



# Scheme Implementation Agreement for the acquisition of Bremworth Limited

---

## **PARTIES**

Floorscape Limited

**Acquirer**

Bremworth Limited

**Company**

Mohawk Industries, Inc.

**Acquirer Guarantor**

## CONTENTS

1. INTERPRETATION .....	1
2. SCHEME .....	15
3. CONDITIONS .....	16
4. SCHEME BOOKLET .....	19
5. SCHEME IMPLEMENTATION STEPS .....	23
6. COMPANY'S OTHER IMPLEMENTATION OBLIGATIONS .....	26
7. COURT PROCEEDINGS .....	27
8. RECOMMENDATION AND VOTING INTENTIONS .....	28
9. ACCESS, INFORMATION AND CONDUCT OF BUSINESS .....	29
10. BUSINESS CONTRACTS AND LEASES .....	36
11. WARRANTIES AND UNDERTAKINGS .....	37
12. INSURANCE .....	40
13. EXCLUSIVITY AND MATCHING RIGHTS .....	41
14. TERMINATION .....	45
15. BREAK FEE, REGULATORY APPROVAL BREAK FEE AND REVERSE BREAK FEE .....	47
16. ANNOUNCEMENTS .....	51
17. PAYMENTS .....	52
18. GST .....	52
19. GUARANTEE .....	53
20. NOTICES .....	54
21. GENERAL .....	55
SCHEDULE 1 .....	58
Prescribed Occurrences .....	58
SCHEDULE 2 .....	60
Company Warranties and Undertakings .....	60
SCHEDULE 3 .....	63
Acquirer Warranties and Undertakings .....	63
SCHEDULE 4 .....	65
Timetable .....	65
SCHEDULE 5 .....	67
Scheme Plan .....	67
SCHEDULE 6 .....	68
Deed Poll .....	68
SCHEDULE 7 .....	69
Pro Forma Cash Balance .....	69

**AGREEMENT** dated 1 October 2025

## **PARTIES**

Floorscape Limited

(the "**Acquirer**")

Bremworth Limited (company number 245326)

(the "**Company**")

Mohawk Industries, Inc.

(the "**Acquirer Guarantor**")

## **INTRODUCTION**

- A. The Company is listed on the NZX Main Board under the ticker code BRW.
- B. The Acquirer proposes to acquire all of the shares in the Company by way of a scheme of arrangement under Part 15 of the Companies Act. The Company also proposes to undertake a capital return pursuant to this scheme of arrangement.
- C. The parties have entered into this agreement to record the arrangements by which the Acquirer and the Company intend to propose and implement the Scheme.

## **AGREEMENT**

### **1. INTERPRETATION**

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

"**ACCC**" means the Australian Competition & Consumer Commission.

"**ACCC Informal Approval**" will be taken to have been obtained or received where the ACCC:

- (a) advises the Acquirer in writing that it does not intend to take action under the CCA in relation to a contravention, or possible contravention, of section 50 of the CCA in relation to the Scheme (either unconditionally or on conditions that are acceptable to the Acquirer, acting reasonably); or
- (b) issues the Acquirer a written advice that meets the requirements of section 189(2)(a) of the CCA and:
  - (i) that written advice has not been withdrawn, revoked or adversely amended before the Implementation Date; and

- (ii) less than 12 months have elapsed since the date of the advice.

**"ACCC Statutory Clearance"** will be taken to have been obtained or received:

- (a) where the ACCC makes a determination under section 51ABZE(1) of the CCA which is finally considered (s51ABF) that the Scheme may be put into effect (either unconditionally or on conditions that are acceptable to the Acquirer, acting reasonably), or grants a notification waiver under section 51ABV in relation to the Scheme for which the period for any application for review has expired without such an application; or
- (b) where the Australian Competition Tribunal has, pursuant to section 100N(1)(a) of the CCA made a determination that the Scheme may be put into effect (either unconditionally or on conditions that are acceptable to the Acquirer, acting reasonably); and

and that in either case, the determination has not become stale under section 51ABG of the CCA.

**"Acquirer Group"** means the Acquirer and each of its Related Companies (but, following the implementation of the Scheme, excluding members of the Bremworth Group).

**"Acquirer Indemnified Person"** means each member of the Acquirer Group and each of their respective directors, officers and employees and financial and legal advisers.

**"Acquirer Information"** means all information given by the Acquirer to the Company for inclusion in the Scheme Booklet, being:

- (a) information about the Acquirer Group and its businesses and interests;
- (b) the information contemplated by clause 4.2(a); and
- (c) any other information which the parties agree (acting reasonably) is Acquirer Information and which is identified in the Scheme Booklet as such.

**"Acquirer Undertakings"** means the undertakings set out in Part 2 of Schedule 3.

**"Acquirer Warranties"** means the warranties set out in Part 1 of Schedule 3.

**"Additional Amount"** has the meaning given to that term in clause 18.3.

**"Associate"** has the meaning given in the Takeovers Code and **"Associated"** shall have a corresponding meaning

**"Bill Rate"** means, in respect of any rate of interest to be calculated pursuant to this agreement, the Reserve Bank of New Zealand 90 day B2 Wholesale interest rate stated on the following page (or any successor page) <http://www.rbnz.govt.nz/statistics/b2> at or about 3.00pm on the first Business Day of the period in respect of which such rate of interest is to be calculated, and thereafter at intervals of 90 days from that Business Day.

**"Board"** means the board of directors of the Company.

**"Break Fee"** means \$520,968.

**"Break Fee Arrangements"** has the meaning given to that term in clause 15.8.

**"Bremworth Group"** means the Company and its Subsidiaries.

**"Business"** means the business carried on by the Bremworth Group as at the date of this agreement.

**"Business Day"** means any day other than a Saturday, Sunday or a statutory public holiday in Auckland, New Zealand.

**"Capital Return"** means the Scheme Dividend and the Scheme Buyback.

**"Cash"** means cash or cash equivalents, including:

- (a) cash on hand;
- (b) cash standing to the credit of any account with a bank or financial institution; and
- (c) term deposits, other cash deposits and bonds,

provided that where such cash or cash equivalents are held other than in New Zealand dollars, for the purposes of any calculation of Cash contemplated by this agreement, the value of such amounts shall be assessed in New Zealand dollars with reference to the exchange rate offered by the Company's bankers to the Company at the relevant time of such calculation.

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

**"Change of Control Consent"** has the meaning given to that term in clause 10.1.

**"Companies Act"** means the Companies Act 1993.

**"Company Director"** means each director of the Company from time to time.

**"Company Indemnified Persons"** means each member of the Bremworth Group and each of their respective directors, officers, employees and financial and legal advisers.

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

**"Company Undertakings"** means the undertakings set out in Part 2 of Schedule 2.

**"Company Warranties"** means the warranties set out in Part 1 of Schedule 2.

**"Competing Proposal"** means any proposed:

- (a) takeover (whether a full or partial takeover under the Takeovers Code) in respect of the Company by a Third Party;
- (b) scheme of arrangement for the acquisition of all or a majority of the Shares involving a Third Party;
- (c) transfer or issuance of financial products of the Company to a Third Party:

- (i) where the Shareholders' approval is required under the Takeovers Code; or
- (ii) in respect of financial products which are convertible into, or exchangeable for, Shares, where Shareholders' approval would be required under the Takeovers Code on conversion or exchange of those financial products into Shares; or
- (d) sale of assets or financial products of any member of the Bremworth Group to a Third Party, where such sale constitutes a material part of the Bremworth Group's Business (and, for clarity, will not include any accounting adjustment that results in a notional disposal of assets).

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 (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 paragraphs (c) and (d) above; and
- (g) "Third Party" shall mean a Third Party together with its Associates.

**"Conditions"** mean the conditions precedent set out in the table in clause 3.1.

**"Consequential Loss"** means any loss that is or represents loss of business, loss of goodwill, loss of present or future reputation or adverse publicity, loss of opportunity, damage to credit rating or any other form of special, indirect, consequential or punitive loss, but does not mean loss arising directly from, or immediately associated with, the relevant breach.

**"Consideration"** means \$0.75 in cash in respect of each Scheme Share held by a Scheme Shareholder (including, for clarity, any Scheme Shares that are to be acquired and cancelled under the Scheme Buyback), as may be adjusted by virtue of any Counter Proposal that is given effect to.

**"Counter Proposal"** has the meaning given to that term in clause 13.7(b)(iii).

**"Court"** means the High Court of New Zealand, Auckland Registry.

**"D&O Run-off Policy"** has the meaning given to that term in clause 12.1(a).

**"Data Room"** means the "Project Loop" virtual data room hosted by Ansarada and established by or on behalf of the Company in relation to the Transaction.

**"Deed Poll"** means the deed poll to be entered into by the Acquirer and the Acquirer Guarantor in favour of the Scheme Shareholders, in the form set out in Schedule 6 or such other form agreed between the parties.

**"Disclosure Letter"** means a letter delivered by the Company to the Acquirer prior to the entry into this agreement, together with the attachments to that letter, and which discloses facts, matters and circumstances that are, or may be, inconsistent with the Company Warranties.

**"Due Diligence Material"** means:

- (a) the materials and information, including written answers given by or on behalf of the Company to questions and requests for information made by or on behalf of the Acquirer Group, contained in the Data Room prior to entry into this agreement, a complete copy of which materials and information will be provided by the Company to the Acquirer on a USB drive within two Business Days after the date of this agreement; and
- (b) the Disclosure Letter.

**"EBITDA"** means earnings before interest, tax, depreciation and amortisation.

**"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.

**"Encumbrance"** means any security interest (within the meaning of section 17(1)(a) of the PPSA) and any option, right to acquire, right of pre-emption, assignment by way of security, trust arrangement for the purpose of providing security, retention arrangement or other security interest of any kind (other than any reservation of title by suppliers in the ordinary course of business), and any agreement to create any of the foregoing, but excludes (where created in the ordinary course of business):

- (a) every lien or retention of title arrangement securing the unpaid balance of purchase money for property acquired in the ordinary course of business;
- (b) any security interest in relation to personal property (as that term is defined in the PPSA) that is created or provided for by:
  - (i) a transfer of an account receivable or chattel paper;
  - (ii) a lease for a term of more than one year; or
  - (iii) a commercial consignment,that is not a security interest within the meaning of section 17(1)(a) of the PPSA;
- (c) the interest of the lessor or owner in respect of assets subject to a lease, a hire-purchase agreement or a conditional sale agreement;
- (d) any charge or lien created by or arising by operation of any law provided it does not secure overdraft debts;
- (e) any right of netting or set-off or combination of account.

**"End Date"** means the date that is nine months after the date of this agreement, or such later date as contemplated by clause 7.4 or as the parties agree in writing.

**"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.

**"Expert"** means, upon the application by either party, an expert in the relevant subject matter appointed by the President, or their nominee, of the Arbitrators' and Mediators' Institute of New Zealand Inc.

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

**"Final Orders Date"** means the day on which the Final Orders are granted by the Court.

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

**"FMCA"** means the Financial Markets Conduct Act 2013.

**"Fundamental Warranties"** means the Company Warranties set out in paragraphs 1 to 6 (inclusive) of Part 1 of Schedule 2.

**"Good Industry Practice"** means, in relation to asbestos management and remediation, the exercise of that degree of skill, diligence, prudence and foresight which would reasonably and ordinarily be expected from a skilled and experienced operator engaged in works of a similar type, scope and complexity, in compliance with applicable law, relevant codes of practice (including the Approved Code of Practice for the Management and Removal of Asbestos 2016), and generally accepted standards in the industry in New Zealand at the relevant time.

**"Government Agency"** means any government, any 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.

**"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.

**"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 to that term in clause 18.2.

**"HSWA Standards"** means the Health and Safety at Work (Asbestos) Regulations 2016 and the management approach in the Approved Code of Practice for the Management and Removal of Asbestos 2016.



**"Implementation Date"** means the day on which the Scheme is to be implemented, being the date specified in the following table:

<i>If (in the relevant period) the Second Court Date is:</i>	<i>the Implementation Date is:</i>
on or before 2 February 2026	9 February 2026
after 9 February and on or before 2 March 2026	6 March 2026
after 6 March and on or before 30 March 2026	7 April 2026
after 7 April and on or before 30 April 2026	6 May 2026
after 6 May and on or before 2 June 2026	8 June 2026
after 1 June 2026, the date that is 4 Business Days prior to the date specified in the next column	the date that is 6th of the following month (or, if the 6 <sup>th</sup> date of that month is not a Business Day, the next Business Day)

or such other date agreed between the parties in writing.

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

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

**"Independent Expert"** means an appropriately qualified professional experienced in assessing and providing advice in relation to asbestos remediation matters of the nature of the Potential Remediation Issues.

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

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

- (a) the person ceases or threatens to cease to carry on all or substantially all of its business or operations;
- (b) the person is unable to pay its debts when due (as defined in section 287 of 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 or compromise with or for the benefit of any of its creditors, or stops or threatens to stop payments generally;
- (c) the person goes into receivership or has a receiver, receiver and manager, statutory manager, trustee or other similar officer appointed in respect of all or any of its property;
- (d) a distress order, attachment order, freezing order or other execution is levied or enforced upon or commenced against any of its material assets;
- (e) any resolution is proposed or passed, or any proceeding is commenced or order made, for the liquidation or dissolution of that person;

- (f) that 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; or
- (g) anything analogous to anything referred to in the above paragraphs, or which has substantially similar effect, occurs with respect to it, including under any applicable foreign law.

**"IRD Ruling"** means the provision by Inland Revenue of (a) a private binding ruling as to the New Zealand tax implications of the proposed Capital Return and (b) a letter confirming the likelihood of satisfying the conditions of that ruling.

**"Lease"** means the lease between Manukau Industrial Holdings Limited (as lessor), Bremworth Limited (as tenant) and Cavalier Corporation Limited (as guarantor) dated 23 December 2020.

**"Lease Term"** means the current term of the Lease, expiring on 23 December 2034.

**"Letter of Intention"** means a letter from the Takeovers Panel indicating that the Takeovers Panel intends to issue a No-Objection Statement and does not intend to seek to be heard by the Court in relation to the application for Initial Orders.

**"Loss"** means all losses, damages, costs, expenses, charges, overhead, debt or damages and other liabilities (in each case whether known or unknown, actual, contingent or prospective) of any kind and however arising, including penalties, fines and interest.

**"LTI Shares"** means the Shares issued to, and held on trust for certain participants by, Bremworth Share Scheme Limited, pursuant to the "Bremworth Limited 2022 Long-Term Incentive Plan".

**"Matching Period"** has the meaning given to that term in clause 13.7(b).

**"Minimum Retained Cash"** means the aggregate of:

- (a) the Remaining Capital Expenditure;
- (b) \$1,600,000; and
- (c) the Remaining Remediation Costs (if applicable).

**"No-Objection Statement"** means a statement from the Takeovers Panel under section 236A(2)(b)(ii) that it has no objection to the Final Orders being granted by the Court.

**"NZCC"** means the New Zealand Commerce Commission.

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

**"NZX Code"** means the NZX Corporate Governance Code.

**"NZX Listing Rules"** means the NZX Main Board Listing Rules.

**"PPSA"** means the Personal Property Securities Act 1999.

**"Prescribed Occurrence"** means the occurrence of any of the events listed in Schedule 1 other than an event:

- (a) agreed to by the Acquirer in writing; or
- (b) expressly required or permitted by this agreement.

**"Potential Remediation Issues"** means asbestos-related issues:

- (a) of the nature described in the email from Tania Pauling to Montarne dated Wednesday, 10 September 2025 11:05 am) (it being acknowledged that such email is referred to for illustrative purposes only and is subject to verification, agreement and (if required) determination through the process under clause 9.6 and 9.7); and
- (b) which are of a capital, structural or other nature that require works,

to ensure compliance with the HSWA Standards, Good Industry Practice, and the Tenant's obligations under the Lease (including repair, maintenance and reinstatement obligations, if any), agreed between the parties under clause 9.6 or determined by the Independent Expert under clause 9.7.

**"Pro Forma Cash Balance"** means a statement showing the Company's good faith estimate of the Bremworth Group's pro forma aggregate Cash immediately following the Capital Return, in the form set out in Schedule 7 (together with any supporting information reasonably requested by the Acquirer, including Bremworth Group's actual aggregate Cash on the Second Court Date).

**"Record Date"** means 5:00pm on the date which is two Business Days before the Implementation Date, or such other date agreed between the Acquirer and the Company in writing.

**"Register"** means the Share register maintained by Computershare Investor Services Limited on behalf of the Company.

**"Registrar"** has the meaning given in the Companies Act.

**"Regulatory Applications"** means each of the Acquirer's:

- (a) application to NZCC under the Commerce Act 1986 for clearance to implement the Scheme; and
- (b) application for ACCC Informal Approval or, where ACCC Informal Approval is not received by or on 31 December 2025, the Acquirer's application for ACCC Statutory Clearance.

**"Regulatory Approval Break Fee"** means 1% of the aggregate of:

- (a) \$52,096,801; plus
- (b) the Cash balance held on the date of termination of this Agreement under clause 15.4, less the Minimum Retained Cash amount.

**"Regulatory Conditions"** means the Regulatory Condition (ACCC) and the Regulatory Condition (NZCC).

**"Regulatory Condition (ACCC)"** means the Condition in clause 3.1(b).

**"Regulatory Condition (NZCC)"** means the Condition in clause 3.1(a).

**"Related Company"** has the meaning given to that expression in section 2(3) of the Companies Act, read as if the reference to "company" in that section included any body corporate or entity, wherever incorporated.

**"Relevant Date"** means, in relation to a Condition, the date or time specified in this agreement for its fulfilment or, if no date or time is specified, 8.00 am on the Second Court Date, subject, in either case, to extension to that date made under clause 3.6.

**"Relevant Interest"** has the meaning given to that term in section 235(1) of the FMCA.

**"Relief"** means any loss, allowance, credit, deduction, rebate or other relief taken into account in computing any Tax liability or any right to the repayment or refund of Tax.

**"Remaining Capital Expenditure"** means, in respect of any item of budgeted capital investments identified on pages 62 and 63 of Data Room document 01.01 that is incomplete as at the date the Final Orders are granted, the amount of budgeted expenditure that remains unspent as at that date.

**"Remaining Remediation Costs"** has the meaning given to that term in clause 9.8(e)(ii).

**"Remediation Project"** means the works required to address the Potential Remediation Issues, as agreed or determined under clauses 9.6 or 9.7.

**"Representatives"** in relation to a person means:

- (a) any director, officer, 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 and 16.2 only, includes any member of the Bremworth Group and any director, officer, employee or agent of, that member of the Bremworth Group.

**"Reverse Break Fee"** means \$520,968.

**"Scheme"** means a scheme of arrangement under Part 15 of the Companies Act under which:

- (a) the Capital Return will be made; and
- (b) all of the Scheme Shares held by Scheme Shareholders (other than any Scheme Shares repurchased and cancelled by the Company pursuant to the Scheme Buyback) will be transferred to the Acquirer and the Scheme Shareholders will be entitled to receive the Consideration,

in the form of the Scheme Plan.

**"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 and includes, where applicable, any supplement, addendum or other update or change to that booklet after it has been sent to Shareholders.

**"Scheme Buyback"** means the purchase and cancellation of a portion of the Shares held by Scheme Shareholders by the Company pursuant to the Scheme and in accordance with the Scheme Plan.

**"Scheme Dividend"** means the dividend to be paid by the Company to Scheme Shareholders pursuant to the Scheme and in accordance with the Scheme Plan.

**"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 or rescheduling of that meeting.

**"Scheme Plan"** means the Scheme plan set out in Schedule 5 or in such other form as the parties agree in writing and the Court approves under section 236(1) of the Companies Act.

**"Scheme Resolution"** means the resolution to be put to Shareholders at the Scheme Meeting to approve the Scheme.

**"Scheme Shareholder"** means a person who is registered in the Register on the Record Date as the holder of one or more Scheme Shares.

**"Scheme Shares"** means all of the Shares on issue on the Record Date.

**"Schemes Guidance Note"** means the guidance note issued by the Takeovers Panel in relation to schemes of arrangement and amalgamations under Part 15 of the Companies Act dated 31 July 2024 (as amended, updated or reissued from time to time).

**"Second Court Date"** means the later of:

- (a) if no hearing is held in respect of the Final Orders, the last date the Company files affidavit(s) satisfying the Initial Orders so as to obtain the Final Orders; 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.

**"Share"** means a fully paid ordinary share in the Company.

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

**"Subsidiary"** has the meaning given to that term in section 5 of the Companies Act.

**"Superior Proposal"** means a written bona fide Competing Proposal received by the Company, in writing, after the date of this agreement, that the Board determines, acting in good faith and after having taken advice from its external financial and legal advisers:

- (a) is reasonably capable of being implemented, taking into account all aspects of the Competing Proposal, including its conditions precedent and regulatory conditions, and the likelihood of satisfying those conditions; and
- (b) is more favourable to Shareholders (as a whole) than the Scheme (if applicable, as amended or varied under any Counter Proposal provided by the Acquirer under clause 13), taking into account all the terms and conditions (including consideration, conditionality, funding, certainty and timing) of the Competing Proposal and the Scheme and any other matters affecting the probability of the Competing Proposal and the Scheme being completed in accordance with their respective terms.

**"Supplier"** has the meaning given to that term in clause 18.3.

**"Surviving Clauses"** means clauses 1 (*Interpretation*), 11.6 (*Waiver of claims*), 15 (*Break Fee, Regulatory Approval Break Fee and Reverse Break Fee*) 16 (*Announcements*), 17 (*Payments*), 18 (*GST*), 19 (*Notices*) and 21 (*General*, but excluding clause 21.5).

**"Takeovers Code"** means the takeovers code approved in 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"** or **"Taxation"** means all forms of taxation including all statutory or governmental taxes, levies, duties, rates, stamp and transaction duty, or any goods and services tax, value added tax or consumption tax imposed by a Government Agency, and includes:

- (a) any reassessments of any such taxation;
- (b) loss of Relief; and
- (c) all penalties, interest, fines or the like imposed in respect of any such taxation or loss of Relief.

**"Third Party"** means a person other than:

- (a) a member of the Acquirer Group; or
- (b) an Associate of a member of the Acquirer Group in respect of this Transaction.

**"Timetable"** means the timetable set out in Schedule 4, or such other timetable as the parties may agree in writing.

**"Transaction"** means the acquisition by the Acquirer of all the Scheme Shares (other than any Scheme Shares repurchased and cancelled by the Company pursuant to the Scheme Buyback) through the implementation of the Scheme in accordance with the terms of this agreement.

## 1.2 **References:** In this agreement, unless the context otherwise requires:

- (a) headings are to be ignored in construing this agreement;

- (b) the singular includes the plural and vice versa;
- (c) 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 (whether before or after the date of this agreement);
- (d) reference to any document includes reference to that document (and, where applicable, any of its provisions) as amended, novated, supplemented, or replaced from time to time;
- (e) reference to a party, person or entity includes:
  - (i) an individual (including their estate and personal representatives), 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, assign, executor, administrator and other representative of such party, person or entity (immediate or otherwise);
- (f) "written" and "in writing" include any means of reproducing words, figures or symbols in a tangible and visible form;
- (g) the words "including" or "includes" do not imply any limitation and 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;
- (h) a reference to any time is a reference to that time in New Zealand;
- (i) a reference to "ordinary course of business" means the course of the Business, substantially in the same manner as the 12 months preceding the date of this agreement;
- (j) a reference to "law" includes any statute, regulation, by-law, determination, ordinance, rule (including applicable listing rules) or other like provision, as amended from time to time, in any jurisdiction;
- (k) references to the NZX Listing Rules includes any variation, consolidation or replacement of those rules and is taken to be subject to any waiver or exemption granted to the compliance of those rules by a party;
- (l) references 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);
- (m) if a word or phrase is defined, other grammatical forms of that word have a corresponding meaning;
- (n) references to money are to New Zealand dollars; and

- (o) a reference to a matter, information or a circumstance being "fairly disclosed" means disclosure in writing to the Acquiror or any of its Representatives in a manner and in sufficient detail 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 Bremworth Group and the Business, in such a way that such a bidder (experienced in businesses of this nature) would reasonably be expected to understand the relevance and importance of the matter, information or circumstance.
- 1.3 **Consents:** If the doing of any act, matter or thing under this agreement is dependent on the consent or approval of a party or is within the discretion of a party, then, unless specified otherwise in this agreement, such consent or approval may be given or such discretion may be exercised conditionally or unconditionally or withheld by the party in its absolute discretion (unless this agreement specifies otherwise).
- 1.4 **No contra proferentem:** No term or condition of this agreement will be construed adversely to a party solely because that party was responsible for the preparation of this agreement or a provision of it.
- 1.5 **Knowledge:**
  - (a) Where any Company Warranty is qualified by the expression "so far as the Company is aware" or any similar expression, the Company will be deemed to know or be aware of all matters or circumstances of which Rob Hewett, Trevor Burt, Julie Bohnenn, Murray Dyer, Craig Woolford and Victor Tan are actually aware of as at the date of this agreement and includes such additional facts or circumstances of which any such person would or ought to have been aware had he or she made due enquiry of his or her direct reports as at the date of this agreement.
  - (b) For clarity, and without limiting clause 11.6, none of the individuals referred to in this clause 1.5 has any personal liability in respect of the Company Warranties.
  - (c) Other than as contemplated by clause 1.5(a), the knowledge, belief or awareness of any person will not be imputed to the Company.
- 1.6 **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.
- 1.7 **Independent Adviser's conclusion:** For the avoidance of doubt, for the purposes of this agreement, the Independent Adviser's Report will not be treated as having concluded that the Consideration is within or above the Independent Adviser's valuation range for the Shares if, after the finalisation of the initial Independent Adviser's Report, the Independent Adviser issues a replacement or supplementary report containing a revised valuation range for the Shares and the Consideration is below the revised valuation range (and, for clarity, such replacement or supplementary report, or any subsequent replacement or supplementary report, is not superseded by a further replacement or supplementary report containing a revised valuation range for the Shares and the Consideration is within or above the revised valuation range for the Shares).



## 2. SCHEME

- 2.1 **Proposal:** The Company must propose and (subject to the Scheme becoming Effective) implement the Scheme on and subject to the terms of this agreement. The Acquirer must co-operate with the Company and assist the Company to propose and implement the Scheme on the terms and subject to the conditions set out in 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 **Acquirer to pay Consideration:** In consideration for, and simultaneously with, the transfer to the Acquirer of each Scheme Share held by each Scheme Shareholder under the terms of the Scheme (other than any Scheme Shares repurchased and cancelled by the Company pursuant to the Scheme Buyback), the Acquirer undertakes in favour of the Company (in the Company's own right and on behalf of each of the Scheme Shareholders) to pay or procure the payment of the Consideration to each Scheme Shareholder in accordance with the Scheme and the Deed Poll.
- 2.4 **General obligations:** Each party must do everything reasonably necessary, including by procuring that its Representatives work in good faith in a timely and co-operative manner with the other party and its Representatives, to implement the Scheme in accordance with this agreement and all applicable laws.
- 2.5 **Timetable:**
- (a) Each party must use reasonable endeavours to ensure that the Scheme is proposed and 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 and matters outside the party's control or such party otherwise has used reasonable endeavours to meet the Timetable.
  - (b) Each party will keep the other informed about their progress against the Timetable. If any aspect of the Timetable is not expected to be achieved, the parties must consult in good faith on a timely basis with a view to amending the Timetable as required to permit the Scheme to be implemented before the End Date.
  - (c) Without limiting this clause, the parties agree to work together in good faith to determine the optimal date to file documents to seek Final Orders, having regard to the definition of the Implementation Date.
- For clarity, neither this clause nor the Timetable limit the Company's ability to deal with a Competing Proposal in accordance with clause 13.
- 2.6 **No amendment:** The Company must not promote or consent to any modification of, or amendment to, the Scheme or Final Orders, or the making or imposition by the Court or any Government Agency of any condition to the Scheme, without:
- (a) the Acquirer's counsel's consent, where a modification or amendment is made, imposed or requested at a Court hearing where the Acquirer's counsel is present (and the Acquirer must procure that such consent is not unreasonably withheld or delayed); or

- (b) the Acquirer's prior written consent in the case of any other modification or amendment (such consent not to be unreasonably withheld or delayed).

### 3. CONDITIONS

- 3.1 The Scheme will not become Effective, and the obligations of the Acquirer under clause 2.2 and, once signed, the Deed Poll, do not become binding, unless and until each of the Conditions set out in the following table are satisfied or waived in accordance with this clause 3.

	CONDITION	RESPONSIBILITY	WAIVER
(a)	<b>(NZCC Clearance)</b> before 8:00am on the End Date, clearance has been given to the Acquirer under the Commerce Act 1986 for implementation of the Scheme on terms acceptable to the Acquirer, acting reasonably;	Acquirer	None
(b)	<b>(ACCC Clearance)</b> before 8.00 am on the End Date, ACCC Informal Approval or, if ACCC Informal Approval is not received by or on 31 December 2025, ACCC Statutory Clearance is obtained or received .	Acquirer	None
(c)	<b>(IRD Ruling)</b> before 8:00am on the End Date, the IRD Ruling is issued on terms acceptable to the Company, acting reasonably;	Company	None
(d)	<b>(Court approval)</b> subject to clause 3.2, approval of both the Initial Orders and Final Orders being given by the Court in accordance with Part 15 of the Companies Act on terms acceptable to the Company and the Acquirer, each acting reasonably;	Company	None
(e)	<b>(Shareholder approval)</b> approval of the Scheme being given by the Shareholders at the Scheme Meeting by the requisite majorities in accordance with sections 236A(2)(a) and 236A(4) of the Companies Act;	Company	None
(f)	<b>(No restraint)</b> no law, judgment, order, restraint or prohibition enforced or issued by any Government Agency being in effect as at 8:00am on the Implementation Date that prohibits, prevents or makes illegal the implementation of the Scheme;	None	None

	CONDITION	RESPONSIBILITY	WAIVER
(g)	<b>(No Prescribed Occurrence)</b> no Prescribed Occurrence occurring between the date of this agreement and 8:00am on the Implementation Date;	Company	Acquirer
(h)	<b>(Independent Adviser's Report)</b> the Independent Adviser's Report concludes that the Consideration is above or within the Independent Adviser's valuation range for the Shares.	None	Company

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

3.3 **Endeavours to satisfy Conditions:**

- (a) The party specified in the "Responsibility" column of the table in clause 3.1 opposite each Condition is primarily responsible for the satisfaction of that Condition and (where applicable) must promptly apply for or seek each consent or approval required to satisfy that Condition, and diligently pursue it. Such party must use reasonable endeavours to satisfy that Condition:
  - (i) in the case of any Condition in clauses 3.1(a), (b), (c), (d) and (e) as soon as practicable and, in any event, before the End Date; and
  - (ii) in the case of the Condition in clause 3.1(f) at all times before 8:00am on the Implementation Date.
- (b) Regardless of whether a party is primarily responsible for the satisfaction of a particular Condition in accordance with clause 3.3(a), each party must:
  - (i) promptly provide all information and other assistance reasonably required by the other party for the purposes of procuring the satisfaction of each Condition; and
  - (ii) not take any action or omit to take any action to deliberately hinder, subvert or undermine the satisfaction of any Condition, except to the extent that such action is required by law, and provided that this provision does not limit the Company's ability to deal with a Competing Proposal in accordance with, and to the extent permitted by, clause 13, or to deal with any other circumstances in accordance with the terms of this agreement and the Board's fiduciary duties.
- (c) Nothing in this clause 3.3 will require either party to incur any additional costs (other than advisor costs and filing fees) or to offer, agree to or accept any undertakings, commitments or conditions.

- 3.4 **Waiver:** Where the column headed "Waiver" of the table in clause 3.1 opposite a Condition states "None", that Condition has been inserted for the benefit of both parties and cannot be waived by either of the parties. The Condition in clause 3.1(g) has been inserted for the benefit of, and may only be waived by, the Acquirer by notice in writing to the Company. The Condition in clause 3.1(h) has been inserted for the benefit of, and may only be waived by, the Company by notice in writing to the Acquirer.
- 3.5 **Effect of waiver:** If a party waives 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.
- 3.6 **If a Condition is not fulfilled or waived:** If:
- (a) a Condition set out in clause 3.1(a) to 3.1(e) inclusive and clause 3.1(h) has not been fulfilled by the Relevant Date and is not waived (where capable of waiver);
  - (b) a Condition set out in clause 3.1(f) or 3.1(g) is not fulfilled at the End Date;
  - (c) the Implementation Date does not occur on or prior to the End Date; or
  - (d) there is an act, failure to act, event or occurrence which will prevent a Condition being fulfilled:
    - (i) in the case of a Condition in clause 3.1(a) to 3.1(e) inclusive or clause 3.1(h), by the Relevant Date; or
    - (ii) in the case of a Condition in clause 3.1(f) or 3.1(g), at the End Date,
 (and the breach or non-fulfilment of the Condition which would otherwise occur has not been waived),
- the parties:
- (e) must consult in good faith for at least five Business Days to determine whether the Scheme may proceed by way of alternative means or method so as to achieve a commercial outcome which reflects the Scheme; and
  - (f) may agree to extend the Relevant Date or the End Date, or both.
- 3.7 **Specific obligations relating to the Regulatory Conditions:** Without limiting clause 3.3, the Acquirer must:
- (a) if not already submitted prior to the date of this agreement, submit the Regulatory Application in respect of the Regulatory Condition (NZCC) no later than the date that is 10 Business Days after the date of this agreement in the form provided to and commented on by the Company prior to the date of this agreement;
  - (b) promptly provide to NZCC and/or ACCC all notices, information and documents requested by NZCC and/or ACCC in connection with the Regulatory Applications and satisfaction of the Regulatory Conditions;

- (c) promptly and diligently progress the Regulatory Applications (including by responding to NZCC and/or ACCC in a fulsome and timely manner and, where applicable, in compliance with relevant timeframes, in respect of all its questions and other correspondences);
- (d) provide the Company with copies of any material written communication, and notify the Company of any material oral communication, received by the Acquirer from NZCC and/or ACCC in relation to the Regulatory Conditions;
- (e) consult with the Company in advance with respect to any material filing, material notice or material information to be provided to, or material correspondence to be had with, NZCC and/or ACCC;
- (f) not resile from or change, with a consequence that might be adverse to its prospects of satisfying the Regulatory Conditions, any of the assurances or other commitments provided by the Acquirer to NZCC and/or ACCC in or in connection with the Regulatory Applications; and
- (g) other than on termination of this agreement, not withdraw or vary (with a consequence that might be adverse to its prospects of satisfying the Regulatory Conditions), or procure such withdrawal or variation, of the Regulatory Applications,

provided that, notwithstanding any other provision of this clause 3.7, the Acquirer may in respect of any information that it reasonably considers to be commercially or competitively sensitive information, provide on a counsel-only basis any such information it would otherwise be required to provide to the Company under this clause 3.7

#### 4. SCHEME BOOKLET

4.1 **Company's obligations:** The Company will in accordance with the Timetable (where relevant):

- (a) as soon as practicable following the date of this agreement prepare the Scheme Booklet so that it contains:
  - (i) all information required by the Companies Act, the NZX Listing Rules and any other applicable laws;
  - (ii) any information required by the Takeovers Panel in order for the Company to obtain from the Takeovers Panel a Letter of Intention and No-Objection Statement;
  - (iii) the responsibility statements referred to in clause 4.4; and
  - (iv) a statement by the Directors reflecting the recommendation and undertaking set out in clause 8 (unless there has been a change of recommendation, including where 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 that is reasonably requested by the Independent Adviser to enable it to prepare the Independent Adviser's Report;

- (c) provide the Acquirer with an initial draft of the Scheme Booklet (excluding the Independent Adviser's Report) in a timely manner and so that the Acquirer has a reasonable opportunity to review that draft, and consider in good faith all of the reasonable comments of the Acquirer and its Representatives when preparing a revised draft of the Scheme Booklet;
- (d) as soon as practicable after preparation of an advanced draft of the Scheme Booklet (excluding the Independent Adviser's Report) suitable for review by the Takeovers Panel, provide that advanced draft to the Acquirer;
- (e) as soon as practicable after receipt of the consent from the Acquirer referred to in clause 4.2(e), provide the Takeovers Panel the advanced draft Scheme Booklet;
- (f) keep the Acquirer reasonably informed in relation to any matters raised by the Takeovers Panel in relation to the advanced draft of the Scheme Booklet and use reasonable endeavours, in consultation with the Acquirer, to resolve any such matters (provided that, where such matters relate to the Acquirer Information, the Company will not take any steps to address them without the Acquirer's written consent, not to be unreasonably withheld);
- (g) as soon as practicable after the Takeovers Panel has completed its review of the advanced draft Scheme Booklet and the Takeovers Panel has provided a Letter of Intention, procure that a meeting of the Board is convened to approve the Scheme Booklet for lodgement with the Court and, subject to the Regulatory Conditions being satisfied and the Initial Orders being granted and the terms of those orders, for dispatch to Shareholders;
- (h) promptly advise the Acquirer if the Company becomes aware:
  - (i) of new information which, had it been known at the time the Scheme Booklet was prepared, should have been included in the Scheme Booklet under applicable law;
  - (ii) that any part of the Scheme Booklet (other than the Independent Adviser's Report or the Acquirer Information) is misleading or deceptive in any material respect, including by omission; or
  - (iii) that information that was required to be disclosed in the Scheme Booklet under applicable law was not included,

and, in any of those cases, if the Company becomes so aware at any time:

- (iv) between the approval of the Scheme Booklet in accordance with clause 4.1(g) and the date of the Scheme Meeting, then, if considered by the Company that supplementary disclosure is required, it will (after consulting with the Acquirer as to the need for, and content and presentation of, that supplementary disclosure) provide supplementary disclosure to Shareholders in an appropriate and timely manner in accordance with applicable law and will, if it considers it necessary or appropriate: (A) seek the Court's guidance in respect of the

supplementary disclosure; and (B) adjourn the Scheme Meeting to the earliest date reasonably possible; or

- (v) between the date of the Scheme Meeting and the Second Court Date, then, if considered by the Company that supplementary disclosure is required, it will (after consulting with the Acquirer as to the need for, and content and presentation of, that supplementary disclosure) apply to the Court for orders as to the procedure to be followed as to the provision of supplementary disclosure to Shareholders and the effect on the approval of the Scheme.

**4.2 Acquirer obligations:** Without limiting clause 2, the Acquirer must in accordance with the Timetable (where relevant):

- (a) as soon as reasonably practicable after the date of this agreement, prepare and provide to the Company for inclusion in the Scheme Booklet information:
  - (i) about the Acquirer and the Acquirer Group;
  - (ii) about the funding arrangements the Acquirer has available to it in order to fund the Consideration (provided that the Acquirer is not required to disclose any commercial sensitive terms or information which may be materially adverse to the Acquirer's competitive position if disclosed); and
  - (iii) 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 (including under the Guidance Note), the NZX Listing Rules and any other applicable laws;
- (b) provide the Company with drafts (including successive drafts) of the information referred to in clause 4.2(a) in a timely manner so that the Company has a reasonable opportunity to review those drafts, and consider and take into account in good faith all reasonable comments of the Company and its Representatives when preparing revised drafts of that information;
- (c) provide all assistance and information reasonably requested by the Independent Adviser relating to the Acquirer to enable it to prepare the Independent Adviser's Report;
- (d) as soon as reasonably practicable after receipt of any draft of the Scheme Booklet from the Company, review and provide comments on that draft;
- (e) subject to clause 4.3, before the Company provides the Scheme Booklet to the Takeovers Panel in accordance with clause 4.1(e), deliver to the Company written consent from the Acquirer to the inclusion of the Acquirer Information in the Scheme Booklet in the form and context it appears;
- (f) before a draft of the Scheme Booklet is lodged with the Takeovers Panel, and again before the Scheme Booklet is despatched to Shareholders, confirm to the Company the accuracy and completeness of the Acquirer Information in the

Scheme Booklet, including that it does not contain any statement that is false or misleading in any material respect including because of omission;

(g) immediately advise the Company if the Acquirer becomes aware at any time either:

- (i) of new information which, had it been known at the time the Scheme Booklet was prepared, should have been included in the Acquirer Information;
- (ii) that any part of the Acquirer Information is misleading or deceptive in a material respect, including by omission; or
- (iii) that information that was required to be disclosed as part of the Acquirer Information under applicable law was not included,

and if the Acquirer provides such advice, the Company will comply with clauses 4.1(h)(iv) and 4.1(h)(v) (as applicable);

(h) not act in a manner inconsistent with obtaining Court approval for the Scheme, provided that this sub-clause (h) does not limit the exercise by the Acquirer of its rights under this agreement.

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

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

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

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



## 5. SCHEME IMPLEMENTATION STEPS

5.1 **Company's obligations:** Without limiting clauses 2.4 and 2.5, the Company must use its reasonable endeavours in the timeframes prescribed by the Timetable (or otherwise as soon as reasonably practicable) to:

- (a) before the First Court Date, in consultation in good faith with the Acquirer, apply to the Takeovers Panel for a Letter of Intention;
- (b) without limiting sub-clause 5.1(a), the Company must:
  - (i) prior to sending any material correspondence to the Takeovers Panel relating to the Scheme (other than correspondence relating to a Competing Proposal or the actual or purported termination of this agreement or any claim under, or disagreement or dispute between the parties in respect of this agreement or the Transaction), provide the Acquirer with a draft of that correspondence and consider in good faith all of the reasonable comments of the Acquirer and its Representatives on that correspondence;
  - (ii) promptly provide the Acquirer with a copy of all material correspondence to and from the Takeovers Panel relating to the Scheme (other than correspondence relating to a Competing Proposal); and
  - (i) keep the Acquirer reasonably informed of any issues raised by the Takeovers Panel in connection with the Scheme Booklet or the Scheme (other than issues relating to a Competing Proposal or 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) and consider in good faith all of the reasonable comments of the Acquirer and its Representatives on those issues;
- (c) apply to the Court for Initial Orders under section 236(2) of the Companies Act convening the Scheme Meeting, and if the Court grants those orders, dispatch the Scheme Booklet to Shareholders and hold the Scheme Meeting (including by putting the Scheme Resolution to a vote) in accordance with, and otherwise comply in all respects with, those Initial Orders;
- (d) if the Initial Orders are granted and sealed by the Court, promptly deliver a copy of the Initial Orders to the Registrar for registration in accordance with section 236(4) of the Companies Act (and, in accordance with the requirements of the Companies Act, by no later than 10 Business Days after the date the Initial Orders are granted);
- (e) as soon as reasonably practicable following the date the Regulatory Conditions are satisfied, lodge a copy of the Scheme Booklet with NZX in accordance with the NZX Listing Rules prior to sending the Scheme Booklet to Scheme Shareholders;
- (f) if the Scheme Resolution is passed by the requisite majorities of Shareholders as set out under section 236A(4) of the Companies Act, promptly:
  - (i) apply to the Takeovers Panel for the production of a No-Objection Statement;

- (ii) seek the Court's approval of the Final Orders;
- (g) if the Scheme Resolution is passed by the requisite majorities of Shareholders and if requested by the Acquirer, promptly enter into, and use reasonable endeavours to procure that the Company's share registrar promptly enters into, an escrow agreement relating to the holding by the Company's share registrar of the aggregate Consideration and Capital Return on escrow pending implementation of the Scheme, on terms reasonably acceptable to the parties to that agreement;
- (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 for registration in accordance with section 236(4) of the Companies Act (and, in accordance with the requirements of the Companies Act, by no later than 10 working days (as defined in the Companies Act) after the date the Final Orders are granted);
  - (ii) do all other things contemplated of it under the Scheme and within its power to give full effect to the Scheme Plan and the Final Orders; and
  - (iii) if all of the remaining Conditions have been fulfilled or waived:
    - (aa) use its reasonable endeavours to procure that the NZX suspend trading in the Shares from the close of trading on the date that is one Business Day after the Final Orders Date or such other date agreed between the Acquirer and the Company in writing;
    - (bb) close the Register as at the Record Date to determine the identity of the Scheme Shareholders and their entitlements to the Consideration;
    - (cc) no later than 9.00am on the Second Court Date, provide the Acquirer and the Court with a Pro Forma Cash Balance;
    - (dd) subject to the Acquirer satisfying its obligations under clause 5.2(d), effect the transfer of the Scheme Shares (other than any Scheme Shares repurchased and cancelled by the Company pursuant to the Scheme Buyback) to the Acquirer in accordance with the Scheme on the Implementation Date;
    - (ee) promptly provide the Acquirer with a copy of all material correspondence to and from NZX and keep the Acquirer reasonably informed of any issues raised by NZX and consult with the Acquirer to resolve any such issues expeditiously; and
    - (ff) 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 the Company to lawfully give effect to the Scheme and the orders of the Court.

**5.2 Acquirer's obligations:** Without limiting clauses 2.4 and 2.5, the Acquirer must:

- (a) on the date of this agreement, deliver to the Company a copy of the Deed Poll duly executed by the Acquirer;
- (b) if it or its Representatives solicit proxies for the Scheme Meeting, communicate with Shareholders in connection with the Scheme, or otherwise engage in Shareholder canvassing activities in respect of the Scheme:
  - (i) undertake such proxy solicitation, Shareholder communications or canvassing activities in compliance with all applicable laws, including the FMCA and the Fair Trading Act 1986;
  - (ii) provide to the Company copies of all written communications or correspondence to be provided to Shareholders, prior to being sent to Shareholders and allow a reasonable time for comment from the Company;
  - (iii) provide to the Company copies of all call scripts being used for Shareholder canvassing activities promptly before the form of those scripts is approved for use and allow a reasonable time for comment from the Company, and the Acquirer must consider and take into account in good faith all reasonable comments on such communications, correspondence and call scripts;
- (c) without limiting clause 7.2, if requested by the Company, 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), the Acquirer 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; and
- (d) 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), do all other things contemplated by or necessary to give full effect to the Scheme Plan and the Final Orders (including using reasonable endeavours to ensure that the Conditions have been satisfied in accordance with clause 3, and providing the Consideration in accordance with the Scheme and the Final Orders).

**5.3 Obligation on becoming a Shareholder:** If, prior to the date of the Scheme Meeting, the Acquirer or any Associate of the Acquirer acquires beneficial ownership of, or effective control over, any Shares, the Acquirer must (or must procure the Associate to, as the case may be) as soon as reasonably practicable enter into a deed poll in the form set out in Appendix B to the Schemes Guidance Note under which the Acquirer (or Associate, as the case may be) agrees to vote the relevant Shares in favour of the Scheme Resolution at the Scheme Meeting.

## 6. COMPANY'S OTHER IMPLEMENTATION OBLIGATIONS

### 6.1 Information about Shareholders: The Company must:

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

### 6.2 Promotion of Transaction:

- (a) During the period commencing on the date of this agreement and ending on the first to occur of: (i) the termination of this agreement; and (ii) the End Date, the Company will provide all reasonable cooperation to the Acquirer in promoting the merits of the Transaction to Shareholders, including:
  - (i) encouraging Shareholders to exercise their rights to vote on the resolution to approve the Scheme at the Scheme Meeting; and
  - (ii) procuring that senior executives of the Bremworth Group, as may be reasonably available, meet with key Shareholders if reasonably requested to do so by the Acquirer; and
  - (iii) undertaking, in cooperation with the Acquirer, other reasonable actions to promote the affirmative vote of Shareholders for the Transaction, as reasonably requested by the Acquirer,

subject to there being no Superior Proposal and provided the Independent Adviser's Report has first concluded that the Consideration is within or above the Independent Adviser's valuation range for the Shares.

- (b) The Acquirer agrees to pay all of the Bremworth Group's reasonable out of pocket costs incurred in connection with promoting the Transaction to Shareholders up to a maximum of \$50,000.

### 6.3 Board changes: Subject to the Consideration having been paid to the Scheme Shareholders, the Company must procure that:

- (a) such persons as the Acquirer nominates by notice to the Company no later than four Business Days before the Implementation Date and who have provided to the Company signed consent(s) to act by that time (as well as any other information required to be provided to the Registrar) are appointed as additional directors of the Company and/or such other members of the Bremworth Group specified in the notice, on the Implementation Date (by no later than 5:00pm); and

- (b) unless otherwise agreed by the Acquirer in writing, each director of each member of the Company and/or other member of the Bremworth Group, other than those appointed in accordance with clause 6.3(a), resigns as a director with effect from the Implementation Date (by no later than 5:00pm on the Implementation Date) and acknowledges in writing that he or she has no claim against any member of the Bremworth Group other than for accrued but unpaid directors fees and expenses or under the D&O Run-off Policy.

6.4 **Tax ruling:** Promptly following entry into this agreement, the Company agrees to seek a private binding ruling for the 2025 tax year on the New Zealand tax implications of the insurance proceeds received in relation to flooding of the Napier site on terms acceptable to the Company and the Acquirer, acting reasonably.

## 7. COURT PROCEEDINGS

### 7.1 Court documents:

- (a) In relation to each Court application made in relation to the Scheme, including any appeal, the Company must give the Acquirer drafts of all documents required to be given by the Company to the Court (including the originating applications, affidavits, memoranda, submissions and draft Court orders) at a reasonable time before they are due to be submitted to the Court (and in any event, except in situations of urgency, not less than 72 hours before submission) and must consider in good faith whether to incorporate any reasonable comments of the Acquirer and its Representatives on those documents.
- (b) The Company must not provide the Court with any Court orders (whether in draft or not) or applications for Court orders, or consent to any changes to any Court orders, without the Acquirer having approved (acting reasonably) in writing such documents being submitted to the Court or such changes being consented to.
- (c) If requested by the Company, the Acquirer will promptly provide an affidavit in support of any Court application made in connection with the Scheme that is sworn by a director or other authorised representative of the Acquirer and confirms relevant information related to the Acquirer (which may include, without limitation, the Acquirer's ability to fund the payment of the Consideration, its intentions regarding the Company following implementation of the Scheme, and agreement to be bound by the Final Orders).

7.2 **Representation:** In relation to each Court application or appearance made in relation to the Scheme, including any appeal, the Company consents to the separate representation of the Acquirer by counsel and the Acquirer may appear and be represented in relation to the Court applications or other appearances relating to the Scheme.

7.3 **Court proceedings and conditionality:** If the Court does not make any order sought by the Company under clause 5 (the "**Decision**"), primarily due to the lack of satisfaction of, or the potential timing for satisfaction of (or where capable of waiver, waiver of) any Condition, then the Company must promptly make a further application for the relevant Decision as soon as practicable after the parties satisfying the steps or matters specified by the Court or apparent from its directors or reasons, as required, or desirable, in order to grant the relevant Decision.

**7.4 Appeal if orders not made:** If the Court does not make the relevant Decision due to reasons not contemplated by clause 7.3, then:

- (a) the Company and the Acquirer must consult in good faith as to the effect of the refusal and whether to appeal the Decision, and, where applicable, whether amendments need to be made to the Timetable and/or the End Date;
- (b) if within 10 Business Days after the date of the Decision the parties 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 is a reasonable prospect of successfully appealing the Decision, then:
  - (i) the Company must appeal the Court's decision within the timeframes set out in rule 29 of the Court of Appeal (Civil) Rules 2005;
  - (ii) the cost of any such appeal is to be borne:
    - (aa) if the Company and Acquirer agreed to appeal the Decision, equally between the parties; or
    - (bb) if the Company and the Acquirer did not agree to appeal the Decision, by the party who requires that the appeal is pursued;
  - (iii) if the End Date would otherwise occur before the appeal is finally determined, the End Date is deferred to the date that is 20 Business Days after the date that the appeal from the Decision is finally determined provided, or such other date as agreed between the Acquirer and the Company in writing; and
  - (iv) if the appeal is successful and the relevant order is made, the End Date is further deferred (excluding any deferral under sub-clause (iii)) by the number of Business Days contemplated by the Timetable between the Final Orders Date and the Implementation Date (inclusive), or such other date as agreed between the Acquirer and the Company in writing,

provided that in no circumstances may the End Date be extended under subclauses (iii) or (iv) to a date which is later than 15 months after the date of this agreement without the prior written consent of the Acquirer.

## **8. RECOMMENDATION AND VOTING INTENTIONS**

**8.1 Recommendation and voting:** The Company must ensure that each Director:

- (a) recommends that Shareholders vote in favour of the Scheme; and
- (b) undertakes to vote, or procure the voting of, all of the Shares held or controlled by him or her in favour of the Scheme (provided that, for clarity, this does not require any Director to enter into a voting or other agreement with the Acquirer in relation to the voting of all Shares held or controlled by him or her or his or her Associates at the Scheme Meeting),

in each case subject to:

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

**8.2 Change to recommendation or voting intentions:** The Company must ensure that no Director changes, qualifies or withdraws the recommendation or undertaking referred to in clause 8.1 or makes any statement inconsistent with that recommendation or that undertaking, unless:

- (a) the Company receives a Superior Proposal; or
- (b) the Independent Adviser's Report concludes that the Consideration is below the Independent Adviser's valuation range for the Shares,

and, in any of the above cases, such change, qualification, withdrawal or statement shall not give rise to a termination right under clause 14 or constitute a circumstance which would give rise to payment of the Break Fee under clause 15.2(b). The:

- (c) taking by the Company of any action permitted by clause 13.8(a); and
- (d) making of an announcement to NZX under clause 13.8(b), provided such announcement is limited to advising of the receipt of a Competing Proposal, the fact that the Acquirer has an opportunity to provide a Counter Proposal to the Competing Proposal during the Matching Period and, if applicable, advising of any associated delay in the Timetable,

will not constitute a change of, qualification to, withdrawal of, or statement inconsistent with, the recommendation or undertaking referred to in clause 8.1.

## **9. ACCESS, INFORMATION AND CONDUCT OF BUSINESS**

**9.1 Access and information:** From the date of this agreement until the Implementation Date, the Company must:

- (a) procure that the Acquirer and its Representatives are given reasonable access to the properties, books and records, senior management of the Bremworth Group, and any other information about the Business reasonably required by the Acquirer or its Representatives during normal business hours at mutually convenient times, and on reasonable notice to the Company for the purposes of:
  - (i) implementing the Scheme and enabling the Acquirer to prepare for the transition of ownership of the Bremworth Group to the Acquirer; and
  - (ii) any other purpose agreed between the Company and the Acquirer in writing,

except to the extent that the provision of such access is prohibited by law or any confidentiality obligations owed by any member of the Bremworth Group to third parties and provided that:



- (iii) the Acquirer will focus on material issues, having regard to management commitments and the impact of information requests on the Company's Business;
- (iv) providing access and/or information pursuant to this clause 9.1(a) does not, in the opinion of the Company (acting reasonably), result in unreasonable disruptions to the Company's business or require the Company to make further disclosure to any other entity or Government Agency;
- (v) nothing in this clause 9.1(a) will require the Company to provide information concerning its directors' and management's consideration of the Scheme or any Competing Proposal or require the disclosure of any document that would compromise the Bremworth Group's legal professional privilege;
- (vi) all requests for such access shall be directed to the Company's CEO or such other persons as the Company may designate in writing from time to time (collectively, the "**Designated Contacts**"); and
- (vii) without limitation to the Confidentiality Agreement:
  - (aa) other than the Designated Contacts, the Acquirer is not authorised to and shall not (and shall cause its Representatives and Related Companies not to) contact any director, officer, employee, customer, supplier, distributor, landlord, lender, or other material business relation of the Bremworth Group in connection with the Transaction prior to the Scheme becoming Effective without the prior written consent of the Company; and
  - (bb) the Acquirer must not meet with, correspond with, or otherwise engage with, senior executives of the Bremworth Group regarding their continued employment or the terms of their continued employment after the Implementation Date without the Company's prior written consent (which consent must be provided by a Director);
- (b) procure that one or more members of senior management or the Board (as appropriate) of the Bremworth Group meet with the Acquirer and/or its Representatives at such times as the Acquirer reasonably requests (either in person or by teleconference), to keep the Acquirer updated on material developments in relation to the Business and to discuss and resolve matters arising in relation to this agreement or the Transaction;
- (c) provide the Acquirer with copies of minutes and papers provided to the Board within three Business Days after they are provided to Board members, however, the Company may redact information from such papers to the extent it is commercially sensitive or relates to the Transaction or a Competing Proposal; and
- (d) within two Business Days of the end of each month, and otherwise promptly following any request by the Acquirer, advise the Acquirer of the Company's Cash balance,



provided that to the extent that any information is provided under this clause 9.1 that is not publicly available, it will be kept confidential by any recipient of that information in accordance with the confidentiality agreement referred to in clause 21.4, and to the extent information is competitively or commercially sensitive, the Acquirer's access to that information will be restricted prior to implementation of the Scheme.

**9.2 Conduct of business; positive obligations:** From the date of this agreement until and including the Implementation Date, the Company must procure that:

- (a) the Business is carried on as a going concern and in the ordinary course of business. Without limiting this clause 9.2(a), the Company must continue to pay its staff in accordance with the relevant contracted terms and pay its creditors and collect receivables in the ordinary course of business in all material respects;
- (b) the Business uses reasonable endeavours to maintain an appropriate level of inventory and other working capital, as required to meet the operating needs of the Business and, without limitation, must procure that the Company is not operated in a manner intended to artificially increase the amount of Cash available for the Capital Return over and above what would have been available had the Business been operated in the ordinary course (including by artificially reducing inventory, artificially lowering pricing, artificially accelerating the collection of receivables, or artificially delaying the payment of creditors, in each case for the purpose of increasing the Cash amount available for the Capital Return);
- (c) the management of each member of the Bremworth Group use reasonable efforts to preserve intact the good name and reputation of the Bremworth Group as well as its customer, supplier and employee relationships;
- (d) subject to clause 9.3, it does not deviate in any material respects from the budgeted capital investments identified on pages 62 and 63 of Data Room document 01.01;
- (e) the Acquirer is promptly notified of:
  - (i) any claim that is made or legal proceedings instituted against the Company, or any other member of the Bremworth Group, or any director or employee of the Company or of any other member of the Bremworth Group (of which it becomes aware), other than any claim or legal proceeding that has potential liability which is less than \$100,000;
  - (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) all insurance policies currently in force at the date of this agreement in favour of the Bremworth Group and the Business are maintained on materially the same terms and conditions, provided that no policy shall be renewed for a term beyond the End Date without the prior written consent of the Acquirer.

9.3 **Conduct of business; negative obligations:** From the date of this agreement until and including the Implementation Date, the Company must procure that it, and each other member of the Bremworth Group, does not:

- (a) create or incur any liability or indebtedness (whether contingent or otherwise, and including by way of drawing down on any facility), except liabilities or indebtedness incurred in the ordinary course of business and not exceeding (in aggregate) \$250,000; or
- (b) create or otherwise permit to arise any Encumbrance over any of its assets (other than to secure any indebtedness permitted by this agreement);
- (c) commence, compromise or settle any litigation, arbitration or other similar proceedings for an amount exceeding \$100,000;
- (d) provide any guarantee of, or security for, or indemnity in connection with the obligations of any person other than a member of the Bremworth Group, other than in the ordinary course of business;
- (e) acquire any interest in "sensitive land" for the purposes of the Overseas Investment Act 2005;
- (f) exceed borrowing or cash reserve limitations as established by any financier of the Bremworth Group;
- (g) make any payment of, or incur (or enter into), any unbudgeted capital expenditure, except in the ordinary course of business, other than payments not exceeding in aggregate \$150,000;
- (h) enter into, vary or terminate any contract, or series of related contracts, where: (A) the aggregate payments by the Bremworth Group under the term of that contract exceed \$500,000 or (B) the term of the contract exceeds 12 months;
- (i) change its method of accounting for financial reporting purposes, unless required to do so in order to comply with any applicable accounting standards;
- (j) enter into, amend or close out any material foreign exchange, interest rate swap, derivative or hedge other than in the ordinary course of business and consistent with past practice;
- (k) undertake any acquisition or divestment activities other than in the ordinary course of business and for full value (unless the Acquirer's prior written consent is obtained);
- (l) enter into a contract to engage any new employee or permanent contractor with a base salary of over \$100,000 per annum (excluding bonuses or other incentive payments or arrangements), other than for routine replacement;
- (m) change the remuneration or other conditions of employment of any director, employee or permanent contractor of a Bremworth Group Member with a total salary of more than \$70,000 per annum; or

- (n) incur any liability for Tax outside of the ordinary course of business, make any material Tax election, or material change in the conduct of its Tax affairs (including, for the avoidance of doubt, agreeing to extend or otherwise delay the application of a time bar in respect of Tax), settle or compromise any material Tax liability or settle any material Tax dispute.

9.4 **Exceptions:** Nothing in clauses 9.2 or 9.3 restricts the Company (or any other member of the Bremworth Group) from doing anything which is:

- (a) expressly contemplated, permitted or required by this agreement or required to give effect to the Scheme;
- (b) necessary for the Company (or any other member of the Bremworth Group) to perform or comply with its existing contractual obligations;
- (c) reasonably necessary for the Company (or any other member of the Bremworth Group) to comply with any law or any regulatory requirement or direction of a Government Agency;
- (d) reasonably and prudently required for the Company (or any other member of the Bremworth Group) to preserve or maintain the continuity of the Business or respond to any emergency, act of god or other disaster;
- (e) fairly disclosed in the Due Diligence Materials (including in any operating or capex budgets disclosed in the Due Diligence Materials) or by the Company through the NZX markets announcements platform before the date of this agreement;
- (f) a change to the remuneration or other conditions of employment of any director, employee or permanent contractor of a Bremworth Group Member where such changes are made in accordance with the Bremworth Group's normal salary review procedures or are consistent with the normal business practices employed by the Bremworth Group;
- (g) undertaken in response to a Competing Proposal, but only to the extent that the action is expressly permitted by clause 13; or
- (h) approved in writing by the Acquirer, such approval not to be unreasonably withheld, conditioned or delayed.

9.5 **Employee Shares:** The parties acknowledge and agree that:

- (a) as at the date of this agreement, 1,882,421 LTI Shares have been issued by the Company to Bremworth Share Scheme Limited, 1,472,154 of which have either expired or been forfeited, with the further 410,267 remaining unvested and which are held on trust by Bremworth Share Scheme Limited for participants in accordance with the terms of the LTI Scheme;
- (b) the Company will acquire and cancel the 1,472,154 shares which have been forfeited but which remain legally held by Bremworth Share Scheme Limited prior to the Final Orders Date; and
- (c) the LTI Scheme is terminated with effect on and from the Implementation Date.

## 9.6 Scoping of Remediation Issues

- (a) Within 30 Business Days following the date of this agreement, each of the Company and the Acquirer may obtain advice from their own appropriately qualified consultant in relation to the current condition and full scope of the Potential Remediation Issues, and will promptly provide the other party with a copy of any such advice. If either party does not provide its advice within that period, the other party's advice will be taken as the advice for the purposes of this clause and the parties must meet under clause 9.6(b) within 5 Business Days thereafter.
- (b) Within 5 Business Days after both parties have exchanged their consultant's advice, the Company and the Acquirer will, acting reasonably and in good faith, meet to discuss that advice and seek to agree the scope of works required to address the Potential Remediation Issues based on:
  - (i) compliance with applicable law (including the HSWA Standards);
  - (ii) compliance with the Tenant's obligations under the Lease including obligations in relation to removal or management of asbestos; and
  - (iii) Good Industry Practice, including whether it would be reasonable for such identified issues to be addressed through ongoing and regular maintenance, in either case having regard to the age and use of the premises, the term and the tenant's obligations under the lease.
- (c) If the Company and the Acquirer cannot agree the scope of works within 10 Business Days of that meeting, either party may require the appointment of an Independent Expert in accordance with clause 9.7.
- (d) The Company will provide the Acquirer (including the Acquirer's contractors and consultants) with all necessary access to the premises demised under the Lease in order to undertake all activities contemplated under clause 9.6 – 9.8.

## 9.7 Independent Expert

- (a) The Company and the Acquirer will use reasonable endeavours to agree on the appointment of an Independent Expert within 5 Business Days of clause 9.6(c) applying. Failing agreement, either party may request the President of the Property Institute of New Zealand to appoint the Independent Expert.
- (b) The Company and the Acquirer will use all reasonable endeavours to procure the Independent Expert enters into a deed of impartiality in favour of both parties.
- (c) The Independent Expert will:
  - (i) act as an expert and not as an arbitrator;
  - (ii) consider all submissions, reports and supporting materials provided by the parties;
  - (iii) undertake such inspections, testing and enquiries as reasonably required; and

- (iv) determine the extent of the Potential Remediation Issues and the scope of works required to address those issues in accordance with 9.6(b).
- (d) The Independent Expert will provide a draft determination to both parties for comment, and will issue a final binding report within 20 Business Days of appointment (subject only to extension for testing reasonably required).
- (e) The costs of the Independent Expert will be borne equally by the Company and the Acquirer.

## 9.8 Remediation

- (a) As soon as reasonably practicable following agreement or determination of the scope of works under clauses 9.6 or 9.7, the Company will obtain proposals from reputable and appropriately licensed contractors to undertake the required works (the “**Remediation Project**”) and will provide the Acquirer with full details of those proposals (including the quoted costs, it being acknowledged that any prior estimate of costs is disregarded).
- (b) The Company will consult with, and obtain the Acquirer’s consent (not to be unreasonably withheld or delayed), to the appointment of the contractor.
- (c) The Company will:
  - (i) use reasonable endeavours to procure that the appointed contractor provides customary warranties (having regard to the nature of the work carried out and Good Industry Practice) as to workmanship and compliance with applicable law, such warranties to be enforceable by the Company and assignable to the Acquirer;
  - (ii) procure that the Remediation Project is carried out with due skill, care and diligence, in accordance with applicable law, HSWA Standards, Good Industry Practice, and the Tenant’s obligations under the Lease;
  - (iii) provide the Acquirer with copies of all test results, air monitoring records, waste disposal certificates, and any statutory notifications provided to WorkSafe in connection with the Remediation Project, promptly upon receipt or issue; and
  - (iv) keep the Acquirer informed of all material developments in respect of the Remediation Project (including providing the Acquirer with copies of all material communications with the appointed contractor).
- (d) On completion of the Remediation Project:
  - (i) the Company must procure an independent licensed asbestos assessor (being a person licensed as an asbestos assessor under the HSWA Standards) to issue any lawfully required clearance certificate confirming the works have been properly completed in accordance with the HSWA Standards; and
  - (ii) a copy of the certificate, together with supporting test results and monitoring data, must be provided to the Acquirer.

- (e) If the Remediation Project is unlikely (in the Acquirer's reasonable opinion) to be completed before the Final Orders Date:
  - (i) not later than 15 Business Days prior to the Final Orders Date, the Company must obtain from the contractor an updated written estimate of the remaining costs to complete the Remediation Project, prepared within the preceding 10 Business Days, and provide it to the Acquirer; and
  - (ii) that amount (less any amount contractually assumed by the landlord of the relevant property), once confirmed by an independent quantity surveyor or other suitably qualified expert agreed between the parties (acting reasonably), will be the **"Remaining Remediation Costs"**.

## 10. BUSINESS CONTRACTS AND LEASES

10.1 **Acknowledgement:** The parties acknowledge that the Bremworth Group's leases and contracts may contain provisions requiring:

- (a) the consent of the counterparty to that lease or contract to a change of control, "deemed assignment" or similar that arises under the terms of that lease or contract as a result of the Transaction; or
- (b) a waiver from the counterparty to that lease or contract of any review, termination, cancellation or similar right which will arise or otherwise become enforceable under the terms of that lease or contract as a result of the Transaction,

(each a **"Change of Control Consent"**).

10.2 **List of Change of Control Consent requirements:** The parties will, as soon as practicable after the date of this Agreement, work in good faith to develop both:

- (a) a list of Change of Control Consent requirements; and
- (b) a proposed course of action to initiate contact with such parties and request that they provide any consents, confirmations or waivers required or appropriate in response to such Change of Control Consent.

10.3 **Change of Control Consent:** Subject to clause 10.4:

- (a) the Company will, and will procure that each member of the Bremworth Group will, use all reasonable endeavours to obtain each Change of Control Consent that the parties have identified pursuant to clause 10.2 and which the Acquirer requests that it obtain; and
- (b) the Acquirer must cooperate with and use its reasonable endeavours to assist the Company to obtain each required Change of Control Consent, including to provide all information reasonably required to obtain a Change of Control Consent requested by the Acquirer under clause 10.2(a) (but without contacting any contractual counterparties directly without the Company's consent).

10.4 **No obligation to pay money:** Nothing in this clause 10 will require either party to pay any money or provide any other valuable consideration to or for the benefit of any person.

- 10.5 **Scheme to proceed:** For the avoidance of doubt, the implementation of the Scheme will not be delayed if all or any required Change of Control Consents have not been obtained on or before the Implementation Date.

## 11. WARRANTIES AND UNDERTAKINGS

### 11.1 Company Warranties and undertakings:

- (a) The Company represents and warrants to the Acquirer that, subject to the limitations in this agreement, each of the Company Warranties is true, accurate and not misleading as at:
  - (i) the date of this agreement;
  - (ii) the date that the Scheme Booklet is sent to Shareholders;
  - (iii) immediately prior to the last affidavits being filed in respect of the Final Orders; and
  - (iv) 8:00am on the Implementation Date,

except where a Company Warranty refers to being given at a specific date, such Company Warranty is given only at that date.
- (b) The Company undertakes to the Acquirer to comply with the Company Undertakings.
- (c) The Company Warranties (other than the Fundamental Warranties, which are not given subject to any qualifications) are given on the basis that they will take effect subject to and are qualified by any matter:
  - (i) expressly provided for in this agreement;
  - (ii) fairly disclosed in the Due Diligence Materials or by the Company through the NZX market announcements platform before the date of this agreement; or
  - (iii) recorded as at the date two Business Days prior to the date of this agreement, in a public register or in publicly searchable records held by the Registrar, the Intellectual Property Office of New Zealand, the High Court of New Zealand, the New Zealand Personal Property Securities Register or Land Information New Zealand; or
  - (iv) with the actual knowledge of the Acquirer or any of its employees who have been involved in the assessment and / or negotiation of the Transaction.
- (d) No warranty or representation is given by or on behalf of the Company, the Acquirer Guarantor and the Acquirer may not bring any claim, with respect to any information that is a forecast, projection, estimate, opinion or other forward looking statement as to the future performance, financial condition, results of operations, strategy and plans of the Bremworth Group, in each case whether contained in the Due Diligence Material or otherwise.

- (e) The parties agree that, for the purposes of section 5D of the Fair Trading Act 1986 and section 43 of the Consumer Guarantees Act 1993, the Scheme Shares are being acquired in trade, the parties are all in trade and, to the maximum extent permitted by law, without limiting clause 11.6, the parties agree to expressly contract out of any right to bring a claim against the other party under any of the following New Zealand laws or any corresponding or similar provision of any legislation in any relevant jurisdiction or any other applicable laws (and agree that it is fair and reasonable to exclude their application);
  - (i) the Fair Trading Act 1986 (including sections 9, 12A, 13 and 14(1));
  - (ii) the Consumer Guarantees Act 1993; and
  - (iii) the Financial Markets Conduct Act 2013.
- (f) The parties have each been able to fully negotiate the terms of this agreement and have each been represented by and received advice from a lawyer during the negotiations leading to this agreement.
- (g) The Company agrees with the Acquirer (in its own right and separately as trustee or nominee on behalf of each of the other Acquirer Indemnified Persons) to indemnify the Acquirer Indemnified Persons from any claim, action or Loss directly incurred or suffered by the Acquirer or any of the other Acquirer Indemnified Persons as a result of any breach of any of the Company Warranties or Company Undertakings.

#### 11.2 Acquirer warranties and undertakings:

- (a) The Acquirer represents and warrants to the Company that, subject to the limitations in this agreement, each of the Acquirer Warranties is true, accurate and not misleading as at:
  - (i) the date of this agreement;
  - (ii) the date that the Scheme Booklet is sent to Shareholders;
  - (iii) immediately prior to the last affidavits being filed in respect of the Final Orders; and
  - (iv) 8:00am on the Implementation Date.
- (b) The Acquirer undertakes to the Company to comply with the Acquirer Undertakings.
- (c) The Acquirer agrees with the Company (in its own right and separately as trustee or nominee on behalf of each of the other Company Indemnified Persons) to indemnify the Company Indemnified Persons from any claim, action or Loss directly incurred or suffered by the Company or any of the other Company Indemnified Persons as a result of any breach of any of the Acquirer Warranties or Acquirer Undertakings.

#### 11.3 No representations made on economic or future matters: Each party acknowledges and agrees that the other party makes no representation or warranty other than as set out in this



clause 11 and, in particular, at no time has the other party made or given any representation or warranty in relation to the achievability of:

- (a) any economic, fiscal or other interpretations or evaluations by it; or
- (b) future matters, including future or forecast costs, prices, revenues or profits.

11.4 **Separate; independent:** Each of the warranties given by each party are separate and independent and, except as expressly provided, will not be limited by reference to any other warranty.

11.5 **Scheme becoming Effective:** After 8.00am on the Implementation Date, any breach of the warranties or the undertakings made or given under this clause 11 may only give rise to a claim for damages and does not entitle a party to terminate this agreement.

11.6 **Waiver of claims:**

(a) The Acquirer waives and releases, and must procure that each member of the Acquirer Group waives and releases, all rights and claims which it may have against any Company Indemnified Person (other than the Company) in respect of:

- (i) any misrepresentation, inaccuracy or omission in or from any information or advice given by that Company Indemnified Person;
- (ii) any breach of a representation, warranty or undertaking given by the Company in this agreement;
- (iii) the preparation of the Company Information or the Due Diligence Material; or
- (iv) any other act or omission in connection with this agreement or the Transaction,

except where that Company Indemnified Person has engaged in wilful misconduct or fraud.

(b) The parties acknowledge and agree that:

- (i) the Company has sought and obtained the waiver and release in clause 11.6(a) as agent for and on behalf of each Company Indemnified Person and may enforce the provisions of clause 11.6(a) on behalf of any Company Indemnified Person;
- (ii) any Company Indemnified Person may plead clause 11.6(a) in response to any claim made by any member of the Acquirer Group against them; and
- (iii) the undertakings contained in clause 11.6(a) are given for the benefit of each Company Indemnified Person and are intended to be enforceable against the Acquirer by each Company Indemnified Person in accordance with the provisions of Part 2, Subpart 1 of the Contract and Commercial Law Act 2017.

- (c) The Company waives and releases, and must procure that each member of the Bremworth Group waives and releases, all rights and claims which it may have against any Acquirer Indemnified Person (other than the Acquirer) in respect of:
- (i) any misrepresentation, inaccuracy or omission in or from any information or advice given by that Acquirer Indemnified Person;
  - (ii) any breach of a representation, warranty or undertaking given by the Acquirer in this agreement;
  - (iii) the preparation of the Acquirer Information; or
  - (iv) any other act or omission in connection with this agreement or the Transaction,
- except where the Acquirer Indemnified Person has engaged in wilful misconduct or fraud.
- (d) The parties acknowledge and agree that:
- (i) the Acquirer has sought and obtained the waiver and release in clause 11.6(c) as agent for and on behalf of each Acquirer Indemnified Person and may enforce the provisions of clause 11.6(c) on behalf of any Acquirer Indemnified Person;
  - (ii) any Acquirer Indemnified Person may plead clause 11.6(c) in response to any claim made by any member of the Bremworth Group against them; and
  - (iii) the undertakings contained in clause 11.6(c) are given for the benefit of each Acquirer Indemnified Person and are intended to be enforceable against the Company by each Acquirer Indemnified Person in accordance with the provisions of Part 2, Subpart 1 of the Contract and Commercial Law Act 2017.

## 12. INSURANCE

### 12.1 Insurance policies: The Acquirer acknowledges that:

- (a) subject to clause 12.1(b), the Company may, prior to the Implementation Date, enter into a run-off directors' and officers' liability insurance policy in respect of any directors or officers of the Bremworth Group for a 7-year period (the "**D&O Run-off Policy**") and pay all premiums required upfront and on a non-revocable basis;
- (b) the D&O Run-off Policy will, to the extent practicable, be obtained at normal commercial rates and the cover is not more favourable than the Bremworth Group's directors' and officers' liability insurance as at the date of this agreement, the Acquirer agrees that the Company entering into and paying the premium for the D&O Run-off Policy does not breach any provision of this agreement; and

- (c) after the Implementation Date it will not, and will procure that no member of the Bremworth Group will, vary or cancel the D&O Run-off Policy (for so long as such member of the Bremworth Group remains a Related Company of the Acquirer).

In this clause, a reference to director includes a former director and a reference to officer includes a former officer.

### 13. EXCLUSIVITY AND MATCHING RIGHTS

- 13.1 **No shop restriction:** Subject to clause 13.12, during the Exclusivity Period, the Company must not, and must procure that each of its Representatives does not, directly or indirectly:

- (a) solicit, invite, encourage or initiate 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, the Company must not, and must procure that its Representatives do not, 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 or initiated by the Company or any of its Representatives, was received before the date of this agreement and/or has been publicly announced.

- 13.3 **No talk exception:** The restriction in clause 13.2 does not apply to the extent that it restricts the Company or its Representatives from taking or refusing to take any action with respect to a bona fide Competing Proposal (which was not encouraged, solicited, invited, initiated, or continued 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 capable of becoming, a Superior Proposal or would be reasonably likely to constitute a Superior Proposal if it were to be proposed; 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, the Company must not, and must procure that each of its Representatives does not, directly or indirectly:

- (a) make available to any Third Party, or cause or permit any Third Party to receive, any non-public information relating to the Company or any of its Subsidiaries 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 (which was not encouraged, solicited, invited or initiated in contravention of clause 13.1 or clause 13.2) if all of the following requirements are satisfied:

- (a) the Board has determined, after obtaining written advice from its external financial advisers, that the Competing Proposal is, or is reasonably capable of becoming, a Superior Proposal or would be reasonably likely to constitute a Superior Proposal if it were to be proposed;
- (b) acting in good faith and after having obtained advice from its external legal advisers, the Board has determined that it is necessary to respond to such Competing Proposal in order to fulfil their fiduciary duties or statutory obligations;
- (c) the Third Party has first entered into a written agreement in favour of the Company restricting the use and disclosure by the Third Party and its affiliates and advisers of the information made available to the Third Party, on terms the Company reasonably believes are not, in any material respect, more favourable to the Third Party than those in the confidentiality agreement referred to in clause 21.4; and
- (d) to the extent that any information made available to the Third Party is material and has not previously been provided to the Acquirer, the Company provides or makes that information available to the Acquirer at the same time as it is provided to the Third Party or promptly thereafter.

**13.6 General notification obligations:** During the Exclusivity Period, the Company must notify the Acquirer as soon as practicable (and in any event within 24 hours) if:

- (a) the Company or any of its Representatives receives any Competing Proposal from a Third Party bidder or any offer or request to do any of the things referred to in clause 13.2(a) or clause 13.4(a) that could reasonably be expected to lead to a Competing Proposal from a Third Party bidder; or
- (b) the Company proposes to take, or does take, any action in reliance on the exceptions in clause 13.3 or clause 13.5,

and a notification given pursuant to clause 13.6(a) will include:

- (c) the identity of the relevant Third Party bidder;
- (d) reasonable detail of the material terms and conditions of such approach, action or circumstances, 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);

- (e) whether or not the Company intends to progress or respond to the relevant inquiry, approach, offer, bid, proposal or request (or whether, acting in good faith, the Company has not yet been able to make such a decision); and
- (f) the nature of the information and access requested and/or provided or action proposed to be taken.

13.7 **Matching rights:** If the Company or any of its Representatives receives a Competing Proposal which, in the Company's opinion, is, or is reasonably likely to constitute, a Superior Proposal, then:

- (a) the Company must as soon as reasonably practicable give the Acquirer a written notice setting out all material terms and conditions of the Competing Proposal, including the identity of the Third Party bidder who has made the Competing Proposal, the amount and form of consideration to be offered (including the Board's assessment of the value of that Competing Proposal if it is not an all cash proposal), the conditions to which it is subject and the proposed timetable; and
- (b) for the period beginning on the date that the Company gives notice to the Acquirer under clause 13.6(a) and ending on the date that is ten Business Days after the provision of such notice (the "**Matching Period**"):
  - (i) the Company must not enter into, or agree to enter into, any binding documentation to give effect to or implement the Competing Proposal;
  - (ii) the Company must use reasonable endeavours to ensure that no Director makes any public statement recommending the Competing Proposal to Shareholders; and
  - (iii) the Acquirer may offer to amend the terms of the Scheme and this agreement or make an alternative proposal to the Company or to Shareholders with a view to providing an outcome for Shareholders that is no less favourable or superior to that offered under the relevant Competing Proposal (including ensuring that the Consideration at least matches that of the Competing Proposal) (being a "**Counter Proposal**").

13.8 **Consequences of Superior Proposal:** If the Company gives notice to the Acquirer under clause 13.7(a), then the Company may:

- (a) in its reasonable discretion, delay any action contemplated by the Timetable (including adjourning the Scheme Meeting) to allow the Matching Period to be exhausted and, if applicable, to agree a Counter Proposal; and
- (b) make any announcement to NZX and ASX that the Company, acting in good faith, considers appropriate in the circumstances to ensure that it complies with applicable law, the NZX Listing Rules and/or the ASX Listing Rules.

13.9 **Company response to Counter Proposal:** If, during the Matching Period, the Acquirer makes a Counter Proposal:

- (a) the Company 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 the Acquirer 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) the Company must use reasonable endeavours to procure that each Director makes a public statement recommending the Counter Proposal to Shareholders.

13.10 **Changes to proposals:** Any material change to a Competing Proposal, including:

- (a) any material change to the terms referred to in clause 13.6(a); or
- (b) any incomplete or non-binding proposal or expression of interest becoming complete, capable of acceptance or, subject to clause 13.11, binding on the Third Party bidder,

will be taken to constitute a new Competing Proposal in respect of which the Company must separately comply with its obligations under clauses 13.6 and 13.9.

13.11 **No matching:** If the Acquirer fails to provide a Counter Proposal within the Matching Period or the Board otherwise reasonably determines that the terms and conditions of any Counter Proposal taken as a whole are less favourable to Shareholders than those in the relevant Competing Proposal, then the Company may enter into a binding implementation agreement or similar binding arrangement in respect of that Competing Proposal, in which case:

- (a) the Counter Proposal right under this agreement will expire in respect of that Competing Proposal (with such Competing Proposal being a Superior Proposal for the purposes of this agreement); and
- (b) either party may terminate this agreement by written notice to the other party.

13.12 **Normal provision of information:** Nothing in this clause 13 prevents the Company 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 accordance with its usual practices;
- (c) taking any action required by law in response to an unsolicited takeover notice given under rule 41 of the Takeovers Code in respect of, or takeover offer made under the Takeovers Code for, equity securities of the Company (including complying with clause 15 of Schedule 2 to the Takeovers Code); or

(d) in respect of a takeover notice or takeover offer of the type referred to in clause 13.12(c):

- (i) providing non-public information to;
- (ii) entering into a confidentiality agreement with; or
- (iii) having discussions with,

the offeror who gives the takeover notice or makes the takeover offer, to the extent such steps are reasonably required to comply with the Takeovers Code to ensure that the Company does not, and Company Directors do not, breach the Takeovers Code (including the prohibition on defensive tactics in Rule 38 of the Takeovers Code).

## 14. TERMINATION

14.1 **Events affecting Company:** Subject to clauses 11.5 and 14.7, the Acquirer may terminate this agreement by giving notice in writing to the Company before 8:00am on the Implementation Date if:

- (a) if there is a breach of any of the Fundamental Warranties;
- (b) there is a breach of any Company Warranty or any event occurs or circumstance arises that is certain to cause a Company 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 or the Bremworth Group (taken as a whole);
- (c) the Company is in breach of any Company Undertaking or any other obligation under this agreement, where the consequences of that breach are material in the context of the Scheme or the Bremworth Group (taken as a whole). For the avoidance of doubt, it will be a material breach of this agreement if any Director fails to make the recommendation, or any 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 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;
- (d) a Prescribed Occurrence occurs between the date of this agreement and 8:00am on the Implementation Date; or
- (e) clause 13.11 applies and the Company has not already terminated this agreement.

14.2 **Events affecting Acquirer:** Subject to clauses 11.5 and 14.7, the Company may terminate this agreement by giving notice in writing to the Acquirer before 8:00am on the Implementation Date:

- (a) if there is a breach of any Acquirer Warranty or any event occurs or circumstance arises that would cause any Acquirer Warranty to be untrue as at 8:00am on the



Implementation Date, where the consequences of that breach are material in the context of the Scheme;

- (b) if the Acquirer is in breach of any Acquirer Undertaking or any other obligation under this agreement, where the consequences of that breach are material in the context of the Scheme;
- (c) if an Insolvency Event occurs in respect of the Acquirer;
- (d) if the Independent Adviser's Report concludes that the Consideration is not within or above the Independent Adviser's valuation range for the Shares, provided that the Company will not exercise its right to terminate the Agreement under this clause 14.2(d) without first consulting with the Acquirer in good faith; or
- (e) clause 13.11 applies and the Acquirer has not already terminated this agreement.

**14.3 Scheme Resolution not passed:** Either party may terminate this agreement by giving notice in writing to the other party if:

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

**14.4 Court does not grant the Court Orders:** Subject first to complying with clause 7, either party may terminate this agreement by giving notice in writing to the other party if the Court determines not to grant either the Initial Court Orders or the Final Orders and that determination is not appealed in accordance with clause 7.3 (or is unsuccessfully appealed), provided that the terminating party has complied in all material respects with its obligations under this agreement.

**14.5 Regulatory Conditions:** Subject first to complying with clauses 3.6 and 3.7, either party may terminate this agreement by giving notice in writing to the other party if either of the Regulatory Conditions become incapable of being satisfied.

**14.6 End Date:** Subject to first complying with clause 3.6, either party 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.

**14.7 Notice of termination:** A party may only exercise a right of termination in accordance with this clause 14 if:

- (a) the party wishing to terminate has not previously waived any Condition under clause 3.4, or given any other waiver, in each case in respect of the same breach, event or circumstance the subject of termination; and



- (b) the party wishing to terminate has first given written notice to the other party setting out the circumstances that it considers permit it to terminate and stating its intention to do so and, if capable of remedy, the relevant circumstances have not been remedied before the earlier to occur of: (i) 15 Business Days after the time that the notice is given; and (ii) 8.00am on the Implementation Date.

**14.8 Effect of termination:** If this agreement is terminated under this clause 14, then:

- (a) except as provided in clause 14.8(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 14 and the Surviving Clauses survive termination of this agreement.

**14.9 No other termination:** Except as expressly set out in this agreement, neither party has the right to terminate or cancel this agreement whether before or after the Implementation Date as a result of any matter, information or circumstance, including for misrepresentation, repudiation, anticipatory breach or breach of or in respect of any matter giving rise to or the subject of a claim arising out of or in connection with this agreement (whether arising in tort (including negligence), in contract, statute, by operation of law or otherwise)), and sections 36 and 37 of the Contract and Commercial Law Act 2017 will not apply to this agreement.

## **15. BREAK FEE, REGULATORY APPROVAL BREAK FEE AND REVERSE BREAK FEE**

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

- (a) the other party and its Related Companies have incurred and will continue to incur significant costs and expenses in pursuing the Transaction including:
  - (i) advisory costs;
  - (ii) costs of management and directors' time;
  - (iii) out-of-pocket expenses; and
  - (iv) opportunity costs of pursuing the Transaction or not pursuing alternative transactions or business opportunities;
- (b) the costs and expenses actually incurred by each party and its Related Companies are of such a nature that they cannot accurately be ascertained;
- (c) the Break Fee, Regulatory Approval Break Fee and Reverse Break Fee are each liquidated damages based on a genuine and reasonable estimate of the costs and expenses that have been or will be actually incurred by the relevant party and its Related Companies in pursuing the Transaction and, in any case, are proportionate to the legitimate interests of the parties in connection with this agreement;

- (d) the parties have negotiated the inclusion of this clause 15 in this agreement and would not have entered into this agreement without it; and
- (e) each party has received external independent legal and financial advice in relation to this clause 15 and has concluded that it is reasonable and appropriate for it to agree to payment of the Break Fee, Regulatory Approval Break Fee or Reverse Break Fee (as applicable) in the circumstances described in clause 15.2 or 15.3 (as applicable) in order to secure the other party's entry into this agreement.

**15.2 Circumstances where Break Fee payable:** Subject to clause 15.6 and clause 15.8, the Company must pay the Break Fee to the Acquirer if this agreement is terminated prior to the Scheme becoming Effective and:

- (a) at any time before this agreement is terminated a Competing Proposal is announced and within 12 months after the date of that announcement, the person making the Competing Proposal, or one or more Associates of that person, completes, in all material respects, a transaction of the kind referred to in the definition of Competing Proposal; or
- (b) the Directors fail to make the recommendation and/or fail to give the undertaking referred to in clauses 8.1 and 16.1 or change, adversely qualify or withdraw that recommendation or undertaking or make any statement materially inconsistent with that recommendation or that undertaking, except, for the avoidance of doubt, where:
  - (i) there is a Superior Proposal (subject to the Company's compliance with clause 13.7); or
  - (ii) 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; or
- (c) the Acquirer terminates this agreement as permitted under clauses 14.1(a), 14.1(c) or clause 14.1(d) (except for termination for a Prescribed Occurrence that was not under, or within, the control of the Bremworth Group).

**15.3 Circumstances where Reverse Break Fee payable:** Subject to clause 15.6 and 15.8, the Acquirer must pay the Reverse Break Fee to the Company if:

- (a) the Company terminates this agreement as permitted under clause 14.2(a), 14.2(b), or 14.2(c); or
- (b) the Acquirer is in material breach of the Deed Poll.

**15.4 Circumstances where Regulatory Approval Break Fee payable:** Subject to clause 15.6 and 15.8, the Acquirer must pay the Regulatory Approval Break Fee if this agreement is terminated:

- (a) by the Company under clause 14.5 due to a material breach by the Acquirer of its undertakings with respect to satisfying the Regulatory Conditions under clause 3 (unless the Regulatory Conditions are nonetheless satisfied in accordance with this agreement by the End Date); or

- (b) by either party under clause 14.5 due to a failure to satisfy the Regulatory Conditions by the End Date (or clause 14.6, following such failure) in accordance with the terms of this agreement.
- 15.5 **Payment of Break Fee, Regulatory Approval Break Fee or Reverse Break Fee:** If the Break Fee, Regulatory Approval Break Fee or Reverse Break Fee becomes payable under this agreement, the Company or the Acquirer (as applicable) 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.
- 15.6 **Break Fee, Regulatory Approval Break Fee or Reverse Break Fee:** Notwithstanding anything else in this agreement:
  - (a) neither the Break Fee, Regulatory Approval Break Fee nor the Reverse Break Fee is payable if the Scheme becomes Effective;
  - (b) each of the Break Fee, Regulatory Approval Break Fee or the Reverse Break Fee is payable only once; and
  - (c) in the event that the Company pays the Break Fee under this clause 15, in no circumstances will the Acquirer be required to pay the Reverse Break Fee (and vice versa).
- 15.7 **Sole and exclusive remedy:**
  - (a) The Acquirer acknowledges and agrees that payment of the Break Fee to the Acquirer is the sole and exclusive remedy available to the Acquirer in connection with any event or occurrence referred to in clause 15.2 (*Circumstances where Break Fee payable*) and the Company is not liable for any Loss arising in connection with any such event or occurrence other than for any liability that it may have to pay the Acquirer the Break Fee under this clause 15.
  - (b) The Company acknowledges and agrees that payment of the Reverse Break Fee to the Company is the sole and exclusive remedy available to the Company in connection with any event or occurrence referred to in clause 15.3 (*Circumstances where Reverse Break Fee payable*) and the Acquirer is not liable for any Loss arising in connection with any such event or occurrence other than for any liability that it may have to pay the Company the Reverse Break Fee under this clause 15.
  - (c) Nothing in this clause 15 limits the Company's or the Acquirer's liability for fraud or, in the case of the Acquirer, the Acquirer's liability if the Acquirer breaches this agreement, or this agreement is otherwise terminated by the Company under clause 14.2, where the act(s) or omission(s) of the Acquirer resulting in the breach or termination right was made or not taken (as the case may be) with the deliberate intention or purpose of not completing the Transaction.
- 15.8 **Amendments to Break Fee, Regulatory Approval Break Fee or Reverse 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, Regulatory Approval 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 15 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 15.8(b), the parties must give any required undertakings.

**15.9 Specific performance and other rights:**

- (a) Nothing in this agreement precludes a party from:
  - (i) suing the other for specific performance; or
  - (ii) otherwise terminating this agreement in accordance with its terms and/or suing the other for damages (the amount of which it is acknowledged will be reduced by the amount of any Break Fee or Reverse Break Fee actually paid by one party to the other in accordance with this agreement).
- (b) The Acquirer and the Acquirer Guarantor acknowledge and agree that:
  - (i) if the Acquirer breaches this agreement, Loss may be suffered or incurred by Shareholders and, accordingly, the Acquirer and the Acquirer Guarantor acknowledge and agree that the agreements and covenants that each provide in this agreement, are promises which confer, and are intended to confer, a benefit upon the Shareholders and, accordingly, the provisions of subpart 1 of part 2 of the Contract and Commercial Law Act 2017 apply to each of them. Nothing in the preceding sentence will prevent the Company and the Acquirer amending this agreement without the consent of the Shareholders as contemplated by clause 21.1; and
  - (ii) if the Company seeks damages from the Acquirer and/or the Acquirer Guarantor, any Loss suffered by Shareholders as a result of a breach of this agreement or the Deed Poll by the Acquirer will be deemed to be suffered by the Company (except to the extent that the Acquirer and/or the Acquirer Guarantor pays damages directly to Shareholders on account of any Loss suffered due to the applicable breach).

**15.10 Limitation of Company's liability:** Subject to clauses 15.7(c) and 15.9, notwithstanding any other provision of this agreement:

- (a) the maximum aggregate liability of the Company to the Acquirer under or in connection with this agreement, howsoever arising and including in respect of any breach of this agreement, will be the amount of the Break Fee;
- (b) a payment by the Company of the Break Fee represents the sole and absolute liability of the Company to the Acquirer under or in connection with this agreement and no further damages, fees, expenses or reimbursements of any kind will be payable by the Company to the Acquirer in connection with this agreement;
- (c) the Company will not have any liability for any Consequential Loss; and

- (d) the amount of the Break Fee payable to the Acquirer under this clause 15 shall be reduced by the amount of any Loss recovered by the Acquirer in relation to a breach of any other clause of this agreement.

15.11 **Limitation of Acquirer's liability:** Subject to clauses 15.7(c) and 15.9, notwithstanding any other provision of this agreement:

- (a) the maximum aggregate liability of the Acquirer to the Company under or in connection with this agreement, howsoever arising and including in respect of any breach of this agreement, will be the amount of the Reverse Break Fee or, if applicable, the Regulatory Approval Break Fee;
- (b) a payment by the Acquirer of the Reverse Break Fee or the Regulatory Approval Break Fee (as applicable) represents the sole and absolute liability of the Acquirer to the Company under or in connection with this agreement and no further damages, fees, expenses or reimbursements of any kind will be payable by the Acquirer to the Company in connection with this agreement;
- (c) the Acquirer will not have any liability for any Consequential Loss; and
- (d) the amount of any Reverse Break Fee payable to the Company under this clause 15 shall be reduced by the amount of any Loss recovered by the Company in relation to a breach of any other clause of this agreement.

## 16. ANNOUNCEMENTS

16.1 **Initial announcements:** As soon as reasonably practicable following execution of this agreement, the Company must issue an announcement via NZX, in a form agreed with the Acquirer and including a statement that each Director:

- (a) recommends that Shareholders vote in favour of the Scheme; and
- (b) 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) with the written consent of the other party, which must not be unreasonably withheld, conditioned or delayed;
- (c) an announcement which provides an update on progress with implementing the Scheme or, in the case of the Company, 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; 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,

provided that the obligations in this clause will not prevent the Company or the Acquirer 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 New Zealand dollars by transfer of the relevant amount into the relevant account on or before the date on which the payment is due and in immediately available funds. 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) on that sum at an annual rate equal to the Bill Rate plus 5%, which interest accrues from day to day and must be compounded monthly. The party making such payment is permitted to withhold Tax required to be withheld by law without gross-up.

## 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 the avoidance of doubt, the parties agree that the supply of Scheme Shares pursuant to this agreement is an exempt supply of a financial service and therefore not subject to GST. 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 if required to be paid, except that the recipient is not required:

- (a) to pay the Additional Amount unless and until the Supplier has issued taxable supply 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 Taxable supply information:** For any supply to which clause 18.3 applies, the Supplier must issue taxable supply 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, with supply correction information being 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 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 relates. For the avoidance of doubt, this clause 18.6 does not apply to adjust the Break Fee, Regulatory Approval Break Fee or the Reverse Break Fee.

## **19. GUARANTEE**

**19.1 Acquirer Guarantor:** In consideration of the Company entering into this agreement, the Acquirer Guarantor irrevocably and unconditionally:

- (a) guarantees, to the Company (and the Company Indemnified Persons, as applicable) as principal obligor, and not merely as a surety, by way of a continuing obligation (despite any intervening payment, settlement or other thing), the due and punctual compliance by the Acquirer with each of the Acquirer's obligations, including the payment of all amounts payable by the Acquirer, under, or in connection with, this agreement;
- (b) undertakes to the Company that whenever the Acquirer does not pay any amount when due under or in connection with this agreement (or anything which would have been due if the agreement or the amount was enforceable, valid and not illegal), immediately on demand by the Company the Acquirer Guarantor shall pay that amount as if it was the principal obligor (without set-off, counterclaim or deduction); and
- (c) indemnifies the Company (and the Company Indemnified Persons, as applicable) from and against any Loss suffered or incurred by the Company arising out of or in connection with any failure of the Acquirer or the Acquirer Guarantor to pay any amount payable under, or to perform any obligation under, this agreement (including any and all such claims and Loss of whatever nature incurred by the Company in connection with the enforcement of this clause 19).



19.2 **Nature of liability:** The Acquirer Guarantor acknowledges and agrees that each of its obligations under this clause 19:

- (a) is a principal and continuing obligation and will not be affected by any principle of law or equity which might otherwise reduce or limit in any way the liability of the Acquirer Guarantor; and
- (b) continues notwithstanding any amendment of this agreement or any waiver, consent or notice given under this agreement by any party to the other.

19.3 **Maximum liability:** The Acquirer Guarantor's liability under this clause 19 will not exceed the liability of the Acquirer in respect of the relevant claim.

## 20. NOTICES

20.1 **Notice:** Every notice or other communication ("**Notice**") for the purposes of this agreement will:

- (a) be in writing; and
- (b) be delivered in accordance with clause 20.2.

20.2 **Method of service:** A Notice may be given by:

- (a) delivery to the physical address of the relevant party; or
- (b) sending it by email to the email address of the relevant party.

20.3 **Time of receipt:** A Notice given in the manner:

- (a) specified in clause 20.1(a) is deemed received at the time of delivery;
- (b) specified in clause 20.2(b) is deemed received:
  - (i) if sent between the hours of 9am and 5pm (local time) on a Business Day, at the time of transmission; or
  - (ii) if subclause (i) does not apply, at 9.00am on the Business Day immediately after the time of sending,

unless the sender receives an automated message that the email has not been delivered (excluding an "out of office" automated message).

20.4 **Addresses:** For the purposes of this clause the address details of each party are:

- (a) the details set out below; or
- (b) such other details as any party may notify to the other by Notice given in accordance with this clause.

### **Acquirer and the Acquirer Guarantor:**

Attention: Tania Pauling



Physical address: Godfrey Hirst NZ Limited, 142 Kerrs Road, Wiri, Manukau, Auckland, New Zealand  
Email address: tania.pauling@godfreyhirst.com

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

Attention: Roger Wallis, Chapman Tripp  
Physical address: Chapman Tripp, Level 34, PwC Tower, 15 Customs Street, Auckland Central, Auckland 1010, New Zealand  
Email address: roger.wallis@chapmantripp.com

**Company:**

Attention: Victor Tan  
Physical address: Bremworth Limited, 7 Grayson Avenue, Papatoetoe, Auckland, New Zealand  
Email address: vtan@bremworth.co.nz

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

Attention: Ian Beaumont, Russell McVeagh  
Physical address: Level 30, Vero Centre, 48 Shortland Street, Auckland, New Zealand  
Email address: ian.beaumont@russellmcveagh.com

- 20.5 **Proof of service:** In proving service of a notice or other communication, it is sufficient to prove that delivery was made or that the email 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.

## 21. GENERAL

### 21.1 Amendments: No:

- (a) amendment to this agreement;
  - (b) agreement between the parties for the purpose of, or referred to in, this agreement; or
  - (c) request, consent, or approval for the purpose of, or referred to in, this agreement,
- is effective unless it is in writing and signed (if subclauses (a) or (b) apply) by both parties or (if subclause (c) applies) the party making the request or required to give the consent or approval.

- 21.2 **Costs:** Except as otherwise expressly provided for in this agreement, each party must pay the costs and expenses incurred by it in respect of entering into and performing its obligations under this agreement, the Scheme and the Deed Poll.

- 21.3 **Counterparts:** This agreement may be executed in any number of counterparts (including by way of electronic means such as DocuSign), 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 to be taken as valid and binding to the same extent as original signatures.
- 21.4 **Entire agreement:** This agreement and the confidentiality agreement dated 29 April 2025 between the Company and the Acquirer constitute the entire agreement between the parties relating to the subject matter of this agreement and supersede and cancel any previous agreement, understanding, or arrangement, whether written or oral, relating to such subject matter.
- 21.5 **Further assurance:** Each party will make all applications, execute all documents and do or procure all other acts and things reasonably required to implement and to carry out its obligations under, and the intention of, this agreement.
- 21.6 **Assignment:** Neither party will directly or indirectly assign, transfer or otherwise dispose of any of its rights or interests in, or any of its obligations or liabilities under or in connection with this agreement, except with the prior written consent of the other party, which consent may be withheld in the absolute discretion of the other party.
- 21.7 **Rights and powers cumulative:** The rights, powers and remedies provided in this agreement are cumulative with, and are not exclusive of, any rights, powers or remedies at law or in equity unless specifically stated otherwise.
- 21.8 **Severance:** If any provision of this agreement is or becomes unenforceable, illegal or invalid for any reason it will be deemed to be severed from this agreement without affecting the validity of the remainder of this agreement and will not affect the enforceability, legality, validity or application of any other provision of this agreement.
- 21.9 **No merger:** The provisions of this agreement, and anything done under, or in connection with, this agreement will not operate as a merger of any of the rights, powers or remedies of either party under, or in connection with, this agreement or at law, and those rights, powers and remedies will survive and continue in full force and effect to the extent that they are unfulfilled.
- 21.10 **Governing law:** This agreement is governed by the laws of New Zealand and the parties submit to the non-exclusive jurisdiction of the courts of New Zealand in respect of any dispute or proceeding arising out of this agreement. The parties irrevocably waive any objection to the venue of any legal process in these courts on the basis that the process has been brought in an inconvenient forum.

*[Signature page follows]*

SIGNATURES

BREMWORTH LIMITED by:

DocuSigned by:  
*Trevor Burt*  
F7E83F66F15A400

Signature of director

Trevor Burt

Name of director

FLOORSCAPE LIMITED by:

Signature of director

Tania Pauling

Name of director

MOHAWK INDUSTRIES, INC. by:

Signature of authorised officer

Name of authorised officer

## SIGNATURES

**BREMWORTH LIMITED** by:

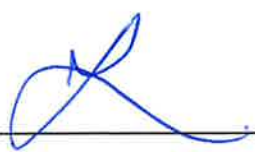
---

Signature of director

---

Name of director

**FLOORSCAPE LIMITED** by:



---

Signature of director

Tania Pauling

---

Name of director

**MOHAWK INDUSTRIES, INC.** by:

---

Signature of authorised officer

---

Name of authorised officer

**SIGNATURES**

**BREMWORTH LIMITED** by:

---

Signature of director

---

Name of director

**FLOORSCAPE LIMITED** by:

---

Signature of director

---

Tania Pauling

Name of director

**MOHAWK INDUSTRIES, INC.** by:



Signature of authorised officer

*Jeffrey S. Lorberbaum, Chairman and Chief Executive Officer*

Name of authorised officer

## SCHEDULE 1

### Prescribed Occurrences

1. The Company or another member of the Bremworth Group authorises, declares, pays, or makes any dividends, bonuses or other payments or distributions (within the meaning of the Companies Act) of any nature, other than as contemplated by this agreement or any distribution from wholly-owned Subsidiaries of the Company to the Company or to other wholly-owned Subsidiaries of the Company, other than the Capital Return.
2. Any Bremworth Group member issuing, agreeing to issue, or granting an option or right to subscribe for, shares, convertible securities, other securities or financial products of any nature (including warrants, options, phantom or cash settled rights over shares, convertible notes, entitlements, rights or interests in any ordinary shares) other than the issuing of shares by a wholly-owned Subsidiary of the Company to the Company or another wholly-owned Subsidiary of the Company or as permitted under clauses 9.4(h) or 9.5.
3. The Company:
  - a. altering the rights, privileges, benefits, entitlements or restrictions attaching to any securities (including the Shares) or other securities or financial products (if any) (except as permitted under clause 9.4(h) or 9.5);
  - b. converting all or any of the Shares into a larger or smaller number; or
  - c. buying back or redeeming (or agreeing to buy back or redeem) any Shares (other than pursuant to the Capital Return).
4. Any alteration to the constitutional documents of any member of the Bremworth Group, that is material in the context of the Scheme.
5. An Insolvency Event occurs in respect of a member of the Bremworth Group.
6. The Shares cease to be quoted on the NZX (other than in connection with the implementation of the Scheme).
7. The Pro Forma Cash Balance being less than the Minimum Retained Cash amount.
8. A member of the Bremworth 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 Bremworth Group becoming a subsidiary of the Acquirer or under the Acquirer's control (unless previously approved in writing by the Acquirer or as fairly disclosed in the Due Diligence Material).
9. A member of the Bremworth Group alters the remuneration or other conditions of employment or engagement of any of its directors, senior employees and executives, other than within the exceptions provided in clause 9.4.
10. The board or shareholders of a Bremworth Group member pass a resolution to do or authorise the doing of any act or matter referred to in any of paragraphs 1 to 9.
11. Any physical event (including without limitation fire, flood, earthquake, lightning strike, or other similar natural disaster) occurs which materially and adversely affects (or is reasonably

likely to materially and adversely affect) the Business, financial condition, sales, properties, assets, liabilities or operations of the Bremworth Group to an extent that (alone or with a series of similar or related matters) it is reasonably expected to:

- a. have an adverse impact on the net asset value of the Company of 10% or more; or
- b. result in the full or partial suspension of operations at any Bremworth Group site for a period of 3 months or more,

whether or not insured.

## SCHEDULE 2

### Company Warranties and Undertakings

#### Part 1: Company Warranties

##### Fundamental Warranties

1. **Incorporation:** The Company is a company duly incorporated under the laws of New Zealand.
2. **Capacity:** The Company has the power to execute and to perform its obligations under this agreement and the Scheme, and (subject to obtaining the approvals contemplated by clause 3.1 of this agreement) has taken all necessary corporate action to authorise such execution and the performance of such obligations.
3. **Binding effect:** The obligations of the Company under this agreement constitute legal, valid and binding obligations enforceable subject to and in accordance with their terms.
4. **Compliance:** The execution and performance of this agreement and the Scheme:
  - a. complies with the Company's constitution; and
  - b. does not constitute a breach of any law.
5. **Share capital:** The entire share capital of the Company as at the date of this agreement is 70,561,519 fully paid ordinary shares and will not exceed 69,451,593 (as a result of the exercise of the options which Gregory Russell Smith holds and cancellation of LTI Shares contemplated in clause 9.5(c) of this agreement) as at 8.00am on the Implementation Date.
6. **Options:** With the exception of the options held by Gregory Russell Smith pursuant to which 362,228 ordinary shares are to be issued within 2 Business Days of the Final Orders Date, 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 the Bremworth Group in favour of any person, nor has any member of the Bremworth 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.

##### Disclosure warranties

7. **Disclosure:** The Company has filed with the Registrar and NZX all documents required to be filed with the Registrar or NZX including pursuant to NZX Listing Rule 3.1.1 (the "**Disclosure Documents**") and is not in breach of its continuous and periodic disclosure obligations under the Companies Act, the FMCA, the NZX Listing Rules and (as at the date of this agreement) is not relying on the exception in NZX Listing Rule 3.1.2 to withhold any information from public disclosure (other than in relation to Project Loop). The Disclosure 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 Disclosure Document.
8. **Due Diligence Material:** The Due Diligence Material has been prepared and provided in good faith and, as far as the Company is aware, no information has been included in the Due



Diligence Material that was, when given, materially false or misleading, including by omission.

9. **Disclosed matters:** As at the date of this agreement, the Company 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 Bremworth Group (including as a result of payments to be made by the Bremworth Group, a decrease in the value of the Bremworth Group's assets or an increase in the value of the Bremworth 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.
10. **Contractual arrangements:** 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 Bremworth Group is a party or under which any member of the Bremworth Group is entitled to a material right or benefit, or any material provision thereof.
11. **Claims and investigations:** Except as fairly disclosed in the Due Diligence Material, as at the date of this agreement, the Company is not a party to, and has not been notified of any threatened, enforcement action, investigation, inquiry, determination, ruling or audit by a Government Agency, or any action, claim, litigation, arbitration or prosecution by any party (including by a Government Agency but excluding by any Acquirer Group Member).

#### **General warranties**

12. **Incorporation:** Each member of the Bremworth Group other than the Company is a company duly incorporated under the laws of New Zealand or Australia. Yarmish Enterprises Limited, a company through which sales of wool and carpet to Asia was previously made, is registered in Hong Kong, but is dormant and has not traded since before 2000.
13. **Authorisations:** As far as the Company is aware as at the date of this agreement, each member of the Bremworth Group has complied in all material respects with all New Zealand, Australian and foreign laws and regulations applicable to it, has all material licences, authorisations, consents and approvals (or similar) necessary for it to conduct the Business as presently being conducted and, so far as the Company is aware, no member of the Bremworth Group is under investigation with respect to the violation of any laws or applicable licences, authorisations, consents and approvals (or similar).
14. **Conduct of Business:** From 25 June 2025 until and including the date of this agreement:
  - a. the Business has been carried on as a going concern and in the ordinary course of business. Without limiting this clause, the Company has paid its staff in accordance with the relevant contracted terms and paid its creditors and collected receivables in the ordinary course of business in all material respects;
  - b. the Business has used reasonable endeavours to maintain an appropriate level of inventory and other working capital, as required to meet the operating needs of the Business and, without limitation, has not operated in a manner intended to artificially increase the amount of Cash available over and above what would have been available had the Business been operated in the ordinary course (including by

artificially reducing inventory, artificially lowering pricing, artificially accelerating the collection of receivables, or artificially delaying the payment of creditors).

15. **Financing:** As at the date of this agreement, the Bremworth Group does not have any outstanding debt financing that is not reflected in either its financial statements and notes thereto for the year ended 30 June 2025 and since 30 June 2025 no member of the Bremworth Group has engaged in debt financing of a type which is not required to be shown or reflected in its financial statements or notes thereto.

## Part 2: Company Undertakings

1. The Company will ensure that the Company Information:
  - a. is prepared in good faith and on the understanding that each of the Acquirer Indemnified Persons will rely on that information for the purposes of considering and approving the Acquirer Information in the Scheme Booklet;
  - b. complies with the Companies Act, FMCA and all other applicable laws (including the NZX Listing Rules); 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. Without limiting the Company's continuous disclosure obligations, the Company will provide to the Acquirer all new material information of which it becomes aware after the Scheme Booklet has been sent to Shareholders and before the date of the Scheme Meeting which is necessary to ensure that the Company Information, in the form and context in which it appears in the version of the Scheme Booklet sent to Shareholders, is not misleading or deceptive, including by omission.
3. All information provided by or on behalf of the Company to the Independent Adviser will be provided in good faith and on the understanding that the Independent Adviser will rely upon that information for the purpose of preparing the Independent Adviser's Report for inclusion in the Scheme Booklet, will be true and correct in all material respects and will not be misleading or deceptive, including by omission.

## SCHEDULE 3

### Acquirer Warranties and Undertakings

#### Part 1: Acquirer Warranties

1. **Incorporation:** The Acquirer is a company duly incorporated under the laws of New Zealand.
2. **Capacity:** The Acquirer has the power to execute and to perform its obligations under this agreement, the Scheme and the Deed Poll, and has taken all necessary corporate action to authorise such execution and the performance of such obligations.
3. **Binding effect:** The obligations of the Acquirer under this agreement, and under the Deed Poll once executed, constitute legal, valid and binding obligations enforceable subject to and in accordance with their terms.
4. **Compliance:** The execution and performance of this agreement, the Scheme and the Deed Poll:
  - a. complies with the Acquirer's constitution or other constituent documents; and
  - b. does not constitute a breach of any law or other obligation by which the Acquirer is bound and which will conflict with, constitute a default under, or would prevent it from entering into and performing its obligations under this agreement, the Scheme or the Deed Poll.
5. **Approvals:** To the Acquirer's knowledge, no consents, approvals or other acts by a Government Agency are necessary to effect Implementation other than those identified in clause 3.1.
6. **Insolvency:** No member of the Acquirer Group has been deregistered as a company or otherwise dissolved, and there has not occurred an Insolvency Event in relation to any member of the Acquirer Group.
7. **Funding:** The Acquirer will have available to it on an unconditional basis sufficient cash reserves (whether from internal cash reserves or external funding arrangements or a combination of both) to satisfy the Acquirer's obligations to pay the Scheme Consideration in accordance with its obligations under this agreement, the Scheme and the Deed Poll.

#### Part 2: Acquirer Undertakings

1. The Acquirer will ensure that the Acquirer Information:
  - a. is prepared in good faith and on the understanding that each of the Company Indemnified Persons 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, FMCA and all other applicable laws; and
  - c. in the form and context in which it appears in the Scheme Booklet, is true and correct in all material respects and is not misleading or deceptive, including by omission, as at the date the Scheme Booklet is sent to Shareholders.

2. The Acquirer will provide to the Company all new material information of which it becomes aware after the Scheme Booklet has been sent to Shareholders and before the date of the Scheme Meeting which is necessary to ensure that the Acquirer Information, in the form and context in which that information appears in the version of the Scheme Booklet sent to Shareholders, is not misleading or deceptive in any material respect, including by omission.
3. All information provided by or on behalf of the Acquirer 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. Subject to the Companies Act and the Scheme becoming Effective, the Acquirer undertakes in favour of the Company and each Company Indemnified Person that it will:
  - a. subject to clause 5 below, for a period of 7 years from the Implementation Date, ensure that the constitutions of the Company and each Bremworth Group member continue to have equivalent obligations to those currently contained in their constitutions at the date of this agreement that provide for each company to indemnify each of its current and former directors and officers against any liability (excluding for fraud or wilful misconduct) incurred by that person in his or her capacity as a director or officer of the company to any person other than a member of the Bremworth Group; and
  - b. procure that the Company and each Bremworth Group member complies with any provisions in deeds of indemnity, access and insurance (including the D&O Run-off Policy) made by them in favour of their respective directors and officers from time to time.
5. The undertakings contained in clause 4 above are given:
  - a. until the earlier of the end of the relevant period specified in that clause or the relevant Bremworth Group member ceasing to be part of the Acquirer Group; and
  - b. for the benefit of each current and former director and officer of the Bremworth Group (from time to time) and are intended to be enforceable against the Acquirer by each of them in accordance with the provisions of Part 2, Subpart 1 of the Contract and Commercial Law Act 2017.

## SCHEDULE 4

### Timetable

	EVENT	INDICATIVE DATE (BUSINESS DAYS)
1.	Announcement	Upon signing this agreement
2.	Submission of both Regulatory Applications	Within 10 Business Days of Item 1
3.	Initial draft Scheme Booklet (excluding Independent Adviser's Report) provided to the Acquirer	Within 18 Business Days of Item 1
4.	Comments on the draft Scheme Booklet provided by the Acquirer to the Company for review	Within 10 Business Days of Item 3
5.	Final draft Scheme Booklet (excluding Independent Adviser's Report) provided to the Acquirer	Within 4 Business Days of Item 4
6.	Comments on the final Scheme Booklet provided by the Acquirer to the Company for review	Within 5 Business Days of Item 5
7.	Scheme Booklet (including Independent Adviser's Report) provided to the Takeovers Panel for review	Within 3 Business Days of Item 6
8.	Scheme Booklet (including Independent Adviser's Report) approved by Takeovers Panel and Takeovers Panel issues Letter of Intention	Within 15 Business Days of Item 7
9.	Application for Initial Orders filed	Within 3 Business Days of Item 8
10.	First Court Date	As soon as possible after Item 9, subject to Court availability
11.	Sealed Initial Orders and a Minute of the Court from the First Court Date sent to the Takeovers Panel (together with any updated material) with application for Letter of Intention	As soon as possible after the Initial Orders are granted
12.	Regulatory Conditions and the IRD Ruling Condition are satisfied	Prior to item 13
13.	Scheme Booklet (including Independent Adviser's Report) sent to Shareholders (provided that the Regulatory Conditions and the IRD Ruling Condition are satisfied)	Within 4 Business Days of the Initial Orders or following item 12

	EVENT	INDICATIVE DATE (BUSINESS DAYS)
14.	Scheme Meeting (provided that the Regulatory Conditions and the IRD Ruling Condition are satisfied)	20 Business Days following Item 13
15.	Company applies to Takeovers Panel for No-Objection Statement	Within 1 Business Day of Item 14
16.	Takeovers Panel issues No-Objection Statement	Within 4 Business Days of Item 15
17.	Application for Final Orders filed	Parties to agree optimal date to file having regard to the Implementation Date definition
18.	Second Court Date	Within 5 Business Days of Item 17
19.	Pro Forma Cash Balance statement provided to Acquirer and the Court	No later than 9.00am on the Second Court Date
20.	Final Orders Date	Second Court Date (subject to Court availability)
21.	Suspend trading on NZX	1 Business Days after the Final Orders Date
22.	Record Date	2 Business Days after the Final Orders Date
23.	Implementation Date	As per the definition of the term "Implementation Date"

## **SCHEDULE 5**

### **Scheme Plan**

Attached.

## SCHEME PLAN

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

#### PARTIES

**BREMWORTH LIMITED ("Company")**

**FLOORSCAPE LIMITED ("Acquirer")**

Each person who is registered in the Register on the Record Date 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 any day other than a Saturday, Sunday, or a statutory public holiday in Auckland, New Zealand.

**"Capital Return Amount"** means, in aggregate, the Scheme Dividend Amount and the Scheme Buyback Amount.

**"Companies Act"** means the Companies Act 1993.

**"Computershare"** means Computershare Investor Services Limited.

**"Conditions"** means:

- (a) the conditions set out 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 the Company and the Acquirer in accordance with clause 3.2 of the Scheme Implementation Agreement.

**"Consideration"** means \$0.75 in respect of each Scheme Share held by a Scheme Shareholder on the Record Date.

**"Court"** means the High Court of New Zealand, Auckland Registry.

**"Deed Poll"** means the deed poll entered into by the Acquirer in favour of the Scheme Shareholders.

**"Encumbrance"** has the meaning given to that term in the Scheme Implementation Agreement.

**"End Date"** has the meaning given to that term in the Scheme Implementation Agreement.

**"Final Orders"** means, on application of the Company, orders that the Scheme will be binding on the Company, the Acquirer, the Scheme Shareholders and/or such other persons



**Agreed form**

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 Court Orders are sealed by the Court.

**"Government Agency"** means any government, any 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"** has the meaning given to that term in the Scheme Implementation Agreement 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 5:00pm on the date which is two Business Days before the Implementation Date, or such other date agreed between the parties in writing.

**"Register"** means the Share register maintained by Computershare on behalf of the Company.

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

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

**"Scheme Buyback Amount"** means the Scheme Buyback Price multiplied by the number of Scheme Buyback Shares.

**"Scheme Buyback Price"** means \$[●] per Scheme Buyback Share.

**"Scheme Buyback Shares"** means [●] Shares for every [●] Scheme Shares held by each Scheme Shareholder, which Shares will be acquired by the Company and cancelled pursuant to clause 4.1(e). For this purpose, fractions of a Share will be rounded up or down to the nearest whole Share (with 0.5 rounded up).

**"Scheme Dividend"** means a cash dividend of \$[●] per Scheme Share imputed to the maximum extent allowed for by the imputation credits held by the Company.

**"Scheme Dividend Amount"** means the Scheme Dividend multiplied by the number of Scheme Shares.

**"Scheme Implementation Agreement"** means the scheme implementation agreement dated [●] 2025 between the Acquirer and the Company.

**"Scheme Meeting"** means the special meeting of Shareholders ordered by the Court to be convened pursuant to section 236(2)(b) and 236A(2) of the Companies Act in respect of the

## Agreed form

Scheme (and including any meeting convened following any adjournment or rescheduling of that meeting).

**"Scheme Payments"** has the meaning given to that term in clause 5.1.

**"Scheme Shares"** means all of the Shares on issue on the Record Date.

**"Share"** means a fully paid ordinary share in the Company.

**"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 the Acquirer and the Company agree in writing.

**"Trust Account"** has the meaning given to that term in clause 3.1.

**"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;

## Agreed 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:** Capital 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(f) and 3.1(g) of the Scheme Implementation Agreement):

- (a) the Acquirer must, by no later than 4.00pm 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; and
- (b) the Company must, by no later than 4.00pm on the Business Day before the Implementation Date, deposit (or procure the deposit of) in immediately available cleared funds an amount equal to the Capital Return Amount payable to Scheme Shareholders,

in a New Zealand dollar denominated trust account operated by Computershare (the "**Trust Account**").

**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:
  - (i) Consideration is held on trust for the Acquirer and to its order, such that only the Acquirer may direct how the Consideration will be paid from the Trust Account; and
  - (ii) Capital Return Amount is held on trust for the Company and to its order, such that only the Company may direct how the Capital Return Amount will be paid from the Trust Account.
- (b) Clause 3.2(a) is subject to a standing joint written direction from the Acquirer and the Company to Computershare to make payment of the amounts contemplated in clause to the Scheme Shareholders in accordance with this Scheme Plan.
- (c) The details of the Trust Account will be provided to the Acquirer by (or on behalf of) Computershare not less than three Business Days before the Implementation Date.

**3.3 Interest:** Subject to Implementation of the Scheme, any interest earned on:

- (a) the Consideration, deposited in the Trust Account, up to Implementation, will be payable to the Acquirer by Computershare as directed by the Acquirer (less bank fees and other third party charges relating to the Trust Account); and
- (b) the Capital Return Amount, deposited in the Trust Account, up to Implementation, will be payable to the Company by Computershare as directed by the Company (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 7.00pm on the Implementation Date for any reason, Computershare will immediately repay:

- (a) the Consideration, together with any interest earned on the Consideration, to the Acquirer to such New Zealand dollar denominated account instructed to Computershare by the Acquirer; and
- (b) the Capital Return Amount, together with any interest earned on the Capital Return Amount, to the Acquirer to such New Zealand dollar denominated account instructed to Computershare by the Company.

**4. IMPLEMENTATION**

**4.1 Implementation:** Subject to:

- (a) any amendments or variations as may be required by the Court;
- (b) the Company and the Acquirer providing Computershare with written notice that the Scheme is Unconditional after 8.00am and prior to 9.00am on the Implementation Date;

**Agreed form**

- (c) the Consideration and the Capital Return Amount having been deposited into the Trust Account in accordance with clause 3.1 and Computershare confirming in writing to the Company and the Acquirer that this has occurred,

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

- (d) the Company shall instruct Computershare to pay or procure the payment from the Trust Account to each Scheme Shareholder an amount equivalent to the Scheme Dividend for each Scheme Share held by that Scheme Shareholder as set out in the Register as at the Record Date;
- (e) without any further act or formality, the Scheme Buyback Shares held by each Scheme Shareholder shall be acquired by the Company and immediately cancelled;
- (f) the Company shall instruct Computershare to pay or procure the payment from the Trust Account to each Scheme Shareholder an amount equal to the Scheme Buyback Price for each Scheme Buyback Share which has been acquired and cancelled by the Company in accordance with clause 4.1(e) above;
- (g) without any further act or formality, all the remaining Scheme Shares, together with all rights and entitlements attaching to them as at the Implementation Date, will be transferred to the Acquirer, and the Company must enter, or procure Computershare enter, the name of the Acquirer in the Register as holder of all of the remaining Scheme Shares; and
- (h) in accordance with the instructions set out in clause 3.2(b), subject to compliance in full with clause 4.1(g), the Company must instruct 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 such Scheme Shareholder as set out in the Register as at the Record Date.

## 5. PAYMENT OF CONSIDERATION

5.1 **Method of payment:** The payment obligations under clauses 4.1(d), 4.1(f) and 4.1(h) ("**Scheme Payments**") will be satisfied by:

- (a) where a Scheme Shareholder has, prior to the Record Date, provided bank account details to enable Computershare and the Company to make payments of New Zealand dollars by electronic funds transfer, Computershare must pay the Scheme Payments 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 enable Computershare to make payment in foreign currency (and Computershare is able to make payment in that currency), Computershare must pay the Scheme Payments (less any applicable costs 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 payable to that foreign currency); or

**Agreed form**

- (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 Scheme Payments which are 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 in time will be followed.

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

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

**5.3 Surplus in Trust Account:** To the extent that, following satisfaction of the obligations to pay the Scheme Payments, and any interest as contemplated by clause 3.3, there is a surplus in the Trust Account, that surplus (less the aggregate amount of the Scheme Payments 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 to the Acquirer as directed by the Acquirer in writing.

**5.4 Holding on Trust:** The Company 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 the Company.

**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 Scheme Payments 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 Scheme Payments 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 the Company prior to the Record Date of an order or direction made by a court of competent jurisdiction or a Government Agency that:

- (a) requires an amount 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 as Scheme Payments in accordance with clause 4.1, the Company will be entitled to procure, and the Acquirer will be deemed to have instructed Computershare to ensure, that provision of that amount is made in accordance with that order or direction; or

## Agreed form

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

and such provision or retention (as the case may be) will constitute the full discharge of the Acquirer's and the Company's obligations to pay the Scheme Payments 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 Scheme Payments into such foreign currency will be undertaken in a manner and at an exchange rate determined by Computershare, and neither the Company nor the Acquirer 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 Court Orders the Company will advise NZX of the grant of the Final Court Orders and, once known, the Trading Halt Date and Record Date and use its reasonable endeavours to procure that the NZX suspend trading in the Shares from the close of trading on the Trading Halt Date.
- (b) The Company must not accept for registration, nor recognise for any purpose (except a transfer to the Acquirer pursuant to this Scheme Plan and any subsequent transfer by the Acquirer or its successors in title), any transfer or transmission application or other request received after 7.00 pm on the Record Date or received prior to such time, but not in registrable or actionable forms.

### 6.2 Register:

- (a) The Company must register registrable transmission applications or registrable transfers of Shares received prior to the Trading Halt Date before 7.00pm on the Record Date provided that, for the avoidance of doubt, nothing in this clause 6.2(a) requires the Company to register a transfer that relates to a transfer of Shares on which the Company has a lien.
- (b) A holder of Scheme Shares (and any person claiming through that holder) must not dispose of, or purport or agree to dispose of, any Scheme Shares, or any interest in them, after close of trading on the Trading Halt Date otherwise than pursuant to this Scheme Plan, and any attempt to do so will have no effect and the Company and the Acquirer shall be entitled to disregard any such disposal.
- (c) For the purposes of determining entitlements to the Scheme Payments, but subject to the requirements of the NZX Listing Rules, the Company must maintain the Register in accordance with the provisions of this clause 6 until the Scheme Payments have been paid to the Scheme Shareholders. The Register in this form will solely determine entitlements to the Scheme Payments.

**Agreed form**

- (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 the Acquirer), will cease to have effect except as evidence of entitlement to the Scheme Payments 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 5:00pm on that day, the Company must make available to the Acquirer in the form the Acquirer reasonably requires, details of the names, Registered Addresses and holdings of Shares for each Scheme Shareholder as shown in the Register on the Record Date.

**7. GENERAL PROVISIONS**

**7.1 Amendments to Consideration:** The Acquirer may increase the Consideration by written notice at any time to the Company prior to the Scheme Meeting, provided that the Scheme Implementation Agreement has not been terminated in accordance with its terms prior to the receipt of such notice by the Company.

**7.2 Title to and rights in Scheme Shares:**

- (a) To the extent permitted by law, the Scheme Shares (including all rights and entitlements attaching to the Scheme Shares) transferred under this Scheme Plan to the Acquirer will, at the time of transfer to the Acquirer, vest in the Acquirer free from all Encumbrances and free from any restrictions on transfer of any kind.
- (b) Each Scheme Shareholder is taken to have warranted to the Acquirer 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 the Acquirer together with any rights and entitlements attaching to those Shares.

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

- (a) on the Final Orders Date, irrevocably appoints the Company as its attorney and agent for the purpose of enforcing the Deed Poll against the Acquirer (but without limiting each Scheme Shareholder's right to itself enforce the Deed Poll); and
- (b) on the Implementation Date, irrevocably appoints the Company as 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 the Company accepts each such appointment. Each such attorney and agent, may sub-delegate its functions, authorities or powers under this clause 7.3 to one or more of the Company's directors or senior managers.

**7.4 Binding effect of Scheme:**

- (a) The Scheme binds:



**Agreed form**

- (i) the Company;
    - (ii) the Acquirer; 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 this Scheme at the Scheme Meeting).
  - (b) In the event of any inconsistency, this Scheme Plan overrides the constitution of the Company and the Companies Act.
- 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 of any relevant amounts deposited in accordance with clause 3.1 which shall be repaid in the manner contemplated by 3.4 (with the necessary adjustments, and 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 or employees of the Company or the Acquirer, will be liable for anything done or omitted to be done in the performance of the Scheme in good faith.
- 7.7 **Successor obligations:** To the extent that any provision of the Scheme or this Scheme Plan imposes any obligation on the Acquirer or the Company that continues or arises after the implementation of the Scheme, such obligation may instead be performed by any successor or related company of the Acquirer or the Company (as applicable) in which case the obligation will be satisfied as if performed by the Acquirer or the Company (as applicable).
- 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.

**SCHEDULE 6**

**Deed Poll**

Attached.



# Deed Poll

relating to a scheme of arrangement under Part 15 of the  
Companies Act 1993 involving Bremworth Limited

---

## **PARTIES**

Floorscape Limited

**Acquirer**

Mohawk Industries, Inc.

**Acquirer Guarantor**

Each registered holder of Scheme Shares as at 5.00pm on the  
Record Date

**Scheme Shareholders**

DEED dated

2025

## PARTIES

Floorscape Limited

("Acquirer")

Mohawk Industries, Inc.

("Acquirer Guarantor")

Each registered holder of Scheme Shares as at 5.00pm on the Record Date

("Scheme Shareholders")

## INTRODUCTION

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

## COVENANTS

### 1. DEFINED TERMS AND INTERPRETATION

#### 1.1 Defined terms: In this Deed, unless the context requires otherwise:

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

"**Scheme Implementation Agreement**" means the scheme implementation agreement between the Company, the Acquirer Guarantor and the Acquirer dated [●] 2025; and

**"Scheme Plan"** means the scheme plan attached as Schedule 5 to the Scheme Implementation Agreement, subject to any alterations or conditions approved by the Acquirer Guarantor, the Acquirer and the Company in writing and which are disclosed to the Court prior to the Court making the Final Orders.

1.2 **Words defined in the Scheme Plan:** Words defined in the Scheme Plan which are not separately defined in this Deed Poll have the same meaning when used in this Deed Poll.

1.3 **Interpretation:** Clauses 1.2, 1.3 and 1.4 of the Scheme Plan apply to the interpretation of this Deed Poll, except that references to "this Scheme Plan" are to be read as reference to "this Deed Poll".

## 2. NATURE OF THIS DEED POLL

### 2.1 Third party rights and appointment of attorney:

- (a) This Deed Poll is intended to, and does, confer a benefit on, and therefore may be relied on and enforced by, any Scheme Shareholder in accordance with its terms under Part 2, Subpart 1 of the Contract and Commercial Law Act 2017 (but not otherwise), even though the Scheme Shareholders are not party to it.
- (b) Under the Scheme Plan each Scheme Shareholder appoints the Company as the Scheme Shareholder's attorney and agent to enforce this Deed Poll against the Acquirer Guarantor and/or the Acquirer 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 the Acquirer Guarantor, the Acquirer and the Company in accordance with clause 8.2 without the approval of any Scheme Shareholders.

2.2 **Continuing obligations:** This Deed Poll is irrevocable and, subject to clause 3, remains in full force and effect until either:

- (a) the Acquirer and the Acquirer Guarantor have each fully performed its obligations under it; or
- (b) it is terminated under clause 4.

## 3. CONDITIONS

3.1 **Conditions:** This Deed Poll, and the obligations of the Acquirer and the Acquirer Guarantor under it, are conditional in all respects on the Scheme becoming Unconditional.

## 4. TERMINATION

4.1 **Termination:** The obligations of the Acquirer Guarantor and the Acquirer under this Deed Poll will automatically terminate, and the terms of this Deed Poll will be of no force or effect, if:

- (a) the Scheme Implementation Agreement is validly terminated in accordance with its terms before the Scheme becomes Unconditional; or
- (b) the Scheme does not become Unconditional on or before 5.00pm on the End Date, unless the Acquirer, the Acquirer Guarantor and the Company otherwise agree in writing.

4.2 **Consequences of termination:** If this Deed Poll is terminated under clause 4.1, then the Acquirer Guarantor and the Acquirer are released from its obligations to further perform this Deed Poll.

## 5. SCHEME CONSIDERATION

5.1 Subject to the Scheme Implementation Agreement not being terminated and the Scheme having become Unconditional (except for the Conditions set out in clauses 3.1(f) and 3.1(g) of the Scheme Implementation Agreement), the Acquirer undertakes in favour of each Scheme Shareholder to deposit, or procure the deposit of, in immediately available cleared funds, by no later than 4.00pm on the Business Day before the Implementation Date, an amount equal to the aggregate amount of the Consideration payable to all Scheme Shareholders on the Implementation Date 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.

5.2 Subject to clause 3:

- (a) the Acquirer irrevocably acknowledges and agrees that, subject to compliance in full by the Company with its obligations under clause 4.1 of the Scheme Plan, the Consideration deposited into the Trust Account must be, and will be, paid in accordance with clause 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; and
- (b) the Acquirer Guarantor irrevocably undertakes in favour of each Scheme Shareholder to procure that all obligations of the Acquirer in this Deed Pool are met.

## 6. WARRANTIES

6.1 The Acquirer Guarantor and the Acquirer each warrant in favour of each Scheme Shareholder that:

- (a) the Acquirer is a company validly incorporated in 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.

## 7. NOTICES

- 7.1 **Manner of giving notice:** Any notice or other communication to be given under this Deed Poll must be in writing and may be physically delivered or sent by email to the Acquirer Guarantor and/or the Acquirer at:

Address: Godfrey Hirst, 142 Kerrs Road, Wiri, Manukau, Auckland, New Zealand

Email: tania.pauling@godfreyhirst.com

For the attention of: Tania Pauling

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

- 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 9.00am and 5.00pm on a Business Day in the jurisdiction of the recipient) after the time sent (as recorded on the device from which the sender sent the email) unless the sender receives an automated message that the email has not been delivered (excluding an "out of office" automated message),

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

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

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

## 8. GENERAL

### 8.1 Waiver:

- (a) The Acquirer Guarantor and the Acquirer 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 the Acquirer Guarantor, the Acquirer and the Company, in which event the Acquirer Guarantor and the Acquirer will enter into a further deed poll in favour of the Scheme Shareholders giving effect to the variation.
- (c) If the Court orders that it is a condition of the Scheme that the Acquirer Guarantor and the Acquirer enters into a new deed poll which has the effect of reversing any variation under clause 8.2(b), then, if the Acquirer Guarantor and the Acquirer so agree, the Acquirer Guarantor and the Acquirer must promptly enter into a further deed poll in favour of the Scheme Shareholders to give effect to the reversal of that variation.

8.3 **Cumulative rights:** The rights, powers and remedies of the 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 the Acquirer 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 **Further assurance:** The Acquirer Guarantor and the Acquirer must, each at its own expense, do all things reasonably required of it to give full force and effect to this Deed Poll and the transactions contemplated by it.

### 8.6 Governing law and jurisdiction:

- (a) This Deed Poll and any non-contractual obligations arising out of or in connection with it are governed by the law applying in New Zealand.
- (b) The courts having jurisdiction in New Zealand have 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 the Acquirer Guarantor and the Acquirer irrevocably submits to the exclusive jurisdiction of the courts having jurisdiction in New Zealand.



Executed and delivered as a deed poll

FLOORSCAPE LIMITED  
(Company Number: [1496430])  
By:

\_\_\_\_\_  
Signature of Director

\_\_\_\_\_  
Signature of Director

\_\_\_\_\_  
Name of Director

\_\_\_\_\_  
Name of Director

MOHAWK INDUSTRIES, INC.  
By:

\_\_\_\_\_  
Signature of authorised officer

\_\_\_\_\_  
Name of authorised officer

## SCHEDULE 7

### Pro Forma Cash Balance

ACCOUNT NAME	BALANCE (LOCAL)	FX RATE	ACTUAL BALANCE AS AT FINAL ORDERS DATE (NZD)
<b>International currency accounts</b>			
CB USD account	0	0	0
CB GBP account	0	0	0
CB Euro account	0	0	0
Bremworth Australia	0	0	0
<b>Cash position (International)</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>New Zealand accounts</b>			
Bremworth Carpets and Rugs			0
Bremworth Outlet			0
Bremworth			0
Bremworth Spinners			0
Elco Direct			0
Term Deposit			0
<b>Cash position (Local)</b>			<b>0</b>
<b>Cash position (Total) as at Final Orders Date (before Capital Return)</b>			
			0
Less: Capital Return Amount (as that term is defined in the Scheme Plan)			0
Less: Estimated Cash outflows for the period from Final Orders Date to the Implementation Date			0
<b>Pro Forma Cash Balance (immediately following Capital Return)</b>			<b>0</b>