHEM INDUSTRIES, INC.

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Massimo Bizzi
Chief Executive Officer

**EXECUTED as a DEED for and on behalf
of MHM AUTOMATION LIMITED**

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)
)



Director

Director

SCHEDULE-1 - PRESCRIBED OCCURRENCES

1. The Company or another member of the MHM Automation Group authorises, declares, pays, or makes any dividends, bonuses or other payments or distributions (within the meaning of the Companies Act) of any nature (including, without limitation, any share buybacks, redemptions or other form of capital reduction) other than a distribution from a wholly-owned subsidiary of the Company to the Company or to another wholly-owned subsidiary of the Company.
2. Any MHM Automation Group member issues, agrees to issue, or grants an option or right to subscribe for, shares, convertible securities, other securities or financial products of any nature (including warrants, options, phantom or cash settled rights over Shares, convertible notes, entitlements, rights or interests in any ordinary shares) other than the issuance of shares by a wholly-owned subsidiary of the Company to the Company or to another wholly-owned subsidiary of the Company.
3. The Company offers to buy-back Shares or enters into any agreement to buy-back Shares.
4. The Company or a member of the MHM Automation Group:
 - (a) reducing its share capital in any way or reclassifying, combining, splitting or redeeming or repurchasing directly or indirectly any of its shares;
 - (b) altering the rights, privileges, benefits, entitlements or restrictions attaching to any securities (including the Shares) or other securities or financial products (if any) of any member of the MHM Automation Group; or
 - (c) converting all or any of the Shares into a larger or smaller number.
5. Any alteration to the constitutional documents of any member of the MHM Automation Group (except as required by law or the NZX Listing Rules) that is material in the context of the Scheme.
6. An Insolvency Event occurs or subsists in respect of the Company, or an Insolvency Event occurs in respect of another member of the MHM Automation Group that is material to the MHM Automation Group taken as a whole.
7. A resolution is passed for any amalgamation of any member of the MHM Automation Group, or any of them is involved in any merger or scheme of arrangement (other than a solvent scheme of arrangement or an amalgamation, merger or scheme of arrangement involving solely the Company and/or one or more wholly owned subsidiaries of the Company).
8. The Shares cease to be quoted, or are suspended from trading for a period of longer than three trading days, on the NZX Main Board (other than in connection with implementation of the Scheme).
9. A member of the MHM Automation Group is, or will be, under any obligation to make payment or provide any consideration to any of its employees or directors in the event of any member of the MHM Automation Group becoming a subsidiary of the Acquirer or under the Acquirer's control, and which is material in the context of the MHM Automation Group taken as a whole (except as fairly disclosed in the Data Room Information, as contemplated in this agreement or as approved in writing by the Acquirer).
10. A member of the MHM Automation Group increases the remuneration of (including with regard to any superannuation, benefits, incentives or bonuses), or materially varies the terms of employment of, or terminates the employment of, any of its directors, officers or senior employees, other than

within the exceptions provided for in clauses 9.2 or 9.3 or as fairly disclosed in the Data Room Information or on the basis of retirement by rotation under the NZX Listing Rules.

11. A member of the MHM Automation Group accelerates the rights of any of its directors, officers or employees to benefits of any kind, other than within the exceptions provided in clauses 9.2 or 9.3.
12. A member of the MHM Automation Group enters into, or amends in any material way, a transaction or arrangement with a Related Party (other than a Related Party that is also a member of the MHM Automation Group) that is material to the MHM Automation Group taken as a whole.
13. A member of the MHM Automation Group:
 - (a) disposing, or agreeing to dispose, of; or
 - (b) granting any person any Encumbrance, other than a Permitted Encumbrance, over, the whole or a substantial part of the MHM Automation Group's business or property.
14. A member of the MHM Automation Group pays a director, officer or senior employee a termination payment, other than as provided for in an existing employment contract (or equivalent) in place as at the date of this Agreement which has been fairly disclosed in the Data Room Information.
15. Any:
 - (a) enforcement action, investigation, inquiry or audit is announced or commenced;
 - (b) decision, determination or ruling by a Government Agency; or
 - (c) action, claim, litigation, arbitration or prosecution by any party (including by a Government Agency) is notified or commenced,against, involving or in respect of, an MHM Automation Group entity which is or is reasonably likely to be materially adverse to the MHM Automation Group taken as a whole.
16. The board or shareholders of a member of the MHM Automation Group passes a resolution to, or authorise the doing of any act or matter referred to in any of the preceding paragraphs of this Schedule 1.

Nothing in this Schedule 1 prohibits, limits, or otherwise affects the Company and/or the Board's ability to deal with the Options in accordance with clause 9.7 and, for the avoidance of doubt, the Acquirer acknowledges that no Prescribed Occurrence will occur as a result of, or arising out of, the actions contemplated by clause 9.7.

SCHEDULE-2 - COMPANY WARRANTIES AND UNDERTAKINGS

PART 1

COMPANY WARRANTIES

Fundamental Warranties

1. The Company is a corporation validly existing under the laws of New Zealand.
2. The Company has the power to execute and deliver this agreement and to perform its obligations under this agreement and the Scheme, and has taken all necessary corporate action to authorise such execution and delivery.
3. The Company's obligations under this agreement are legal, valid and binding obligations enforceable subject to and in accordance with their terms.
4. The execution by the Company of this agreement and the performance of its obligations under this agreement and the Scheme do not and will not conflict with or constitute a default under any provision of:
 - (a) its constitution; or
 - (b) any law, order, judgment, award, injunction, decree, rule or regulation by which the Company is bound.
5. Except as contemplated by the Conditions, no approval from any Government Agency in New Zealand, Australia or the Czech Republic (and, as far as the Company is aware as at the date of this agreement, any other jurisdiction) is required to be obtained by the Company in order for it to execute and perform this agreement and no regulatory action of any nature of which the Company is aware as at the date of this agreement has been taken that would prevent or restrict the Company's obligations under this agreement.
6. As at the date of this agreement, the only shares and equity securities on issue in the Company are:
 - (a) 89,035,734 Shares (being fully paid ordinary shares quoted on the NZX); and
 - (b) 300,000 Options intended to be converted, in accordance with clause 9.7, into Shares prior to or on the Record Date,and there are no other shares, options or other securities (including equity securities, share appreciation rights, phantom shares, debt securities or convertible securities) or other instruments which are convertible into securities in a member of the MHM Automation Group on issue, nor has any member of the MHM Automation Group offered or agreed to issue or grant, and no other person has any right to call for the issue or grant of, any such shares, options or other securities or other instruments to a third party.
7. As at 8.00am on the Implementation Date, there will be on issue no more than 89,335,734 Shares and no options or other financial products (including equity securities, share appreciation rights, phantom shares, debt securities or convertible securities) or other instruments which are convertible into securities in a member of the MHM Automation Group will be outstanding or become outstanding.
8. Each member of the MHM Automation Group is validly existing under the laws of its jurisdiction of incorporation.

9. All of the shares in each member of the MHM Automation Group are, directly or indirectly, legally and beneficially owned by the Company.
10. As at the date of this agreement, the Company has not authorised any dividend or other distribution payable after the date of this agreement and before the Implementation Date.

Information

11. The Company has filed with the Registrar and NZX all documents required to be filed with the Registrar or NZX including pursuant to NZX Listing Rule 3.1.1 (**Disclosure Documents**) and is not in breach of its continuous and periodic disclosure obligations under the Companies Act and the NZX Listing Rules and is not relying on the carve-out in NZX Listing Rule 3.1.2 to withhold any information from public disclosure. The Disclosure Documents do not contain any untrue statement of a material fact or omit to state a material fact required to be stated by it, except to the extent that such statements have been modified or superseded by a later Disclosure Document.
12. The Data Room Information has been prepared and provided in good faith and, as far as the Company is aware, on the date they were prepared, the items comprising the Data Room Information were true and accurate in all material respects and no information that has been included in the Data Room Information was, when given, materially false or misleading, including by omission.
13. As at the date of this agreement, the Company is not aware of any material circumstance which has not been disclosed in the Data Room Information or to the NZX under the Company's continuous disclosure obligations and which might reasonably be expected materially and adversely to affect the financial position, business, assets, prospects or profitability of any member of the MHM Automation Group or the value of the Shares, or which might otherwise reasonably be expected to be material to a purchaser of the Shares.
14. As at the date of this agreement, the Company is not in negotiations or discussions (other than with the Acquirer and its Representatives) with any party relating to any Competing Proposal.

Property

15. No member of the MHM Automation Group has a legal or equitable interest (including any leasehold interest or licence) in land that has not been fairly disclosed in the Data Room Information.
16. All material documentation in relation to each leasehold property interest of the MHM Automation Group has been fairly disclosed in the Data Room Information.

Contracts

17. Except as fairly disclosed in the Data Room Information, no member of the MHM Automation Group is party to:
 - (a) at the date of this agreement, a contract which restricts its ability to carry on any business activities in any material respect; or
 - (b) any guarantee or indemnity in respect of, or, as far as the Company is aware on the date of this agreement, otherwise liable or contingently liable in any way for the obligations of, any other person.

18. The Company has fairly disclosed in the Data Room Information all existing written terms of all contracts and leases which are material to the business of the MHM Automation Group as a whole as at the date of this agreement.
19. Except as fairly disclosed in the Data Room Information, neither the execution of this agreement, nor the implementation of the Scheme, will so far as the Company is aware on the date of this agreement:
 - (a) entitle any person to cancel, terminate earlier than would otherwise have been the case, or adversely modify any material contract, commitment or arrangement to which any member of the MHM Automation Group is a party or under which any member of the MHM Automation Group is entitled to a material right or benefit, or any material provision thereof;
 - (b) entitle any person to any payment, or the provision of any other valuable consideration, by a member of the MHM Automation Group;
 - (c) be likely to cause any material supplier or customer of any member of the MHM Automation Group to discontinue or substantially reduce its business with the MHM Automation Group; or
 - (d) otherwise cause or be likely to cause any material right, benefit, interest or asset held or enjoyed by any member of the MHM Automation Group to be acquired by another person, or cancelled, terminated or lost or adversely qualified or impaired.
20. As at the date of this agreement, so far as the Company is aware:
 - (a) no member of the MHM Automation Group is in material default under any material document, agreement or instrument binding on it or its assets; and
 - (b) nothing has occurred, other than the Transaction, which is or would with the giving of notice or the lapse of time constitute an event of default or prepayment event,

where the default or the occurrence would be reasonably likely to give rise to a loss or liability for the MHM Automation Group of more than \$500,000.

Intellectual Property

21. As at the date of this agreement, as far as the Company is aware, the conduct of the Business does not infringe, misappropriate or otherwise violate the intellectual property of any person in any material respect.
22. As at the date of this agreement, as far as the Company is aware, the MHM Automation Group owns, or has the lawful right to use, all intellectual property necessary for the MHM Automation Group to conduct the Business in the ordinary course in the manner in which the Business was conducted on the date of this agreement (**MHM IP**).
23. As at the date of this agreement:
 - (a) no member of the MHM Automation Group has received any written notice of any current claim asserting Infringement of the intellectual property of any person, or challenging the ownership, enforceability, validity, scope or use of the MHM IP and, as far as the Company is aware, as at the date of this agreement, no claim is pending or threatened; and
 - (b) so far as the Company is aware, no person is Infringing any MHM IP in any material respect.

Compliance with laws

24. Each member of the MHM Automation Group has:
 - (a) complied in all material respects with all New Zealand and foreign laws and regulations applicable to it; and
 - (b) all material Authorisations for them to conduct the business of the MHM Automation Group as presently being conducted.
25. As at the date of this agreement, so far as the Company is aware, no member of the MHM Automation Group is under investigation with respect to the violation of any laws, regulations or applicable Authorisations.
26. As at the date of this agreement, the Company is not aware of any circumstances which entitle or may entitle any government agency to suspend, cancel or terminate any Authorisation held by the MHM Automation Group and, so far as the Company is aware, none of the Authorisations held by the MHM Automation Group are being or are likely to be withdrawn, cancelled, qualified, or adversely affected in any manner, whether by reason of the implementation of the Scheme or otherwise.
27. At the date of this agreement, except as fairly disclosed in the Data Room Information, there is:
 - (a) no current claim, dispute, demand, action, litigation, prosecution, arbitration, investigation, audit, mediation or other proceeding (**Claim**) which has been notified in writing to, or in respect of which proceedings have been commenced against, a member of the MHM Automation Group, or
 - (b) so far as the Company is aware, no pending or threatened Claim.

Indebtedness and liabilities

28. As at the date of this agreement, except as fairly disclosed in the Data Room Information, the MHM Automation Group does not have any outstanding financing that is not reflected in its financial statements and notes thereto for the year ended 30 June 2023, and since 30 June 2023, no member of the MHM Automation Group has engaged in any financing of a type which is not required to be shown or reflected in its financial statements or notes thereto.
29. At the date of this agreement, no member of the MHM Automation Group has any actual liability or, as far as the Company is aware, contingent liability which exceeds \$500,000 except, in either case, for liabilities or contingent liabilities fairly disclosed in the Data Room Information.

AML and Sanctions

30. No member of the MHM Automation Group, nor any of their respective directors, officers, employees, agents, or other persons acting on behalf or for the benefit of the MHM Automation Group:
 - (a) has, in connection with any member of the MHM Automation Group, offered, promised, provided, or authorised the provision of any money, property, contribution, gift, entertainment or other thing of value, directly or indirectly, to any government official or any other person to influence official action or secure an improper advantage, or to encourage the recipient to

breach a duty of good faith or loyalty or the policies of his/her employer, or has otherwise violated any Anti-Corruption Law; nor

(b) is a Sanctioned Person nor has engaged in, nor is it now engaged in, any dealings or transactions with or for the benefit of any Sanctioned Person, nor has otherwise violated Sanctions.

31. No member of the MHM Automation Group, has violated or is in violation of any Anti-Money Laundering Law.
32. Each member of the MHM Automation Group, including their respective directors, officers and employees and, to the knowledge of the Company, their agents and any other persons acting on their behalf, has conducted its operations at all times in compliance with all applicable Anti-Corruption Laws, Anti-Money Laundering Laws and Sanctions, and no suit, action, inquiry, investigation or proceeding before or by any Governmental Authority with respect to alleged violations by or on behalf of a member of the MHM Automation Group of any Anti-Corruption Laws, Anti-Money Laundering Laws or Sanctions is pending or, to the knowledge of the Company, threatened.
33. Each member of the MHM Automation Group has in place and have adhered to policies and procedures designed to prevent their directors, officers, employees, contractors, sub-contractors, service providers, agents and intermediaries from undertaking any activity, practice or conduct relating to the business of the MHM Automation Group that would constitute an offence under the Anti-Corruption Laws, Anti-Money Laundering Laws and Sanctions. In this Schedule 1:

Anti-Corruption Laws means any anti-bribery or anti-corruption laws (including laws that prohibit the corrupt payment, giving, offer, promise or authorisation of the payment or transfer of anything of value (including gifts or entertainment), directly or indirectly, to any government official, commercial entity or any other person to obtain a business advantage) applicable to the MHM Automation Group and its operations from time to time, including without limitation, and as applicable: (i) the Crimes Act 1961 (NZ) and the Secret Commissions Act 1910 (NZ), and (ii) any similar Laws in any other jurisdiction in which any member of the MHM Automation Group operates, in each case as applicable and as amended from time to time.

Anti-Money Laundering Laws means any anti-money laundering-related laws and codes of practice applicable to the MHM Automation Group and its operations from time to time, including without limitation, the Anti Money Laundering and Countering Financing of Terrorism Act 2009 (NZ) and any similar Laws in any other jurisdiction in which any member of the MHM Automation Group operates, in each case as applicable and as amended from time to time.

Sanctioned Person means a person that is, as applicable: (a) subject to or the target of Sanctions (including but not limited to any person that is designated on the list of "Specially Designated Nationals and Blocked Persons" administered by the U.S. Treasury Department's Office of Foreign Assets Control or similar lists maintained by the U.S. Department of State and the U.S. Department of Commerce), (b) located in or organised under the laws of a country or territory which is the subject of country- or territory-wide Sanctions (including without limitation Cuba, Iran, North Korea, Syria, or the Crimea region of Ukraine), or (c) owned 50% (fifty percent) or more, or controlled, by any of the foregoing.

Sanctions means all trade, economic and financial sanctions laws administered, enacted or enforced from time to time by, as applicable: (i) the United States (including without limitation the Department of Treasury, Office of Foreign Assets Control, and the United States Department of State, the U.S. Department of State and the U.S. Department of Commerce), (ii) the European Union and enforced by its member states, (iii) the United Nations, (iv) the United Kingdom (including without limitation Her Majesty's Treasury), or (v) any other similar governmental authority with regulatory authority over any member of the MHM Automation Group from time to time.

PART 2

COMPANY UNDERTAKINGS

1. The Company will ensure that the Company Information:
 - (a) is prepared in good faith and on the understanding that each of the Acquirer Indemnified Parties will rely on that information for the purposes of considering and approving the Acquirer Information in the Scheme Booklet;
 - (b) complies with the Companies Act, the FMCA and all other applicable laws and the NZX Listing Rules on the date the Scheme Booklet is sent to Shareholders; and
 - (c) in the form and context in which it appears in the Scheme Booklet is true and correct in all material respects and is not misleading or deceptive, including by omission as at the date the Scheme Booklet is sent to Shareholders.
2. The Company will provide to Shareholders and the Acquirer all new material information of which it becomes aware after the Scheme Booklet has been sent to Shareholders and before the date of the Scheme Meeting which is necessary to ensure that the Company Information, in the form and context in which it appears in the version of the Scheme Booklet sent to Shareholders, is not misleading or deceptive, including by omission. This clause is not intended to limit any continuous disclosure obligations.
3. All information provided by or on behalf of the Company to the Independent Adviser will be provided in good faith and on the understanding that the Independent Adviser will rely upon that information for the purpose of preparing the Independent Adviser's report for inclusion in the Scheme Booklet, will be true and correct in all material respects and will not be misleading or deceptive, including by omission.

SCHEDULE-3 - ACQUIRER WARRANTIES AND UNDERTAKINGS

PART 1

ACQUIRER WARRANTIES

1. The Acquirer and, if applicable, the Acquirer Nominee is a corporation validly existing under the laws of its place of incorporation.
2. The Acquirer and the Acquirer Nominee (if applicable and to the extent relevant) has the power to execute and deliver and to perform its obligations under this agreement and the Deed Poll, and has taken all necessary corporate action to authorise such execution and delivery.
3. The obligations of the Acquirer under this agreement are, and the obligations of the Acquirer and, if applicable, the Acquirer Nominee under the Deed Poll will, on execution of the Deed Poll be, legal, valid and binding obligations enforceable subject to and in accordance with their terms.
4. The execution and delivery by the Acquirer of this agreement and the execution and, in due course, delivery by the Acquirer and the Acquirer Nominee (if applicable) of the Deed Poll do not and will not conflict with or constitute a default under any provision of:
 - (a) the constitution or equivalent documents of the Acquirer or the Acquirer Nominee (if applicable); or
 - (b) any law, order, judgment, award, injunction, decree, rule or regulation by which the Acquirer or the Acquirer Nominee (if applicable) is bound.
5. No Insolvency Event has occurred in relation to the Acquirer or the Acquirer Nominee (if applicable) nor has any regulatory action of any nature of which it is aware been taken that would prevent or restrict the Acquirer's obligations under this agreement.
6. Except as contemplated by the Conditions, no approval from any Government Agency is required to be obtained by the Acquirer or the Acquirer Nominee (if applicable and to the extent relevant) in order to execute and perform this agreement.
7. As at 8.00am on the Implementation Date, the Acquirer will have available to it on an unconditional basis sufficient cash reserves (whether from internal cash reserves or external debt or equity funding arrangements or a combination of both) to satisfy the Acquirer's obligations to pay the Scheme Consideration in accordance with its obligations under this agreement, the Scheme and the Deed Poll.

PART 2

ACQUIRER UNDERTAKINGS

1. The Acquirer will ensure that the Acquirer Information:
 - (a) is prepared in good faith and on the understanding that each of the Company Indemnified Parties will rely on that information to prepare the Scheme Booklet and to propose and implement the Scheme in accordance with the Companies Act;
 - (b) complies with the Companies Act and the FMCA and all other applicable laws; and
 - (c) in the form and context in which it appears in the Scheme Booklet is true and correct in all material respects and is not misleading or deceptive, including by omission as at the date the Scheme Booklet is sent to Shareholders.

2. The Acquirer will provide to the Company all new material information of which it becomes aware after the Scheme Booklet has been sent to Shareholders and before the date of the Scheme Meeting which is necessary to ensure that the Acquirer Information, in the form and context in which that information appears in the version of the Scheme Booklet sent to Shareholders, is not misleading or deceptive in any material respect, including by omission.
3. All information provided by or on behalf of the Acquirer or the Acquirer Nominee (if applicable) to the Independent Adviser will be provided in good faith and on the understanding that the Independent Adviser will rely upon that information for the purpose of preparing the Independent Adviser's Report for inclusion in the Scheme Booklet, will be true and correct in all material respects and will not be misleading or deceptive, including by omission.

SCHEDULE 4 – TIMETABLE

	Event	Indicative date (Business Days)
1.	Announcement that this agreement has been signed	Upon signing this agreement
2.	Acquirer to submit OIO Application	Within 10 Business Days of Item 1
3.	Company to submit its vendor information form under the Overseas Investment Act 2005 and Overseas Investment Regulations 2005	Within 1 Business Day of Item 2
4.	Draft Scheme Booklet (excluding the Independent Adviser's Report) provided to the Acquirer	Within 5 Business Days of Item 1 (to the extent not already provided prior to the date of this agreement)
5.	Comments on the Scheme Booklet provided by the Acquirer to the Company for review	Within 3 Business Days of Item 4 (to the extent not already provided prior to the date of this agreement)
6.	Final draft Scheme Booklet (excluding the Independent Adviser's Report) provided to the Acquirer	Within 5 Business Days of Item 5
7.	Final draft Scheme Booklet (including the Independent Adviser's Report) provided to the Takeovers Panel for review	Within 5 Business Days of Item 6
8.	Scheme Booklet (including Independent Adviser's Report) approved by Takeovers Panel and Takeovers Panel issues Letter of Intention	Within 15 Business Days of Item 7
9.	Application for Initial Orders filed	Within 1 Business Day of Item 8
10.	First Court Date	As soon as possible after item 9, subject to Court availability
11.	Sealed Initial Orders and a Minute of the Court from the First Court Date sent to the Takeovers Panel	On the same date as item 10
12.	Scheme Booklet (including Independent Adviser's Report) sent to Shareholders	Within 5 Business Days of receiving the Initial Orders
13.	Scheme Meeting	Within 20 Business Days of Item 12
14.	Documents filed in respect of Second Court Date	Within 10 Business Days of Scheme Meeting
15.	Second Court Date	As soon as possible after Item 14, subject to Court availability

	Event	Indicative date (Business Days)
16.	Final Orders Date	On the Second Court Date
17.	Suspend trading on NZX	2 Business Days after the later of: <ul style="list-style-type: none"> • the Final Orders Date; or • the date on which the OIO Condition is satisfied.
18.	Record Date	5 Business Days after the later of: <ul style="list-style-type: none"> • the Final Orders Date; or • the date on which the OIO Condition is satisfied.
19.	Implementation Date	5 Business Days after the Record Date
20.	De-listing from NZX	Close of trading on the Implementation Date

ANNEXURE 1
SCHEME PLAN

SCHEME PLAN

SCHEME OF ARRANGEMENT PURSUANT TO PART 15 OF THE COMPANIES ACT 1993

PARTIES

- (1) **MHM AUTOMATION LIMITED (Company)**
- (2) **BETTCHEER INDUSTRIES, INC. (Acquirer)**
- (3) Each person who is registered in the Register as the holder of one or more Scheme Shares (together, the **Scheme Shareholders**)

1. DEFINITIONS AND INTERPRETATION

1.1 **Definitions:** In this scheme plan:

Acquirer Nominee has the meaning given to that term in clause 1.5.

Business Day means any day (other than a Saturday, Sunday or a statutory public holiday) in Auckland or Christchurch, New Zealand and excluding any day between 27 December 2023 and 12 January 2024;

Companies Act means the Companies Act 1993;

Conditions means the conditions precedent set out in the first column of the table of clause 3.1 of the Scheme Implementation Agreement;

Consideration means NZ\$1.70 in cash in respect of each Scheme Share held by a Scheme Shareholder or such other amount notified to the Company by the Acquirer in accordance with clause 7.1;

Court means the High Court of New Zealand, Christchurch Registry;

Deed Poll means the deed poll entered into by the Acquirer and, if applicable, the Acquirer Nominee in favour of the Scheme Shareholders dated [];

Encumbrance means any security interest (within the meaning of section 17(1)(a) of the Personal Property Securities Act 1999) and any option, right to acquire, right of pre-emption, assignment by way of security, trust arrangement for the purpose of providing security, retention arrangement or other security interest of any kind (other than any reservation of title by suppliers in the ordinary course of business), and any agreement to create any of the foregoing;

End Date has the meaning given to that term in the Scheme Implementation Agreement;

Final Orders means orders of the Court on application of the Company, that the Scheme be binding on the Company, the Acquirer, the Acquirer Nominee (if applicable), the Shareholders and such other persons or class of persons as the Court may specify, in accordance with section 236(1) (and section 237, if applicable) of the Companies Act;

Final Orders Date means the day on which the Final Orders are granted by the Court;

Funds has the meaning given to that term in clause 3.1;

Government Agency means any government, department, officer or minister of any government and any governmental, semi-governmental, administrative, fiscal, judicial or quasi-judicial agency, authority, board, commission, tribunal or entity;

Implementation Date means the date on which the Scheme is to be implemented, being five Business Days after the Record Date, or such other date agreed between the parties in writing;

Initial Orders means, on application by the Company, orders by the Court for the purposes of section 236(2) of the Companies Act;

LINK means Link Market Services Limited;

NZX means NZX Limited and, where the context requires, the main board financial market that it operates;

NZX Listing Rules means the NZX Listing Rules for the NZX Main Board;

OIO Condition has the meaning given to that term in the Scheme Implementation Agreement;

Record Date means 7.00pm on the date which is five Business Days after the later of:

- (a) the Final Orders Date; and
 - (b) the date on which the OIO Condition is satisfied,
- or such other date agreed between the parties in writing;

Register means the register of Shares maintained by LINK on behalf of the Company;

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

Scheme means this scheme of arrangement, subject to any alterations or conditions made or required by the Court under Part 15 of the Companies Act and approved by the Acquirer and the Company in writing;

Scheme Implementation Agreement means the scheme implementation agreement between the Acquirer and the Company dated 3 November 2023;

Scheme Meeting means the meeting of Shareholders which (as applicable) is to be, or has been, ordered by the Court to be convened pursuant to the Initial Orders in respect of the Scheme and includes any adjournment of that meeting;

Scheme Shareholder means a person who is registered in the Register as the holder of one or more Scheme Shares as at the Record Date;

Scheme Shares means all of the Shares on issue at 7.00pm on the Record Date;

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

Shareholder means a person who is registered in the Register as the holder of one or more Shares from time to time;

Trading Halt Date means the date which is two Business Days after the later of:

- (a) the Final Orders Date; and
- (b) the date on which the OIO Condition is satisfied,

or such other date as the Company and the Acquirer agree in writing;

Trust Account has the meaning given to that term in clause 3.1; and

Unconditional means the satisfaction or, if capable of waiver, waiver of each of the conditions in clause 2.

1.2 **Interpretation:** In this scheme plan, unless the context otherwise requires:

- (a) any reference, express or implied, to any legislation in any jurisdiction includes:
 - (i) that legislation as amended, extended or applied by or under any other legislation made before or after execution of this scheme plan;
 - (ii) any legislation which that legislation re-enacts with or without modification; and
 - (iii) any subordinate legislation made before or after execution of this scheme plan under that legislation, including (where applicable) that legislation as amended, extended or applied as described in clause 1.2(a)(i), or under any legislation which it re-enacts as described in clause 1.2(a)(ii);
- (b) a reference to the NZX Listing Rules includes any variation, consolidation or replacement of those rules and is to be taken to be subject to any waiver or exemption granted to the compliance of those rules by a party;
- (c) references to persons or entities include natural persons, bodies corporate, partnerships, trusts and unincorporated associations of persons;
- (d) references to an individual or a natural person include his her or its estate and personal representatives;
- (e) a reference to a clause, schedule or annexure is a reference to a clause, schedule or annexure of or to this scheme plan (and the schedules and annexures form part of this scheme plan);
- (f) subject to clause 20.2 of the Scheme Implementation Agreement, references to a party to this scheme plan include the successors or assigns (immediate or otherwise) of that party;
- (g) a reference to any instrument or document includes any variation or replacement of it;
- (h) a reference to any time is a reference to that time in New Zealand;
- (i) unless otherwise stated, a reference to \$, or dollars is to New Zealand currency;
- (j) singular words include the plural and vice versa;
- (k) a word of any gender includes the corresponding words of any other gender;
- (l) if a word or phrase is defined, other grammatical forms of that word have a corresponding meaning;
- (m) general words must not be given a restrictive meaning just because they are followed by particular examples intended to be embraced by the general words; and
- (n) headings are to be ignored in construing this scheme plan.

- 1.3 **Things required to be done other than on a Business Day:** Unless otherwise indicated, if the day on or by which any act, matter or thing is to be done is a day other than a Business Day, that act, matter or thing must be done on or by the next Business Day.
- 1.4 **No contra proferentem:** No term or condition of this scheme plan will be construed adversely to a party solely because that party was responsible for the preparation of this scheme plan or a provision of it.
- 1.5 **Acquirer Nominee:** The Acquirer may elect a directly or indirectly wholly-owned subsidiary of the Acquirer (or a directly or indirectly wholly-owned subsidiary of a holding company of the Acquirer) (**Acquirer Nominee**) to acquire all of the Scheme Shares under the Scheme by giving written notice to the Company of the relevant subsidiary at least five Business Days before the First Court Date. If the Acquirer nominates an Acquirer Nominee to acquire all of the Scheme Shares pursuant to the Scheme Implementation Agreement, the Acquirer will procure that the Acquirer Nominee completes the acquisition of the Scheme Shares, and the Acquirer will pay the Consideration on behalf of the Acquirer Nominee, each in accordance with the terms of the Scheme Implementation Agreement and the Deed Poll.

2. CONDITIONS

- 2.1 **Conditions:** The implementation of the Scheme is conditional in all respects on:
- (a) all of the Conditions having been satisfied or, if capable of waiver, waived in accordance with the terms of the Scheme Implementation Agreement by 8.00am on the Implementation Date;
 - (b) neither the Scheme Implementation Agreement nor the Deed Poll having been terminated in accordance with their respective terms before 8.00am on the Implementation Date; and
 - (c) such other conditions made or required by the Court under section 236(1) and 237 of the Companies Act and agreed to in writing by the Company and the Acquirer in accordance with clause 3.2 of the Scheme Implementation Agreement having been satisfied or waived (to the extent capable of waiver) before 8.00am on the Implementation Date.

3. PAYMENT OF CONSIDERATION INTO TRUST ACCOUNT

- 3.1 **Obligation to pay Consideration into Trust Account:** Subject to:
- (a) the Scheme Implementation Agreement not having been terminated; and
 - (b) the Scheme having become Unconditional (except for the Conditions set out in clauses 3.1(e) to 3.1(g) of the Scheme Implementation Agreement),

the Acquirer must, by no later than 5.00pm on the Business Day before the Implementation Date, deposit, or procure the deposit of, in immediately available cleared funds an amount equal to the aggregate amount of the Consideration payable to the Scheme Shareholders in a New Zealand dollar denominated trust account operated by LINK and notified by LINK to the Acquirer no later than 5.00pm on the Business Day falling at least five Business Days before the Implementation Date (the **Funds** and that account, the **Trust Account**).

3.2 **Trust Account:**

- (a) Subject to clauses 3.2(b), 5.4, 5.5 and 5.6, the Trust Account will be held and operated by LINK on the basis that the Funds are held on trust for the Acquirer and to its order, such that only the Acquirer may direct how the Funds will be paid from the Trust Account.
- (b) Clause 3.2(a) is subject to a standing written direction from the Acquirer to the Company and to LINK to make payment of the Consideration to Scheme Shareholders in accordance with this scheme plan upon transfer of the Scheme Shares to the Acquirer under clause 4.1(c).
- (c) The details of the Trust Account will be provided to the Acquirer by (or on behalf of) LINK not less than five Business Days before the Implementation Date.

3.3 **Interest:** Any interest earned on the amounts deposited by the Acquirer into the Trust Account is payable to the Acquirer as directed by the Acquirer, less any bank fees or other third party costs or withholdings or deductions required by law.

3.4 **Scheme not implemented:** If

- (a) the Scheme is not implemented for any reason by 5.00pm on the Implementation Date; or
- (b) this Scheme becomes void under clause 7.5,

LINK will immediately repay the Funds to the Acquirer less any bank fees or other third party costs or withholdings or deductions required by law.

4. **IMPLEMENTATION OF THE SCHEME**

4.1 **Implementation obligations:** Subject to:

- (a) the Scheme becoming Unconditional (to be confirmed to LINK by written notice from the Acquirer and the Company prior to 9.00am on the Implementation Date, which written notice must be so given immediately after 8.00am on the Implementation Date upon the conditions in clause 2 being satisfied); and
- (b) the Consideration having been deposited into the Trust Account in accordance with clause 3.1,

commencing at 9.00am on the Implementation Date, the following steps will occur sequentially:

- (c) without any further act or formality, all the Scheme Shares, together with all rights and entitlements attaching to them as at the Implementation Date, will be transferred to the Acquirer or, if nominated pursuant to clause 1.5, the Acquirer Nominee, and the Company must enter, or procure that LINK enters, the name of the Acquirer or, if nominated pursuant to clause 1.5, the Acquirer Nominee in the Register in respect of all of the Scheme Shares; and
- (d) in accordance with the direction set out in clause 3.2(b), subject to compliance in full with clause 4.1(c), the Company must instruct LINK to pay or procure the payment from the Trust Account of the Consideration to each Scheme Shareholder based on the number of Scheme Shares held by such Scheme Shareholder as set out in the Register on the Record Date in accordance with clause 5.

5. PAYMENT OF THE CONSIDERATION

5.1 **Method of payment:** The payment under clause 4.1(d) will be satisfied by:

- (a) where a Scheme Shareholder has, prior to the Record Date, provided bank account details to enable LINK and the Company to make payments of New Zealand dollars by electronic funds transfer, LINK must pay the Consideration in New Zealand dollars to the Scheme Shareholder by electronic funds transfer of the relevant amount to the bank account nominated by that Scheme Shareholder;
- (b) where a Scheme Shareholder has not, prior to the Record Date, provided bank account details to enable LINK and the Company to make payments of New Zealand dollars by electronic funds transfer, the following and clause 5.7 will apply. Where a Scheme Shareholder with a Registered Address outside of New Zealand has, prior to the Record Date, provided sufficient written instructions (to LINK's satisfaction) to enable LINK to make payment in a currency other than New Zealand dollars (and LINK is able to make payment in that currency), LINK must pay the Consideration (less any applicable costs, exchange rate spread and fees) to the Scheme Shareholder by electronic funds transfer of the relevant amount in the applicable currency to the bank account nominated by that Scheme Shareholder; or
- (c) where a Scheme Shareholder has not provided the information and/or taken the steps contemplated by clauses 5.1(a) or 5.1(b) to enable payment to be made to such Scheme Shareholder in a manner contemplated by one of those clauses (or if an electronic payment to such Scheme Shareholder is rejected by the recipient bank) LINK must retain the Consideration owed to that Scheme Shareholder in the Trust Account to be claimed by the Scheme Shareholder in accordance with clause 5.5.

If a Shareholder has given more than one payment direction, then the later direction in time of receipt will be followed.

5.2 **Joint holders:** In the case of Scheme Shares held in joint names:

- (a) the Consideration is payable to the bank account nominated by the joint holders or, at the sole discretion of the Company, nominated by the holder whose name appears first in the Register as at the Record Date; and
- (b) any other document required to be sent under this scheme plan will be sent to either, at the sole discretion of the Company, the holder whose name appears first in the Register as at the Record Date or to the joint holders.

5.3 **Surplus in Trust Account:** To the extent that, following satisfaction of the obligations under clause 4.1(d), there is a surplus in the Trust Account, LINK must pay that surplus, less:

- (a) any amount retained under clauses 5.1(c) or 5.6(b); and
- (b) any bank fees or other third party costs or withholdings or deductions required by law, to the Acquirer in accordance with the Acquirer's written instructions to LINK.

5.4 **Holding on trust:** The Company must, in respect of any monies retained by LINK pursuant to clauses 5.1(c) or 5.6(b), instruct LINK to hold such monies in the Trust Account on trust for the

relevant Scheme Shareholders for a period of 24 months and thereafter, subject to clause 5.5, to pay any remaining money in the Trust Account to the Company.

5.5 **Unclaimed monies:** During the period of 24 months commencing on the Implementation Date, on request in writing from a Scheme Shareholder that has not received payment of the Consideration in accordance with clause 5.1(a) or 5.1(b), LINK must, if such Scheme Shareholder has taken the necessary steps required to effect payment to such Scheme Shareholder in a manner contemplated by clause 5.1(a) or 5.1(b), pay to that Scheme Shareholder the Consideration held on trust for that Scheme Shareholder in a manner contemplated by clause 5.1(a) or 5.1(b) (or in any other manner approved by LINK and agreed to by that Scheme Shareholder).

5.6 **Orders of a court or Government Agency:** Notwithstanding any other provision of this scheme plan, if written notice is given to the Company on or prior to the Record Date of an order or direction made by a court of competent jurisdiction or a Government Agency that:

(a) requires Consideration to be provided to a third party in respect of Scheme Shares held by a particular Scheme Shareholder, which would otherwise be payable to that Scheme Shareholder in accordance with clause 4.1(d), the Company will be entitled to procure, and the Acquirer will be deemed to have instructed LINK to ensure, that provision of that Consideration is made in accordance with that order or direction; or

(b) prevents the Consideration from being provided to any particular Scheme Shareholder in accordance with clause 4.1(d), or the payment of such Consideration is otherwise prohibited by applicable law, the payment (equal to the number of Scheme Shares held by that Scheme Shareholder multiplied by the Consideration) will be retained in the Trust Account until such time as provision of the Consideration to the Scheme Shareholder in accordance with clause 4.1(d) or clause 5.5 (as applicable) is permitted by that order or direction or otherwise by law,

and such provision or retention (as the case may be) will constitute the full discharge of the Acquirer's and the Company's obligations under clause 4.1(d) with respect to the amount so provided or retained.

5.7 **Exchange rate:** If a Scheme Shareholder elects to be paid in a currency other than New Zealand dollars, the conversion of the Consideration from New Zealand dollars into the relevant currency will be undertaken in a manner and at an exchange rate determined by LINK (in LINK's discretion) and neither the Acquirer nor the Company will be responsible for, or have any liability of any nature, in connection with that conversion.

6. DEALING IN SHARES

6.1 **Recognition of dealings:**

(a) Following the sealing of the Final Orders, the Company will advise NZX of the grant of the Final Orders and, once known, the Trading Halt Date and Record Date and use its reasonable endeavours to procure that the NZX suspend trading in the Shares from the close of trading on the Trading Halt Date.

(b) The Company must not accept for registration, nor recognise for any purpose (except a transfer pursuant to this scheme plan and any subsequent transfer by the Acquirer or its successors in title), any Share transfer or Share transmission application or other similar

request received after 7.00pm on the Record Date or received prior to such time but not in registrable or actionable forms.

6.2 Register:

- (a) The Company must register registrable transmission applications or registrable transfers of Shares received prior to the close of trading on the Trading Halt Date before 7.00pm on the Record Date provided that, for the avoidance of doubt, nothing in this clause 6.2(a) requires the Company to register a transfer that relates to a transfer of Shares on which the Company has a lien.
- (b) A holder of Scheme Shares (and any person claiming through that holder) must not dispose of, or purport or agree to dispose of, any Scheme Shares or any interest in them, after 7.00pm on the Trading Halt Date otherwise than pursuant to this scheme plan, and any attempt to do so will have no effect and the Company and the Acquirer are entitled to disregard any such disposal.
- (c) For the purpose of determining entitlements to the Consideration, but subject to the requirements of the NZX Listing Rules, the Company must maintain the Register in accordance with the provisions of this clause 6.2 until the Consideration has been paid to the Scheme Shareholders. The Register in this form will solely determine entitlements to the Consideration.
- (d) From 7.00pm on the Record Date, each entry that is current on the Register, will cease to have effect except as evidence of entitlement to the Consideration in respect of the Scheme Shares relating to that entry.
- (e) As soon as possible on the first Business Day after the Record Date and in any event by 7.00pm on that day, the Company must make available to the Acquirer in the form the Acquirer reasonably requires, details of the names, Registered Addresses and holdings of Shares for each Scheme Shareholder as shown in the Register on the Record Date.

7. GENERAL PROVISIONS

7.1 **Amendments to Consideration:** The Acquirer may increase the Consideration by written notice at any time to the Company prior to the Scheme Meeting, provided that the Scheme Implementation Agreement has not been terminated in accordance with its terms prior to the date on which the Acquirer is required to deposit the aggregate Consideration in the Trust Account under clause 3.1.

7.2 Title to and rights in Scheme Shares:

- (a) To the extent permitted by law, the Scheme Shares (including all rights and entitlements attaching to the Scheme Shares) transferred under this scheme plan to the Acquirer (or, if nominated pursuant to clause 1.5, the Acquirer Nominee) will, at the time of transfer of them to the Acquirer or, if applicable, the Acquirer Nominee, vest in the Acquirer or the Acquirer Nominee (as applicable) free from all Encumbrances and free from any restrictions on transfer of any kind.
- (b) Each Scheme Shareholder is taken to have warranted to the Acquirer or, if nominated pursuant to clause 1.5, the Acquirer Nominee on the Implementation Date that all their

Scheme Shares (including any rights and entitlements attaching to those Shares) which are transferred under this scheme plan will, at the time of transfer, be fully paid and free from all Encumbrances and restrictions on transfer of any kind, and that the Scheme Shareholder has full power and capacity to transfer the Scheme Shareholder's Shares to the Acquirer or the Acquirer Nominee (as applicable) together with any rights and entitlements attaching to those Shares.

7.3 Authority given to the Company: Each Scheme Shareholder, without the need for any further act:

- (a) on the Final Orders Date irrevocably appoints the Company as the Scheme Shareholder's attorney and agent for the purpose of enforcing the Deed Poll against the Acquirer and the Acquirer Nominee (if applicable) (but without limiting each Scheme Shareholder's right to itself enforce the Deed Poll); and
- (b) on the Implementation Date, irrevocably appoints the Company as the Scheme Shareholder's attorney and agent for the purpose of executing any document or doing or taking any other act necessary, desirable or expedient to give effect to the Scheme and the transactions contemplated by it,

and the Company, for itself and on behalf of each of its directors, accepts each such appointment. Each such attorney and agent, may sub-delegate its functions, authorities or powers under this clause 7.3 to one or more of the Company's directors or senior executives.

7.4 Binding effect of Scheme:

- (a) The Scheme binds:
 - (i) the Company;
 - (ii) the Acquirer;
 - (iii) the Acquirer Nominee (if applicable); and
 - (iv) all of the Scheme Shareholders (including those who did not attend the Scheme Meeting to vote on this Scheme, did not vote at the Scheme Meeting, or voted against this Scheme at the Scheme Meeting).
- (b) In the event of any inconsistency, this scheme plan overrides the constitution of the Company.

7.5 When this Scheme becomes void: If the Scheme has not become Unconditional on or before the End Date, or if the Scheme Implementation Agreement is terminated in accordance with its terms at any time, this Scheme Plan is immediately void and of no further force or effect (other than clauses 3.3 and 3.4).

7.6 No liability when acting in good faith: Each Scheme Shareholder agrees that none of the directors, officers, employees or advisers of the Company or the Acquirer will be liable for anything done or omitted to be done in the performance of the Scheme in good faith.

7.7 Governing law: This scheme plan is governed by the laws of New Zealand and the parties submit to the non-exclusive jurisdiction of the courts of New Zealand in respect of any dispute or proceeding arising out of this scheme plan. The parties irrevocably waive any objection to the

venue of any legal process in these courts on the basis that the process has been brought in an inconvenient forum.

- 7.8 **Service of process:** The Acquirer appoints Matthew Olsen of Mayne Wetherell as its agent in New Zealand for service of process and other documents in any legal action or proceedings arising out of or in connection with this agreement and will ensure that at all times prior to the Implementation Date or termination of this agreement, Mayne Wetherell or a replacement appointed by the Acquirer and approved by the Company, is authorised and able to accept service of process and other documents on its behalf in New Zealand.
- 7.9 **Successor obligations:** To the extent that any provision of the Scheme or this scheme plan imposes any obligation on the Acquirer or the Company that continues or arises after the implementation of the Scheme, such obligation may instead be performed by any successor or related company of the Acquirer or the Company (as applicable) in which case the obligation will be satisfied as if performed by the Acquirer or the Company (as applicable).

ANNEXURE 2
DEED POLL

**DEED POLL RELATING TO THE
SCHEME OF ARRANGEMENT
INVOLVING MHM AUTOMATION
LIMITED**

Given by
BETTCHER INDUSTRIES, INC.

and

[ANY ACQUIRER NOMINEE]

in favour of
SCHEME SHAREHOLDERS

DATED

2023

BY:

- (1) **BETTCHEER INDUSTRIES, INC. (Acquirer)**
- (2) **[Any Acquirer Nominee] (Acquirer Nominee)**
- (3) **IN FAVOUR OF: SCHEME SHAREHOLDERS** (as defined below)

INTRODUCTION

- A. MHM Automation Limited (**Company**) and the Acquirer are parties to the Scheme Implementation Agreement.
- B. The Company has agreed in the Scheme Implementation Agreement to propose a scheme of arrangement between the Company, the Acquirer and the Scheme Shareholders, the effect of which will be that all Scheme Shares will be transferred to the Acquirer [Nominee], and the Acquirer will provide or procure the provision of the Consideration to the Scheme Shareholders.
- C. The Acquirer is entering into this deed poll for the purpose of undertaking in favour of the Scheme Shareholders to pay the Consideration [on behalf of the Acquirer Nominee] to the Scheme Shareholders in accordance with the terms of the Scheme Plan.
- D. [The Acquirer Nominee is entering into this deed poll as the Acquirer's nominee to acquire all of the Scheme Shares in accordance with the terms of the Scheme Plan in consideration for, and simultaneously with, the payment of the Consideration by the Acquirer on behalf of the Acquirer Nominee to Scheme Shareholders.]

1. DEFINITIONS AND INTERPRETATION

- 1.1 **Defined terms:** In this deed poll, unless the context requires otherwise:

Final Orders means orders of the Court on application of the Company, that the Scheme shall be binding on the Company, the Acquirer, [the Acquirer Nominee,] the Scheme Shareholders and such other persons or class of persons as the Court may specify, in accordance with section 236(1) (and section 237, if applicable) of the Companies Act;

Scheme Implementation Agreement means the scheme implementation agreement between the Company and the Acquirer dated 3 November 2023 whereby the Company has agreed to propose a scheme of arrangement under which all of the Scheme Shares held by Scheme Shareholders will be transferred to the Acquirer [Nominee] and the Acquirer will pay the Consideration to the Scheme Shareholders;

Scheme Plan means the scheme plan attached as annexure 1 to the Scheme Implementation Agreement, subject to any alterations or conditions approved by the Acquirer and the Company in writing and which are disclosed to the Court prior to the Court making the Final Orders;

Scheme Shareholder means a person who is registered in the Register as the holder of one or more Scheme Shares as at the Record Date; and

Unconditional means the satisfaction or, where capable of waiver, waiver of each of the conditions in clause 2 of the Scheme Plan.

- 1.2 **Other defined terms:** Words defined in the Scheme Plan which are not separately defined in this deed poll have the same meaning when used in this deed poll.
- 1.3 **Interpretation:** Clauses 1.2, 1.3 and 1.4 of the Scheme Plan apply to the interpretation of this deed poll, except that references to “this scheme plan” are to be read as reference to “this deed poll”.

2. NATURE OF THIS DEED POLL

- 2.1 **Third party rights and appointment of attorney:** [The][Each of the] Acquirer [and the Acquirer Nominee] acknowledges and agrees that:

- (a) this deed poll is intended to, and does, confer a benefit on, and therefore may be relied on and enforced by, any Scheme Shareholder in accordance with its terms under Part 2, Subpart 1 of the Contract and Commercial Law Act 2017 (but not otherwise), even though the Scheme Shareholders are not party to it; and
- (b) under the Scheme Plan each Scheme Shareholder appoints the Company as the Scheme Shareholder’s attorney and agent to enforce this deed poll against the Acquirer [and the Acquirer Nominee] with effect on and from the date prescribed for such appointment in the Scheme Plan (but without limiting each Scheme Shareholder’s right to itself enforce this deed poll).

Notwithstanding clauses 2.1(a) and 2.1(b) this deed poll may be varied by agreement between the Company and the Acquirer in accordance with clause 8.2 without the approval of any Scheme Shareholder.

- 2.2 **Continuing obligations:** This deed poll is irrevocable and, subject to clause 3, remains in full force and effect until either:
- (a) the Acquirer [and the Acquirer Nominee] [has][have] fully performed [its][their] obligations under it; or
- (b) it is terminated under clause 4.1.

3. CONDITIONS

- 3.1 The Acquirer’s [and the Acquirer Nominee’s] obligations under clause 5.2 are conditional on the Scheme becoming Unconditional.

4. TERMINATION

- 4.1 **Termination:** The obligations of the Acquirer [and the Acquirer Nominee] under this deed poll will automatically terminate, and the terms of this deed poll will be of no force or effect, if the Scheme Implementation Agreement is validly terminated in accordance with its terms before the Scheme becomes Unconditional unless the Acquirer and the Company otherwise agree in writing.
- 4.2 **Consequences of termination:** If this deed poll is terminated under clause 4.1, then [each of] the Acquirer [and the Acquirer Nominee] is released from its obligations to further perform this deed poll.

5. SCHEME CONSIDERATION

5.1 **Deposit of Consideration:** Subject to:

- (a) the Scheme Implementation Agreement not being terminated; and
- (b) the Scheme having become Unconditional (except for the Conditions set out in clauses 3.1(e) to 3.1(g) of the Scheme Implementation Agreement),

the Acquirer undertakes in favour of each Scheme Shareholder to deposit, or procure the deposit of, in immediately available cleared funds, by no later than 5.00pm on the Business Day before the Implementation Date, an amount equal to the aggregate amount of the Consideration payable to all Scheme Shareholders as set out in the Scheme Plan, such deposit to be made into the Trust Account to be held and dealt with by LINK in accordance with the Scheme Plan.

5.2 **Payment of Consideration:** The Acquirer irrevocably acknowledges and agrees that, subject to:

- (a) the Scheme becoming Unconditional; and
- (b) compliance in full by the Company with its obligations under clause 4.1(c) of the Scheme Plan,

the Consideration deposited into the trust account referred to in clause 5.1 must be, and will be, paid in accordance with clauses 3.1, 4.1(d) and 5 of the Scheme Plan in satisfaction of the Scheme Shareholders' respective entitlements to receive the Consideration under the Scheme in accordance with the Scheme Plan.

6. WARRANTIES

6.1 The Acquirer [and the Acquirer Nominee] warrant[s] in favour of each Scheme Shareholder that:

- (a) it is a company or other body corporate validly incorporated under the laws of its place of incorporation;
- (b) it has the corporate power to enter into, and perform its obligations under, this deed poll and to carry out the transactions contemplated by this deed poll;
- (c) it has taken all necessary corporate action to authorise its entry into this deed poll and has taken, or will prior to the Implementation Date take, all necessary corporate action to authorise the performance of this deed poll and to carry out the transactions contemplated by this deed poll;
- (d) this deed poll is valid and binding on it and enforceable against it in accordance with its terms; and
- (e) this deed poll does not conflict with, or result in the breach of or default under, any provision of its constitution, or any writ, order or injunction, judgment, law, rule or regulation to which it is a party or subject or by which it is bound.

7. NOTICES

7.1 **Manner of giving notice:** Any notice or other communication to be given under this deed poll must be in writing and may be physically delivered or sent by email to the Acquirer as follows:

Address: 6801 State Route 60, Birmingham, Ohio 44889, United States

Attention: Mark Dowdle

Email: MarkDowdle@bettcher.com

with a copy (which will not constitute notice) to:

Address: Mayne Wetherell, Level 5, Bayleys House, 30 Gaunt Street, Auckland 1010

Attention: Matthew Olsen / Cameron Reeves

Email: matthew.olsen@maynewetherell.com / cameron.reeves@maynewetherell.com

or at any such other address or email address notified for this purpose to the other parties under this clause. Any notice or other communication sent by post must be sent by prepaid ordinary post (if the country of destination is the same as the country of origin) or by airmail (if the country of destination is not the same as the country of origin).

7.2 When notice given: In the absence of earlier receipt, any notice or other communication is deemed to have been given:

- (a) if delivered, on the date of delivery; or
- (b) if sent by email, four business hours (being the hours between 9am and 5pm on a Business Day in the jurisdiction of the recipient) 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 (excluding an “out of office” automated message),

but if the notice or other communication would otherwise be taken to be received after 5.00pm or on a Saturday, Sunday or public holiday in the place of receipt then the notice or communication is taken to be received at 9.00am on the next day that is not a Saturday, Sunday or public holiday in the place of receipt.

7.3 Proof of service: In proving service of a notice or other communication, it is sufficient to prove that delivery was made or that the e-mail was properly addressed and transmitted by the sender’s server into the network and there was no apparent error in the operation of the sender’s e-mail system, as the case may be.

7.4 Documents relating to legal proceedings: This clause 7 does not apply in relation to the service of any claim form, notice, order, judgment or other document relating to or in connection with any proceedings, suit or action arising out of or in connection with this deed poll.

8. GENERAL

8.1 Waiver:

- (a) [The Acquirer may not][Neither the Acquirer nor the Acquirer Nominee may] rely on the words or conduct of any Scheme Shareholder as a waiver of any right in respect of the Scheme unless the waiver is in writing and signed by the Scheme Shareholder granting the waiver.
- (b) For the purposes of clause 8.1(a):
 - (i) conduct includes a delay in exercising a right;

- (ii) right means any right arising under or in connection with this deed poll and includes the right to rely on this clause; and
- (iii) waiver includes an election between rights and remedies, and conduct which might otherwise give rise to an estoppel.

8.2 Variation:

- (a) Subject to clauses 8.2(b) and 8.2(c), this deed poll may not be varied.
- (b) Before the date on which the Final Orders are made, this deed poll may be varied by agreement in writing between the Acquirer and the Company, in which event the Acquirer [and the Acquirer Nominee] will enter into a further deed poll in favour of the Scheme Shareholders giving effect to the variation.
- (c) If the Court orders that it is a condition of the Scheme that the Acquirer enter into a new deed poll which has the effect of reversing any variation under clause 8.2(b), then, if the Acquirer so agrees, the Acquirer [and the Acquirer Nominee] must promptly enter into a further deed poll in favour of the Scheme Shareholders to give effect to the reversal of that variation.

8.3 Cumulative rights: The rights, powers and remedies of the Acquirer[, the Acquirer Nominee] and the Scheme Shareholders under this deed poll are cumulative and do not exclude any other rights, powers or remedies provided by law independently of this deed poll.

8.4 Assignment: The rights and obligations of the Acquirer[, the Acquirer Nominee] and each Scheme Shareholder under this deed poll are personal. They cannot be assigned, charged or otherwise dealt with at law or in equity. Any purported dealing in contravention of this clause 8.4 is invalid.

8.5 Governing law: This deed poll is governed by the laws of New Zealand and the parties submit to the non-exclusive jurisdiction of the courts of New Zealand in respect of any dispute or proceeding arising out of this deed poll. The parties irrevocably waive any objection to the venue of any legal process in these courts on the basis that the process has been brought in an inconvenient forum.

8.6 Service of process: The Acquirer appoints Matthew Olsen of Mayne Wetherell as its agent in New Zealand for service of process and other documents in any legal action or proceedings arising out of or in connection with this deed poll and will ensure that at all times prior to the Implementation Date or termination of this deed poll, Mayne Wetherell or a replacement appointed by the Acquirer and approved by the Company, is authorised and able to accept service of process and other documents on its behalf in New Zealand.

EXECUTION:

EXECUTED as a DEED by)
BETTCHEER INDUSTRIES, INC.)

Signature of director)

Signature of director

Name of director

Name of director

EXECUTED as a DEED by)
[ACQUIRER NOMINEE])

Signature of director)

Signature of director

Name of director

Name of director