

Scheme Implementation Agreement

in relation to Arvida Group Limited

Stonepeak Alps BidCo Limited (*Stonepeak*)

Arvida Group Limited (*Arvida*)



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SCHEME IMPLEMENTATION AGREEMENT

Date: 20 July 2024

PARTIES

Stonepeak Alps BidCo Limited (Company No. 9261338) a duly incorporated company having its registered office at c/- Bell Gully, Level 5, Deloitte Centre, 1 Queen Street, Auckland Central, Auckland, 1010, New Zealand (*Stonepeak*)

Arvida Group Limited (Company No. 4904500) a duly incorporated company having its registered office at Floor 15, 29 Customs Street West, Auckland Central, Auckland, 1010, New Zealand (*Arvida*)

BACKGROUND

- A Stonepeak and Arvida have agreed that Stonepeak will acquire all of the Scheme Shares by means of the Scheme.
- B This agreement is entered into to record and give effect to the terms and conditions on which Stonepeak and Arvida propose to implement the Scheme.

THE PARTIES AGREE as follows:

1 DEFINITIONS AND CONSTRUCTION

1.1 Defined terms

In this agreement, unless the context requires otherwise:

Arvida Director means each director of Arvida from time to time;

Arvida Group means Arvida and its Related Entities;

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

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

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

Arvida Warranties means the statements set out in Part 1 of Schedule 2;

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

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

Board means the board of directors of Arvida;

Break Fee means NZ\$12.43 million plus GST, if any;



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

Business Day means a day (other than a Saturday, Sunday or public holiday) on which banks are generally open in Auckland, New Zealand, New York City, New York, United States of America and Singapore for normal business, and excluding any day between 25 December 2024 and 5 January 2025 (both dates inclusive);

Commitment Letters means the Equity Commitment Letter and the Debt Commitment Letter;

Companies Act means the Companies Act 1993;

Competing Proposal means any proposed:

- (a) takeover bid (whether full or partial under the Takeovers Code) for Arvida;
- (b) scheme of arrangement for the acquisition of all or a majority of the Shares;
- (c) reverse takeover, capital reduction, sale of assets, sale of securities, strategic alliance, joint venture, partnership, dual listed companies structure, 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 the shares of Arvida or more than 20% of the shares in any other member or members of the Arvida Group that, individually or collectively, contribute 20% or more of the Operating EBITDA of the Arvida Group or whose assets represent 20% or more of the total consolidated assets of the Arvida Group; or
 - (ii) directly or indirectly acquiring or being entitled to acquire the whole or substantially all of the business or assets of the Arvida Group or any part of the business or assets of the Arvida Group that individually or collectively contributes 20% or more of the Operating EBITDA of the Arvida Group or represents 20% or more of the total consolidated assets of the Arvida Group; or
 - (iii) acquiring Control of Arvida or merging or amalgamating with Arvida or any other member or members of the Arvida Group that individually or collectively contribute 20% or more of the Operating EBITDA of the Arvida Group or represent 20% or more of the total consolidated assets of the Arvida Group; or
- (d) the transfer or issue of financial products of any member of the Arvida Group to a Third Party:
 - (i) where shareholder approval is required under the Takeovers Code; or
 - (ii) in respect of financial products that 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,

or which would otherwise require Arvida to abandon, or otherwise fail to proceed with, or would be inconsistent with the implementation of, the Scheme. For the purposes of the definition of Competing Proposal:

- (e) any such proposal may be an expression of interest, indicative, conditional or otherwise non-binding;
- (f) paragraphs (a), (b), (c) and (d) 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 either of paragraphs (a), (b) (c) or (d);
- (g) each successive material modification to or variation of a Competing Proposal will constitute a new Competing Proposal; and
- (h) references to a Third Party include all Associates of the Third Party;

Computershare Computershare Investor Services Limited;

Condition Satisfaction Date means 22 April 2025 or any other date agreed in writing by the parties;

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

Confidentiality Agreement means the confidentiality and exclusivity deed between Stonepeak Partners LLC and Arvida, dated 9 May 2024, as amended from time to time;

Consideration means NZ\$1.70 in respect of each Scheme Share held by a Scheme Shareholder reduced (except for the purposes of clauses 4.1(a)(iv), 6.2, 8.1(a)(ii), 8.2(a), 14.2(a)(ii)(B), 14.2(b), 15.1(b) or 16.1) by the per Share value of any dividend, the record date for which falls between the date of this agreement and the Implementation Date;

Constitution means the constitution of Arvida;

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, Auckland Registry;

Data Room means the electronic data room hosted by Intralinks established by Arvida for the purposes of the Transaction;

Data Room Index means the index of the information contained in the Data Room, in a form agreed between the parties in writing on or prior to the date of this agreement;

Debt Commitment Letter means the debt commitment letter from the Debt Financing Sources in favour of Stonepeak dated on or before the date of this agreement;

Debt Financing means the debt financing committed pursuant to the Debt Commitment Letter;

Debt Financing Sources means the lenders and other entities that will commit to provide or provide or arrange the Debt Financing, including the lenders and other entities that are party to the Debt Commitment Letter (together with their respective affiliates that become party to the Debt Commitment Letter or which become party to other definitive documentation relating to the Debt Financing);

Deeds of Supervision means the deeds of supervision between the Statutory Supervisor and an Operator in relation to the operation of the Business;

Deed Poll means the deed poll to be entered into by Stonepeak in favour of the Scheme Shareholders in the form attached as Annex 2 or in such other form as the parties agree in writing;

Designated Persons means Jeremy Nicoll, Mark Wells, Richard Davis, Aleshia Wansbrough, Tristan Saunders, Anna Lyne, Mark Jarvis, and Brett Boule (or any person who replaces any such person);

Director Recommendation has the meaning given in clause 8.1(a);

Due Diligence Material means the written information and documents made available to Stonepeak or its Representatives, including the written answers or written confirmations (together with any documents attached to those written answers or confirmations) provided to Stonepeak or its Representatives in response to questions or requests for information by or on behalf of Stonepeak, on or before 5.00pm on 19 July 2024, in the Data Room as listed in the Data Room Index;

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;

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 to the implementation of the Scheme having been satisfied or waived (if capable of waiver) in accordance with this agreement and the Scheme;

Embedded Value means the consolidated embedded value of all occupied units owned by the Arvida Group (calculated using the same accounting policies, methodologies and valuation assumptions of the Arvida Group in place as at the date of this agreement as used by Arvida in the calculation of embedded value in its annual results presentation for the financial year ended 31 March 2024;

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 or 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 16 May 2025 or any other date agreed in writing by the parties;

Equity Commitment Letter means the equity commitment letter in favour of Stonepeak dated on or before the date of this agreement;

Equity Financing means the equity financing committed under the Equity Commitment Letter;

Excluded Shares means any Shares nominated in writing by Stonepeak to Arvida not less than two Business Days prior to the Record Date which are held or controlled by Stonepeak or any of its Associates at 7.00pm on the Record Date;

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;
- (b) the Implementation Date; and
- (c) the End Date;

Final Orders means orders on application of Arvida, that the Scheme shall be binding on Arvida, Stonepeak, 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;

Financing means the Equity Financing and the Debt Financing;

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 Arvida 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 Arvida Warranties set out in paragraphs 1, 2, 3, 4, 7, 8, 9 and 14 of Schedule 2;

FY25 Budget means the budget for the Arvida Group for the financial year ending 31 March 2025 and associated financial model at documents 3.6.1 and 3.7.2 of the Data Room Index respectively;

Government Agency means any government, any 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 (as amended);

GST Default Amounts means any penalties, additional tax or interest payable in respect of goods and services tax;

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 12 Business Days after the Record Date, or such other date agreed between the parties in writing;

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

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, stating its opinion on the merits of the Transaction;

Initial Announcement means an announcement about the entry into of this agreement agreed by the parties in writing as contemplated by clause 16.1;

Initial Orders means, on application by Arvida, 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 or other similar officer appointed in respect of all or any of its property;
- (e) the person enters into a scheme of arrangement (other than the Scheme) or composition with, or assignment for the benefit of, all or any class of its creditors, or it proposes a reorganisation, moratorium or other administration involving any of them;
- (f) a distress, attachment or other execution is levied or enforced upon or commenced against any of its assets;
- (g) any resolution is passed, or any proceeding is commenced, for the dissolution of that person;
- (h) 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
- (i) 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;

Joint Venture Entity means each of Village at the Park Care Limited and Village at the Park Lifecare 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, revenue, income, profits, business and savings or business interruption (whether or not the indirect loss or damage was foreseeable);

LTI Scheme means the Arvida Group Limited long term incentive plan;



LTI Scheme Rules means the rules of the LTI Scheme as fairly disclosed in the Due Diligence Material;

Material Adverse Change means any matter, event, condition or change in circumstances or thing which occurs or is announced or is discovered 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 Net Tangible Assets of the Arvida Group by \$150 million or more;
- (b) the Embedded Value of the Arvida Group by \$85 million or more, excluding the impact of the reselling of any units relating to any Village by the Arvida Group in the ordinary course of business; or
- (c) the Operating EBITDA of the Arvida Group in any 12 month period following the Specified Event or Specified Events by 15% or more against what it would reasonably have been expected to be but for the Specified Event(s),

provided that such event, condition, matter, change in circumstance or thing is not the result of:

- (d) any change in exchange rates, general economic, financial, regulatory, legal or political conditions (other than an increase in house price inflation or interest rates) or requirements generally affecting businesses in the retirement village or aged care industry or the markets in which Arvida Group operates, builds or trades;
- (e) any event, change, matter, change in circumstance or thing fairly disclosed in the Due Diligence Material (other than relating to the actual or anticipated change of control of Arvida contemplated by this agreement);
- (f) any change in accounting policy required by law;
- (g) any event, change, matter, change in circumstance or thing required by this agreement, the Scheme or the transactions contemplated by them (other than Arvida's compliance with its obligations under clause 9.2 or actions taken by Arvida under clause 9.3 or relating to the actual or anticipated change of control of Arvida contemplated by this agreement);
- (h) any of the following:
 - (i) an act of terrorism, sabotage, act of war, blockade, insurrection, riot, civil disturbance, epidemic or similar event; or
 - (ii) a strike, lock-out or labour dispute or similar event; or
- (i) an event, change, matter, change in circumstance or thing previously approved in writing by Stonepeak for this purpose;

Net Tangible Assets means the consolidated net assets before intangible assets of the Arvida Group (calculated using the same accounting policies, methodologies and valuation assumptions of the Arvida Group in place as at the date of this agreement



as used by Arvida in the calculation of net tangible assets in its annual results presentation for the financial year ended 31 March 2024);

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 as amended from time to time;

Occupation Right Agreement means an occupation right agreement (for the purposes of the Retirement Villages Act 2003) between a resident of a Village and Operator;

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

Operating EBITDA means consolidated Underlying Profit plus interest and depreciation and minus gains on sale of new occupation rights (calculated using the same accounting policies and methodologies of the Arvida Group in place as at the date of this agreement as used by Arvida in the calculation of Operating EBITDA in its annual results presentation for the financial year ended 31 March 2024);

Operator means a member of the Arvida Group that is an operator of a Village and party to a Deed of Supervision with the Statutory Supervisor;

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

- (a) a reservation of ownership or other purchase money security interest entered into to secure the unpaid balance of purchase money in respect of supplies to a member of the Arvida 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;
- (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; and
- (e) a security interest granted in favour of a Statutory Supervisor,

in each case existing on the date of this agreement or is granted by the Arvida Group in the period commencing on the date of this agreement and ending on the Implementation Date (both dates inclusive) without breaching clause 9.2;

PPSR means the Personal Property Securities Register established under section 139 of the Personal Property Securities Act 1999;

Prescribed Occurrence means the occurrence of any of the events listed in Schedule 1 other than an event previously agreed to by Stonepeak in writing;



Record Date means 7.00 pm on the date which is 4 Business Days after the Final Orders Date 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 10.45 am 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 Computershare on behalf of Arvida;

Registrar has the meaning given in the Companies Act;

Regulatory Conditions means the OIO Condition and the Statutory Supervisor Condition;

Related Entity means:

- (a) in respect of Stonepeak, an entity that:
 - (i) Controls Stonepeak;
 - (ii) is under the Control of Stonepeak; or
 - (iii) is under common Control with Stonepeak;
- (b) in respect of Arvida, each entity that is under the Control of Arvida;

Related Party has the meaning given in the NZX Listing Rules;

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 2.4, 13.1, 13.2, 13.4, 13.6, 13.7 and 16.2 only, also includes any Related Entity 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 Entity;

Reverse Break Fee means NZ\$12.43 million plus GST, if any;

Scheme means a scheme of arrangement under Part 15 of the Companies Act under which all of the Shares held by Scheme Shareholders will be transferred to Stonepeak and the Scheme Shareholders will be entitled to receive the Consideration, in the form attached as Annex 1 or in such other form as Arvida and Stonepeak agree in writing and the Court approves under section 236(1) of the Companies Act;



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

Scheme Meeting means the meeting of Shareholders 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 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 other than Excluded Shares;

Second Court Date means the later of:

- (a) if there is no hearing in respect of the Final Orders, the date on which the Final Orders are granted by the Court; and
- (b) if there is a 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;

Senior Manager has the meaning given in the FMCA;

Security Sharing Deed means the security sharing and priority deed dated 10 July 2017 (as most recently amended on 25 January 2021) between the Statutory Supervisor, NZGT Security Trustee Limited (as security trustee) and certain members of the Arvida Group;

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

Share Rights means all rights to acquire Shares held by employees of Arvida Group in accordance with the LTI Scheme Rules;

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

Standard OIO 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 on the date of this agreement, as are applicable to the Transaction;

Statutory Supervisor means the statutory supervisor of each Village appointed in accordance with the Retirement Villages Act 2003;

Statutory Supervisor Condition means the Condition set out in clause 3.1(b);



STI Scheme means the Arvida Group Limited short term incentive scheme for the financial year ending 31 March 2025;

STI Scheme Rules means the rules of the STI Scheme as fairly disclosed in the Due Diligence Material;

Stonepeak Group means Stonepeak and its Related Entities (but excluding members of the Arvida Group);

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

Stonepeak Information means all information given by Stonepeak to Arvida for inclusion in the Scheme Booklet concerning Stonepeak, its Related Entities, business and interests and dealings in the Shares;

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

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

Superior Proposal means a written bona fide Competing Proposal for more than 50% of the Shares or all or a majority of the Arvida Group's assets received by Arvida after the date of this agreement that:

- (a) does not result from a breach by Arvida of any of its obligations under clause 13, or from any act by a member of the Arvida Group or its Representatives which, if done by Arvida, would constitute a breach of clause 13 by Arvida; and
- (b) the Board determines, acting 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 aspects of the Competing Proposal, including its conditions precedent (including, for clarity, the likelihood of satisfying those conditions), timing considerations, the identity and financial capacity of the proponent and any other matters affecting the probability of the Competing Proposal being completed in accordance with its terms;
 - (ii) would, if completed substantially in accordance with its terms, result in a transaction that would be 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 of the Competing Proposal (including consideration, form of consideration, conditionality, funding, certainty and timing) and the Scheme and any other matters affecting the probability of the Competing Proposal being completed in accordance with its terms; and
 - (iii) that failing to attempt to advance such Competing Proposal would be reasonably likely to constitute a breach of the fiduciary duties or statutory obligations of the Arvida Directors;



Surviving Clauses means clause 1 (interpretation), clause 12 (releases), clause 14 (break fee and reverse break fee), clause 15.8 (effect of termination), clause 16 (announcements), clause 17 (payments), clause 18 (GST), clause 19 (notices), clause 20 (general) (other than clause 20.7 (further assurance)) and clause 21 (governing law and jurisdiction);

Takeovers Code means the takeovers code in the schedule to the Takeovers Regulations 2000 (SR 2000/210) as amended, including 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 Stonepeak Group;

Timetable means the timetable set out in Schedule 5, or such other timetable as Arvida and Stonepeak agree in writing;

Transaction means the acquisition by Stonepeak of all the Scheme Shares through implementation of the Scheme in accordance with the terms of this agreement;

Underlying Profit means consolidated underlying profit of the Arvida Group (calculated using the same accounting policies and methodologies and valuation assumptions of the Arvida Group in place as at the date of this agreement as used by Arvida in the calculation of underlying profit in its annual results presentation for the financial year ended 31 March 2024); and

Village means a retirement village registered under the Retirement Villages Act 2003 and operated by an Operator.

1.2 **Arvida awareness**

Where any Arvida Warranty is qualified by the expression "so far as Arvida is aware" or any similar expression, Arvida will be deemed to know or be aware of all matters or circumstances of which any Designated Person is actually aware as at the date the statement is made or given or would have been aware as at that date had they made such enquiries as were reasonable in the circumstances, taking into account any relevant confidentiality restrictions. Otherwise than as contemplated by this clause, knowledge, belief or awareness of any person will not be imputed to Arvida. For the avoidance of doubt, and without limiting clause 12.1, none of the individuals referred to in this clause 1.2 has any personal liability in respect of the Arvida 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, or specifically stated otherwise:

- (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 these 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 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;
- (h) unless otherwise indicated, 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) nothing is to be construed adversely to a party just because that party put forward this agreement or the relevant part of this agreement;
- (o) the headings do not affect interpretation; and
- (p) a reference to 'fairly disclosed' means disclosed in writing (including via the Due Diligence Material) such that the matter, information or circumstance would reasonably be expected to come to the knowledge of a diligent and reasonable bidder or any of its representatives in the ordinary course of carrying out a due diligence exercise in respect of the Arvida Group and its business, in sufficient detail such that the bidder can reasonably be expected to understand the nature, relevance and materiality of such matter, information or circumstance.

1.5 **Consents and approvals**

If the doing of any act, matter or thing under this agreement is dependent on the consent or approval of a party or is within the discretion of a party, 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).

2 **PROPOSAL AND IMPLEMENTATION OF SCHEME**

2.1 **Arvida to propose Scheme**

Arvida 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 **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.

2.3 **Stonepeak to pay Consideration**

Stonepeak undertakes in favour of Arvida (in its own right and on behalf of the Scheme Shareholders) to, in consideration for and simultaneously with the transfer to Stonepeak 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.

2.4 **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 Stonepeak, Arvida and its Representatives and, in the case of Arvida, Stonepeak and its Representatives, to implement the Scheme in accordance with this agreement and all applicable laws and regulations applicable to the Scheme.



2.5 Timetable

Each party must use all reasonable endeavours to ensure that the Scheme is implemented in accordance with the Timetable or otherwise as soon as reasonably practicable. Failure by a party to meet any timeframe or deadline set out in the Timetable will not constitute a breach of this clause 2.5 to the extent that such failure is due to circumstances or matters outside the party's control provided that such party has used reasonable endeavours to meet the Timetable. Each party will keep the other informed about their progress against the Timetable and notify each other if it believes that any of the dates in the Timetable are not achievable. If any date in the Timetable is not able to be achieved due to circumstances or matters outside of a party's control, the parties must consult in good faith with a view to amending the Timetable to the extent required to permit the Scheme to be implemented before the End Date.

2.6 No amendment to Scheme without Stonepeak's consent

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

3 CONDITIONS PRECEDENT

3.1 Conditions

The Scheme will not become Effective and the obligations of Stonepeak under clause 2.3 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 and clause 3.5:

Condition	Responsibility	Waiver
(a) (OIO approval) Stonepeak has obtained all consents required under the Overseas Investment Act 2005 to the implementation of the Scheme on terms or conditions acceptable to Stonepeak acting reasonably, provided that Stonepeak may not withhold its approval to terms or conditions of any consent if the terms or conditions imposed: <ul style="list-style-type: none"> (i) are the Standard OIO Terms and Conditions, or are consistent in all material respects with such terms or conditions; or 	Stonepeak	None



Condition	Responsibility	Waiver
(ii) are consistent with the positive undertakings, plans or intentions specified in writing in Stonepeak's application for the consents required under the Overseas Investment Act 2005;		
(b) (Statutory Supervisor Consent) the Statutory Supervisor provides all consents required under the Deeds of Supervision and the Security Sharing Deed, including to the change of control of the Villages and Operators and the new financing and security sharing arrangements to be entered into by Stonepeak in relation to its funding for the Scheme, in a form and on terms acceptable to Stonepeak, acting reasonably;	Arvida	None
(c) (Court approval) subject to clause 3.2, the Court approves the Scheme in accordance with section 236 of the Companies Act;	Arvida	None
(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;	Arvida	None
(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;	Stonepeak and Arvida	Stonepeak and Arvida
(f) (No Material Adverse Change) no Material Adverse Change occurs, is announced or is discovered between (and including) the date of this agreement and 8.00am on the Implementation Date; and	None	Stonepeak



Condition	Responsibility	Waiver
(g) (No Prescribed Occurrence) no Prescribed Occurrence occurs between (and including) the date of this agreement and 8.00am on the Implementation Date.	Arvida	Stonepeak

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 in the form attached as Annex 1, then each such term or condition must be approved in writing by Arvida and Stonepeak (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 second column of the table in clause 3.1 corresponding to that Condition must use all reasonable endeavours to procure that the Condition is satisfied:
 - (i) in the case of the Conditions in clauses 3.1(a) to 3.1(d), as soon as practicable and in any event before the Condition Satisfaction Date; and
 - (ii) in the case of the Conditions in clauses 3.1(e) to 3.1(g), at all times before 8.00am on the Implementation Date;
- (b) the other party must 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; and
- (c) each party must not take any action for the purpose of deliberately hindering or preventing the satisfaction of the Condition,

provided that nothing in this clause 3.3 will require either party to incur any additional costs (other than customary advisor 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)).

3.4 Regulatory applications

Without limiting clause 3.3:

- (a) each party must promptly make all applications necessary to satisfy the Regulatory Conditions in a form agreed with the other party in writing (acting reasonably) and by the dates specified in the Timetable, and provide the other party with a copy of those applications (provided that any commercially sensitive information may be redacted from the copy provided);
- (b) neither party may take any action for the purpose of deliberately hindering or preventing the satisfaction of a Regulatory Condition (provided that nothing in this paragraph will require either party to incur any additional costs (other



than customary advisor 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));

- (c) each party must consult with the other party in advance in relation to all material communications (whether written or oral, and whether direct or via a Representative) with any Government Agency relating to any approval or consent required to satisfy a Regulatory Condition, or any action taken or proposed by, or any enquiries made by, a Government Agency in relation to a Regulatory Condition and:
- (i) provide the other party with drafts of any material written communications to be sent to a Government Agency (including any applications necessary to satisfy the Regulatory Conditions) (provided that any commercially sensitive information may be redacted from the drafts provided) and take any reasonable comments made by the other party into account in good faith when making any amendments and, where practicable and to the extent reasonable to do so, obtain the other party's prior written consent (not to be unreasonably withheld or delayed) before submitting any such communications (provided that the failure to obtain such consent will not prevent the party from providing that communication to the Government Agency) if it (acting reasonably) considers doing so is reasonably likely to progress satisfaction of the Regulatory Conditions;
 - (ii) provide copies of any material written communications sent to or received from a Government Agency to the other party promptly upon despatch or receipt (as the case may be) (provided that any commercially sensitive information may be redacted from the copies provided);
 - (iii) in the case of a material meeting or phone call with a Government Agency relating to any approval or consent required to satisfy a Regulatory Condition, provide the other party with the opportunity to participate in the meeting or phone call, except:
 - (A) where a Government Agency requests a separate meeting, and only after the parties have consulted together in good faith about that requirement and provided that, where a separate meeting is requested, the other party is kept reasonably apprised of material developments arising out of the separate meeting; or
 - (B) in the case of an unscheduled in-bound call received by a party from a Government Agency,

in each case to the extent it is reasonably practicable to do so;

- (d) each party must promptly notify the other party on becoming aware that a Regulatory Condition is or is likely to be satisfied or has become incapable of being satisfied, or of any fact or circumstances which will or is reasonably likely to prevent a Regulatory Condition from being satisfied; and



- (e) each party must promptly and diligently progress the applications for satisfaction of the Regulatory Conditions (including by responding to queries in a fulsome and timely manner and in compliance with relevant timeframes) so as to expedite satisfaction of the Regulatory Conditions.

3.5 **Waiver of Conditions**

Where the third column of the table in clause 3.1 corresponding to 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 third column of the table in clause 3.1 opposite that Condition, that party; or
- (b) if both Arvida and Stonepeak are specified in the third column of the table in clause 3.1 corresponding to 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.

3.6 **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 Arvida and Stonepeak jointly, those parties may only waive the Condition by agreeing in writing to do so.

3.7 **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.

3.8 **Delay in satisfaction of Regulatory Conditions**

Without limiting the generality of clause 2.5, if any event or change in circumstances occurs that prevents or is reasonably likely to prevent any of the Regulatory Conditions being satisfied before the Condition Satisfaction Date, and the breach of the Regulatory Condition which would otherwise occur has not been (or cannot be) waived, then the parties must consult in good faith to determine whether:

- (a) to change the Condition Satisfaction Date to a later date; or
- (b) the Transaction may proceed by way of alternative means or methods.

3.9 **Notice of Adverse Circumstances**

- (a) If, prior to 8.00am on the Implementation Date, Arvida or Stonepeak becomes aware of a matter, event, condition, change in circumstance or thing 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 3.9).



- (b) After giving notice of an Adverse Circumstance, the parties must consult in good faith for at least ten Business Days or, if shorter, until 5.00pm on the day prior to the Implementation Date, regarding the appropriate method of calculating the financial consequences of the Adverse Circumstance.

3.10 **Additional MAC requirements:**

If:

- (a) Arvida or Stonepeak gives notice to the other party under clause 3.9(a), then that notice must also include all material details of the relevant Adverse Circumstance, including the party's good faith quantification of the estimated financial impact of the Adverse Circumstance (to the extent, in relation to a notice given by Stonepeak, the estimated financial impact is reasonably able to be determined at the time of the giving of the notice), and copies of all workings and relevant materials used to calculate such financial impact or operational consequences; and
- (b) Arvida receives notice from Stonepeak of an Adverse Circumstance under clause 3.9(a), then provided that Stonepeak has included in its notice all material 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 Stonepeak at the time of the giving of the notice), Arvida must respond in writing to Stonepeak within five Business Days of receiving that notice (or, if shorter, by no later than 5.00pm on the day prior to the Implementation Date) with such information as Stonepeak may reasonably request in that notice in order for Stonepeak to be able to determine the financial impact of the Adverse Circumstances and for the parties to discuss in good faith the financial impact of the Adverse Circumstance, as required by clause 3.9(b).

3.11 **Termination**

Notwithstanding anything in this clause 3 or any rights of termination implied by law, this agreement may only be terminated in accordance with clause 15.

4 **SCHEME BOOKLET**

4.1 **Arvida's obligations**

Without limiting clause 2, Arvida must:

- (a) prepare the Scheme Booklet so that it contains:
- (i) all information required by the Companies Act and any other applicable laws;
 - (ii) any information required by the Takeovers Panel in order for Arvida to obtain from the Takeovers Panel a letter of intention and a statement under section 236A(2)(b)(ii) of the Companies Act;
 - (iii) the responsibility statements referred to in clause 4.4; and



- (iv) a statement by the Arvida Directors reflecting the Director Recommendation referred to in clause 8.1 (modified appropriately if 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) as soon as practicable after preparation of an advanced draft of the Scheme Booklet, provide that draft (excluding the Independent Adviser's Report), and any successive drafts of the Scheme Booklet (excluding the Independent Adviser's Report), to Stonepeak and successive drafts of any extracts of the Independent Adviser's Report that contain any factual matters about Stonepeak, in each case in a timely manner, and so that Stonepeak has a reasonable opportunity to review and comment on those drafts, and consider in good faith the reasonable comments of Stonepeak and its Representatives when preparing revised drafts of the Scheme Booklet;
- (d) as soon as practicable after receipt of the consent and confirmation from Stonepeak referred to in clauses 4.2(e) and 4.2(h), provide the Takeovers Panel the draft Scheme Booklet;
- (e) keep Stonepeak reasonably informed of any issues raised by the Takeovers Panel in relation to the Scheme Booklet and use reasonable endeavours to, in consultation with Stonepeak, resolve any such issues expeditiously (provided that, where such issues relate to the Stonepeak Information, Arvida will not take any steps to address them without Stonepeak's written consent, not to be unreasonably withheld);
- (f) in accordance with the Timetable and as soon as practicable after the approval of the Scheme Booklet by the Takeovers Panel and the Takeovers Panel has provided the letter of intention as contemplated by clause 5.1(b), procure that a meeting of the Board is convened to approve the Scheme Booklet for lodgement with the Court and, subject to the Initial Orders, for dispatch to Shareholders;
- (g) after the Board has provided the approvals contemplated by clause 4.1(f), lodge the Scheme Booklet with the Court seeking the Initial Orders; and
- (h) advise Stonepeak promptly if Arvida becomes so aware either:
 - (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 applicable law; or
 - (ii) that any part of the Arvida Information in the Scheme Booklet is misleading or deceptive in any material respect, including by omission,and in either case, if Arvida becomes aware at any time, or receives advice from Stonepeak under clause 4.2(f):



- (iii) between the approval of the Scheme Booklet in accordance with clause 4.1(f) and the date of the Scheme Meeting, then, if considered by Arvida that supplementary disclosure is required, provide supplementary disclosure to Shareholders in a timely manner and in accordance with applicable law and after consulting with Stonepeak as to the content and presentation of that supplementary disclosure and will, if it considers it to be necessary or appropriate, seek the Court's guidance in respect of the supplementary disclosure and adjourn the Scheme Meeting to the earliest date reasonably practicable; and
- (iv) between the date of the Scheme Meeting and the Second Court Date, then, if considered by Arvida that supplementary disclosure 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 Stonepeak in good faith and taking into account Stonepeak's reasonable comments.

4.2 **Stonepeak's obligations**

Without limiting clause 2, Stonepeak must:

- (a) prepare and provide to Arvida for inclusion in the Scheme Booklet:
 - (i) information about the Stonepeak Group;
 - (ii) information equivalent to the information that would meet the requirements of Schedule 1 to the Takeovers Code,
as required to be included in the Scheme Booklet by the Companies Act, the Takeovers Panel and any other applicable laws or regulations;
- (b) provide Arvida drafts of the information referred to in clause 4.2(a) in a timely manner, to provide Arvida a reasonable opportunity to review those drafts and consider in good faith the reasonable comments of Arvida 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 Arvida, review and provide comments on that draft;
- (e) subject to clause 4.3, before Arvida provides the Scheme Booklet to the Takeovers Panel in accordance with clause 4.1(d), deliver to Arvida written consent from Stonepeak to the inclusion of the Stonepeak Information in the Scheme Booklet in the form and context it appears;
- (f) advise Arvida if Stonepeak 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 Stonepeak Information under any applicable law; or



- (ii) that any part of the Stonepeak Information is misleading or deceptive in a material respect, including by omission,

and, if Stonepeak provides such advice, Arvida will comply with clause 4.1(h);

- (g) at its option or if requested by Arvida, procure that it is represented by counsel at the Court hearings convened for the purposes of considering the Initial Orders and the Final Orders, at which through its counsel, Stonepeak will undertake (if requested by the Court) to do all such things and take all such steps within its power as are necessary in order to ensure the fulfilment of its obligations under this agreement and the Scheme. For the avoidance of doubt, Arvida will prepare the Court documentation for the Initial Orders and Final Orders and Stonepeak's counsel will only prepare Stonepeak's affidavits and, if required, submissions to the Court, in support of Arvida'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 Arvida the accuracy and completeness of the Stonepeak 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 **Stonepeak confirmations and approvals**

If Stonepeak requires any change to be made to the form or content of the Stonepeak Information as a condition of giving its consent as referred to in clause 4.2(e) or its confirmation referred to in clause 4.2(h) then:

- (a) if Arvida 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, Arvida must make such changes to the Stonepeak Information as Stonepeak 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) Arvida has provided, and is responsible for, the Arvida Information in the Scheme Booklet, and that none of Stonepeak, its Related Entities or their respective Representatives assumes any responsibility for the accuracy or completeness of the Arvida Information;
- (b) Stonepeak has provided, and is responsible for, the Stonepeak Information, and that none of Arvida, its Related Entities or their respective Representatives assumes any responsibility for the accuracy or completeness of the Stonepeak Information; and
- (c) the Independent Adviser has provided the Independent Adviser's Report and none of Stonepeak, Arvida, their respective Related Entities or their respective Representatives assumes any responsibility for the accuracy or completeness of the Independent Adviser's Report.



5 SCHEME IMPLEMENTATION STEPS

5.1 Arvida's obligations

Without limiting clause 2, Arvida must:

- (a) within two Business Days after the date of this agreement, provide Bell Gully with a copy of the Due Diligence Material on a USB drive;
- (b) before the First Court Date, apply to the Takeovers Panel for a letter of intention indicating that the Takeovers Panel intends to issue a no objection statement (for the purposes of section 236A(2)(b)(ii) of the Companies Act) and that it does not intend to appear at the Court in respect of the Initial Orders;
- (c) prior to sending any material correspondence to the Takeovers Panel relating to the Scheme (other than correspondence to the extent relating to a Competing Proposal, 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 Stonepeak with a draft of that correspondence and consider in good faith all of the reasonable comments of Stonepeak on that correspondence;
- (d) promptly provide Stonepeak 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 a Competing Proposal, 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);
- (e) apply to the Court for Initial Orders convening the Scheme Meeting, and if the Court makes and seals those orders:
 - (i) dispatch 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) promptly deliver to the Registrar for registration a copy of the Initial Orders 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 NZX in accordance with NZX Listing Rule 3.23.1;
- (g) if the Scheme Resolution is passed by the requisite majorities of Shareholders as set out under section 236A(4) of the Companies Act and subject to the satisfaction of the OIO Condition before the Condition Satisfaction Date, promptly apply to:
 - (i) the Takeovers Panel for the production of a statement under section 236A(2)(b)(ii) of the Companies Act stating that the Takeovers Panel has no objection to the Court granting Final Orders; and



- (ii) the Court (once the OIO Condition is satisfied) for its approval of Final Orders (on the basis that those orders, if granted, will be subject to satisfaction or, if capable of waiver, waiver of any other outstanding Conditions); and
- (h) if the Court approves the Scheme in accordance with section 236(1) of the Companies Act (and once the Final Orders are sealed by the Court):
 - (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; and
 - (ii) promptly apply to NZX to, and use its best endeavours to procure that NZX, suspend trading in the Shares from the close of trading two Business Days after the Final Orders Date or such other date as is agreed between the parties in writing;
 - (iii) in respect of Arvida's application to NZX under clause 5.1(h)(ii):
 - (A) prior to sending any material correspondence to NZX in respect of the suspension or cessation of quotation of Shares or de-listing of Arvida in connection with the Transaction, provide Stonepeak with a draft of that correspondence and consider in good faith all of the reasonable comments of Stonepeak on that correspondence; and
 - (B) promptly provide Stonepeak with a copy of all material correspondence to and from NZX and keep Stonepeak reasonably informed of any matters raised by NZX and consult with Stonepeak to resolve any such issues expeditiously;
 - (iv) close the Register as at the Record Date to determine the identity of the Scheme Shareholders and their entitlements to the Consideration;
 - (v) subject to Stonepeak satisfying its obligations under clause 5.2(c), effect the transfer of the Scheme Shares to Stonepeak in accordance with the Scheme on the Implementation Date; and
 - (vi) 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 Transaction on a basis consistent with this agreement or necessary for Arvida to lawfully give effect to the Scheme and the orders of the Court.

5.2 Stonepeak's obligations

Without limiting clause 2, Stonepeak must:

- (a) on the date of this agreement, deliver to Arvida the Debt Commitment Letter and the Equity Commitment Letter executed by all parties to those letters;
- (b) within 10 Business Days of entry into this agreement, deliver to Arvida a copy of the Deed Poll executed by Stonepeak;



- (c) procure that, if the Scheme becomes Effective, Stonepeak accepts a transfer of the Scheme Shares and provides the Consideration in accordance with clause 2.3 and the Deed Poll on or before the Implementation Date; and
- (d) execute all documents and do all other acts and things within its power as may be reasonably necessary or desirable for the implementation of the Transaction on a basis consistent with the Final Orders and this agreement and as expeditiously as possible.

5.3 **Conditions certificate:**

- (a) Subject to clause 5.3(b):
 - (A) between 8.00am and midday on the day that is one Business Day after the Final Orders Date (or such other date that is on or about that date, as may be notified by Stonepeak to Arvida at least three Business Days before such certificate is to be delivered);
 - (ii) between 8.00am and midday on the day before the Implementation Date; and
 - (iii) between 6.00am and 7.00am on the Implementation Date,

Arvida must give Stonepeak a certificate from Arvida signed by the Arvida Group CEO and CFO stating that, so far as Arvida is aware:

- (iv) except to the extent previously waived, the Conditions in clauses 3.1(e) (*No restraint*), 3.1(f) (*No Material Adverse Change*) and 3.1(g) (*No Prescribed Occurrence*) would have been satisfied if 8.00am on the Implementation Date was read as the time the certificate is given to Stonepeak and Arvida is not aware of anything that would prevent those Conditions being satisfied;
 - (v) it is not in breach of clauses 9.2 or 11.1; and
 - (vi) there has not been any breach of any other provision of this agreement which might entitle Stonepeak to terminate under clause 15,
- (Arvida Certificate).*
- (b) If any of the statements referred to in clause 5.3(a)(iv)-(vi) would be inaccurate, Arvida must provide a qualified Arvida Certificate setting out reasonable details of the matters which cause or are likely to cause that certificate not to be accurate.
 - (c) For the avoidance of doubt:
 - (i) an Arvida Certificate is signed by the Arvida Group CEO and CFO in his or her capacity as an officer of Arvida, and in no other capacity; and
 - (ii) no personal liability will be assumed by the Arvida Group CEO or CFO as a result of the statements in the Arvida Certificate.

5.4 **Provision of information to the Independent Adviser:**

- (a) Arvida must, in relation to any information that it or any of its Representatives provides to the Independent Adviser in connection with the preparation of the Independent Adviser's Report (*IAR Information*):



- (i) prepare and provide that IAR Information to the Independent Adviser in good faith (including by having regard to material risks, opportunities and adverse circumstances);
 - (ii) ensure that the forecasts provided to the Independent Adviser are prepared in good faith on the basis of reasonable assumptions and represent the best view of the Arvida Directors and Senior Managers of the expected performance of Arvida Group and do not require amendment based on information which has come to their attention since preparation of those forecasts; and
 - (iii) provide to the Independent Adviser any information that may be adverse in any material respect to the financial performance, position or prospects of the Arvida Group which is known by any Director or Senior Manager at that time but which had not previously been provided to the Independent Adviser.
- (b) Arvida represents and warrants to Stonepeak that it has disclosed in the Due Diligence Material, or otherwise disclosed in writing to Stonepeak, all material information with respect to the financial performance, position or prospects of the Arvida Group that has been provided or made available to the Independent Adviser prior to the date of this agreement for the purpose of preparing the Independent Adviser's Report.

5.5 **Obligation to hold Scheme Meeting**

- (a) Arvida must, unless the parties otherwise agree in writing, convene the Scheme Meeting in accordance with clause 5.1 irrespective of whether:
- (i) the Independent Adviser's Report concludes that the Consideration is below the Independent Adviser's valuation range for the Shares; and
 - (ii) any Director changes, qualifies or withdraws the recommendation or the undertaking referred to in clause 8.1 or makes any statement inconsistent with that recommendation or that undertaking on the basis that the Independent Adviser's Report concludes that the Consideration is below the Independent Adviser's valuation range for the Shares.
- (b) If Arvida is required to convene the Scheme Meeting under clause 5.5(a):
- (i) in circumstances where the Independent Adviser's Report concludes that the Consideration is below the Independent Adviser's valuation range for the Shares; and
 - (ii) the Shareholders do not approve the Scheme by the requisite majorities in accordance with sections 236A(2)(a) and 236A(4) of the Companies Act,

Stonepeak must reimburse Arvida for its reasonable out-of-pocket costs incurred in connection with holding the Scheme Meeting up to a maximum of \$50,000.



6 ARVIDA'S OTHER IMPLEMENTATION OBLIGATIONS

6.1 Information about Shareholders

Arvida must:

- (a) comply with any reasonable request by Stonepeak to require disclosure of information in accordance with sections 290 and 291 of the FMCA, subject to its statutory and contractual obligations, and provide Stonepeak the information obtained as a result of requiring such disclosure; and
- (b) procure that its share registry provides to Stonepeak details of the Register and all other information about the Shareholders which Stonepeak reasonably requires in order to:
 - (i) canvas approval of the Scheme by Shareholders; or
 - (ii) facilitate the provision by Stonepeak of the Consideration in accordance with this agreement, the Scheme and the Deed Poll.

6.2 Promotion of Transaction

During the Exclusivity Period, Arvida will use all reasonable endeavours to promote, and will provide all reasonable cooperation to Stonepeak in promoting, the merits of the Transaction to Shareholders, including:

- (a) providing (subject to Arvida's statutory or contractual obligations) such information regarding Shareholders and their holdings as Stonepeak reasonably requests and will direct its share registry to provide all information reasonably requested by Stonepeak;
- (b) if requested by Stonepeak (at Stonepeak's cost), Arvida will retain the services of a proxy solicitation firm agreed with Stonepeak, to actively solicit affirmative proxies for the Scheme and provide Stonepeak with all information generated by that firm at regular intervals (but at least on a daily basis on each of the last seven Business Days before the Scheme Meeting) as to the aggregate tally of votes received by Arvida in respect of the Scheme;
- (c) procuring that the CEO and the CFO of Arvida are available on reasonable notice to:
 - (i) meet with key Shareholders if reasonably requested to do so by Stonepeak; and
 - (ii) communicate with the employees, residents, joint venture partners and key suppliers of the Arvida Group,

in each case to discuss, and promote the merits of, the Transaction to such persons;

- (d) promptly report to Stonepeak any information Arvida 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



- (e) undertake, in cooperation with Stonepeak, other reasonable actions to promote the affirmative vote of Shareholders for the Transaction, as reasonably requested by Stonepeak,

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 Advisers valuation range for Arvida.

6.3 Board changes

Subject to the Consideration having been paid to the Shareholders in accordance with and subject to the terms of the Scheme, Arvida must procure that:

- (a) such persons as Stonepeak nominates (by notice to Arvida no later than five Business Days before the Implementation Date) and who have provided to Arvida a signed consent to act by that time are appointed as additional directors of Arvida and/or such other Arvida Group members on the Implementation Date (by no later than 5.00 pm); and
- (b) unless otherwise agreed by Stonepeak in writing, each member of the Board and, if requested by Stonepeak, any director of the other Arvida Group members, other than those appointed in accordance with clause 6.3(a), resigns as a director of Arvida and/or such other Arvida Group member with effect from the Implementation Date and acknowledges in writing that he or she has no claim against any member of the Arvida Group other than for accrued directors fees and expenses.

6.4 Release of Encumbrances

After the signing of this agreement and in addition to its obligations under clause 10.1, Arvida will assist Stonepeak to identify any Encumbrances over the assets of the Arvida Group which are not Permitted Encumbrances and procure their release and removal from the PPSR with effect on or before the Implementation Date.

6.5 Arvida Long Term Incentive Plan

- (a) Stonepeak acknowledges and agrees that as at the date of this agreement, 2,847,508 Share Rights have been issued by Arvida for participants in the LTI Scheme (including in respect of the financial year ending 31 March 2025) and that no more Share Rights will be issued prior to the Implementation Date.
- (b) Prior to the Record Date, the Board will determine, in accordance with the LTI Scheme Rules, that (at the Board's discretion) some or all of the Share Rights will become eligible to convert into Shares prior to the Record Date and that any remaining Share Rights that do not convert into Shares prior to the Record Date will lapse and be cancelled.
- (c) Arvida must ensure that:
 - (i) all Share Rights that do become eligible for conversion into Shares in accordance with clause 6.5(b) are converted to Shares prior to the Record Date and that any Share Rights that do not become eligible for conversion into Shares in accordance with clause 6.5(b) lapse or are cancelled or forfeited prior to the Record Date such that, on the Implementation Date, there are no Share Rights on issue;



- (ii) no action is taken by Arvida or any Arvida Director in respect of the LTI Scheme, which would, or would be reasonably likely to, create a separate interest class (as referred to in section 236A(4) of the Companies Act) of votes in respect of the Scheme;
- (iii) the LTI Scheme is terminated with effect on and from the Implementation Date; and
- (iv) no more than the maximum number of Share Rights specified in clause 6.5(a) are issued to participants in the LTI Scheme prior to the Record Date.

6.6 Escrow agreement

Arvida must use its reasonable endeavours to agree a form of escrow agreement with Computershare (in relation to the implementation of the Scheme and to be entered into between Arvida, Stonepeak and Computershare) on terms acceptable to Stonepeak (acting reasonably) as soon as practicable after the date of this agreement. Stonepeak and Arvida will, if the form of escrow agreement is agreed, promptly discuss and agree in writing any necessary changes to the Scheme Plan to reflect the terms of the escrow agreement.

7 COURT PROCEEDINGS

7.1 Court documents

- (a) In relation to each Court application made in relation to the Scheme, including any appeal, Arvida must provide Stonepeak successive drafts of all documents required to be given by Arvida to the Court (including the originating applications, affidavits, memoranda, submissions and draft Court orders) at 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 Stonepeak and its Representatives on those documents.
- (b) Arvida 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 Stonepeak having approved in writing such documents being submitted to the Court or such changes being consented to.

7.2 Representation

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

- (a) Arvida consents to the separate representation of Stonepeak by counsel; and
- (b) Stonepeak 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 Arvida under clause 5.1(e) 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, Arvida 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 Regulatory Conditions having been satisfied, or where capable of waiver, waived.
- (b) Arvida 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.
- (c) If this clause 7.3 applies, the parties must consult in good faith about agreeing any changes to the Timetable that are necessary or desirable in the circumstances.

7.4 **Appeal if orders not made**

If the Court does not make any order sought by Arvida under clause 5 (the *Decision*) to the extent clause 7.3 does not apply:

- (a) Arvida and Stonepeak 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, Arvida and Stonepeak 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) Arvida 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:
 - (A) if Arvida and Stonepeak agreed to appeal the Decision, equally between the parties; or
 - (B) if Arvida and Stonepeak did not both agree to appeal the Decision, by the party who requires that the appeal is pursued;
 - (iii) if the Condition Satisfaction Date and/or the End Date would otherwise occur before the appeal is finally determined, then provided that Stonepeak has provided its prior written consent, the Condition Satisfaction Date and/or the End Date (as required) is deferred to the date that is 20 Business Days after the appeal from the Decision is finally determined; and
 - (iv) if the appeal is successful and the relevant order is made, then provided that Stonepeak has provided its prior written consent, 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 Business Days contemplated by the Timetable between the Final Orders Date and the Implementation Date (inclusive), or to such other date as the parties agree in writing.



8 RECOMMENDATION AND VOTING INTENTIONS

8.1 Recommendation and voting intentions of Arvida Directors

- (a) Arvida must ensure that each Arvida Director unanimously recommends that Shareholders vote in favour of the Scheme and that each Arvida Director undertakes to vote, or procure the voting of, all Shares held or controlled by him or her in favour of the Scheme subject to:
- (i) no Superior Proposal having been received by Arvida; and
 - (ii) the Independent Adviser's Report concluding that the Consideration is within or above the Independent Adviser's valuation range for the Shares,
- (the *Director Recommendation*).
- (b) Arvida must ensure that the Director Recommendation is included in the Initial Announcement in accordance with clause 16.1.
- (c) Unless there has been a change to the Director Recommendation after the Initial Announcement in accordance with the terms of this agreement, Arvida must ensure that the Director Recommendation is included in the Scheme Booklet in accordance with clause 4.1(a)(iv).
- (d) Arvida must instruct the senior executives of Arvida not to make any public statement that is not supportive of the implementation of the Scheme.

8.2 Change to recommendation or voting intentions

Arvida must ensure that no Arvida Director changes, qualifies or withdraws the recommendation or the undertaking referred to in clause 8.1 or makes any statement inconsistent with that recommendation or that undertaking unless:

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

provided that reliance by Arvida on the exclusions to this clause 8.2 will not prevent Stonepeak from having the benefit of, and enforcing, its rights under clause 13.7, 14.2 and clause 15.1(b).

9 ACCESS, INFORMATION AND CONDUCT OF BUSINESS

9.1 Access and information

From the date of this agreement until and including the Implementation Date, Arvida must:

- (a) procure that Stonepeak and its Representatives are given reasonable access to the properties, books and records, management of the Arvida Group and any other information about the Business reasonably requested by Stonepeak or its Representatives, during normal business hours at mutually convenient times and on reasonable notice to Arvida for the purposes of:



- (i) enabling Stonepeak and its financiers to understand the Arvida Group's business and operations and its financial position, transactional banking requirements, financial performance and prospects;
 - (ii) implementing the Scheme and enabling Stonepeak to prepare for the transition of ownership of the Arvida Group to Stonepeak; and
 - (iii) any other purpose agreed between Arvida and Stonepeak in writing,
- 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:
- (iv) Stonepeak will focus on material issues, having regard to management commitments and the impact of information requests on the Arvida Group's business;
 - (v) providing access or information pursuant to this clause 9.1(a) does not result in unreasonable disruptions to the Arvida Group's business in the opinion of Arvida (acting reasonably), require Arvida to make further disclosure to any other entity or Government Agency or require the disclosure of any document that would compromise the Arvida Group's legal professional privilege; and
 - (vi) nothing in this clause 9.1(a) will require Arvida to provide information concerning its director's and management's consideration of the Scheme or any Competing Proposal (but this proviso does not limit Arvida's obligations under clause 13);
- (b) provide Stonepeak with copies of the Board minutes and papers provided to the Board (in the same format as was contained in section 2.3 of the Data Room Index) and monthly management accounts for the Arvida Group (in the same format as was contained in sections 3.2 and 3.10 of the Data Room Index) within one Business Day after they are provided to Directors provided, however, that Arvida may redact information from such papers to the extent it is commercially sensitive or relates to the Transaction;
- (c) provide Stonepeak with any information or documentation reasonably requested by Stonepeak if Stonepeak (in good faith) believes that Stonepeak may be entitled to exercise a termination right under this agreement provided, however that:
- (i) Stonepeak's request outlines the reasons for Stonepeak's request by reference to the relevant termination right under this agreement that Stonepeak believes it may be entitled to exercise and the reason that Stonepeak believes that it may be entitled to exercise that termination right;
 - (ii) the information or documentation requested by Stonepeak relates to Stonepeak's claim or potential claim; and
 - (iii) Stonepeak is, to the extent practicable, specific in its request as to the information or documentation requested; and



- (d) procure that senior management of Arvida meets with Stonepeak and its Representatives (either in person or by teleconference) at such times as Stonepeak reasonably requests for the purposes of keeping Stonepeak informed of material developments in relation to the Arvida Group (including the Arvida Group's financial position and prospects) and discussing and resolving matters arising in relation to this agreement or the Transaction.

9.2 **Conduct of business**

From the date of this agreement until and including the Implementation Date, Arvida must ensure that it and each other member of the Arvida Group:

- (a) carries on its business in the ordinary course and in substantially the same manner as conducted in the 12 months prior to the date of this agreement and does not make any significant change to the nature or scale of its business or enter any new 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 Arvida Group's business and assets covering such risks and for such amounts as would be maintained in accordance with the Arvida 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 and not approve any proposal which would have the effect of reducing the level or extent of insurance maintained by any Joint Venture Entity;
- (c) maintains all material Authorisations necessary to operate the Business, and ensures all conditions attaching to those Authorisations are complied with in all material respects;
- (d) uses all reasonable endeavours to:
 - (i) keep available the services of its directors and the senior executives of Arvida; and
 - (ii) preserve its relationships with all Government Agencies and all residents, suppliers, licensors, licensees, joint venturers and others with whom it has business dealings;
- (e) promptly notifies Stonepeak of, and keeps Stonepeak reasonably and promptly informed of any material change in the status of:
 - (i) any claim that is made or legal proceedings instituted against Arvida, or another member of the Arvida Group, or any director or employee of any member of the Arvida Group (of which it becomes aware), other than any claim or legal proceeding that has potential liability which is less than \$500,000; and
 - (ii) any actual or threatened material enquiries or investigations by any Government Agency in relation to the Business (including in relation to Tax) and any material correspondence with any Government Agency in relation to the Business;



- (f) consults with Stonepeak in relation to all material matters relating to development projects and takes into account Stonepeak's reasonable feedback, including:
 - (i) obtaining the prior written consent of Stonepeak for any matters relating to development projects where the approval of the Directors is being sought; and
 - (ii) provide to Stonepeak copies of all papers and other materials provided to the Board in relation to development projects within one Business Day after they are provided to Directors (provided that Arvida may redact information from such papers and materials to the extent it is commercially sensitive or relates to the Transaction);
- (g) does not:
 - (i) except in the ordinary course of business, transfer or otherwise dispose of, or create any Encumbrance in respect of, an asset or assets;
 - (ii) acquire an asset or assets (including shares or other securities in any body corporate or any units in any trust, or other similar interests), other than:
 - (A) current assets acquired in the ordinary course of business;
 - (B) an asset or assets (either singularly or in the aggregate) with a book value not exceeding \$2,500,000; or
 - (C) the acquisition of any unit titles in relation to the Glenbrae or Olive Tree Villages;
 - (iii) create or incur any liability or indebtedness (whether contingent or otherwise), except normal liabilities or indebtedness incurred in the ordinary course of the Business and not exceeding (either singularly or in the aggregate) \$2,500,000;
 - (iv) incur or commit to new capital expenditure exceeding \$1,000,000 for a single item or \$2,500,000 in aggregate, other than refurbishment expenditure and capital expenditure each as set out in the FY25 Budget;
 - (v) incur any capital expenditure during the period between the date of this agreement and the Implementation Date which would result in the aggregate capital expenditure incurred by the Arvida Group during such period being 5% or more higher than the amount budgeted for capital expenditure during such period in the FY25 Budget;
 - (vi) increase the facility limit on any of the Arvida Group's bank facilities or exceed borrowing or cash reserve limitations as established by any financier of the Arvida Group, except for increases in the ordinary course of business not exceeding \$5,000,000 (provided that, for the avoidance of doubt, Arvida is not restricted from increasing the aggregate level of its borrowings under any existing debt facility, where



increasing the level of its borrowings does not require an increase in the facility limits of any of its existing bank facility, in each case as fairly disclosed in the Due Diligence Material);

- (vii) enter into, extend, renew, waive any material rights under, vary or terminate any contract, commitment or arrangement (or series of related contracts, commitments or arrangements) relating to construction, development or procurement (including for the purchases of raw materials or renewals of existing procurement arrangements for goods or services) which (individually or in the aggregate):
 - (A) if the minimum term is 12 months or less, may require annual expenditure by the relevant member of the Arvida Group in excess of \$3,000,000; or
 - (B) if the minimum term is more than 12 months, may require total expenditure by the relevant member of the Arvida Group in excess of \$7,500,000;

- (viii) enter into, extend, renew, waive any material rights under, vary or terminate any contract, commitment or arrangement (or series of related contracts, commitments or arrangements) which (individually or in the aggregate):
 - (A) other than a contract relating to construction, development or procurement, may require annual expenditure by the relevant member of the Arvida Group in excess of \$1,500,000; or
 - (B) restrains any member of the Arvida Group from engaging in or competing with any business in any place,

or vary any other existing contract, commitment or arrangement in a way that may increase the expenditure by, or annual revenues to, the relevant member of the Arvida Group by more than \$3,000,000 or has the effect referred to in clause 9.2(g)(viii)(B), 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;

- (ix) give any guarantee of, or security for, or indemnity in connection with the obligations of any person other than a member of the Arvida Group, other than in the ordinary course of business and consistent with the past practice of Arvida Group in the 12 months prior to the date of this agreement and as fairly disclosed in the Due Diligence Material;

- (x) enter into any contract, commitment or arrangement, or make any payment to any Related Entity or a Representative of the Arvida Group or a Related Entity other than in the ordinary course of business;

- (xi) make any material amendments to any existing Occupation Right Agreement or any template Occupation Right Agreement;

- (xii) acquire or sell any interest in land or enter into new material leasehold interest or renew, terminate or change any material terms of any



material leasehold interest of any member of the Arvida Group, other than:

- (A) entry into Occupation Right Agreements in the ordinary course of business; or
 - (B) acquisition of unit titles in relation to the Glenbrae or Olive Tree Villages;
- (xiii) enter into, amend or close out any material foreign exchange, interest rate swap, derivative or hedge;
- (xiv) employ any new employee whose salary would exceed \$250,000 per annum other than new employees employed in the ordinary course of business to fill a vacant position within the Business and provided that the terms and remuneration of those new hires are consistent with Arvida's past practices;
- (xv) increase or accelerate the remuneration of, make any bonus payment, retention payment or termination payment to, or otherwise change the terms and conditions of employment of any Arvida Director or any employee of any member of the Arvida Group whose salary exceeds \$250,000, except:
- (A) in accordance with any contractual entitlement existing as at the date of this agreement and fairly disclosed in the Due Diligence Material; or
 - (B) the bonus pool for the senior executives in document 13.5 of the Data Room Index;
- (xvi) accelerate the rights of any Arvida Director or any employee of any member of the Arvida Group to receive any benefit under any Arvida incentive plan (other than closing out the LTI Scheme as contemplated by clause 6.5 and closing out, on a pro-rata basis, the STI Scheme in accordance with the STI Scheme Rules);
- (xvii) change its constitution or pass any resolution of shareholders or any class of shareholders (other than the Scheme Resolution, any resolution to appoint (or reappoint) a director of Arvida and any resolution to authorise the Board to fix the fees and expenses of Arvida's auditor);
- (xviii) fail to comply in all material respects with all laws and regulations applicable to the Business 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;
- (xix) fail to comply in all material respects with all policies of the Arvida Group in place as at the agreement date, including in relation to anti-bribery and corruption, data protection and information technology, and does not make any material amendment to such policies;



- (xx) commence, compromise or settle any litigation or similar proceedings for an amount exceeding \$1,000,000, including (for the avoidance of doubt) the business interruption insurance dispute disclosed in the Due Diligence Material;
- (xxi) 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;
- (xxii) make any change in accounting methods, principles or practices used by it (except if required by a change in International Financial Reporting Standards);
- (xxiii) acquire any interest in "sensitive land" for the purposes of the Overseas Investment Act 2005;
- (xxiv) enter into or exit any joint venture, strategic alliance or partnership;
- (xxv) vote on or otherwise approve or disapprove any matter that requires the approval of the board of directors or shareholders of a Joint Venture Entity that would result in that Joint Venture Entity undertaking an action that would be in breach of this clause 9.2(g) if done by an Arvida Group member or that is otherwise outside of the ordinary course of business of the Joint Venture Entity; or
- (xxvi) agree, conditionally or otherwise, to do any of the things referred to in the preceding paragraphs of this clause 9.2(g), or announce or represent to any person that any of those things will be done; and
- (h) without limiting any of the restrictions under clause 9.2(g), keep Stonepeak reasonably informed and consult with Stonepeak regarding proposed material increases to remuneration for Arvida Group personnel.

9.3 Exception

Any member of the Arvida Group may do any thing referred to in clause 9.2(g), or not do any thing required to be done under clauses 9.2(a) or 9.2(d):

- (a) with the prior written consent of Stonepeak (such consent not to be unreasonably withheld, conditioned or delayed);
- (b) to the extent that matter is provided for in the FY25 Budget;
- (c) necessary to comply with any law or any regulatory requirement or direction of a Government Agency;
- (d) necessary for any member of the Arvida Group to perform its contractual obligations as fairly disclosed in the Due Diligence Material;
- (e) reasonably and prudently required to respond to any emergency, pandemic, act of god or other disaster;



- (f) necessary for the Arvida Directors to fulfil their fiduciary and legal obligations to the Arvida Group in response to a Competing Proposal provided that such act or omission is permitted under clause 13.7 and is otherwise in accordance with the terms of this agreement; or
- (g) to the extent expressly required or permitted under any other provision of this agreement,

and in the case of the situations described in (c), (d), (e) or (f) above, only provided that Arvida informs Stonepeak as soon as possible of the actions taken or proposed to be taken, and, to the extent practicable, considers any feedback or suggestions made by Stonepeak as to the proposed course of action. The parties note that the objective of this clause is that no action is taken or not taken, which may affect the future prospects of the Arvida Group, including its relationships with constituencies, without reasonable involvement of Stonepeak.

9.4 **Consents to change of control**

In respect of each contract that Arvida and Stonepeak agree (acting reasonably) in writing prior to the First Court Date requires a counterparty notification or consent in relation to the change of control of Arvida or a waiver by a counterparty in respect of pre-emptive rights or other rights that arise as a result of the change of control of Arvida:

- (a) Arvida and Stonepeak will agree in good faith a communications plan to notify the relevant counterparty of the change of control of Arvida that will occur if the Scheme becomes Effective and Arvida will, and will procure that each member of the Arvida Group will, make such notifications to the counterparties and use all reasonable endeavours to obtain (with Stonepeak's reasonable assistance) the consents or waivers required in relation to the change of control of Arvida; and
- (b) each party must promptly provide to the relevant counterparty all information reasonably required for the purposes of making any notification or seeking any consent referred to in clause 9.4(a).

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.

9.5 **Transition Committee**

As soon as practicable, and in any event within one week after the date of this agreement, Stonepeak and Arvida shall form a transition committee (the *Transition Committee*) comprising representatives of each of Stonepeak and Arvida. The Transition Committee will discuss any matters in respect of which Stonepeak's consent is sought pursuant to clause 9.3(a). The representatives of Arvida on the Transition Committee will have authority to submit matters that would otherwise be restricted under clause 9.2 to Stonepeak for approval in accordance with clause 9.3(a). The representatives of Stonepeak on the Transition Committee will have authority to provide consent in writing on behalf of Stonepeak for the purposes of clause 9.3(a) to any actions of Arvida that would otherwise be restricted under clause 9.2.



10 FINANCING

10.1 Assistance with financing arrangements

Arvida agrees to provide, and ensure that the Arvida Group and its Representatives provide, any co-operation and assistance reasonably requested by Stonepeak in connection with the arrangement or syndication or provision of any debt or equity financing by any Stonepeak Group member for the purposes of funding the Consideration, including:

- (a) facilitating liaison between Stonepeak and Arvida's existing financiers, including for the purposes of:
 - (i) Arvida notifying and discussing change of control procedures;
 - (ii) managing the repayment or continuation (at Stonepeak's election) of existing financiers (including obtaining any necessary consents required from issuing banks to keep any bank guarantees or similar instruments in place following the Implementation Date), and the release or continuation of Encumbrances or guarantees, on or after the Implementation Date;
 - (iii) assisting with obtaining approvals for the continuation of existing interest rate and currency hedging transactions to which the Arvida Group is a party, or the novation of such transactions to Stonepeak (at the election of Stonepeak); and
 - (iv) the efficient termination or continuation of the Arvida Group's existing financing arrangements;
- (b) procuring that, on or before the Second Court Date (or such other date as the parties may agree), Arvida's existing valuers grant reliance to Stonepeak's incoming financiers in respect of the most recent full valuations undertaken after the date of this agreement (in substantially the same form and substance as the full valuations undertaken as at 31 March 2024 as disclosed in the Due Diligence Material) in relation to investment properties owned by the Arvida Group and facilitating liaison between Stonepeak and Arvida's existing valuers;
- (c) providing Stonepeak with financial and other relevant information regarding the Arvida Group as may be reasonably requested by Stonepeak for the purpose of providing that information to potential financiers (provided that disclosure to the financiers is made in accordance with the terms of the Confidentiality Agreement);
- (d) if the Scheme Resolution has been approved by Shareholders at the Scheme Meeting, executing and delivering any customary prepayment/cancellation notices and any other similar customary notices reasonably requested by Stonepeak, in each case that are expressed to be subject to (and only effective on) the Scheme being implemented, relating to the repayment of the Arvida's existing indebtedness identified by Stonepeak and/or the release on the Implementation Date of all related Encumbrances;



- (e) using all reasonable endeavours to assist the Stonepeak Group with the identification and release of, and granting and perfection of, any Encumbrances over the assets of the Arvida Group subject to, and with effect from, implementation of the Scheme; and
- (f) providing as promptly as reasonably practicable (and in any event no less than 20 Business Days prior to the Implementation Date) such customary "know your customer" information as is reasonably requested in writing by Stonepeak (or any of its financiers),

provided that:

- (g) no Arvida Group member will be required to:
 - (i) enter into any agreements or arrangements in respect of any Debt Financing or Equity Financing prior to implementation of the Scheme on the Implementation Date (except as contemplated by clauses 10.1(d) and 10.1(f)); or
 - (ii) assume any obligation or liability of any nature in respect of any debt or equity financing and any related Encumbrances (including the release of existing Encumbrances); and
- (h) Stonepeak must promptly reimburse Arvida for all reasonable out-of-pocket costs incurred by Arvida in connection with providing co-operation under this clause 10.1.

10.2 Stonepeak to enforce Equity Commitment Letter

- (a) Arvida may, by written notice to Stonepeak at any time after a payment obligation becomes due under the Equity Commitment Letter, require Stonepeak to enforce any of its rights under the Equity Commitment Letter (including by requiring Stonepeak to seek specific performance of that Equity Commitment Letter, subject to the terms of the Equity Commitment Letter). If Stonepeak receives notice from Arvida under this clause 10.2, then it must take all reasonable steps necessary to promptly enforce its relevant rights under the Equity Commitment Letter.
- (b) For the avoidance of doubt, if Arvida brings proceedings against Stonepeak seeking specific performance of this agreement it may, at the same time, require Stonepeak to seek specific performance of the Equity Commitment Letter, subject to the terms of the Equity Commitment Letter.

10.3 Financing undertakings

- (a) Stonepeak will use all reasonable endeavours to arrange and consummate the Financing on the terms and subject to the conditions described in the Commitment Letters prior to the Implementation Date, including to:
 - (i) maintain in effect the Commitment Letters;
 - (ii) negotiate and enter into definitive agreements with respect to the Financing (the *Definitive Agreements*) consistent with the terms and conditions set out in the Commitment Letters (other than modifications to such terms and conditions as are acceptable to Stonepeak provided that such modifications would be permitted under clause 10.3(b)(i)); and



- (iii) satisfy (or obtain the waiver of) on a timely basis all conditions in the Commitment Letters and the Definitive Agreements which are within Stonepeak's control and are required to be satisfied by Stonepeak to consummate the Financing by the Implementation Date.
- (b) Without limiting clause 10.3(a), Stonepeak must:
 - (i) not, and procure that the Stonepeak Group does not, amend or waive any provision of any Commitment Letter or Definitive Agreement in a manner that will, or is reasonably likely to, prejudice Stonepeak's ability to satisfy its obligations to pay the Consideration under this agreement, the Deed Poll and the Scheme Plan; and
 - (ii) use its reasonable endeavours not to, and to procure that the Stonepeak Group does not, do, or permit, any act, matter or thing that will, or is reasonably likely to, result in the avoidance or termination of any Financing or Stonepeak's inability to perform its obligations to pay the Consideration under this agreement, the Deed Poll and the Scheme Plan.

11 REPRESENTATIONS, WARRANTIES AND UNDERTAKINGS

11.1 Arvida representations, warranties and undertakings

- (a) Arvida represents and warrants to Stonepeak on the date of this agreement, immediately prior to the last affidavits being filed in respect of the Final Orders and at 8.00am on the Implementation Date, that each of the Arvida Warranties is true, accurate and not misleading.
- (b) Arvida undertakes to Stonepeak to comply with each of the Arvida Undertakings.
- (c) The Arvida Warranties are given subject to and are qualified by matters and circumstances:
 - (i) fairly disclosed to Stonepeak in the Due Diligence Material; or
 - (ii) fairly disclosed through the NZX market announcements platform on or after 31 March 2022 and at least two Business Days before the date of this agreement.

11.2 Stonepeak representations, warranties and undertakings

- (a) Stonepeak represents and warrants to Arvida on the date of this agreement, immediately prior to the last affidavits being filed in respect of the Final Orders and at 8.00am on the Implementation Date that each of the Stonepeak Warranties is true, accurate and not misleading.
- (b) Stonepeak undertakes to Arvida to comply with each of the Stonepeak Undertakings.

11.3 Indemnity by Arvida

Subject to clause 14.6(a), Arvida indemnifies Stonepeak against, and must pay to Stonepeak on demand an amount equal to, all Losses directly incurred or suffered by the Stonepeak Indemnified Persons arising out of or in connection with:



- (a) any matter or circumstance that results in any of the Arvida Warranties being untrue, inaccurate or misleading when given; or
- (b) any breach of the Arvida Undertakings.

11.4 **Indemnity by Stonepeak**

Subject to clause 14.6(b), Stonepeak indemnifies Arvida against, and must pay to Arvida on demand an amount equal to, all Losses directly incurred or suffered by the Arvida Indemnified Persons arising out of or in connection with:

- (a) any matter or circumstance that results in any of the Stonepeak Warranties being untrue, inaccurate or misleading when given; or
- (b) any breach of the Stonepeak Undertakings.

11.5 **Status of representations, warranties, undertakings and indemnities**

Each representation and warranty, undertaking and indemnity made or given under this clause 11 is severable and survives termination of this agreement and each undertaking and indemnity given in this clause 11 is a continuing obligation.

11.6 **Scheme becoming Effective**

After the Scheme becomes Effective, any breach of the representations and warranties or the undertakings made or given under this clause 11 may only give rise to a claim for damages or under the indemnities in this clause 11 and does not entitle a party to terminate this agreement.

12 **RELEASES**

12.1 **Release of Arvida Indemnified Persons**

Stonepeak waives and releases, and must procure that each member of the Stonepeak Group waives and releases, all rights and claims which it may have against any Arvida Indemnified Person (other than Arvida) in respect of any misrepresentation, inaccuracy or omission in or from any information or advice given by that Arvida Indemnified Person in connection with any representation, warranty or undertaking given by Arvida in this agreement or the preparation of the Arvida Information or the Due Diligence Material except where the Arvida Indemnified Person has engaged in wilful misconduct or fraud. The parties acknowledge and agree that:

- (a) Arvida has sought and obtained the waiver and release in this clause 12.1 as agent for and on behalf of each Arvida Indemnified Person and may enforce the provisions of this clause 12.1 on behalf of any Arvida Indemnified Person;
- (b) any Arvida Indemnified Person may plead this clause 12.1 in response to any claim made by any member of the Stonepeak Group against them; and
- (c) the undertakings contained in this clause 12.1 are given for the benefit of each Arvida Indemnified Person and are intended to be enforceable against Stonepeak by each Arvida Indemnified Person in accordance with the provisions of the Contract and Commercial Law Act 2017.



12.2 Release of Stonepeak Indemnified Persons

Arvida waives and releases, and must procure that each member of the Arvida Group waives and releases, all rights and claims which it may have against any Stonepeak Indemnified Person (other than Stonepeak) in respect of any misrepresentation, inaccuracy or omission in or from any information or advice given by that Stonepeak Indemnified Person in connection with any representation, warranty or undertaking given by Stonepeak in this agreement or the preparation of the Stonepeak Information except where the Stonepeak Indemnified Party has engaged in wilful misconduct or fraud. The parties acknowledge and agree that:

- (a) Stonepeak has sought and obtained the waiver and release in this clause 12.2 as agent for and on behalf of each Stonepeak Indemnified Person and may enforce the provisions of this clause 12.2 on behalf of any Stonepeak Indemnified Person;
- (b) any Stonepeak Indemnified Person may plead this clause 12.2 in response to any claim made by any member of the Arvida Group against them; and
- (c) the undertakings contained in this clause 12.2 are given for the benefit of each Stonepeak Indemnified Person and are intended to be enforceable against Arvida by each Stonepeak Indemnified Person in accordance with the provisions of the Contract and Commercial Law Act 2017.

12.3 D&O Insurance

- (a) Stonepeak acknowledges that, subject to clause 12.3(b), Arvida may, prior to the Implementation Date, enter into a run-off directors' and officers' liability insurance policy that is effective on the Implementation Date in respect of any Arvida Directors or officers (or the directors or officers of any other member of the Arvida Group) for a seven year period (the *D&O Run-off Policy*) and pay all premiums required upfront and on a non-revocable basis.
- (b) Arvida must undertake a tender process for the D&O Run-off Policy pursuant to which Arvida must arrange for its insurance broker to seek proposals to provide a D&O Run-off Policy from at least three reputable insurers that have a rating that is the same as, or better than, the rating of the insurers for the Arvida Group's directors' and officers' liability insurance in force at the date of this agreement on the following basis:
 - (i) the same amount of coverage;
 - (ii) the same deductible or excess; and
 - (iii) otherwise on terms that are no less favourable to the current directors or officers of the Arvida Group than the Arvida Group's directors' and officers' liability insurance in force at the date of this agreement (other than for the seven-year period of the policy).
- (c) Arvida must keep Stonepeak reasonably informed of all material developments in the tender process, provide a copy of the proposals received under the tender process and consult with Stonepeak in good faith and take into account Stonepeak's reasonable comments in respect of the terms of, and the costs of, the D&O Run-off Policy.



- (d) Provided that Arvida has complied with clauses 12.3(a) and 12.3(b), Stonepeak agrees that:
- (i) Arvida entering into and paying the premium for the D&O Run-off Policy does not breach any provision of this agreement; and
 - (ii) after the Implementation Date it will not, and will procure that no member of the Arvida Group will, vary or cancel the D&O Run-off Policy (for so long as such member of the Arvida Group remains a Related Entity of Arvida).
- (e) Following the Implementation Date, to the extent permitted by law, Stonepeak will procure that Arvida maintains in place all indemnities and associated rights of access to information provided by Arvida for the benefit of the current and former directors and officers of Arvida (including any indemnity provided in accordance with, or set out in, Arvida's Constitution) which have been fairly disclosed in the Due Diligence Material.
- (f) The undertakings contained in clause 12.3(e) are:
- (i) subject to any Companies Act restriction and will apply to the maximum extent permitted by any such restriction; and
 - (ii) given for so long as Arvida remains a Related Entity of Stonepeak, provided that this clause 12.3(f)(ii) will not adversely affect any indemnities which continue in accordance with their terms.
- (g) The undertakings contained in this clause 12.3 are given for the benefit of each director and officer of the Arvida Group and are intended to be enforceable against Stonepeak by each of them in accordance with the provisions of the Contract and Commercial Law Act 2017.

13 EXCLUSIVITY

13.1 No shop restriction

Subject to clause 13.12, during the Exclusivity Period, Arvida 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 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 13.12, during the Exclusivity Period Arvida 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,

even if the Competing Proposal was not directly or indirectly solicited, invited, encouraged, initiated or otherwise procured by Arvida or any of its Representatives, was received before the date of this agreement 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 Arvida or its Representatives from taking or refusing to take any action with respect to a bona fide Competing Proposal (which was not encouraged, solicited, invited, facilitated, initiated or otherwise procured in contravention of clause 13.1 or 13.2) if acting in good faith and after having received written advice from its external legal and financial advisers, the Board has determined that:

- (a) the Competing Proposal is, or is reasonably likely to become, a Superior Proposal; and
- (b) it is necessary to respond to such Competing Proposal in order to fulfil the fiduciary duties or statutory obligations of the Board.

13.4 **No due diligence restriction**

Subject to clause 13.5 and clause 13.12 but without limiting clause 13.2, during the Exclusivity Period, Arvida 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 Arvida or any of its Related Entities 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) acting in good faith and after having obtained written advice from its external legal and financial advisers, the Board has determined that:
 - (i) the Competing Proposal is, or is reasonably likely to become, a Superior Proposal; and
 - (ii) it is necessary to respond to such Competing Proposal in order to fulfil the fiduciary duties or statutory obligations of the Board;



- (b) the Third Party has first entered into a written agreement in favour of Arvida 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 not more favourable in any material respect to the Third Party than those in the Confidentiality Agreement; and
- (c) to the extent that any information made available to the Third Party has not previously been provided to Stonepeak (or differs in any material respect from any information previously provided to Stonepeak), Arvida provides that information to Stonepeak at the same time as it is provided to the Third Party.

13.6 General notification obligations

- (a) During the Exclusivity Period, Arvida must as soon as practicable in the circumstances and in any event within 48 hours notify Stonepeak if:
 - (i) Arvida or any of its Representatives receives any Competing Proposal, or an inquiry or approach from a Third Party to initiate any discussions or negotiations that could reasonably be expected to lead to a Competing Proposal, or any request to take any action contemplated by clause 13.2(a) or 13.4(a);
 - (ii) Arvida or any of its Representatives receives any request for information relating to the Arvida Group or its Business or any request for access to any non-public information of any member of the Arvida Group in connection with a current or future Competing Proposal; or
 - (iii) Arvida proposes to, or does, take any action in reliance on the exceptions in clause 13.3 or clause 13.5.
- (b) A notice given under clause 13.6(a) must be accompanied by all 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 any Competing Proposal, including 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 Arvida intends to progress or respond to the relevant inquiry, approach, offer, bid, proposal or request (or whether, acting in good faith, Arvida has not yet been able to make such a decision); and
 - (iv) the nature of the information and access requested and/or provided or action proposed to be taken.
- (c) Without limiting Arvida's other obligations under this clause 13.6, Arvida shall keep Stonepeak reasonably informed on a prompt and timely basis of the status and any developments regarding any Competing Proposal which Arvida (acting reasonably) considers are material (which shall include any change in price or form of



consideration or other material amendment thereto), within 24 hours after receipt or delivery thereof (including, if a notice given under clause 13.6(a) states, in accordance with clause 13.6(b)(iii) that Arvida 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 Stonepeak on a prompt and timely basis when it makes such a decision).

13.7 **Matching rights**

(a) Without limiting clause 13.1 or clause 13.2, during the Exclusivity Period, Arvida:

- (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 Arvida 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 Arvida Director makes, any public statement recommending any Competing Proposal to Shareholders,

unless and until:

- (iv) acting in good faith and after having received written advice from its external financial and legal advisers, the Board has determined that:
 - (A) the Competing Proposal is a Superior Proposal; and
 - (B) 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 the Arvida Directors; and
- (v) Arvida has provided Stonepeak with all the information in relation to the Competing Proposal it is required to provide under clause 13.6 and a written explanation as to why Arvida considers the Competing Proposal is a Superior Proposal;
- (vi) Arvida has given Stonepeak at least 10 Business Days from the date Arvida gives notice to Stonepeak under clause 13.7(a)(v) (including all of the information required to be provided under that clause) in respect of the Competing Proposal (*Matching Period*) in which to provide a Counter Proposal in accordance with clause 13.7(b); and
- (vii) upon the expiry of the Matching Period:
 - (A) Stonepeak has not provided a Counter Proposal under clause 13.7(b); or
 - (B) if Stonepeak has provided a Counter Proposal under clause 13.7(b) and Arvida having complied with clause 13.8 then, acting in good faith and after having received written advice from its external legal and financial advisers, the Board has determined that:



- (AA) the Competing Proposal nevertheless continues to constitute a Superior Proposal (taking into account the Counter Proposal); and
 - (BB) 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 Board.
- (b) During the Matching Period, Stonepeak may offer to amend the terms of the Scheme and this agreement or make an alternative proposal to Arvida or Shareholders with a view to providing an outcome for Shareholders that, taken as a whole, is no less favourable to Shareholders than that offered under the relevant Competing Proposal (a *Counter Proposal*).

13.8 Arvida's response to Counter Proposal

If, during the Matching Period, Stonepeak makes a Counter Proposal:

- (a) Arvida must procure that the Board considers the Counter Proposal in good faith and, if it considers that the terms and conditions of the Counter Proposal (taken as a whole) are less favourable to Shareholders than those in the relevant Superior Proposal, must consult with Stonepeak as to the relative merits of the Counter Proposal and the Superior Proposal; and
- (b) if the Board acting in good faith determines 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 use their 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) Arvida must procure that each Arvida Director makes a public statement recommending the Counter Proposal to Shareholders.

13.9 Changes to Proposals

Each successive material modification to or variation of a Competing Proposal including:

- (a) any material change to the terms referred to in clause 13.6(b)(i) and/or (ii); or
- (b) any incomplete or non-binding proposal or expression of interest becoming complete, capable of acceptance or binding on the Third Party bidder,

will be taken to constitute a new Competing Proposal in respect of which Arvida must separately comply with its obligations under clause 13.6 to clause 13.8.

13.10 Termination if unmatched Superior Proposal progresses

If:

- (a) Arvida has complied with clause 13.6 in relation to a Competing Proposal; and
- (b) in compliance with clause 13.7(a):



- (i) Arvida enters into, or agrees to enter into, any agreement, arrangement or understanding to undertake, give effect to or implement the Competing Proposal; or
- (ii) any Arvida Director changes, qualifies or withdraws his or her recommendation in favour of the Scheme in order to publicly recommend the Competing Proposal; or
- (iii) Arvida makes, or any Arvida Director makes, any public statement recommending the Competing Proposal to Shareholders,

then either party may terminate this agreement by notice to the other party.

13.11 **Standstill arrangements with other parties**

During the Exclusivity Period, except with the prior written consent of Stonepeak, Arvida must not amend or waive, and must enforce, the terms of any standstill agreement or arrangement between Arvida and any person other than a member of the Stonepeak Group.

13.12 **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
- (b) making presentations to, and responding to bona fide enquiries from, stockbrokers, portfolio investors and equity market analysts in relation to the Scheme or in accordance with its usual practices.

14 **BREAK FEE AND REVERSE BREAK FEE**

14.1 **Acknowledgement and agreement**

Arvida (on the one hand) and Stonepeak (on the other hand) each acknowledges and agrees that:

- (a) the other and its Related Entities 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 Stonepeak, 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 Entities 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 Entities 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 clause 14.7, Arvida must pay the Break Fee to Stonepeak if:
 - (i) at any time before this agreement is terminated, a Competing Proposal is announced and the person making the Competing Proposal or one or more persons that Control, or are under the Control of, or are Associated with, that person completes, within 12 months of the date of termination, a Competing Proposal (whether or not the completed Competing Proposal is the same as or different to the Competing Proposal that was originally announced);
 - (ii) at any time before this agreement is terminated, any Arvida Director fails to make the recommendation or any Arvida Director fails to give the undertaking referred to in clause 8.1 or changes, qualifies or withdraws that recommendation or undertaking or makes any statement materially inconsistent with that recommendation or that undertaking, except:
 - (A) in response to a Superior Proposal (subject to Arvida's compliance with clause 13.7); or
 - (B) subject to clause 14.2(b), where Independent Adviser issues 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) Stonepeak terminates this agreement as permitted under clause 15.1(a), 15.1(b) or 15.1(c) (other than due to a Prescribed Occurrence under paragraph 15 of Schedule 1);
 - (iv) this agreement is terminated by either party under clause 13.10, by Stonepeak under clause 15.1(e) or by Arvida under clause 15.2(d); or
 - (v) Stonepeak terminates this agreement under clause 15.1(f).
- (b) If the exception to clause 14.2(a)(ii)(B) applies, the Break Fee will nonetheless be payable by Arvida to Stonepeak 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 Arvida or made public and within 12 months after the date that Competing Proposal is received or



becomes 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, Stonepeak must pay the Reverse Break Fee to Arvida if Arvida terminates this agreement as permitted under clause 15.2(a), 15.2(b) or 15.2(c).

14.4 **Payment of Break Fee or Reverse Break Fee**

If the Break Fee or Reverse Break Fee become payable under this agreement, Arvida or Stonepeak (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 15 Business Days after receipt of a written demand for payment from the other party.

14.5 **Break Fee or Reverse Break Fee not payable**

Notwithstanding anything else in this agreement:

- (a) neither the Break Fee nor Reverse Break Fee is payable if the Scheme becomes Effective;
- (b) the Break Fee and Reverse Break Fee are payable only once;
- (c) in the event that Arvida pays the Break Fee under this clause 14, in no circumstances will Stonepeak be required to pay the Reverse Break Fee (and vice versa);
- (d) in no circumstances will Stonepeak be required to pay both the Reverse Break Fee and payment of any damages or any Losses under clause 11.4; and
- (e) in no circumstances will Arvida be required to pay both the Break Fee and payment of any damages or any Losses under clause 11.3.

14.6 **Sole and exclusive remedy**

- (a) Subject to clauses 14.6(c) and 14.9, Stonepeak acknowledges and agrees that payment of the Break Fee is the sole and exclusive remedy available to Stonepeak in connection with any event or occurrence referred to in clause 14.2 (*Circumstances where Break Fee payable*) and Arvida 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 Stonepeak the Break Fee under this clause 14.
- (b) Subject to clauses 14.6(c) and 14.9, Arvida acknowledges and agrees that payment of the Reverse Break Fee is the sole and exclusive remedy available to Arvida in connection with any event or occurrence referred to in clause 14.3 (*Circumstance where Reverse Break Fee payable*) and Stonepeak 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 Arvida the Reverse Break Fee under this clause 14.
- (c) Nothing in this clause 14.6 limits Arvida's or Stonepeak's liability for fraud.



14.7 Amendments to Break Fee Arrangements

If any of the following occurs:

- (a) the Takeovers Panel indicates to either party in writing that it requires any modification to the amount of the Break Fee or Reverse Break Fee or the circumstances in which either is to be paid (the *Break Fee Arrangements*) as a condition of not opposing the Scheme; or
- (b) the Court requires any modification to the Break Fee Arrangements 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), the parties must give any required undertakings.

14.8 Qualifications

No amount will be payable by Arvida or Stonepeak under this clause 14 if the Scheme becomes Effective, notwithstanding the occurrence of any event in clause 14.2 or clause 14.3 (as applicable). To the extent that any amounts have already been paid under this clause 14 and the Scheme becomes Effective, such amounts will be immediately refunded to Arvida or Stonepeak (as applicable).

14.9 Specific performance

- (a) Subject to clause 14.9(c), nothing in this agreement precludes Arvida from suing Stonepeak for specific performance.
- (b) Subject to clause 14.9(d), nothing in this agreement precludes Stonepeak from suing Arvida for specific performance.
- (c) Arvida's right to receive the Reverse Break Fee or payment of any damages or any Losses under clause 11.4 will not limit or otherwise affect Arvida's right to seek specific performance as provided in this clause 14.9, provided that in no event will Arvida be entitled to receive both:
 - (i) specific performance resulting in implementation of the Scheme and payment of the Reverse Break Fee; or
 - (ii) specific performance resulting in implementation of the Scheme and payment of any damages or any Losses under clause 11.4.
- (d) Stonepeak's right to receive the Break Fee or payment of any damages or any Losses under clause 11.3 will not limit or otherwise affect Stonepeak's right to seek specific performance as provided in this clause 14.9, provided that in no event will Stonepeak be entitled to receive both:
 - (i) specific performance resulting in implementation of the Scheme and payment of the Break Fee; or
 - (ii) specific performance resulting in implementation of the Scheme and payment of any damages or any Losses under clause 11.3.



14.10 Deemed loss

Stonepeak agrees that if Arvida seeks damages from Stonepeak, any Loss suffered by Shareholders as a result of a breach of this agreement or the Deed Poll by Stonepeak will be deemed to be suffered by Arvida (except to the extent that Stonepeak pays damages directly to Shareholders on account of any Loss suffered due to the applicable breach).

14.11 Arvida's limitation of liability

Notwithstanding any other provision of this agreement but subject to clauses 14.6(c) and 14.9:

- (a) the maximum aggregate liability of Arvida to Stonepeak 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;
- (b) a payment by Arvida of the Break Fee represents the sole and absolute liability of Arvida to Stonepeak under or in connection with this agreement and no further damages, fees, expenses or reimbursements of any kind will be payable by Arvida to Stonepeak in connection with this agreement; and
- (c) the amount of the Break Fee payable to Stonepeak under this clause 14 shall be reduced by the amount of any loss or damage recovered by Stonepeak in relation to a breach of any other clause of this agreement.

14.12 Stonepeak limitation of liability

Notwithstanding any other provision of this agreement but subject to clauses 14.6(c) and 14.9:

- (a) the maximum aggregate liability of Stonepeak to Arvida 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;
- (b) a payment by Stonepeak of the Reverse Break Fee represents the sole and absolute liability of Stonepeak to Arvida under or in connection with this agreement and no further damages, fees, expenses or reimbursements of any kind will be payable by Stonepeak to Arvida in connection with this agreement; and
- (c) the amount of the Reverse Break Fee payable to Arvida under this clause 14 shall be reduced by the amount of any loss or damage recovered by Arvida in relation to a breach of any other clause of this agreement.

15 TERMINATION

15.1 Events affecting the Arvida Group

Subject to clause 15.3, Stonepeak may terminate this agreement by giving notice in writing to Arvida before 8.00am on the Implementation Date if:

- (a) Arvida is in breach of any Arvida Warranty or any event occurs or circumstance arises that would cause any Arvida Warranty to be untrue as at 8.00am on the Implementation Date, where the consequences of that breach (other than in respect of a Fundamental Warranty) are material in the context of the Scheme and the Arvida Group (taken as a whole);



- (b) Arvida is in breach of any Arvida Undertaking or any other provision of this agreement and that breach is material in the context of the Scheme, or to the Arvida Group taken as a whole. For the avoidance of doubt, it will be a material breach of this agreement if any Arvida Director fails to make the recommendation, or any Arvida Director fails to give the undertaking, referred to in clause 8.1 or changes, qualifies or withdraws that recommendation or undertaking once made or makes any statement inconsistent with that recommendation or that undertaking, except where there is a Superior Proposal in compliance with clause 13.7(a) or where the Independent Adviser issues an Independent Adviser's Report which concludes that the Consideration is not within or above the Independent Adviser's valuation range for the Shares;
- (c) a Prescribed Occurrence occurs on or after the date of this agreement;
- (d) a Material Adverse Change occurs on or after the date of this agreement;
- (e) clause 13.10 applies and Arvida has not already terminated this agreement;
or
- (f) Arvida or any other Arvida Group member enters into a definitive agreement to implement a Competing Proposal.

15.2 **Events affecting Stonepeak**

Subject to clause 15.3, Arvida may terminate this agreement by giving notice in writing to Stonepeak before 8.00am on the Implementation Date if:

- (a) Stonepeak is in breach of any Stonepeak Warranty or any event occurs or circumstance arises that would cause any Stonepeak 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;
- (b) Stonepeak is in breach of any Stonepeak Undertaking or any other provision of this agreement and that breach is material in the context of the Scheme;
- (c) an Insolvency Event occurs in respect of Stonepeak; or
- (d) clause 13.10 applies and Stonepeak has not already terminated this agreement.

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 setting out the circumstances that it considers permit it to do so and stating its intention to do so;
- (b) the relevant circumstances have not been remedied within 10 Business Days after the time that the notice is given or any shorter period ending at 8.00am on 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 **Regulatory Conditions not satisfied**

Either Arvida or Stonepeak may terminate this agreement by giving notice in writing to the other if:

- (a) either of the Regulatory Conditions that are for the benefit of that party (or both parties) becomes incapable of satisfaction before the Condition Satisfaction Date;
- (b) the relevant Regulatory Condition, if capable of waiver under clause 3.5, has not been waived by the Condition Satisfaction Date; and
- (c) the terminating party has complied with its obligations under clause 3.2, and in all material respects with its obligations under clauses 3.3, 3.4 and 3.8 in relation to the satisfaction of the relevant Regulatory Condition.

15.5 **Scheme Resolution not passed**

Either Arvida or Stonepeak may terminate this agreement by giving notice in writing to the other if:

- (a) the Scheme Meeting is held but 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 terminating party has complied in all material respects with its obligations under this agreement in respect of the Scheme Meeting and the Scheme Resolution.

15.6 **Court determines not to grant the Final Orders**

Subject first to complying with clauses 7.3 and 7.4, either party may terminate this agreement by giving notice in writing to the other party if the Court determines not to grant the Final Orders, provided that the terminating party has complied in all material respects with its obligations under this agreement that are relevant to seeking or obtaining the Final Orders.

15.7 **End Date**

Either Arvida or Stonepeak may terminate this agreement by giving notice in writing to the other if the Scheme has not become Effective by the End Date provided that 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.

15.8 **Effect of termination**

If this agreement is terminated under this clause 15 then:

- (a) except as provided in clause 15.8(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.

16 ANNOUNCEMENTS

16.1 Initial announcements

As soon as reasonably practicable after this agreement is signed Arvida must issue an announcement advising the market that Arvida has entered into this conditional agreement in a form agreed with Stonepeak and including a statement that:

- (a) each Arvida Director recommends that Shareholders vote in favour of the Scheme; and
- (b) each Arvida 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) an announcement which provides an update on progress with implementing the Scheme or, in the case of Arvida, 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; or
- (d) if 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 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,

provided that the obligations in this clause will not prevent Arvida or Stonepeak from responding to media and other stakeholders where not inconsistent with announcements that are permitted to be made in accordance with the terms of this agreement, including this clause 16.2.



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 NZ\$ 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. 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 Shares pursuant to this agreement is an exempt supply of a financial service and therefore not subject to GST. 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 (the *Supplier*), in addition to the GST Exclusive Consideration, an additional amount equal to the GST chargeable on that supply (the *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 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 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 delivered or sent by email to the party to be served as follows:

(a) to Arvida at:

Address: Level 15, Aon Building, 29 Customs Street West,
Auckland 1010, New Zealand

Email: briar.malpas@arvida.co.nz;
mark.jarvis@arvida.co.nz

For the attention of: Briar Malpas, General Counsel;
Mark Jarvis, General Manager Strategy

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

Address: Chapman Tripp, Level 34, PwC Tower, 15 Customs
Street, Auckland Central, Auckland 1010, New
Zealand

Email: roger.wallis@chapmantripp.com;
nick.letham@chapmantripp.com

For the attention of: Roger Wallis, Nick Letham

(b) to Stonepeak at:

Address: 55 Hudson Yards, 550 W 34th Street, 48th Floor,
New York, NY10001, USA

Email: legalandcompliance@stonepeak.com

For the attention of: Legal and Compliance



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

Address: Bell Gully, Level 14, Deloitte Centre, 1 Queen Street, Auckland Central, Auckland, 1010, New Zealand

Email: toby.sharpe@bellgully.com;
gabrielle.menzies@bellgully.com

For the attention of: Toby Sharpe, Gabrielle Menzies

or at any such other address or email address notified for this purpose to the other parties 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 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 5.00 pm or on a Saturday, Sunday or public holiday in the place of receipt then the notice or communication is taken to be received at 9.00 am 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 email 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 the Scheme becoming Effective.
- (b) Any amendment to this agreement will only be effective if it is in writing and signed by all the parties.
- (c) Notwithstanding clauses 12.1(c) and 12.2(c) this agreement may be varied by the parties to it without the approval of any Arvida Indemnified Person, any Stonepeak Indemnified Person or any director, officer or employee of Arvida or of any other member of the Arvida 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.

21 **GOVERNING LAW AND JURISDICTION**

21.1 **Governing law**

This agreement and any non-contractual obligations arising out of or in connection with it is governed by the law applying in New Zealand.



21.2 **Jurisdiction**

The courts having jurisdiction in New Zealand have non-exclusive jurisdiction to settle any dispute arising out of or in connection with this agreement (including a dispute relating to any non-contractual obligations arising out of or in connection with this agreement) and each party irrevocably submits to the non-exclusive jurisdiction of the courts having jurisdiction in New Zealand.

21.3 **Service of process**

Stonepeak:

- (a) appoints Toby Sharpe and Gabrielle Menzies of Bell Gully 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
- (b) will ensure that at all times prior to the Implementation Date or termination of this agreement, the agent noted in clause 21.3(a) or a replacement appointed by Stonepeak and notified to Arvida, is authorised and able to accept service of process and other documents on its behalf in New Zealand.



EXECUTION

EXECUTED on behalf of **Stonepeak Alps BidCo Limited**

Signature of director

Darren Keogh

Name of director

Signature of director

Yuexin Han

Name of director

EXECUTED on behalf of **Arvida Group Limited:**

Signature of director

Anthony Beverley

Name of director

Signature of director


Paul Ridley-Smith

Name of director



EXECUTION

EXECUTED on behalf of **Stonepeak Alps BidCo Limited**

<hr/>	 <hr/>
Signature of director	Signature of director
Darren Keogh	Yuexin Han
<hr/>	<hr/>
Name of director	Name of director

EXECUTED on behalf of **Arvida Group Limited:**

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Signature of director	Signature of director
Anthony Beverley	Paul Ridley-Smith
<hr/>	<hr/>
Name of director	Name of director



EXECUTION

EXECUTED on behalf of **Stonepeak Alps BidCo Limited**

_____ Signature of director	_____ Signature of director
Darren Keogh	Yuexin Han
_____ Name of director	_____ Name of director

EXECUTED on behalf of **Arvida Group Limited:**

 _____ Signature of director	 _____ Signature of director
Anthony Beverley	Paul Ridley-Smith
_____ Name of director	_____ Name of director



SCHEDULE 1 – PRESCRIBED OCCURRENCES

- 1 Arvida or any other Arvida Group member 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) on or in respect of, any of the Shares other than any distribution from a wholly owned Arvida Group member to Arvida or another wholly owned Arvida Group member.
- 2 Any Arvida Group member issuing, agreeing to issue, or granting an option or right to subscribe for, shares, convertible securities or 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 or other financial products) other than the issuing of shares by a wholly owned subsidiary of Arvida to Arvida or another wholly owned subsidiary of Arvida or as provided for in clause 6.5.
- 3 Arvida or a member of the Arvida Group:
 - (a) 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 Arvida Group;
 - (b) converting all or any of the Shares into a larger or smaller number; or
 - (c) buys back (or agrees to buy back) any shares or other securities.
- 4 Any alteration to the constitutional documents of any member of the Arvida Group.
- 5 An Insolvency Event occurs in respect of Arvida, or an Insolvency Event occurs in respect of another member of the Arvida Group that is material to the Arvida Group taken as a whole.
- 6 A resolution is passed for any amalgamation of any member of the Arvida 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 Arvida and/or one or more wholly owned subsidiaries of Arvida).
- 7 The Shares cease to be quoted on the NZX, or are suspended from trading for a period of longer than five trading days on the NZX (other than in connection with implementation of the Scheme).
- 8 A member of the Arvida Group is, or will be, under any obligation to make any payment or provide any consideration to any of its employees or directors in the event of any member of the Arvida Group becoming a subsidiary of Stonepeak or under Stonepeak's control (unless previously approved in writing by Stonepeak or as fairly disclosed in the Due Diligence Material).
- 9 A member of the Arvida 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 members of the Arvida Executive Team, other than within the exceptions



provided in clauses 9.2(g)(xv) or 9.3 or on the basis of retirement by rotation under the NZX Listing Rules.

- 10 A member of the Arvida Group accelerates the rights of any of its directors, officers or employees to benefits of any kind, other than as permitted under clause 6.5 and clause 9.2(g)(xvi).
 - 11 A member of the Arvida Group enters into a transaction with a Related Party (other than a Related Party that is also a member of the Arvida Group) that is material to the Arvida Group taken as a whole.
 - 12 Arvida or another Arvida Group member amends (or agrees to amend) in a material respect any agreement or arrangement with any financial advisor in relation to the Transaction or a Competing Proposal, or enters into an agreement or arrangement with a new financial advisor, in respect of the Transaction or a Competing Proposal.
 - 13 A member of the Arvida Group:
 - (a) disposes, or agrees to dispose, of; or
 - (b) grants any person any Encumbrance, other than a Permitted Encumbrance, over,
- the whole or a substantial part of the Arvida Group's business or property.
- 14 The board or shareholders of an Arvida Group member passes a resolution to do or authorise the doing of any act or matter referred to in any of paragraphs 1 to 13 above.
 - 15 Any:
 - (a) enforcement action, investigation, inquiry or audit is publicly announced or commenced, or there is a material adverse development in relation to any action, investigation, inquiry or audit by a Government Agency;
 - (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,

specifically against or involving a member of the Arvida Group which is, or is reasonably likely to be, materially adverse to the Arvida Group taken as a whole.



SCHEDULE 2 – ARVIDA WARRANTIES AND UNDERTAKINGS

Part 1 - Arvida Warranties

- 1 Arvida is a corporation validly existing under the laws of New Zealand.
- 2 Arvida has the power to execute 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 the performance of such obligations.
- 3 Arvida's obligations under this agreement are legal, valid and binding obligations enforceable subject to and in accordance with their terms.
- 4 The execution by Arvida 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 Arvida is bound.
- 5 Arvida 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 (*Arvida Reporting Documents*) and is not in breach of its continuous and periodic disclosure obligations under the Companies Act or 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 Arvida Reporting Documents do not contain any untrue statement of a material fact or omit to state a material fact required to be stated in it, except to the extent that such statements have been modified or superseded by a later Arvida Reporting Document.
- 6 Each member of the Arvida Group has complied in all material respects with all laws and regulations applicable to them, has all material Authorisations for them to conduct the business of the Arvida Group as presently being conducted and, so far as Arvida is aware, no member of the Arvida Group is under investigation with respect to the violation of any laws or applicable Authorisations.
- 7 As at the date of this agreement Arvida's capital structure is as set out in Schedule 4 Part A, and the Arvida Group's capital structure is as set out in Part B and there are no other shares, options or other securities (including equity securities, debt securities or convertible securities) or other instruments which are convertible into securities in a member of the Arvida Group on issue, nor has any member of the Arvida Group offered or agreed to issue or grant, and no person has any right to call for the issue or grant of, any such shares, options or other securities or other instruments to any Third Party.
- 8 As at 8.00am on the Implementation Date, there will be on issue no more than 733,832,612 Shares, and no securities, options, performance rights or instruments will be outstanding or become outstanding which give (or may give) any right to or which may become convertible into Shares.



- 9 The execution of this agreement by Arvida will not affect any waiver or amendment of any standstill agreement or arrangement between Arvida and any person other than a member of the Stonepeak Group.
- 10 The Arvida Group does not have any outstanding financing that is not reflected in its financial statements and notes thereto for the year ended 31 March 2024. Since 31 March 2024 no member of the Arvida 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.
- 11 Arvida has prepared the Due Diligence Material in good faith.
- 12 As far as Arvida is aware, as at the date it was prepared, all information in the Due Diligence Material was true and correct in all material respects and was not misleading or deceptive in any material respect, including by omission.
- 13 As at the date of this agreement, Arvida is not aware of any material circumstance, contract, commitment or arrangement which has not been fairly disclosed in the Due Diligence Material and which might reasonably be expected to materially and adversely affect the financial position, business, assets, prospects or profitability of the Arvida Group (including as a result of payments to be made by the Arvida Group, a decrease in the value of the Arvida Group's assets or an increase in the value of the Arvida Group's liabilities) 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, Arvida is not in negotiations or discussions (other than with Stonepeak and its Representatives) with any person relating to, or which may reasonably be expected to lead to, any Competing Proposal.
- 15 As at the date of this agreement, so far as Arvida is aware, there is no matter, event or circumstance which would, or is likely to, constitute a Material Adverse Change.
- 16 No member of the Arvida Group has a legal or equitable interest in land that has not been fairly disclosed in the Due Diligence Material.
- 17 Other than as fairly disclosed in the Due Diligence Material, there is no current or, so far as Arvida is aware on the date of this agreement, pending or threatened claim, dispute, demand, action, litigation, prosecution, arbitration, investigation, mediation or other proceeding which could reasonably be expected to result in an award, settlement, fine, penalty, order, loss or other liability to the Arvida Group of more than \$1,000,000.
- 18 As at the date of this agreement, no member of the Arvida Group has any liability which exceeds \$2,500,000 or, as far as the Arvida is aware, contingent liability the value of which exceeds \$2,500,000 except, in either case, for liabilities or contingent liabilities fairly disclosed in the Due Diligence Material.
- 19 Except as fairly disclosed in the Due Diligence Material, neither the execution of this agreement, nor the implementation of the Scheme, will 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 Arvida Group is a party or under which any member of the Arvida Group is entitled to a material right or benefit, or any material provision thereof.



- 20 As far as Arvida is aware on the date of this agreement, neither the Arvida Group, nor any of its officers, directors or employees, nor any agent or other third party representative acting on behalf of the Arvida Group, has made, offered, promised, or authorised, directly or indirectly, any payment for unlawful contributions, unlawful gifts, unlawful entertainment or other unlawful expenses relating to political activity, or any bribe, unlawful payoff, influence payment, kickback or other similar unlawful payment to any person for the purpose of either gaining an improper business advantage or encouraging the recipient to violate the policies of his or her employer or to breach an obligation of good faith or loyalty, in each case in violation of any applicable Anti-Corruption Laws.
- 21 On the date of this agreement:
- (a) neither the Arvida Group nor, as far as Arvida is aware, any of its officers, directors, employees, agents, or representatives acting on its behalf is a Sanctioned Person or has transacted business with a Sanctioned Person or in violation of Sanctions;
 - (b) the Arvida Group, and to its knowledge, its directors, officers, employees, and agents are in compliance with applicable Sanctions in all material respects; and
 - (c) Arvida has implemented and maintains in effect and enforces policies and procedures reasonably designed to ensure compliance by the Arvida Group and its directors, officers, employees and agents with Sanctions applicable to such persons.
- 22 As far as Arvida is aware on the date of this agreement, none of the Arvida Group's officers, directors, or agents is currently a Government Official.
- 23 During the two years prior to the date of this agreement, the Arvida Group has not received from any Government Agency or any other person any notice, written inquiry, or internal or external allegation, or made any voluntary or involuntary disclosure to a Government Agency related to any actual or potential violation of applicable Anti-Corruption Laws or Sanctions. At the date of this agreement, no proceeding by or before any Government Agency involving any member of the Arvida Group with respect to Anti- Corruption Laws or Sanctions has been notified in writing to Arvida, or to the knowledge of Arvida, is threatened.
- 29 For the purposes of the warranties in paragraphs of this Schedule:
- (a) *Anti-Corruption Laws* means:
 - (i) the Secret Commissions Act 1910 (NZ) and the Crimes Act 1961 (NZ);
 - (ii) the U.S. Foreign Corrupt Practices Act of 1977, as amended;
 - (iii) the UK Bribery Act 2010;
 - (iv) the Criminal Code Act 1995 (Cth); and
 - (v) any similar applicable law that has as its objective the prevention of corruption, including legislation enacted in furtherance of the OECD



Convention on Combatting Bribery of Foreign Public Officials in International Business Transactions 1997.

- (b) *Government Official* means, whether in New Zealand or elsewhere:
- (i) an officer, agent or employee of a government, government-owned enterprise (or any agency, department or instrumentality thereof), political party or public international organisation;
 - (ii) a candidate for government or political office; or
 - (iii) an agent, officer, or employee of any entity owned by a government.
- (c) *Sanctioned Person* means at any time:
- (i) any person or entity listed on any Sanctions-related list of designated or blocked persons;
 - (ii) any person resident in, or entity organised under the laws of, a country or territory that is the subject of comprehensive Sanctions (including Cuba, Iran, North Korea, Syria, the so-called Donetsk People's Republic, the so-called Luhansk People's Republic, and the Crimea region); or
 - (iii) any person or entity majority-owned or controlled by or acting on behalf of any of the foregoing.
- (d) *Sanctions* means those economic and financial sanctions and trade embargoes imposed, administered or enforced from time to time by:
- (i) the New Zealand government;
 - (ii) the European Union and implemented by its member States;
 - (iii) the United Nations Security Council;
 - (iv) His Majesty's Treasury of the United Kingdom;
 - (v) the U.S. government, including those administered by the U.S. Treasury Department, Office of Foreign Assets Control and the U.S. Department of State;
 - (vi) the Australian government; or
 - (vii) other relevant sanctions authority.



Part 2 - Arvida Undertakings

- 1 Arvida will ensure that the Arvida Information:
 - (a) is prepared in good faith and on the understanding that each of the Stonepeak Indemnified Parties will rely on that information for the purposes of considering and approving the Stonepeak Information in the Scheme Booklet;
 - (b) complies with the Companies Act, 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 Arvida will provide to Shareholders and Stonepeak 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 Arvida 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.
- 3 All information provided by or on behalf of Arvida to the Independent Adviser will be provided in good faith (including by having regard to material risks, opportunities and adverse circumstances) and:
 - (a) to the extent such information relates to topics or matters in respect of which information has also been made available to Arvida as part of the Due Diligence Material, relates to time periods prior to the date of this agreement and such information is material as it relates to the assessment of the value of the Scheme Shares, that information will be consistent in all material respects with the information made available to Stonepeak in relation to the same topics or matters; and
 - (b) 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 – STONEPEAK WARRANTIES AND UNDERTAKINGS

Part 1 - Stonepeak Warranties

- 1 Stonepeak is a corporation validly existing under the laws of its place of incorporation.
- 2 Stonepeak 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 and the performance of such obligations.
- 3 The obligations of Stonepeak under this agreement are, and the obligations of Stonepeak 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 Stonepeak of this agreement and the execution and, in due course, delivery by Stonepeak of the Deed Poll do not and will not conflict with or constitute a default under any provision of:
 - (a) any agreement or instrument to which Stonepeak is a party; or
 - (b) the constitution of Stonepeak.
- 5 Stonepeak's directors are of good character (for the purposes of section 16(c) of the Overseas Investment Act 2005) and are not individuals of a kind referred to in section 15 or 16 of the Immigration Act 2009.
- 6 As of the date of this agreement, Stonepeak has a reasonable basis to expect that it will have available to it by 8:00am on the Implementation Date sufficient cash amounts (whether from internal cash reserves or external funding arrangements, including equity and debt financing or a combination of both), to satisfy its obligations to pay the Consideration in accordance with clause 2.3, the Scheme Plan and the Deed Poll.
- 7 The Equity Commitment Letter has been duly executed by the parties to that letter and constitutes legally binding obligations of those parties that is enforceable in accordance with its terms.
- 8 The Debt Commitment Letter has been duly executed by the parties to that letter and constitutes legally binding obligations of those parties that are enforceable in accordance with its terms.
- 9 As of the date of this agreement, Stonepeak has delivered to Arvida a true and complete copy of the executed Debt Commitment Letter and Equity Commitment Letter.



Part 2 - Stonepeak Undertakings

- 1 Stonepeak will ensure that the Stonepeak Information:
 - (a) is prepared in good faith and on the understanding that each of the Arvida 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 Stonepeak will provide to Arvida 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 Stonepeak 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 Stonepeak 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.
- 4 As at 8.00am on the Second Court Date Stonepeak will have binding agreements in place to fund its obligation to pay the Consideration in accordance with the Scheme and the Deed Poll conditional only upon:
 - (a) the Court approving the Scheme and the Scheme becoming Effective; and
 - (b) the Conditions (to the extent they have not been satisfied or waived prior to the Second Court Date) and other customary conditions precedent to draw down, including those set out in the Equity Commitment Letter and Debt Commitment Letter.



SCHEDULE 4 – CAPITAL STRUCTURE

Part A - Arvida

Type of security	Total number on issue
Shares	730,985,104
Share Rights	2,847,508

Part B – Arvida Group

Entity name	Total number on issue	Class	Name of shareholder(s)
Arvida Limited	143,281,350	Ordinary	Arvida Group Limited
Aria Bay Retirement Village Limited	100,000	Ordinary	Arvida Limited
Aria Bay Senior Living Limited	100,000	Ordinary	Arvida Limited
Aria Gardens Limited	100,000	Ordinary	Arvida Limited
Aria Park Retirement Village Limited	100,000	Ordinary	Arvida Limited
Aria Park Senior Living Limited	100,000	Ordinary	Arvida Limited
Ashwood Park Lifecare (2012) Limited	100,000	Ordinary	Arvida Limited
Ashwood Park Retirement Village (2012) Limited	5,000,000	Ordinary	Arvida Limited
Bethlehem Country Club Village Limited	100	Ordinary	Arvida Limited
Bethlehem Shores Retirement Village Limited	100	Ordinary	Arvida Limited
Copper Crest Living Well Limited	100	Ordinary	Arvida Limited
Copper Crest Retirement Village Limited	100	Ordinary	Arvida Limited
Glenbrae Resthome and Hospital Limited	100	Ordinary	Arvida Limited
Glenbrae Village Limited	100	Ordinary	Arvida Limited
Good Friends (2020) Limited	100	Ordinary	Arvida Limited
Ilam Lifecare Limited	100,000	Ordinary	Arvida Limited



Entity name	Total number on issue	Class	Name of shareholder(s)
Ilam Senior Living Limited	100,000	Ordinary	Arvida Limited
Lansdowne Developments Limited	200	Ordinary	Arvida Limited
Lansdowne Park Village Limited	200	Ordinary	Arvida Limited
Lauriston Park Living Well Limited	100	Ordinary	Arvida Limited
Lauriston Park Retirement Village Limited	35,444,654	Ordinary	Arvida Limited
Lincoln Land Limited	100	Ordinary	Arvida Limited
Mary Doyle Healthcare Limited	1,000	Ordinary	Arvida Limited
Mary Doyle Trust Lifecare Complex Limited	1,500	Ordinary	Arvida Limited
Mayfair Lifecare (2008) Limited	100,000	Ordinary	Arvida Limited
Mayfair Retirement Village (2008) Limited	100,000	Ordinary	Arvida Limited
Molly Ryan Lifecare (2007) Limited	100,000	Ordinary	Arvida Limited
Molly Ryan Retirement Village (2007) Limited	100,000	Ordinary	Arvida Limited
Oakwoods Lifecare (2012) Limited	100,000	Ordinary	Arvida Limited
Oakwoods Retirement Village (2012) Limited	5,000,000	Ordinary	Arvida Limited
Olive Tree Apartments Limited	100,100	Ordinary	Arvida Limited
Olive Tree Holdings Limited	100	Ordinary	Arvida Limited
Olive Tree Village (2008) Limited	100	Ordinary	Arvida Limited
Park Lane Lifecare Limited	200,000	Ordinary	Arvida Limited
Park Lane Retirement Village Limited	200,000	Ordinary	Arvida Limited
Queenstown Country Club Living Well Limited	100	Ordinary	Arvida Limited
Queenstown Country Club Village Limited	100	Ordinary	Arvida Limited



Entity name	Total number on issue	Class	Name of shareholder(s)
Rhodes on Cashmere Healthcare Limited	100	Ordinary	Arvida Limited
Rhodes on Cashmere Lifecare Limited	100	Ordinary	Arvida Limited
SH24 Limited	31,000	Ordinary	Arvida Limited
SLV24 Limited	1,031,000	Ordinary	Arvida Limited
St Albans Lifecare Limited	100	Ordinary	Arvida Limited
St Albans Retirement Village Limited	100	Ordinary	Arvida Limited
St Allisa Rest Home (2010) Limited	100,000	Ordinary	Arvida Limited
Te Puna Waiora RV Limited	100	Ordinary	Arvida Limited
The Cascades Retirement Resort Limited	1,000	Ordinary	Arvida Limited
The Wood Lifecare (2007) Limited	100,000	Ordinary	Arvida Limited
The Wood Retirement Village (2007) Limited	100,000	Ordinary	Arvida Limited
TML(2005) Limited	100,000	Ordinary	Arvida Limited
TMRV(2005) Limited	100,000	Ordinary	Arvida Limited
Views Lifecare Limited	1,000	Ordinary	Arvida Limited
Village at the Park Care Limited	100,000	Ordinary	Village at the Park Limited (50,000) Arvida Limited (50,000)
Village at the Park Lifecare Limited	100,000	Ordinary	Village at the Park Limited (50,000) Arvida Limited (50,000)
Waikanae Beach Retirement Village Limited	100	Ordinary	Arvida Limited
Waikanae Country Lodge Limited	1,100	Ordinary	Arvida Limited
Waikanae Country Lodge Village Limited	100	Ordinary	Arvida Limited
Waimea Plains Living Well Limited	100	Ordinary	Arvida Limited
Waimea Plains Retirement Village Limited	100	Ordinary	Arvida Limited



Entity name	Total number on issue	Class	Name of shareholder(s)
Warkworth RV Limited	100	Ordinary	Arvida Limited
Whai Mauri Ora RV Limited	100	Ordinary	Arvida Limited
Arvida AL Holdings Limited	125,890,843	Ordinary	Arvida Limited
Arvida AL New Zealand Limited	61,772,964	Ordinary Class A Redeemable Preference Shares	Arvida AL Holdings Limited (4,461) Arvida AL Holdings Limited (61,768,503)
Arvida AL Limited	1	Ordinary	Arvida AL New Zealand Limited
Knightsbridge RV Limited Partnership	N/A	N/A	General Partner: Knightsbridge GP Limited Limited Partner: Knightsbridge LP Limited
Knightsbridge GP Limited	382	Ordinary	Arvida AL Limited (282) Arvida AL Limited (100)
Knightsbridge LP Limited	4,769,853	Ordinary	Arvida AL Limited (3,519,853) Arvida AL Limited (1,250,000)
Mayfair (Auckland) RV Limited	12,687	Ordinary	Arvida AL Limited (11,457) Arvida AL Limited (1,230)
Mount Eden Gardens RV Limited	9,425,001	Ordinary	Arvida AL Limited
Ocean Shores RV Limited Partnership	N/A	N/A	General Partner: Ocean Shores GP Limited Limited Partner: Ocean Shores LP Limited
Ocean Shores GP Limited	3,313,095	Ordinary	Arvida AL Limited (3,257,095) Arvida AL Limited (56,000)
Ocean Shores LP Limited	31,077,134	Ordinary	Arvida AL Limited (29,877,134) Arvida AL Limited (1,200,000)
Parklane (Auckland) RV Limited	6,781	Ordinary	Arvida AL Limited (5,781) Arvida AL Limited (1,000)
Peninsula Club RV Limited	6,672,201	Ordinary	Arvida AL Limited (6,572,201) Arvida AL Limited (100,000)



SCHEDULE 5 – TIMETABLE

	Event	Indicative Date
1	Execution of this agreement by Arvida and Stonepeak	20 July 2024
2	Announcement to NZX that this agreement has been entered into	22 July 2024
3	Stonepeak to submit its application under the Overseas Investment Act 2005	Within 15 Business Days of item 1
4	Arvida to submit its Vendor Information Form under the Overseas Investment Act 2005	Within 2 Business Days (in Auckland, New Zealand only) of item 3
5	Draft Scheme Booklet provided to Stonepeak	Within 15 Business Days (in Auckland, New Zealand only) of item 1
6	Comments on Scheme Booklet provided by Stonepeak to Arvida	Within 10 Business Days of item 5
7	Final draft Scheme Booklet provided to Stonepeak for review	Within 5 Business Days (in Auckland, New Zealand only) of item 6
8	Final draft Scheme Booklet (including Independent Adviser's Report) provided to the Takeovers Panel for review	Within 5 Business Days (in Auckland, New Zealand only) of item 7
9	Final draft Scheme Booklet (excluding Independent Adviser's Report) provided to Stonepeak	On the same date as item 8
10	Scheme Booklet (including Independent Adviser's Report) approved by Takeovers Panel and Takeovers Panel issues Letter of Intention	Within 15 Business Days (in Auckland, New Zealand only) of item 8
11	Application for Initial Orders filed by Arvida with the Court	Within 2 Business Days (in Auckland, New Zealand only) of item 10
12	First Court Date	As soon as possible after item 11, subject to Court availability



13	Court grants Initial Orders. Sealed Initial Orders and a Minute of the Court from the First Court Date sent to Takeovers Panel (together with any updated material).	First Court Date
14	Scheme Booklet sent to Shareholders (including Independent Adviser's Report)	Within 4 Business Days (in Auckland, New Zealand only) of item 13
15	Time and date for determining eligibility to vote at Scheme Meeting	48 hours before the scheduled start time for the Scheme Meeting
16	Scheme Meeting	Within 15 Business Days (in Auckland, New Zealand only) of item 14
17	Arvida applies to Takeovers Panel for No-objection Statement	Within 1 Business Day (in Auckland, New Zealand only) of item 16
18	Takeovers Panel issues No-objection Statement	Within 4 Business Days (in Auckland, New Zealand only) of item 17
19	Application for Final Orders filed by Arvida with the Court	Within 5 Business Days (in Auckland, New Zealand only) after item 16 (assuming the OIO Condition has been satisfied)
20	Second Court Date	Within 5 Business Days (in Auckland, New Zealand only) after item 19
21	Final Orders Date	Second Court Date (subject to Court availability)
22	Suspend trading on NZX (Trading Halt Date)	2 Business Days after the Final Orders Date
23	Record Date	4 Business Days after the Final Orders Date
24	Implementation Date	12 Business Days after the Record Date



ANNEXURE 1 - SCHEME PLAN

SCHEME PLAN

SCHEME OF ARRANGEMENT UNDER PART 15 OF THE COMPANIES ACT 1993

PARTIES

Arvida Group Limited (*Arvida*)

Stonepeak Alps BidCo Limited (*Stonepeak*)

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, unless the context otherwise requires:

Business Day means a day (other than a Saturday, Sunday or public holiday) on which banks are generally open in Auckland, New Zealand, New York City, New York, United States of America and Singapore for normal business, and excluding any day between 25 December 2024 and 5 January 2025 (both dates inclusive);

Companies Act means the Companies Act 1993;

Computershare means Computershare Investor Services Limited;

Conditions mean:

- (a) the conditions precedent set out in the first column of the table in clause 3.1 of the Scheme Implementation Agreement; and
- (b) such other conditions made or required by the Court under section 236(1) or section 237(1) of the Companies Act and approved in writing by Arvida and Stonepeak in accordance with clause 3.2 of the Scheme Implementation Agreement;

Consideration means:

- (a) \$1.70 in cash in respect of each Scheme Share held by a Scheme Shareholder, reduced by the per Share value of any dividend the record date for which falls between the date of the Scheme Implementation Agreement and the Implementation Date; or
- (b) such other amount notified to Arvida by Stonepeak in accordance with clause 7.1;

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

Deed Poll means the deed poll entered into by Stonepeak in favour of the Scheme Shareholders;

Encumbrance means:

- (a) 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 or 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

(b) any agreement to create any of the foregoing;

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

Excluded Shares means any Shares nominated in writing by Stonepeak to Arvida not less than two Business Days prior to the Record Date which are held or controlled by Stonepeak or any of its Associates at 7.00pm on the Record Date;

Final Orders means orders made, on application of Arvida, that the Scheme shall be binding on Arvida, Stonepeak, 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;

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, regulatory, administrative, fiscal, judicial or quasi-judicial agency, authority, board, commission, tribunal or entity;

Implementation Date means the day on which the Scheme is to be implemented, being the date which is 12 Business Days after the Record Date, or such other date as Stonepeak and Arvida agree in writing, and Implementation correspondingly means the time at which implementation commences with the first step under clause 4.1(d);

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 as amended from time to time;

Record Date means 7.00 pm on the date which is 4 Business Days after the Final Orders Date or such other date Stonepeak and Arvida agree in writing;

Register means the Share register maintained by Computershare on behalf of Arvida;

Registered Address means, in relation to a Shareholder, the address of that Shareholder 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 Arvida and Stonepeak in writing;

Scheme Implementation Agreement means the scheme implementation agreement dated 20 July 2024 between Arvida and Stonepeak;

Scheme Meeting means the meeting of Shareholders 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 other than Excluded Shares;

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

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

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

Trading Halt Date means the date which is two Business Days after the Final Orders Date or such other date as Stonepeak and Arvida agree in writing;

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

Unconditional means all of the Conditions having been satisfied or, if capable of waiver in accordance with the Scheme Implementation Agreement, waived.

1.2 **Interpretation:** In this Scheme Plan, unless the context otherwise requires:

- (a) headings are to be ignored in construing this document;
- (b) the singular includes the plural and vice versa;
- (c) words of any gender include all genders;
- (d) a reference to a clause, is a reference to a clause of this Scheme Plan;
- (e) a reference to a statute or other law includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements of any of them;
- (f) reference to any document (including this Scheme Plan) includes reference to that document (and, where applicable, any of its provisions) as amended, novated, supplemented, or replaced from time to time;
- (g) reference to a party, person or entity includes:
 - (i) an individual, partnership, firm, company, body corporate, corporation, association, trust, estate, state, government or any agency thereof, municipal or local authority and any other entity, whether incorporated or not (in each case whether or not having a separate legal personality); and
 - (ii) an employee, sub-contractor, agent, successor, permitted assign, executor, administrator and other representative of such party, person or entity;
- (h) written and in writing include any means of reproducing words, figures or symbols in a tangible and visible form;
- (i) the words including or includes do not imply any limitation;
- (j) a reference to any time is a reference to that time in New Zealand; and
- (k) references to money or \$ are to New Zealand dollars.

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 **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 **Defined terms:** Capitalised terms which are used but not otherwise defined in this Scheme Plan have the meanings given to them in the Scheme Implementation Agreement.

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 waived in accordance with the terms of the Scheme Implementation Agreement by 8.00am on the Implementation Date; and
- (b) neither the Scheme Implementation Agreement nor the Deed Poll having been terminated in accordance with its terms before 8.00am on the Implementation Date.

3. CONSIDERATION INTO TRUST ACCOUNT

3.1 **Obligation to pay Consideration into Trust Account:** Subject to the Scheme Implementation Agreement not having been terminated and the Scheme having become Unconditional (except for the Conditions set out in clauses 3.1(e), (f) and (g) of the Scheme Implementation Agreement), Stonepeak 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 Scheme Shareholders in a New Zealand dollar denominated trust account operated by Computershare and notified by Computershare to Stonepeak no later than 5.00pm on the Business Day falling 10 Business Days before the Implementation Date (the *Funds* and that account the *Trust Account*) to be held and dealt with by Computershare in accordance with this Scheme Plan.

3.2 **Details of Trust Account:**

- (a) Subject to clauses 3.2(b), 5.4, 5.5 and 5.6, the Trust Account will be established and operated by Computershare on the basis that the Funds are held on trust for Stonepeak and to its order, such that only Stonepeak 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 Stonepeak to Arvida and to Computershare to make payment of the Consideration to the Scheme Shareholders in accordance with this Scheme Plan upon transfer of the Scheme Shares to Stonepeak under clause 4.1(d).
- (c) The details of the Trust Account will be provided to Stonepeak by (or on behalf of) Computershare not less than 10 Business Days before the Implementation Date.

3.3 **Interest:** Any interest earned on the amount deposited in the Trust Account up to Implementation will be payable to Stonepeak by Computershare as directed by Stonepeak in writing (less bank fees and other third party charges relating to the Trust Account).

3.4 **Scheme not implemented:** Should the implementation of the Scheme not occur by 5.00pm on the Implementation Date for any reason or the Scheme becomes void under clause 7.5, Computershare will immediately repay the Funds to Stonepeak to such New Zealand dollar denominated account instructed to Computershare by Stonepeak.

4. Implementation

4.1 Implementation: Subject to:

- (a) any amendments or variations as may be required by the Court;
- (b) Arvida and Stonepeak providing Computershare with written notice that the Scheme is Unconditional after 8.00am and prior to 9.00am on the Implementation Date; and
- (c) the Consideration having been deposited into the Trust Account in accordance with clause 3.1 and Computershare confirming in writing to Arvida and Stonepeak that this has occurred,

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

- (d) 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 Stonepeak, and Arvida must enter, or procure Computershare enter, the name of Stonepeak in the Register as holder of all of the Scheme Shares; and
- (e) in accordance with the direction set out in clause 3.2(b) and subject to compliance in full with clause 4.1(d), Stonepeak is deemed to have irrevocably authorised and instructed Computershare 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 that Scheme Shareholder as set out in the Register as at the Record Date in accordance with clause 5.

5. PAYMENT OF CONSIDERATION

5.1 Method of payment: The payment obligations under clause 4.1(e) will be satisfied by:

- (a) where a Scheme Shareholder has, prior to the Record Date, provided bank account details to enable Computershare and Arvida to make payments of New Zealand dollars by electronic funds transfer, Computershare 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 that has an address outside of New Zealand has, prior to the Record Date, provided sufficient written instructions (to Computershare's satisfaction) to enable Computershare to make payment in foreign currency (and Computershare is able to make payment in that currency), Computershare must pay that Consideration (less any applicable costs, exchange rate spread and fees) to such Scheme Shareholder in the currency nominated by such Scheme Shareholder (at such exchange rate that Computershare may determine to convert the New Zealand dollar amount of Consideration to that foreign currency); or
- (c) where a Scheme Shareholder has not provided the information and/or taken the steps contemplated by clauses 5.1(a) and 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), Computershare 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 Arvida, 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 Arvida, 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(e), there is a surplus in the Trust Account, that surplus (less the aggregate amount of the Consideration retained in the Trust Account in accordance with clause 5.1(c) or clause 5.6(b), and less bank fees and other third party charges relating to the Trust Account) shall be promptly paid in full to Stonepeak as directed by Stonepeak in writing.

5.4 **Holding on Trust:** Arvida must, in respect of any monies retained by Computershare pursuant to clause 5.1(c) or clause 5.6(b), instruct Computershare to hold such monies in the Trust Account on trust for the relevant Scheme Shareholders for a period of two years and thereafter, subject to clause 5.6, to pay any remaining money in the Trust Account to Arvida.

5.5 **Unclaimed monies:** During the period of two years 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), Computershare 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 Computershare 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 Arvida 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(e), Arvida will be entitled to procure, and Stonepeak will be deemed to have instructed Computershare 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(e), 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(e) 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 Stonepeak's and Arvida's obligations under clause 4.1(e) with respect to the amount so provided or retained.

- 5.7 **Exchange Rate:** If a Scheme Shareholder elects to be paid in a foreign currency as contemplated by clause 5.1(b), the conversion of the Consideration into such foreign currency will be undertaken in a manner and at an exchange rate determined by Computershare, and neither Arvida nor Stonepeak will be responsible for (or have any liability in connection with) any such conversion (including for the exchange rate at which the relevant conversion occurs).

6. Dealing in shares

6.1 Trading Halt:

- (a) Following the sealing of the Final Orders Arvida 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) Arvida must not accept for registration, nor recognise for any purpose (except a transfer to Stonepeak pursuant to this Scheme Plan and any subsequent transfer by Stonepeak or its successors in title), any transfer or transmission application or other 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) Arvida must register registrable transmission applications or registrable transfers of Shares received prior to 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 Arvida to register a transfer that relates to a transfer of Shares on which Arvida 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 Arvida and Stonepeak shall be entitled to disregard any such disposal.
- (c) For the purposes of determining entitlements to the Consideration, but subject to the requirements of the NZX Listing Rules, Arvida must maintain the Register in accordance with the provisions of this clause 6 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 (other than entries on the Register in respect of Excluded Shares), will cease to have effect except as evidence of entitlement to the Consideration in respect of the 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, Arvida must make available to Stonepeak in the form Stonepeak 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:** Stonepeak may increase the Consideration by written notice at any time to Arvida prior to the Scheme Meeting, provided that the Scheme Implementation Agreement has not been terminated in accordance with its terms prior to the receipt of such notice by Arvida.

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 Stonepeak will, at the time of transfer to Stonepeak, vest in Stonepeak free from all Encumbrances and free from any restrictions on transfer of any kind.
- (b) Each Scheme Shareholder is taken to have warranted to Stonepeak 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 they have full power and capacity to transfer their Shares to Stonepeak together with any rights and entitlements attaching to those Shares.

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

- (a) on the Final Orders Date, irrevocably appoints Arvida as its attorney and agent for the purpose of enforcing the Deed Poll against Stonepeak (but without limiting each Scheme Shareholder's right to itself enforce the Deed Poll); and
- (b) on the Implementation Date, irrevocably appoints Arvida as its 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 Arvida 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 Arvida's directors or senior managers.

7.4 **Binding effect of Scheme:**

- (a) The Scheme binds:
 - (i) Arvida;
 - (ii) Stonepeak; and
 - (iii) all of the Scheme Shareholders (including those who did not attend the Scheme Meeting to vote on the Scheme, did not vote at the Scheme Meeting, or voted against the Scheme at the Scheme Meeting).
- (b) In the event of any inconsistency, this Scheme Plan overrides the constitution of Arvida.

7.5 **End Date:** 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 any provision of the Scheme or this Scheme Plan relating to the repayment to Stonepeak of any Funds deposited in accordance with clause 3 and the interest thereon (less bank fees and other third party charges relating to the Trust Account)).

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

7.7 **Successor obligations:** To the extent that any provision of the Scheme or this Scheme Plan imposes any obligation on Stonepeak or Arvida that continues or arises after the

implementation of the Scheme, such obligation may instead be performed by any successor or related company of Stonepeak or Arvida (as applicable) in which case the obligation will be satisfied as if performed by Stonepeak or Arvida (as applicable).

7.8 **Governing law:**

- (a) This Scheme Plan and any non-contractual obligations arising out of or in connection with it is governed by and must be construed in accordance with the laws of New Zealand.
- (b) The courts having jurisdiction in New Zealand have non-exclusive jurisdiction to settle any dispute arising out of or in connection with this Scheme Plan (including a dispute relating to any non-contractual obligations arising out of or in connection with this Scheme Plan) and the parties irrevocably submit to the non-exclusive jurisdiction of the courts having jurisdiction in New Zealand.



ANNEXURE 2 - DEED POLL

SCHEME DEED POLL

This **Deed Poll** is made on

2024

PARTIES

Stonepeak Alps BidCo Limited (*Stonepeak*)

Each registered holder of one or more Scheme Shares on the Record Date (*Scheme Shareholders*)

INTRODUCTION

- A. Arvida Group Limited (*Arvida*) and Stonepeak are parties to the Scheme Implementation Agreement.
- B. Arvida has agreed in the Scheme Implementation Agreement to propose a scheme of arrangement between Arvida, Stonepeak and the Scheme Shareholders, the effect of which will be that all Scheme Shares will be transferred to Stonepeak and Stonepeak will provide or procure the provision of the Consideration to the Scheme Shareholders.
- C. Stonepeak is entering into this Deed Poll for the purpose of undertaking in favour of Scheme Shareholders to pay the Consideration to Scheme Shareholders in accordance with the terms of the Scheme Plan.

IT IS AGREED

1 DEFINED TERMS AND INTERPRETATION

1.1 Defined terms

In this Deed, unless the context requires otherwise:

Final Orders means orders made on application of Arvida, that the Scheme is binding on Arvida, Stonepeak, 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 Arvida and Stonepeak dated 20 July 2024;

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

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.

1.2 Interpretation

Clauses 1.2 and 1.3 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

- (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 the Deed Poll.
- (b) Under the Scheme Plan, each Scheme Shareholder appoints Arvida as the Scheme Shareholder's attorney and agent to enforce this Deed Poll against Stonepeak 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).
- (c) Notwithstanding clauses 2.1(a) and 2.1(b), this Deed Poll may be varied by Stonepeak and Arvida 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) Stonepeak has fully performed its obligations under this Deed Poll; or
- (b) this Deed Poll is terminated under clause 3.2.

3 CONDITIONS

3.1 Conditions

This Deed Poll, and the obligations of Stonepeak under it, are conditional in all respects on the Scheme becoming Unconditional.

3.2 Termination

The obligations of Stonepeak 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 Stonepeak and Arvida otherwise agree in writing.

3.3 Consequences of termination

If this Deed Poll is terminated under clause 3.2, then Stonepeak is released from its obligations to further perform this Deed Poll.

4 SCHEME CONSIDERATION

- (a) Subject to the Scheme Implementation Agreement not having been terminated and the Scheme having become Unconditional (except for the Conditions set out in clauses 3.1(e), 3.1(f) and 3.1(g) of the Scheme Implementation Agreement), Stonepeak 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 Computershare in accordance with the Scheme Plan.
- (b) Subject to clause 3, Stonepeak irrevocably acknowledges and agrees that, subject to compliance in full by Arvida with its obligations under clause 4.1(d) of the Scheme Plan, the Consideration deposited into the Trust Account must be, and will be, paid in

accordance with clause 4.1(e) 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.

5 WARRANTIES

Stonepeak warrants in favour of each Scheme Shareholder that:

- (a) it is a company validly existing under the laws of New Zealand;
- (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.

6. LIABILITY

- (a) Nothing in this Deed Poll precludes Scheme Shareholders from suing Stonepeak for specific performance if it does not comply with its obligations under clause 4.
- (b) Subject to clause 6(a), the maximum aggregate liability of Stonepeak to all Scheme Shareholders under this Deed Poll and the Scheme Implementation Agreement or at law (including negligence), under any statute or regulation, in equity or otherwise, in respect of any or all breaches of this Deed Poll and/or the Scheme Implementation Agreement by Stonepeak, will not exceed, in aggregate, the amount of the Reverse Break Fee less any damages paid to Arvida for any or all breaches of the Scheme Implementation Agreement by Stonepeak.
- (c) In no event will Scheme Shareholders be entitled to receive both specific performance resulting in implementation of the Scheme and payment of any damages.

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 Stonepeak at:

Address: 55 Hudson Yards, 550 W 34th Street, 48th Floor, New York, NY10001, USA

Email: legalandcompliance@stonepeak.com

For the attention of: Legal and Compliance

or at any such other address or email address notified for this purpose to the other parties under this clause, with a copy (which shall not constitute notice) to:

Address: Bell Gully, Level 14, Deloitte Centre, 1 Queen Street,
Auckland Central, Auckland 1010, New Zealand

Email: toby.sharpe@bellgully.com;
gabrielle.menzies@bellgully.com

For the attention of: Toby Sharpe, Gabrielle Menzies.

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 5.00 pm or on a Saturday, Sunday or public holiday in the place of receipt then the notice or communication is taken to be received at 9.00 am 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) Stonepeak may not 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 Stonepeak and Arvida, in which event Stonepeak 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 Stonepeak enters into a new deed poll which has the effect of reversing any variation under clause 8.2(b), then, if Stonepeak so agrees, Stonepeak 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 Stonepeak and Scheme Shareholders under this Deed Poll are cumulative and do not exclude any other rights, power or remedies provided by law independently of this Deed Poll.

8.4 Assignment

The rights and obligations of Stonepeak 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 and jurisdiction

- (a) This Deed Poll and any non-contractual obligations arising out of or in connection with it is governed by the law applying in New Zealand.
- (b) The courts having jurisdiction in New Zealand have non-exclusive jurisdiction to settle any dispute arising out of or in connection with this Deed Poll (including a dispute relating to any non-contractual obligations arising out of or in connection with this Deed Poll) and Stonepeak irrevocably submits to the non-exclusive jurisdiction of the courts having jurisdiction in New Zealand.

EXECUTION

Executed as a deed poll.

Stonepeak Alps BidCo Limited
by

Darren Keogh
Director

Yuxin Han
Director