



ASX RELEASE

22 August 2022

NEARMAP BOARD UNANIMOUSLY RECOMMENDS THOMA BRAVO'S OFFER AND ENTERS INTO SCHEME IMPLEMENTATION DEED

(Note: All figures are in Australian dollars, unless otherwise stated).

KEY HIGHLIGHTS

- Nearmap has entered into an implementation deed to be acquired by Thoma Bravo via a scheme of arrangement ('**Scheme**' or '**Scheme of Arrangement**')
- Under the Scheme, Nearmap shareholders will be entitled to receive \$2.10 cash per share ('**Scheme Consideration**')
- Scheme Consideration represents a 67% premium to Nearmap's 6-month volume weighted average price ('**VWAP**') of \$1.26 to Friday 12 August 2022, being the last trading day prior to the announcement of a proposal from Thoma Bravo
- The Nearmap Board considers that the Scheme is in the best interests of shareholders and unanimously recommends that Nearmap shareholders vote in favour of the Scheme, in the absence of a Superior Proposal and subject to the Independent Expert concluding (and continuing to conclude) that the Scheme is in the best interests of Nearmap shareholders
- Subject to the same qualifications, each Director of Nearmap, who in aggregate hold or control approximately 7.3% of Nearmap's shares as at the date of this announcement, intend to vote, or cause to be voted, all Nearmap shares held or controlled by them in favour of the Scheme
- A Scheme Booklet containing detailed information on the Scheme, including an Independent Expert's Report, is expected to be issued to Nearmap shareholders during October 2022
- The transaction is subject to FIRB approval, US competition / anti-trust clearance and customary conditions, including shareholder and court approval, which must be satisfied before the Scheme is implemented
- Nearmap shareholders do not need to take any action at the present time

Nearmap's Chair Peter James said:

"The Board believes the proposed all-cash offer represents attractive value and provides an immediate opportunity for shareholders to realise certain value at a significant premium to the market.

"The Board has carefully considered the advantages and disadvantages of the proposed Scheme and believes the offer price of \$2.10 cash per share provides shareholders with certainty of value today for the potential of our business. Nearmap has achieved considerable success to date in Australia and North America and while, in the long-term, there



remains potential future growth trajectory, this has to be balanced with the business and market risks that Nearmap shareholders face remaining as a publicly listed independent company.

"In considering the merits of the Thoma Bravo proposal, the Directors have at all times been guided by our overarching responsibility to consider the interests of Nearmap and all of its shareholders. It is our view that the Thoma Bravo Scheme will realise attractive and certain value for shareholders in current markets."

Nearmap's Chief Executive Officer Rob Newman said:

"Nearmap has built a strong position in the location intelligence industry. Our business model is proven in Australia and our ambition to continue to grow rapidly in North America aligns well with Thoma Bravo's future ambitions for the business. The proposal from Thoma Bravo is a strong demonstration of the success of our strategy and the capability of our people.

"We expect the location intelligence and aerial imagery market in North America to undergo change and consolidation over the next few years, which will present organic and inorganic opportunities for Nearmap. I look forward to our team's continued outstanding work in support of our customers and eagerness to build on our success, benefiting from the operating capabilities, capital support and deep sector expertise from Thoma Bravo."

Thoma Bravo's Senior Partner A.J. Rohde said:

"We are incredibly impressed by Nearmap's thought-leadership and momentum in aerial imagery, data and analytics. We believe Nearmap's insights are increasingly mission-critical to enterprises and the use cases rapidly evolving, as evidenced by the Company's accelerating adoption with blue-chip customers in North America. We look forward to working closely with Rob Newman and the highly-innovative Nearmap team to continue scaling Nearmap in its next chapter as a private company."

OVERVIEW OF THE SCHEME

Nearmap Ltd (**'Nearmap'**, or the **'Company'**), a leading location intelligence and aerial imagery company (ASX: NEA), announces that it has entered into a scheme implementation deed (**'SID'**) with Atlas AU BidCo Pty Ltd, an indirect wholly-owned subsidiary of funds advised by Thoma Bravo L.P. (**'Thoma Bravo'**), a leading software investment firm, under which it is proposed that Thoma Bravo will acquire 100% of the shares in Nearmap for \$2.10 cash per share (the **'Transaction'**) by way of a Scheme of Arrangement.

Thoma Bravo is one of the largest private equity firms in the world with more than US\$114 billion in assets under management, investing in growth-oriented, innovative companies in the software and technology sectors. Over the past 20 years, the firm has acquired or invested in more than 380 companies representing over US\$190 billion in enterprise value.

Under the terms of the Scheme, Nearmap shareholders will be entitled to receive \$2.10 per share in cash, subject to applicable conditions being satisfied or waived and the Scheme being implemented.

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The Scheme Consideration implies a fully diluted Equity Value of approximately \$1,055 million¹ for Nearmap, and represents:

- an 83% premium to Nearmap's closing price of \$1.15 on Tuesday 5 July 2022, being the day prior to receipt of an initial proposal from Thoma Bravo;
- a 67% premium to Nearmap's 6-month VWAP of \$1.26 to Friday 12 August 2022, being the last trading day prior to announcement of Thoma Bravo's proposal;
- a 39% premium to Nearmap's closing price of \$1.51 on Friday 12 August 2022, being the last trading day prior to the announcement of Thoma Bravo's proposal.

NEARMAP BOARD UNANIMOUSLY RECOMMENDS THE SCHEME

As previously announced on Monday 15 August, Nearmap received an initial proposal from Thoma Bravo on 6 July 2022, where the Board of Nearmap determined the proposal to be credible and sufficient to initially grant non-exclusive due diligence access to Thoma Bravo. As due diligence progressed to an advanced stage, Nearmap subsequently granted exclusivity to Thoma Bravo for a period of 7 days from Monday 15 August to explore whether a definitive transaction could be agreed with Thoma Bravo.

In the period prior to and after the receipt of the proposal from Thoma Bravo, the Nearmap Board engaged in a robust review process with the assistance of financial and legal advisors. This included an evaluation of Nearmap's strategic plan as an independent company and other strategic alternatives. The Board also considered a number of other non-binding expressions of interests for Nearmap, none of which were considered by the Nearmap Board to be in the best interests of shareholders.

Following this process, the Directors of Nearmap have unanimously agreed to enter into an agreement to be acquired by Thoma Bravo and **recommend that Nearmap shareholders vote in favour of the Scheme**, in the absence of a Superior Proposal (as defined in the SID) and subject to the Independent Expert concluding (and continuing to conclude) that the Scheme is in the best interests of Nearmap shareholders.

Subject to the same qualifications, each Director of Nearmap, who in aggregate hold or control approximately 7.3% of Nearmap's shares as at the date of this announcement, intends to vote, or cause to be voted, all Nearmap shares held or controlled by them in favour of the Scheme.

Nearmap's Directors believe that this is an attractive offer for Nearmap shareholders for the following reasons:

- **Significant premium:** Scheme Consideration represents a premium of 67% to Nearmap's 6-month VWAP of \$1.26 to Friday 12 August 2022 and a 39% premium to Nearmap's closing price of \$1.51 on Friday 12 August 2022, being the last trading day prior to the announcement of a proposal from Thoma Bravo;
- **Certainty of value:** The 100% cash consideration provides Nearmap shareholders with certainty of value and the opportunity to realise their investment in full for cash; and
- **Limited conditionality:** The Scheme is subject to FIRB approval, US competition / anti-trust clearance and conditions customary for transactions of this type and is not conditional on financing or due diligence.

¹ Equity Value based on 502.6 million fully diluted Nearmap shares on issue, taking into account Nearmap's shares on issue, restricted stock units and options on issue.

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SCHEME TERMS AND CONDITIONS

The transaction will be implemented by a scheme of arrangement under Australian law. A copy of the SID, which sets out the terms and conditions of the Scheme and associated matters, is attached to this announcement.

In summary, the conditions for implementation of the Scheme include:

- the Independent Expert issuing a report which concludes (and continues to conclude) that the Scheme is in the best interests of Nearmap shareholders;
- approval of Australia's Foreign Investment Review Board ('FIRB');
- clearance in the United States under the Hart-Scott-Rodino Act;
- approval of Nearmap shareholders and the court;
- no Nearmap Material Adverse Change occurring; and
- other customary conditions.

Thoma Bravo has advised Nearmap that it expects the all-cash Scheme Consideration to be fully funded by financing arranged or provided by certain funds managed or advised by Thoma Bravo. The Scheme is not conditional on Thoma Bravo securing the funds.

The SID contains customary exclusivity provisions including 'no shop', 'no talk' and 'no due diligence' restrictions (subject to customary fiduciary exceptions), notification obligations and a matching right. The SID also details circumstances under which a break fee of approximately \$10.5 million may be payable by Nearmap to Thoma Bravo and a 'reverse' break fee of approximately \$10.5 million may be payable by Thoma Bravo to Nearmap.

The break fee and exclusivity provisions agreed under the SID replace any expense reimbursement fee and exclusivity provisions which were agreed between Nearmap and Thoma Bravo on Monday 15 August 2022.

INDICATIVE TIMETABLE AND NEXT STEPS

Nearmap shareholders do not need to take any action at this point in time.

A scheme booklet containing information relating to the Scheme, reasons for the Nearmap directors' unanimous recommendation, an Independent Expert's Report and details of the Scheme meeting is expected to be sent to Nearmap shareholders during October 2022.

Shareholders will then have the opportunity to vote on the Scheme at a court convened shareholder meeting, expected to be held during November 2022.

Subject to shareholder approval being obtained by the requisite majorities and the other conditions of the Scheme being satisfied, the Scheme is expected to be implemented by late November 2022.

ADVISORS

Nearmap has engaged Citigroup Global Markets Australia Pty Limited as financial advisor and DLA Piper Australia as legal counsel.

Thoma Bravo has engaged Goodwin Procter LLP and Gilbert + Tobin Lawyers as its legal counsel.

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Authorised by: Board of Nearmap Ltd

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About Nearmap | www.nearmap.com

Nearmap (ASX: NEA) provides easy, instant access to high resolution aerial imagery, city-scale 3D content, AI data sets, and geospatial tools. Using its own patented camera systems and processing software, Nearmap captures wide-scale urban areas in Australia, New Zealand, the United States and Canada several times each year, making current content instantly available in the cloud via web app or API integration. Every day, Nearmap helps thousands of users conduct virtual site visits for deep, data driven insights—enabling informed decisions, streamlined operations and better financial performance. Nearmap was founded in Australia in 2007 and is one of the largest aerial survey companies in the world.

About Thoma Bravo | www.thomabravo.com

Thoma Bravo is one of the largest private equity firms in the world, with more than US\$114 billion in assets under management as of March 31, 2022. The firm invests in growth-oriented, innovative companies operating in the software and technology sectors. Leveraging the firm's deep sector expertise and proven strategic and operational capabilities, Thoma Bravo collaborates with its portfolio companies to implement operating best practices, drive growth initiatives and make accretive acquisitions intended to accelerate revenue and earnings. Over the past 20 years, the firm has acquired or invested in more than 380 companies representing over US\$190 billion in enterprise value. The firm has offices in Chicago, Miami and San Francisco.

**WE CHANGE THE WAY PEOPLE
VIEW THE WORLD, SO THEY CAN
PROFOUNDLY CHANGE THE WAY
THEY WORK.**

NEARMAP.COM

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Scheme Implementation Deed

Nearmap Ltd

Atlas AU Bidco Pty Ltd

Dated 22 August 2022



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Parties

Bidder

Name Atlas AU BidCo Pty Ltd
ACN 661 798 465
Address c/- Gilbert + Tobin, Level 35, Tower Two International Towers Sydney, 200 Barangaroo Avenue, Barangaroo NSW 2000
Email phernandez@thomabravo.com
Attention Peter Hernandez

Nearmap

Name Nearmap Ltd
ACN 083 702 907
Address Level 4, 100 Barangaroo Avenue, Barangaroo NSW 2000
Email rob.newman@nearmap.com
Attention Robert Newman

Background

- A The parties have proposed that the Bidder will acquire all of the Nearmap Shares by way of a scheme of arrangement under Part 5.1 of the Corporations Act between Nearmap and the Scheme Shareholders.
- B The parties have agreed to propose and, if approved, implement the scheme of arrangement on the terms and subject to the conditions of this deed.

Agreed terms

1 Defined terms and interpretation

Definitions

- 1.1 In this deed the following definitions apply:

Acceptable Confidentiality Agreement means a confidentiality agreement which contains obligations on the recipient of confidential information which are no less onerous in any material respect than the obligations of Thoma Bravo, L.P. under the Confidentiality Agreement (including in respect of the standstill obligations set out in clause 6 of the Confidentiality Agreement).

Accounting Standards means, at any time:

- (a) the requirements of the Corporations Act about the preparation and contents of financial reports;
- (b) the accounting standards approved under the Corporations Act; and

- (c) generally accepted accounting principles, policies, practices and procedures in Australia to the extent not inconsistent with the accounting standards described in paragraph (b).

Adviser means any person who is engaged to provide professional advice of any type (including legal, accounting, consulting or financial advice) to, in the case of Nearmap, any member of the Nearmap Group or in the case of the Bidder, any member of the Bidder Group, in connection with the Transaction.

ASIC means the Australian Securities and Investments Commission.

Associate has the meaning given in section 12(2) of the Corporations Act as if Nearmap was the 'designated body'.

ASX means ASX Limited (ABN 98 008 624 691) or, if the context requires, the financial market operated by it.

Authorised Person means, in respect of a person:

- (d) a director, officer, contractor, agent or employee of the person; and
- (e) an Adviser of the person; and
- (f) the Related Bodies Corporate of the person.

Bidder Break Fee means \$10,540,000.

Bidder Group means the Bidder and its Related Bodies Corporate.

Bidder Parties means each member of the Bidder Group and any Authorised Persons of a Bidder Group member.

Bidder Information means information regarding the Bidder Group provided by or on behalf of the Bidder in writing to Nearmap or the Independent Expert for inclusion in the Scheme Booklet or use in preparation of the Independent Expert's Report, being:

- (a) information about the Bidder, other members of the Bidder Group, their business and interests and dealings in Nearmap Shares and the Bidder's intentions for the Nearmap Group (including its assets, business and employees) and the Bidder's funding; and
- (b) any other information required under the Corporations Act, Corporations Regulations or RG 60 to enable the Scheme Booklet to be prepared that the parties agree is "Bidder Information" and that is identified in the Scheme Booklet as such.

Bidder Warranties means the representations and warranties of Bidder set out in clause 9.1.

Business Day means a day that is not a Saturday, Sunday or a public holiday or bank holiday in Sydney, New South Wales.

Change of Control Requirements has the meaning given to that term in clauses 7.7 to 7.9.

Claim means a claim, notice, demand, action, proceeding, litigation, prosecution, arbitration, investigation, judgment, award, damage, loss, cost, expense or liability however arising, whether present, unascertained, immediate, future or contingent, whether based in contract, tort or statute.

Commercially Sensitive Information means the commercially sensitive information of the

Nearmap Group described in the Nearmap Disclosure Letter.

Competing Proposal means any proposal, offer, agreement, arrangement or transaction (or expression of interest therefor) with or by a third party (other than the Bidder or its Related Bodies Corporate or Associates) that, if entered into or completed substantially in accordance with its terms, would mean that the third party (alone or together with any Associate(s)) would:

- (a) directly or indirectly acquire a Relevant Interest in, or have a right to acquire a legal, beneficial or economic interest (including by way of an equity swap, contract for difference or similar transaction or arrangement) in, or control of, 20% or more of the Nearmap Shares or voting power of 20% or more in Nearmap;
- (b) directly or indirectly acquire all or a substantial or material part of the assets, business or undertakings of the Nearmap Group or otherwise acquire, become the holder of or have a right to acquire a legal, beneficial or economic interest in all or a substantial or material part of the assets, business or undertakings of the Nearmap Group;
- (c) acquire Control of Nearmap or any member of the Nearmap Group;
- (d) otherwise directly or indirectly acquire, or merge with, Nearmap or any member of the Nearmap Group; or
- (e) require Nearmap to abandon, or otherwise fail to proceed with, the Transaction,

whether by way of takeover bid, scheme of arrangement, capital reduction, sale of assets, sale or purchase of securities or assets, strategic alliance, dual listed company structure (or other synthetic merger), joint venture or partnership, reverse takeover bid, shareholder approved acquisition or disposal, divestment, sell-down, capital raising, security buy-back or other transaction or arrangement.

Conditions means the conditions set out in clause 3.1 and **Condition** means any one of them.

Confidentiality Agreement means the confidentiality agreement between Nearmap and Thoma Bravo, L.P. dated 16 July 2022.

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

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

Corporations Regulations mean the *Corporations Regulations 2001* (Cth).

Court means the Federal Court of Australia or any other court of competent jurisdiction under the Corporations Act as the parties may agree in writing.

Deed Poll means the deed poll to be executed and delivered by the Bidder prior to the First Court Date, in the form set out in Schedule 3 or in such other form as is approved by Nearmap in writing.

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

Effective Date, with respect to the Scheme, means the date on which the Scheme becomes Effective.

Encumbrance means a mortgage, charge, pledge, lien, encumbrance, security interest, title retention, preferential right, trust arrangement, contractual right of set-off or any other security agreement or arrangement in favour of any person, whether registered or unregistered, including any Security Interest.

End Date means the date that is 6 months after the date of this deed provided that, if on that date all Conditions other than the Condition in clause 3.1(a) (*FIRB approval*) and 3.1(g) (*Court approval*) have been satisfied or waived, the End Date will be automatically extended for a further 3 months or until such other date agreed in writing by the parties.

Equity Commitment Letter means the binding, executed commitment letters dated on or before the date of this deed addressed to the Bidder, as provided to Nearmap on the date of this deed.

Exclusivity Period means the period commencing on the date of this deed and ending on the earliest of:

- (a) the End Date;
- (b) the Effective Date; and
- (c) the date this deed is terminated in accordance with its terms.

Fairly Disclosed means, in reference to a party, disclosed to that party or any of its, its Related Body Corporate, or any of their respective Authorised Persons in good faith and in sufficient detail so as to enable a reasonable and sophisticated buyer (or one of its Authorised Persons) experienced in transactions similar to the Transaction and experienced in a business similar to any business conducted by the Nearmap Group, to identify the nature and scope of the relevant matter, event or circumstance.

FATA means the *Foreign Acquisitions and Takeovers Act 1975* (Cth).

FIRB means the Foreign Investment Review Board.

First Court Date means the date the Court first hears the application to order the convening of the Scheme Meeting under section 411(1) of the Corporations Act or, if the application is adjourned or subject to appeal for any reason, the day on which the adjourned or appeal application is heard.

Government Agency means any government or representative of a government or any governmental, semi-governmental, administrative, fiscal, regulatory or judicial body, department, commission, authority, tribunal, agency, arbitrator, competition or antitrust authority, agency or entity and includes any minister, FIRB, ASIC, ASX, the Takeovers Panel and any regulatory organisation established under statute or any stock exchange.

Headcount Test means the requirement under section 411(4)(a)(ii)(A) of the Corporations Act that the resolution to approve the Scheme at the Scheme Meeting is passed by a majority in number of Nearmap Shareholders present and voting, either in person or by proxy.

HSR Act means the United States Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended, and the rules and regulations promulgated thereunder.

Implementation Date means, with respect to the Scheme, the fifth Business Day, or such other Business Day as the parties agree, after the Scheme Record Date.

Independent Expert means an expert, independent of the parties, engaged by Nearmap to prepare the Independent Expert's Report.

Independent Expert's Report means the report from the Independent Expert commissioned by Nearmap for inclusion in the Scheme Booklet, which includes a statement by the Independent Expert on whether, in its opinion, the Transaction is in the best interests of Nearmap Shareholders and includes any update of that report by the Independent Expert.

Insolvency Event means in relation to a person:

- (a) the person becoming unable to or states that it is unable to pay its debts as they fall due or stops or threatens to stop paying its debts as they fall due;
- (b) any indebtedness of the person becoming subject to a moratorium;
- (c) a liquidator, provisional liquidator or administrator has been appointed to the person, a controller (as defined in section 9 of the Corporations Act) has been appointed to any property of the person, or an event which gives any other person a right to seek such an appointment;
- (d) an order has been made, a resolution has been passed or proposed in a notice of meeting or in an announcement to any recognised securities exchange, or an application to court has been made for the winding up or dissolution of the person or for the entry into of any arrangement, compromise or composition with, or assignment for the benefit of, creditors of the person or any class of them (other than frivolous or vexatious orders or applications);
- (e) a security interest (within the meaning of section 51A of the Corporations Act) becomes enforceable or is enforced over, or a writ of execution, garnishee order, mareva injunction or similar order has been issued over or affecting, all or a substantial part of the assets of the person; or
- (f) the person has otherwise become, or is otherwise taken to be, insolvent in any jurisdiction or an event occurs in any jurisdiction in relation to the person which is analogous to, or which has a substantially similar effect to, any of the events referred to in paragraphs (a) to (e) above,

and a person shall be **Insolvent** if any event specified in paragraphs (a) to (f) inclusive occurs in respect of that person.

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

Material Adverse Change means a change, event, circumstance, occurrence, condition, matter or thing (each a **Specified Event**) which, whether individually or when aggregated with all such Specified Events that have occurred, has had or would be considered reasonably likely to have the net effect of:

- (a) **(decrease in cash)** decreasing the cash balance of the Nearmap Group after the date of this deed to an amount that is less than \$45,000,000; or
- (b) **(decrease in ACV)** decreasing the annual contract value of the Nearmap Group to a level that is less than 95% of \$167.6 million (being the reported amount for 30 June 2022), with changes in annual contract value calculated using a constant currency methodology where US dollar amounts are converted into Australian dollars using an AUD:USD exchange rate of 0.6889 (as adopted for the calculation of the reported annual contract value as at 30 June 2022), where applicable, to remove the impact of exchange rate movements and facilitate comparability of Nearmap's operating performance,

in each case, other than changes, events, circumstances, occurrences, conditions, matters or things:

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- (i) required or permitted under this deed or the Scheme, or the transactions contemplated under either;
 - (ii) to the extent Fairly Disclosed in, or which ought to have been expected to arise from anything Fairly Disclosed in:
 - (A) the Nearmap Disclosure Materials; or
 - (B) an announcement made by Nearmap to ASX or a publicly available document lodged by a member of the Nearmap Group with ASIC, in the three years prior to the date of this deed;
 - (iii) consented to in writing by the Bidder;
 - (iv) relating to the costs and expenses incurred by Nearmap in connection with planning for, facilitating, negotiating and implementing the Transaction, including for legal, financial and other professional advice (with, for the avoidance of doubt and without limitation, such amounts to be excluded when calculating any decrease in Nearmap's cash balance for the purpose of limb (a) of this definition);
 - (v) that are within the knowledge of the Bidder as described in clause 1.4;
 - (vi) that would have been Fairly Disclosed to the Bidder had the Bidder conducted the Public Searches; or
 - (vii) which arise from:
 - (A) any disease epidemic or the COVID-19 pandemic (including the outbreak, escalation or any impact of, or recovery from, COVID-19 or any related epidemic or pandemic arising from a mutation, variation or derivative of the COVID-19 virus);
 - (B) changes in taxation rates, exchange rates or interest rates;
 - (C) general economic, political or business conditions, including material adverse changes or disruptions to, or fluctuations in, domestic or international financial markets or economic, business, industry or political conditions, other than such conditions, or changes in any such conditions, that have a disproportionate effect on the Nearmap Group as compared to other participants in the industries in which the Nearmap Group operates;
 - (D) acts of terrorism, outbreak, war (or escalation of war, whether or not declared), major hostilities, civil unrest, act of god, lightning, storm, flood, fire, earthquake or explosion, cyclone, tidal wave, landslide, or other natural disaster or adverse weather conditions or the like; or
 - (E) any actual or proposed changes to accounting standards, laws, regulations or policies of a Government Agency or the interpretation of any of the foregoing.

Material Contract means any contract that:

- (a) would require Nearmap to announce the details of that contract under the Listing Rules;

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- (b) has resulted in payments by the Nearmap Group of more than \$1 million in the aggregate for the prior fiscal year;
 - (c) has resulted in payments to the Nearmap Group of more than \$2 million in the aggregate for the prior fiscal year; or
 - (d) is with (A) any of the 10 largest customers of the Nearmap Group, taken as a whole, or (B) any of the 10 largest commercial vendors of the Nearmap Group, taken as a whole, in each case by dollar amount for the prior fiscal year.

Nearmap Board means the board of Nearmap Directors as constituted from time to time.

Nearmap Break Fee means \$10,540,000 (inclusive of any applicable GST).

Nearmap Director means a director of Nearmap.

Nearmap Disclosure Letter means the letter executed by Nearmap and given to the Bidder on or about the date of this deed.

Nearmap Disclosure Materials means the Nearmap Due Diligence Materials and the Nearmap Disclosure Letter.

Nearmap Due Diligence Materials means all written information (including management presentations and the written responses to questions or requests for information) included in the online data room established by or on behalf of Nearmap at www.ansarada.com prior to 5.00pm on 20 August 2022, the index of which has been initialled for identification by or on behalf of Nearmap and the Bidder.

Nearmap Group means Nearmap and its Subsidiaries.

Nearmap Information means all information included in the Scheme Booklet other than the Bidder Information, the Independent Expert's Report (and references to the Independent Expert's analysis or conclusions) and any other report or letter issued by someone other than Nearmap.

Nearmap Options means the 13,802,216 options issued under the Nearmap Plan Rules or those issued to the Chief Executive Officer and Managing Director.

Nearmap Party means each member of the Nearmap Group and any Authorised Persons of a Nearmap Group member.

Nearmap Plan Rules means the Long Term Incentive Plan Rules or the Employee Share Option Plan Rules (as applicable).

Nearmap Prescribed Occurrence means the occurrence of any of the following events:

- (a) Nearmap converts all or any of its shares into a larger or smaller number of shares;
- (b) Nearmap resolves to reduce its share capital in any way or reclassifies, combines, splits or redeems or repurchases directly or indirectly its shares;
- (c) Nearmap:
 - (i) enters into a buy-back agreement; or
 - (ii) resolves to approve the terms of a buy-back agreement under subsections 257C(1) or 257D(1) of the Corporations Act;

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- (d) any member of the Nearmap Group issues securities (including shares, or securities convertible into shares), or grants a performance right, an option over its securities, or agrees to make such an issue or grant such a security, right or option (other than from any member of the Nearmap Group to any other member of the Nearmap Group or on the vesting or exercise of rights under any equity incentives previously granted);
 - (e) any member of the Nearmap Group issues, or agrees to issue, convertible notes (other than from any member of the Nearmap Group to any other member of the Nearmap Group);
 - (f) any member of the Nearmap Group makes any change to its constitution;
 - (g) any member of the Nearmap Group becomes Insolvent;
 - (h) any member of the Nearmap Group ceases, or threatens to cease, carrying on the whole or a material part of the business of the Nearmap Group;
 - (i) Nearmap or one or more Nearmap Group member enters into, or resolves to enter into, any agreement or arrangement to restructure or reorganise their assets or securities;
 - (j) a Nearmap Group member creates an Encumbrance, or agrees to grant an Encumbrance, or declaring itself the trustee of, any part of its business or property securing an indebtedness or performance of an obligation other than a Permitted Encumbrance;
 - (k) Nearmap pays, declares, determines as payable, fixes for payment distributes or incurs a liability to make or pay a dividend, bonus or other share of profits, income, capital or assets to any of its members; or
 - (l) Any member of the Nearmap Group agrees to pay, declares, determines, pays or makes, or incurs a liability to pay or make, a dividend or any other form of distribution of profits or capital (whether in cash or in specie),

provided that a Nearmap Prescribed Occurrence will not include any matter:

- (m) required or permitted to be done under this deed or the Scheme;
- (n) to the extent it is Fairly Disclosed in:
 - (i) the Nearmap Disclosure Materials; or
 - (ii) an announcement made by Nearmap to ASX or a publicly available document lodged by a member of the Nearmap Group with ASIC, in the three years prior to the date of this deed;
- (o) required by law or by an order of a court or Government Agency; or
- (p) the undertaking of which the Bidder has previously approved in writing (which approval must not be unreasonably withheld or delayed).

Nearmap Registry means Automic, or any replacement provider of share registry services to Nearmap.

Nearmap Restricted Stock Units means 1,757,804 restricted stock units issued under the Nearmap Plan Rules.

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

Nearmap Share Register means the register of members of Nearmap maintained by or on behalf of Nearmap in accordance with section 168(1) of the Corporations Act.

Nearmap Shareholder means each person who is registered in the Nearmap Share Register as a holder of Nearmap Shares.

Nearmap Warranties means the representations and warranties of Nearmap set out in clause 9.2.

Permitted Encumbrance means:

- (a) any Encumbrance where a member of the Nearmap Group is the secured party;
- (b) any Encumbrance created under or in connection with this deed;
- (c) any Encumbrance arising in favour of a Government Agency by operation of law;
- (d) any Encumbrance arising in connection with any retention of title arrangement arising in the ordinary course of business;
- (e) any Encumbrance for money payable for work performed by suppliers, mechanics, workmen, repairmen or similar service providers or employees, other like lien, in each case, arising in the ordinary course of business;
- (f) any Encumbrance arising as a consequence of any finance lease, capital lease, hire purchase arrangement or other any other purchase money security interest (as that term is defined in the PPSA);
- (g) any Encumbrance made in favour of landlords to secure performance under leases of a member of the Nearmap Group where required under the terms of the lease;
- (h) any rights of set-off or withholding under a commercial contract entered into by a member of the Nearmap Group in the ordinary course of business;
- (i) any Encumbrance that is a security interest solely by virtue of section 12(3) of the PPSA; or
- (j) any Encumbrance granted by a member of the Nearmap Group, as at the date of this deed.

PPSA means the *Personal Property Securities Act 2009* (Cth).

PPSR means the register of security interests maintained in accordance with the PPSA.

Public Searches means searches as of 27 July 2022 of the public records in relation to the members of the Nearmap Group maintained by:

- (a) ASIC;
- (b) the PPSR;
- (c) the registries of the High Court of Australia, the Federal Court of Australia and the Supreme Court in every State and Territory in Australia;
- (d) the online search of the U.S. Bankruptcy Courts and U.S. Credit Bureaus; and
- (e) the State and Federal Courts in every State in the United States of America.

Recommendation has the meaning given to that term in clause 6.2.

Regulatory Approval means:

- (a) any approval, consent, authorisation, registration, filing, lodgement, permit, franchise, agreement, notarisation, certificate, permission, licence, direction, declaration, authority, waiver, modification or exemption from, by or with a Government Agency;
- (b) in relation to anything that would be fully or partly prohibited or restricted by law if a Government Agency intervened or acted in any way within a specified period after lodgement, filing, registration or notification, the expiry of that period without intervention or action; or
- (c) the expiration or termination of any waiting period required by the HSR Act or another applicable law, which the Bidder and Nearmap agree, acting reasonably, is necessary or desirable to implement the Scheme.

Regulatory Conditions means the Conditions set out in clauses 3.1(a), 3.1(b) and 3.1(c) of the table in clause 3.1.

Regulatory Guides means the regulatory guides published by ASIC from time to time.

Related Body Corporate of a person, means a related body corporate of that person under section 50 of the Corporations Act and includes any body corporate that would be a related body corporate if section 48(2) of the Corporations Act was omitted.

Relevant Interest has the meaning given in sections 608 and 609 of the Corporations Act.

RG 60 means Regulatory Guide 60 issued by ASIC.

Scheme means the proposed scheme of arrangement pursuant to Part 5.1 of the Corporations Act between Nearmap and the Scheme Shareholders, substantially in the form set out in Schedule 2 or in such other form as Nearmap and the Bidder agree in writing, subject to any alterations or conditions made or required by the Court under section 411(6) of the Corporations Act and approved in writing by Nearmap and the Bidder.

Scheme Booklet means the scheme booklet to be prepared by Nearmap in respect of the Transaction in accordance with the terms of this deed and to be despatched to Nearmap Shareholders.

Scheme Consideration means the consideration to be provided by the Bidder to each Scheme Shareholder for the transfer to the Bidder of each Scheme Share, being \$2.10 cash for each Nearmap Share held by a Scheme Shareholder as at the Scheme Record Date.

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

Scheme Record Date means the time and date for determining entitlements to receive the Scheme Consideration, being 7:00pm on the second Business Day after the Effective Date (or such other time and date as the parties agree in writing).

Scheme Share means a Nearmap Share on issue as at the Scheme Record Date.

Scheme Shareholder means a Nearmap Shareholder as at the Scheme Record Date.

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

Security Interest has the meaning given in section 12 of the PPSA.

Share Splitting means the splitting by a holder of Nearmap Shares into two or more parcels of Nearmap Shares whether or not it results in any change in beneficial ownership of the Nearmap Shares.

Specified Acquisition means any acquisition of a business or of assets or equity of any person (whether by scheme of arrangement, takeover bid, merger, consolidation, acquisition of equity, acquisition of assets or otherwise), if such acquisition would reasonably be expected to materially increase the risk of any court of competent jurisdiction or Government Agency, in each case in Australia or the United States, issuing an order, decision or decree restraining, prohibiting or preventing implementation of the Scheme.

Specified Parties means those companies set forth in the Disclosure Letter.

Subsidiary has the meaning given to that term in Division 6 of Part 1.2 of the Corporations Act.

Superior Proposal means a bona fide Competing Proposal which the Nearmap Board determines, acting in good faith and in order to satisfy what Nearmap considers to be the Nearmap Directors' statutory or fiduciary duties (after having received advice from its external legal advisors and, if appropriate, financial advisors):

- (a) is reasonably capable of being valued and completed in a timely manner; and
- (b) would if completed substantially in accordance with its terms, be reasonably likely to result in a transaction that is more favourable to Nearmap Shareholders as a whole than the Transaction (as may be amended or varied by an Updated Bidder Proposal),

having regard to the terms and conditions of the Competing Proposal, the identity, reputation and financial condition of the person making the Competing Proposal, the value and type of consideration proposed, conditionality, funding, certainty and timing and all relevant legal, regulatory and financial matters (including any timing considerations and whether the person making the proposal holds an interest in, a competitor or a potential competitor of Nearmap or other matters affecting the probability of the proposal being completed).

Taxation Condition means a condition or undertaking consistent with the 'standard' form of tax conditions published in FIRB's Guidance Note 12 as last updated on 9 July 2021.

Timetable means the indicative timetable in relation to the Transaction set out in Schedule 1 with such modifications as may be agreed in writing by the parties.

Transaction means the proposed acquisition by the Bidder, in accordance with the terms and conditions of this deed, of all of the Nearmap Shares through the implementation of the Scheme.

Voting Intention has the meaning given to that term in clause 6.2.

Interpretation

1.2 In this deed:

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

- For personal use only
- (i) that legislation as amended, extended or applied by or under any other legislation made before or after signature of this deed;
 - (ii) any legislation which that legislation re-enacts with or without modification; and
 - (iii) any subordinate legislation made before or after signature of this deed under that legislation, including (where applicable) that legislation as amended, extended or applied as described in clause 1.2(a)(i), or under any legislation which it re-enacts as described in clause 1.2(a)(ii);
- (b) references to persons or entities include natural persons, bodies corporate, partnerships, trusts and unincorporated associations of persons;
 - (c) references to an individual or a natural person include his estate and personal representatives;
 - (d) a reference to a clause, schedule or appendix is a reference to a clause, schedule or appendix of or to this deed (and the schedules and appendices form part of this deed);
 - (e) subject to clause 18.2, references to a party to this deed include the successors or assigns (immediate or otherwise) of that party;
 - (f) a reference to any instrument or document includes any variation or replacement of it;
 - (g) unless otherwise indicated, a reference to any time is, a reference to that time in Sydney, Australia;
 - (h) a reference to \$, A\$ or dollars is to Australian currency;
 - (i) singular words include the plural and vice versa;
 - (j) a word of any gender includes the corresponding words of any other gender;
 - (k) if a word or phrase is defined, other grammatical forms of that word have a corresponding meaning;
 - (l) 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 (including particular examples introduced by "including", "for example", "such as" or similar expressions);
 - (m) nothing is to be construed adversely to a party just because that party put forward this deed or the relevant part of this deed;
 - (n) the headings do not affect interpretation;
 - (o) this deed includes any schedule;
 - (p) a term defined in or for the purposes of the Corporations Act, and which is not defined in clause 1.1, has the same meaning when used in this deed;
 - (q) a term defined in or for the purposes of the GST Act, and which is not defined in clause 1.1, has the same meaning when used in this deed;

- For personal use only
- (r) a reference to the Listing Rules includes any variation, consolidation or replacement of these rules and is taken to be subject to any waiver or exemption granted to the compliance of those rules by a party;
 - (s) a period of time starting from a given day or the day of an act or event, is to be calculated exclusive of that day;
 - (t) if a party must do something under this deed on or by a given day and it is done after 5.00pm on that day, it is taken to be done on the next day; and
 - (u) if the day on which a party must do something under this deed is not a Business Day, the party must do it on the next Business Day.

Nearmap awareness

- 1.3 In this deed, a reference to the knowledge, belief or awareness of Nearmap or a Nearmap Group member's knowledge, belief or awareness is limited to its actual knowledge, belief or awareness, deemed only to comprise, the facts, matters and circumstances of which any of the persons in the list of persons agreed by Nearmap and the Bidder on or about the date of this deed is actually aware as at the date of this deed having made reasonable enquiries and consulted with their direct reports. Without limiting clause 15, none of those persons will bear any personal liability in respect of the representation or warranty, except where such person has engaged in wilful misconduct or fraud. The knowledge, belief or awareness of any person other than those agreed pursuant to this clause 1.3 will not be imputed to Nearmap or any member of the Nearmap Group.

Bidder awareness

- 1.4 In this deed, a reference to the knowledge, belief or awareness of the Bidder is limited to the Bidder's actual knowledge, belief or awareness, deemed only to comprise, the facts, matters and circumstances of which any of the persons in the list of persons agreed by Nearmap and the Bidder on or about the date of this deed is actually aware as at the date of this deed having made reasonable enquiries and consulted with their direct reports. Without limiting clause 15, none of those persons will bear any personal liability in respect of the representation or warranty, except where such person has engaged in wilful misconduct or fraud. The knowledge, belief or awareness of any person other than those agreed pursuant to this clause 1.4 will not be imputed to the Bidder nor any member of the Bidder Group.

Best and reasonable endeavours

- 1.5 Any provision of this deed which requires a party to use best endeavours, reasonable endeavours, all reasonable endeavours, act reasonably or similar to procure that something is performed or occurs or does not occur does not include any obligation to:
- (a) pay any money or to provide any financial compensation, or any other incentive to or for the benefit of any person in the form of an inducement or consideration except for payment of:
 - (i) any application fee for the lodgement or filing of any relevant application with any Government Agency; or
 - (ii) immaterial expenses or costs, including costs of advisers,to procure the relevant thing (except, in each case, in circumstances that are commercially onerous or unreasonable in the context of this deed); or
 - (b) propose, negotiate, offer to commit or to effect, accept or otherwise agree to any sale, divestiture, license, hold separate or other disposition of assets or business;

- (c) propose, negotiate, offer to commit or to effect, accept or otherwise agree to any other restrictions on the activities of any business;
- (d) commence or defend any legal action or proceeding against any person,

except, in each case, where that provision expressly specifies otherwise and, for the avoidance of doubt, that party will not breach the relevant provision requiring the use of best, all reasonable endeavours or similar where the party does not procure that the thing is performed or occurs or does not occur as a result of matters outside the control or influence of the party.

- 1.6 From the date of this deed until the earlier of (a) the valid termination of this deed in accordance with its terms and (b) the expiration or termination of the waiting period under the HSR Act applicable to the Transaction, the Bidder shall not, and shall cause the other members of the Bidder Group not to, enter into a definitive agreement with respect to, or definitively agree to acquire or definitively proceed with, a Specified Acquisition.

2 Agreement to propose Scheme

Proposal of Scheme

- 2.1 Nearmap agrees to propose the Scheme on and subject to the terms and conditions of this deed.
- 2.2 The Bidder agrees to assist Nearmap to propose the Scheme on and subject to the terms and conditions of this deed.

3 Conditions precedent

Conditions to Scheme

- 3.1 Subject to this clause 3, the Scheme will not become Effective, and the respective obligations of the parties in relation to the implementation of the Scheme are not binding, until each of the following Conditions is satisfied or waived (to the extent and in the manner set out in this clause 3):

Item	Condition	Party entitled to benefit	Party Responsible
(a)	<p>(FIRB approval): before 8:00am on the Second Court Date, either:</p> <ul style="list-style-type: none"> (i) the Bidder has received a written notice under FATA, by or on behalf of the Treasurer of the Commonwealth of Australia, stating that the Commonwealth Government does not object to the acquisition by the Bidder of the Scheme Shares pursuant to the Scheme, either unconditionally or subject only to the Taxation Conditions and/or any other conditions acceptable to the Bidder (acting reasonably); or (ii) the Treasurer of the Commonwealth of Australia becomes precluded from making an order under Division 2 of Part 3 of the FATA in relation to the acquisition by the Bidder of the 	Both, but cannot be waived	Bidder

Item	Condition	Party entitled to benefit	Party Responsible
	<p>Scheme Shares pursuant to the Scheme and the acquisition by the Bidder of the Scheme Shares is not prohibited by the FATA; or</p> <p>(iii) if an interim order is made under FATA in respect of the acquisition by the Bidder of the Scheme Shares, the subsequent period for making a final order prohibiting the acquisition of the Scheme Shares by the Bidder elapses without a final order being made.</p>		
(b)	(ASIC and ASX) before 8:00am on the Second Court Date, ASIC and ASX issue or provide all consents, approvals, waivers, relief or approvals as are necessary or which Nearmap and the Bidder agree (acting reasonably) are desirable to implement the Scheme and such consents, approvals, waivers, relief or approvals have not been withdrawn, cancelled, revoked or adversely amended.	Both	Both
(c)	(HSR clearance) any waiting period applicable to the Scheme under the HSR Act shall have expired or been terminated.	Both, but cannot be waived	Both
(d)	(No restraints) : as at 8:00am on the Second Court Date, there is not in effect any temporary, preliminary or final order, decision or decree issued by any court of competent jurisdiction or Government Agency in Australia or the United States which restrains, prohibits, or prevents, implementation of the Scheme.	Both	Both
(e)	(Nearmap Shareholder approval) : subject to clause 3.11, the Scheme is approved by Nearmap Shareholders at the Scheme Meeting by the requisite majorities under section 411(4)(a)(ii) of the Corporations Act.	Both, but cannot be waived	Both
(f)	(Independent Expert) : the Independent Expert issues an Independent Expert's Report which concludes that the Scheme is in the best interests of Nearmap Shareholders before the time when the Scheme Booklet is registered with ASIC and the Independent Expert does not withdraw, qualify or change that opinion at any time before 8:00am on the Second Court Date.	Nearmap	-
(g)	(Court approval) : the Scheme is approved by the Court in accordance with section 411(4)(b) of the Corporations Act.	Both, but cannot be waived	Both

Item	Condition	Party entitled to benefit	Party Responsible
(h)	(No Nearmap Prescribed Occurrence) : no Nearmap Prescribed Occurrence occurs between (and including) the date of this deed and 8:00am on the Second Court Date.	Bidder	Nearmap
(i)	(No Material Adverse Change) : no Material Adverse Change occurs between (and including) the date of this deed and 8:00am on the Second Court Date.	Bidder	Nearmap

Satisfaction of Conditions

3.2 Each of Nearmap and the Bidder must:

- (a) use its best endeavours (other than waiver) to procure that each Condition for which it is responsible as noted in the table in clause 3.1 (whether solely or together with the other party):
 - (i) is satisfied as soon as practicable after the date of this document; and
 - (ii) continues to be satisfied until the last time it is to be satisfied (as the context requires);
- (b) promptly provide the other party with all information and other assistance reasonably required by the party responsible for satisfying a Condition for the purposes of seeking to satisfy the Condition; and
- (c) not take any action that will or is likely to hinder or prevent the satisfaction of a Condition.

3.3 Without limiting clause 3.2, in respect of the Regulatory Conditions, each party must:

- (a) in respect of each Regulatory Condition for which it is responsible, prepare and lodge each notice or application required to be given, respond to requests for information and otherwise take all steps that must be taken by it as part of the process to satisfy the Regulatory Condition (including that, for the avoidance of doubt, the Bidder must agree and accept any conditions or undertakings consistent with the Taxation Conditions), as soon as reasonably practicable;
- (b) consult with the other party in advance and keep the other party informed in relation to all material communications (whether written or oral, and whether direct or via Advisers) with any Government Agency in connection with procuring that a Regulatory Condition is satisfied, including by:
 - (i) providing the other party with drafts of any notices or applications or other material written communications to the applicable Government Agency and making such amendments to those written communications as the other party reasonably requires; and
 - (ii) promptly providing to the other party copies of any notices, applications or other material written communications provided to or received from the applicable Government Agency and keeping the other party updated as to the content and outcome of any material oral communications with the Government Agency,

provided that in doing so, the party may withhold or redact information if and to the extent the information is confidential to a third party or materially commercially sensitive to the party (or any of its Related Bodies Corporate); and

- (c) give the other party reasonable notice of all meetings and telephone calls with any Government Agency in relation to the satisfaction of the Regulatory Conditions and a reasonable opportunity to participate in them (except to the extent the Government Agency expressly requests that the party not be present at the meeting or part of the meeting).

Waiver

3.4 Each Condition is only for the benefit of, and may only be waived by:

- (a) if one party is noted as having the benefit of the Condition in the table in clause 3.1, that party, by notice in writing to the other party; or
- (b) if both parties are noted as having the benefit of the Condition in the table in clause 3.1, written agreement of both parties,

provided that the Conditions in clause 3.1(a) (*FIRB approval*), 3.1(c) (*HSR clearance*), 3.1(e) (*Nearmap Shareholder approval*) and 3.1(g) (*Court approval*) of the table in clause 3.1 cannot be waived.

3.5 A party entitled to waive a Condition (either individually or with the other party) may do so in its absolute discretion.

3.6 Any waiver of a Condition by a party who is entitled to do so pursuant to clause 3.4 is only effective if such waiver is given on or prior to 8:00am on the Second Court Date.

3.7 If a party waives a Condition, that waiver will not preclude it from suing another party for any breach of this deed including a breach that resulted in the non-satisfaction of the Condition that was waived.

3.8 Waiver of a Condition does not constitute:

- (a) a waiver of breach or non-satisfaction of any other Condition resulting from the same event; or
- (b) a waiver of breach or non-satisfaction of that Condition arising from any other event.

Notifications

3.9 Each party must:

- (a) keep the other promptly and reasonably informed of the steps it has taken and of its progress towards satisfaction of each Condition;
- (b) promptly notify the other in writing if it becomes aware that any Condition has been satisfied; and
- (c) promptly notify the other in writing if it becomes aware that any Condition is or has become incapable of being satisfied.

Certificate

3.10 At the hearing on the Second Court Date:

- For personal use only
- (a) Nearmap and the Bidder will provide a joint certificate to the Court confirming whether or not the Conditions which they are both noted as responsible for satisfying in the table in clause 3.1 (other than the Condition set out in clause 3.1(g) (*Court approval*)) have been satisfied or waived in accordance with the terms of this deed;
 - (b) Nearmap will provide a certificate to the Court confirming whether or not the Conditions which Nearmap (alone) is noted as responsible for satisfying in the table in clause 3.1 have been satisfied or waived in accordance with the terms of this deed, a draft of which Nearmap will provide to the Bidder on or before 5:00pm on the Business Day before the Second Court Date; and
 - (c) the Bidder will provide a certificate to the Court confirming whether or not the Conditions which the Bidder (alone) is noted as responsible for satisfying in the table in clause 3.1 have been satisfied or waived in accordance with the terms of this deed, a draft of which the Bidder will provide to Nearmap on or before 5:00pm on the Business Day before the Second Court Date.

Scheme voted down because of Headcount Test

3.11 If the Scheme is not approved by Nearmap Shareholders at the Scheme Meeting by reason only of the non-satisfaction of the Headcount Test and Nearmap or the Bidder considers, acting reasonably, that Share Splitting or some abusive or improper conduct may have caused or contributed to the Headcount Test not having been satisfied then Nearmap must:

- (a) apply for an order of the Court contemplated by section 411(4)(a)(ii)(A) of the Corporations Act to disregard the Headcount Test and seek Court approval of the Scheme under section 411(4)(b) of the Corporations Act, notwithstanding that the Headcount Test has not been satisfied; and
- (b) make such submissions to the Court and file such evidence as counsel engaged by Nearmap to represent it in Court proceedings related to the Scheme, in consultation with the Bidder, considers is reasonably required to seek to persuade the Court to exercise its discretion under section 411(4)(a)(ii)(A) of the Corporations Act by making an order to disregard the Headcount Test.

Conditions not capable of being satisfied

3.12 If:

- (a) there is a breach or non-satisfaction of a Condition by the time specified for its satisfaction, that has not (where capable of waiver) been waived in accordance with clauses 3.4 to 3.8;
- (b) a Condition becomes incapable of satisfaction by the time specified for its satisfaction, and the breach or non-satisfaction of that Condition that has occurred, or would otherwise occur, has not (where capable of waiver) been waived in accordance with clauses 3.4 to 3.8; or
- (c) the Scheme has not become Effective by the End Date,

and neither of the following has occurred:

- (d) the Independent Expert opines to the effect that the Scheme is not in the best interests of Nearmap Shareholders; or
- (e) Nearmap has, without breaching clause 11, entered into a legally binding agreement (other than an Acceptable Confidentiality Agreement) in relation to a Superior Proposal,

then the Bidder and Nearmap must consult in good faith to determine whether they can reach agreement with respect to:

- (f) extending the time for satisfaction of the relevant Condition or the End Date (as the case may be), or both;
- (g) changing the date on which an application is made to the Court for an order under section 411(4)(b) of the Corporations Act approving the Scheme or adjourning that application to a date agreed between the Bidder and Nearmap (as applicable); or
- (h) the Transaction proceeding by way of alternative means or methods.

3.13 If the Bidder and Nearmap are unable to reach such agreement within ten Business Days after them both becoming aware of the relevant occurrence which triggered the obligation to consult in good faith, then unless the relevant Condition (if applicable) has been waived in accordance with clauses 3.4 to 3.8, either the Bidder or Nearmap (in this clause 3.13, the **Terminating Party**) may terminate this deed by giving written notice (**Termination Notice**) to the other, provided that if the basis upon which the Terminating Party is seeking to terminate this deed is the occurrence of an event described in clause 3.12(a) or 3.12(b):

- (a) the Terminating Party had the benefit of the applicable Condition; and
- (b) the applicable Condition has not been satisfied (or become incapable of being satisfied) as a result of a breach of this deed by the Terminating Party, or a deliberate act or omission of the Terminating Party which either alone or together with other circumstances prevents the Condition from being satisfied.

3.14 Where a Termination Notice is given under clause 3.13, this deed will terminate with immediate effect and clause 14.4 will apply.

Interpretation

3.15 For the purposes of this clause 3, a Condition will be incapable of satisfaction, or incapable of being satisfied if there is an act, failure to act or occurrence that will prevent the Condition being satisfied by the End Date (and the breach or non-satisfaction that would otherwise have occurred has not already been waived in accordance with this deed).

4 Scheme and Scheme Consideration

Scheme

4.1 Nearmap must, as soon as reasonably practicable after the date of this deed and substantially in accordance with the Timetable, propose the Scheme under which, subject to the Scheme becoming Effective, on the Implementation Date all of the Scheme Shares will be transferred to the Bidder and the Scheme Shareholders will be entitled to receive, for each Scheme Share held at the Scheme Record Date, the relevant Scheme Consideration.

Scheme Consideration

4.2 The Bidder covenants in favour of Nearmap (in Nearmap's own right and separately as trustee or nominee of each Scheme Shareholder) that, if the Scheme becomes Effective, in consideration for the transfer to the Bidder of the Scheme Shares held by each Scheme Shareholder under the terms of the Scheme, the Bidder will accept that transfer and will provide to each Scheme Shareholder the Scheme Consideration for each Scheme Share held by them in accordance with the terms of this deed and the Scheme.

Fractional entitlements

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

No amendment to Scheme without consent

- 4.4 Nearmap must not consent to any modification of, or amendment to, or the making or imposition by the Court of any condition in respect of, the Scheme without the prior written consent of the Bidder (or the consent of the Bidder's legal counsel if such a request is made at a Court hearing).

Other Nearmap securities

- 4.5 Nearmap agrees to procure that the Nearmap Board will, to the extent it is permitted to do so by the Nearmap Plan Rules, exercise its discretion under the terms of the Nearmap Plan Rules to ensure that:
- (a) As of the Effective Date, each Nearmap Option that is vested in accordance with its terms and outstanding as of immediately prior to the Effective Date (each, a **Vested Nearmap Option**) shall, automatically and without any required action on the part of the holder thereof, be cancelled and converted into the right to receive an amount in cash, without interest, equal to the product obtained by multiplying (x) the excess, if any, of (i) the Scheme Consideration over (ii) the per-share exercise price for such Vested Nearmap Option, by (y) the total number of Nearmap Shares underlying such Vested Nearmap Option, subject to any required withholding of taxes (the **Vested Nearmap Option Consideration**); provided, however, that if the exercise price per Nearmap Share of such Vested Nearmap Option is equal to or greater than the Scheme Consideration, then such Vested Nearmap Option shall be cancelled without any cash payment or other consideration being made in respect thereof;
 - (b) As of the Effective Date, each Nearmap Option that is outstanding as of immediately prior to the Effective Date and that is not a Vested Nearmap Option (each, an **Unvested Nearmap Option**) shall, automatically and without any required action on the part of the holder thereof, be converted into the contingent right to receive an amount in cash, without interest, equal to the product obtained by multiplying (x) the excess, if any, of (i) the Scheme Consideration over (ii) the per-share exercise price for such Unvested Nearmap Option, by (y) the total number of Nearmap Shares underlying such Unvested Nearmap Option (the **Unvested Nearmap Option Consideration**); provided, however, that if the exercise price per Nearmap Share of such Unvested Nearmap Option is equal to or greater than the Scheme Consideration, such Unvested Nearmap Option shall be cancelled without any cash payment or other consideration being made in respect thereof. Subject to the holder's continued service with the Bidder Group (including the Nearmap Group) from and after the Effective Date and through the applicable vesting dates, such Unvested Nearmap Option Consideration amounts will vest and become payable at the same time as the Nearmap Option from which such Unvested Nearmap Option Consideration was converted would have vested and been payable pursuant to its terms and shall otherwise remain subject to the same terms and conditions as were applicable to the underlying Unvested Nearmap Option immediately prior to the Effective Date (except for terms rendered inoperative by reason of the transactions contemplated by this deed or for such other administrative or ministerial changes as in the reasonable and good faith determination of the Bidder Group are appropriate to conform the administration of the Unvested Nearmap Option Consideration amounts, provided that no such changes shall impair the rights of the applicable holder of

Unvested Nearmap Option Consideration) with respect to their receipt of the Unvested Nearmap Option Consideration;

- (c) As of the Effective Date, each Nearmap Restricted Stock Unit that is outstanding as of immediately prior to the Effective Date and either (x) held by a non-employee member of the Nearmap Board or (y) vested in accordance with its terms as of the Effective Date (each, a **Vested Nearmap Restricted Stock Unit**) shall, automatically and without any required action on the part of the holder thereof, be cancelled and converted into the right to receive an amount in cash, without interest, equal to the product obtained by multiplying (x) the total number of Nearmap Shares underlying such Nearmap Restricted Stock Unit, by (y) the Scheme Consideration, subject to any required withholding of taxes (the **Vested Nearmap Restricted Stock Unit Consideration**);
- (d) As of the Effective Date, each Nearmap Restricted Stock Unit that is outstanding as of immediately prior to the Effective Date and not a Vested Nearmap Restricted Stock Unit shall, automatically and without any required action on the part of the holder thereof, be converted into the contingent right to receive an amount in cash, without interest, equal to the product obtained by multiplying (x) the total number of Nearmap Shares underlying such Nearmap Restricted Stock Unit, by (y) the Scheme Consideration (the **Unvested Nearmap Restricted Stock Unit Consideration**). Subject to the holder's continued service with the Bidder Group (including the Nearmap Group) from and after the Effective Date and through the applicable vesting dates, such Unvested Nearmap Restricted Stock Unit Consideration amounts will vest and become payable at the same time as the Nearmap Restricted Stock Unit from which such Unvested Nearmap Restricted Stock Unit Consideration was converted would have vested and been payable pursuant to its terms and shall otherwise remain subject to the same terms and conditions as were applicable to the underlying Nearmap Restricted Stock Unit immediately prior to the Effective Date (except for terms rendered inoperative by reason of the transactions contemplated by this deed or for such other administrative or ministerial changes as in the reasonable and good faith determination of the Bidder Group are appropriate to conform the administration of the Unvested Nearmap Restricted Stock Unit Consideration amounts, provided that no such changes shall impair the rights of the applicable holder of Unvested Nearmap Restricted Stock Unit Consideration) with respect to their receipt of the Unvested Nearmap Restricted Stock Unit Consideration; and
- (e) From and after the Effective Date, the Bidder Group shall cause Nearmap to pay through the payroll system of Nearmap (to the extent applicable) to each holder of a Vested Nearmap Option and Vested Nearmap Restricted Stock Unit, the Vested Nearmap Option Consideration and/or Vested Nearmap Restricted Stock Unit Consideration, as applicable, without interest, on the earlier of (i) five (5) Business Days and (ii) the next regularly scheduled payroll date, in each case, following the Effective Date.

4.6 Nearmap will make all necessary applications to the ASX for waivers under the Listing Rules (if required) to give effect to clause 4.5.

4.7 Nearmap must use reasonable endeavours to seek to ensure that there are no Nearmap Options or Nearmap Restricted Stock Units (or any other Nearmap securities or rights other than Nearmap Shares) on the Effective Date.

5 Implementation of the Scheme

Nearmap's obligations

5.1 Nearmap must, acting at all times in good faith, take all steps within its control and reasonably necessary to propose and implement the Scheme as soon as reasonably practicable and,

without limiting the foregoing, substantially in accordance with the Timetable and in particular must:

Scheme Booklet

- (a) as soon as practicable after the date of this deed, prepare the Scheme Booklet (excluding the Bidder Information, the Independent Expert's Report and any report or letter issued by someone other than Nearmap) in accordance with all applicable laws and in particular with the Corporations Act, Corporations Regulations, the Listing Rules, RG 60 and other relevant Regulatory Guides;

Independent Expert's Report

- (b) promptly after the date of this deed (if the Independent Expert has not been appointed prior to the date of this deed) appoint an Independent Expert to provide the Independent Expert's Report (and request that the Independent Expert opines on whether or not the Scheme is in the best interests of Nearmap Shareholders), and provide any assistance and information reasonably requested by the Independent Expert to enable it to prepare the Independent Expert's Report (including any updates to such report);

Consultation

- (c) consult with the Bidder in relation to the Scheme Booklet including by:
 - (i) providing to the Bidder drafts of the Scheme Booklet and the Independent Expert's Report for the purpose of enabling the Bidder to review and comment on those draft documents. In relation to the Independent Expert's Report, the Bidder's review is to be limited to a factual accuracy review and Nearmap makes no representation as to the extent to which the Independent Expert will receive or consider those comments;
 - (ii) taking into account in good faith all comments made by the Bidder when producing a revised draft of the Scheme Booklet;
 - (iii) providing the Bidder with a final draft of the Scheme Booklet within a reasonable time before the Scheme Booklet is finalised, to enable the Bidder to review that draft before the date of its submission to ASIC for approval pursuant to section 411(2) of the Corporations Act; and
 - (iv) obtaining written consent from the Bidder for the form and content in which the Bidder Information appears in the Scheme Booklet;

Verification

- (d) undertake appropriate verification processes in relation to the Scheme Booklet (other than the Bidder Information and the Independent Expert's Report);

Liaison with ASIC

- (e) as soon as reasonably practicable after the date of this deed:
 - (i) provide an advanced draft of the Scheme Booklet to ASIC for its review and approval for the purposes of section 411(2) of the Corporations Act; and
 - (ii) liaise with ASIC during the period of its consideration of that draft of the Scheme Booklet and keep the Bidder reasonably informed of any matters

raised by ASIC in relation to the Scheme Booklet and use reasonable endeavours, in consultation with the Bidder, to resolve any such matters;

Approval of Scheme Booklet

- (f) as soon as reasonably practicable after the conclusion of the review by ASIC of the Scheme Booklet, procure that a meeting of the Nearmap Board is held to consider approving the Scheme Booklet for despatch to the Nearmap Shareholders, subject to orders of the Court under section 411(1) of the Corporations Act;

Section 411(17)(b) statements

- (g) apply to ASIC for the production of:
 - (i) an indication of intent letter stating that ASIC does not intend to appear before the Court on the First Court Date; and
 - (ii) a statement under paragraph 411(17)(b) of the Corporations Act stating that ASIC has no objection to the Scheme;

Court documents

- (h) prepare the Court documents for the purposes of the Court hearings held for the purposes of section 411(1) and 411(4)(b) of the Corporations Act in relation to the Scheme, provide a draft of those documents to the Bidder and, acting reasonably and in good faith, take into account all reasonable comments from the Bidder on those drafts, provided that such comments are provided in a timely manner;

Bidder representation at Court hearings

- (i) allow, and not oppose, any application by the Bidder for leave of the Court to be represented by counsel at a Court hearing;

First Court hearing

- (j) lodge all documents with the Court and take all other reasonable steps to ensure that promptly after, and provided that, the approval in clause 5.1(f) has been received, an application is heard by the Court for an order under section 411(1) of the Corporations Act directing Nearmap to convene the Scheme Meeting;

Registration of Scheme Booklet

- (k) if the Court directs Nearmap to convene the Scheme Meeting, as soon as possible after such orders are made, request ASIC to register the explanatory statement included in the Scheme Booklet in relation to the Scheme in accordance with section 412(6) of the Corporations Act;

Despatch Scheme Booklet

- (l) as soon as reasonably practicable following registration of the Scheme Booklet by ASIC, despatch the Scheme Booklet to Nearmap Shareholders following the Bidder's written consent to the inclusion of the Bidder Information in the form and context in which the Bidder Information appears in such version of the Scheme Booklet (such consent not to be unreasonably withheld or delayed);

Supplementary disclosure

- (m) if, after despatch of the Scheme Booklet until the date of the Scheme Meeting, Nearmap becomes aware:
- (i) that information included in the Scheme Booklet is or has become misleading or deceptive in any material respect (whether by omission or otherwise); or
 - (ii) of information that is required to be disclosed to Nearmap Shareholders under any applicable law or RG 60 but was not included in the Scheme Booklet,

promptly consult with the Bidder in good faith as to the need for, and form of, any supplementary disclosure to Nearmap Shareholders, and make any such disclosure that it considers reasonably necessary in the circumstances, having regard to applicable laws and RG 60. Such consultation with the Bidder includes, to the extent reasonably practicable, providing the Bidder with a reasonable opportunity to review and comment on such disclosure before it is made and must consider in good faith any comments provided by or on behalf of the Bidder, provided the comments are given in a timely manner. To the extent that the supplementary disclosure relates to (or constitutes) Bidder Information, it may only be made with the Bidder's prior written consent (not to be unreasonably withheld or delayed);

Convening the Scheme Meeting

- (n) convene and hold the Scheme Meeting in accordance with the orders made by the Court pursuant to section 411(1) of the Corporations Act;

Representation

- (o) procure that it is represented by counsel at the Court hearings convened for the purposes of section 411(1) and section 411(4)(b) of the Corporations Act;

Court approval application

- (p) if the resolutions submitted to the Scheme Meeting are passed by the requisite majorities under section 411(4)(a)(ii) of the Corporations Act (or, where clause 3.11 applies, the majority required under section 411(4)(a)(ii)(B) of the Corporations Act) and, if necessary, the parties agree on the Business Day immediately following the Scheme Meeting that it can be reasonably expected that all of the Conditions will be satisfied or waived prior to 8:00am on the proposed Second Court Date, apply (and, to the extent necessary, re-apply) to the Court for orders approving the Scheme;

Second Court hearing

- (q) subject to the Conditions (other than the Condition set out in clause 3.1(g) (*Court approval*)) being satisfied or waived in accordance with clause 3, apply to the Court for orders under section 411(4)(b) of the Corporations Act approving the Scheme;

Lodge copy of Court order

- (r) if the Scheme is approved by the Court, lodge with ASIC an office copy of the Court order in accordance with section 411(10) of the Corporations Act approving the Scheme by no later than the Business Day after the date on which the Court order was made (or such later date as agreed in writing by the Bidder);

Listing

- (s) subject to clause 5.1(t)(i), not do anything to cause the Nearmap Shares to cease being quoted on ASX or to become permanently suspended from quotation prior to implementation of the Transaction unless the Bidder has agreed in writing;

Implementation

- (t) if the Scheme becomes Effective:
 - (i) apply to the ASX to suspend trading in Nearmap Shares from the close of trading on the Effective Date;
 - (ii) finalise and close the Nearmap Share Register as at the Scheme Record Date and determine the identity of the Scheme Shareholders and their entitlements to the Scheme Consideration in accordance with the Scheme;
 - (iii) provide to the Bidder, or procure that the Nearmap Registry provides to the Bidder, all necessary information about the Scheme and the Scheme Shareholders that the Bidder reasonably requires in order for the Bidder to provide, or procure the provision of the Scheme Consideration in accordance with the Scheme;
 - (iv) subject to the Bidder having delivered the Scheme Consideration, execute, on behalf of Scheme Shareholders, proper instruments of transfer of and effect and register the transfer of the Scheme Shares to the Bidder on the Implementation Date; and
 - (v) do all other things contemplated by or necessary to give effect to the Scheme and the orders of the Court approving the Scheme;

documents

- (u) consult with the Bidder in relation to the content of the documents required for the purpose of the Scheme (including originating process, affidavits, submissions and draft minutes of Court orders);

Promote merits of Transaction

- (v) participate in efforts reasonably requested by the Bidder to promote the merits of the Transaction and the Scheme Consideration, including meeting with key Nearmap Shareholders at the reasonable request of the Bidder;

proxy report

- (w) keep the Bidder reasonably informed on the status of proxy forms received for the Scheme Meeting, including over the period commencing 10 Business Days before the Scheme Meeting and ending on the deadline for the receipt of proxy forms; and

Compliance with laws

- (x) do everything reasonably within its power to ensure that all transactions contemplated by this deed are effected in accordance with all applicable laws and regulations.

Bidder's obligations

- 5.2 The Bidder must, acting at all times in good faith take all steps within its control and reasonably necessary to assist Nearmap to implement the Scheme as soon as reasonably

practicable and, without limiting the foregoing, substantially in accordance with the Timetable and in particular must:

Bidder Information

- (a) as soon as reasonably practicable after the date of this deed, prepare and promptly provide to Nearmap the Bidder Information for inclusion in the Scheme Booklet in accordance with all applicable laws (including the Corporations Act and the Corporations Regulations), applicable Takeovers Panel guidance notes, the Listing Rules, RG 60 and other relevant Regulatory Guides;

Drafts of Scheme Booklet

- (b) review the drafts of the Scheme Booklet prepared by Nearmap and provide comments promptly on those drafts in good faith;

Confirmation of Bidder Information

- (c) subject to clause 5.9, promptly after Nearmap requests that it does so, confirm in writing to Nearmap that it consents to the inclusion of the Bidder Information in the Scheme Booklet (and Nearmap must not lodge the Scheme Booklet with ASIC until such approval is obtained from the Bidder), in the form and context in which the Bidder Information appears;

Independent Expert

- (d) promptly provide all assistance and information reasonably requested by Nearmap or the Independent Expert to enable the Independent Expert to prepare the Independent Expert's Report (including any updates to such report);

Due diligence and verification

- (e) undertake appropriate due diligence and verification processes in relation to Bidder Information;

Assistance with Scheme Booklet and Court documents

- (f) promptly provide any assistance or information reasonably requested by Nearmap or its Advisers in connection with the preparation of the Scheme Booklet (including any supplementary disclosure to Nearmap Shareholders) and any documents required to be filed with the Court in respect of the Scheme;

Representation

- (g) procure that, if requested by Nearmap, the Bidder is represented by counsel at the Court hearings convened for the purposes of section 411(4)(b) of the Corporations Act;

Deed Poll

- (h) by no later than the Business Day prior to the First Court Date, execute and deliver to Nearmap the Deed Poll;

Accuracy of Bidder Information

- (i) as soon as reasonably practicable after receipt of the final draft Scheme Booklet from Nearmap, and in any event, before a draft of the Scheme Booklet is lodged with ASIC, and again before the Scheme Booklet is dispatched to Nearmap Shareholders,

confirm in writing to Nearmap the accuracy of the Bidder Information in the Scheme Booklet, including that it does not contain any material statement that is false or misleading in a material respect, whether because of any material omission from that statement or otherwise;

Update Bidder Information

- (j) until the date of the Scheme Meeting, promptly provide to Nearmap any information that arises after the Scheme Booklet has been despatched that is necessary to ensure the Bidder Information contained in the Scheme Booklet does not contain any material statement that is false or misleading in a material respect including because of any material omission from that statement;

Share transfer

- (k) if the Scheme becomes Effective:
 - (i) accept a transfer of the Scheme Shares as contemplated by clause 4.2; and
 - (ii) execute instruments of transfer in respect of the Scheme Shares;

Scheme Consideration

- (l) if the Scheme becomes Effective, provide the Scheme Consideration in the manner and amount contemplated by clause 4 and the terms of the Scheme and the Deed Poll;

Promote merits of Transaction

- (m) participate in efforts reasonably requested by Nearmap to promote the merits of the Transaction and the Scheme Consideration, including meeting with key Nearmap Shareholders at the reasonable request of Nearmap;

Financing

- (n) do everything necessary to ensure that all finance (both debt and equity) agreements and arrangements to which any member of the Bidder Group is party relating to the availability of funds for the purposes of paying the Scheme Consideration remain on foot, that all conditions precedent to draw down of funds have been satisfied or waived under those agreements or arrangements and to hold the proceeds of financing to the extent required to pay the Scheme Consideration to the Scheme Shareholders in accordance with the requirements of the Scheme; and

Compliance with laws

- (o) do everything reasonably within its power to ensure that all transactions contemplated by this deed are effected in accordance with all applicable laws and regulations.

Court process

- 5.3 The Bidder and Nearmap are entitled to separate representation at all Court proceedings affecting the Transaction.
- 5.4 This deed does not give Nearmap or the Bidder any right or power to give undertakings to the Court for or on behalf of the other without that other party's written consent.

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- 5.5 Subject to clause 5.6, Nearmap and the Bidder must give all undertakings to the Court in all Court proceedings which are reasonably required to obtain Court approval and confirmation of the Transaction as contemplated by this deed.
- 5.6 If the Court requests Nearmap or the Bidder to give an undertaking to the Court which Nearmap or the Bidder (as applicable) does not believe is reasonable or usual in the circumstances:
- (a) Nearmap and the Bidder must consult with each other in good faith as to whether to appeal the Court's decision; and
 - (b) Nearmap must appeal the Court's decision unless Nearmap and the Bidder agree otherwise or an independent senior counsel opines that, in his or her view, an appeal would have no reasonable prospect of success.
- 5.7 If the Court refuses to make any orders directing Nearmap to convene the Scheme Meeting or approving the Scheme, Nearmap and the Bidder must:
- (a) consult with each other in good faith as to whether to appeal the Court's decision; and
 - (b) appeal the Court decision unless Nearmap and the Bidder agree otherwise or an independent senior counsel opines that, in his or her view, an appeal would have no reasonable prospect of success.

Responsibility statements

- 5.8 The Scheme Booklet will include a responsibility statement, in a form to be agreed by the parties, which will contain words to the following effect:
- (a) the Bidder will be responsible for the Bidder Information contained in the Scheme Booklet and, to the maximum extent possible at law, Nearmap will not be responsible for any Bidder Information and will disclaim any liability for Bidder Information appearing in the Scheme Booklet; and
 - (b) Nearmap will be responsible for the Nearmap Information contained in the Scheme Booklet and, to the maximum extent possible at law, the Bidder will not be responsible for the Nearmap Information appearing in the Scheme Booklet and will disclaim any liability for the Nearmap Information appearing in the Scheme Booklet.

Disagreement on content

- 5.9 If the Bidder and Nearmap disagree on the form or content of the Scheme Booklet, they must consult in good faith to try to settle an agreed form of the Scheme Booklet. If after two Business Days complete agreement is not reached after reasonable consultation, then:
- (a) where the determination relates to Bidder Information, the Bidder, acting reasonably and in good faith will make the final determination, acting reasonably, as to the form and content of the Bidder Information; and
 - (b) in any other case, Nearmap, acting reasonably and in good faith, will make the final determination as to the form and content of the Scheme Booklet.

6 Board recommendation

Recommendation

- 6.1 Nearmap must use reasonable endeavours to procure that, subject to:

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- (a) the qualifications in clause 6.2(c)-(d); and
 - (b) there being no requirement or request of the Court or a Government Agency that the Nearmap Director abstain or withdraw from making a recommendation that Nearmap Shareholders vote in favour of the Scheme,

each Nearmap Director will recommend that Nearmap Shareholders vote in favour of the Scheme at the Scheme Meeting, qualified only by the words to the effect of "*in the absence of a superior proposal and subject to the Independent Expert concluding and continuing to conclude that the Scheme is in the best interests of Nearmap Shareholders*".

Confirmation

6.2 Nearmap represents and warrants to the Bidder that, as at the date this deed, each Nearmap Director has confirmed that:

- (a) his or her recommendation in respect of the Scheme is that Nearmap Shareholders vote in favour of the Scheme (**Recommendation**); and
- (b) he or she intends to vote, or cause to be voted, all Nearmap Shares that he or she holds or controls in favour of the Scheme (**Voting Intention**),

in each case:

- (c) in the absence of a Superior Proposal; and
- (d) subject to the Independent Expert concluding in the Independent Expert's Report (and continuing to conclude) that the Scheme is in the best interests of Nearmap Shareholders.

Withdrawal or modification of Recommendation and Voting Intention

6.3 Nearmap must use reasonable endeavours to procure that each Nearmap Director does not adversely change, withdraw, or adversely modify his or her Recommendation or Voting Intention unless:

- (a) Nearmap receives a Competing Proposal and the Nearmap Board, after complying with clause 11.10 determines that the Competing Proposal constitutes a Superior Proposal; or
- (b) the Independent Expert concludes in the Independent Expert's Report that the Scheme is not in the best interests of Nearmap Shareholders, or the Independent Expert concludes in the Independent Expert's Report that the Scheme is in the best interests of Nearmap Shareholders but then changes, qualifies or withdraws this conclusion prior to 8:00am on the Second Court Date; or
- (c) the change, withdrawal or modification of his or her Recommendation occurs because of a requirement or request of a court or Government Agency that the Nearmap Director abstain or withdraw from making a recommendation that Nearmap Shareholders vote in favour of the Scheme.

6.4 Despite anything to the contrary in this clause 6, a statement made by Nearmap, the Nearmap Board or any Nearmap Director, to the effect that no action should be taken by Nearmap Shareholders pending the assessment of a Competing Proposal by the Nearmap Board shall not contravene this clause 6.

Notification

- 6.5 Subject to the Listing Rules and all applicable laws and regulations, if any fact, matter or circumstance arises (including receipt or the expected receipt of an unfavourable report) from the Independent Expert's Report (including any supplementary or replacement report), which may lead to a Nearmap Director changing, withdrawing or modifying his or her Recommendation or Voting Intentions, Nearmap must immediately notify the Bidder of this fact.

Further assurances

- 6.6 Nearmap must ensure that each Nearmap Director's Recommendation and Voting Intention, which has not been changed, withdrawn or modified, is included in each ASX announcement in which a statement is made about a Nearmap Director's recommendation or voting intention in respect of the Scheme made by Nearmap from the date of this deed until the date of the Scheme Meeting and the Scheme Booklet.

7 Conduct of business

Conduct of Nearmap business

- 7.1 Subject to clauses 7.3 and 7.4, from the date of this deed up to and including the Implementation Date, Nearmap must:
- (a) conduct its business, and cause each of its Subsidiaries to conduct their businesses:
 - (i) in the ordinary and usual course of business and in compliance in all material respects with all applicable laws, regulations and regulatory approvals; and
 - (ii) consistent with past practice, in generally the same manner as conducted in the 12 months prior to the date of this deed; and
 - (b) use reasonable endeavours to:
 - (i) preserve intact Nearmap Group's current business organisation;
 - (ii) maintain the condition of its business and assets in accordance with the ordinary course of its business;
 - (iii) preserve their relationships with Government Agencies, customers, suppliers, landlords, licensors, licensees and others having material business dealings with them;
 - (iv) comply in all material respects with all Material Contracts; and
 - (v) retain the services of key employees; and
 - (c) maintain adequate working capital consistent with past practices; and
 - (d) not take or fail to take any action that constitutes a Prescribed Occurrence.

Nearmap prohibited activities

- 7.2 Other than with the prior approval of the Bidder (not to be unreasonably withheld or delayed) or as required by this deed, Nearmap must not, and must ensure that each member of the Nearmap Group does not from the date of this deed up to and including the Implementation Date:

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- (a) **(Material Contracts)** amend, modify, accelerate or terminate a Material Contract, or enter into a contract that would have been a Material Contract had it been entered into prior to the date of this deed;
 - (b) **(share capital)** issue, deliver, sell, pledge, or otherwise encumber any of its share capital, any other equity or voting interests or any securities convertible into, or exchangeable for, or any options, warrants, calls, or rights to acquire or receive, any such shares, interests, or securities or any share appreciation rights, phantom share awards, or other rights that are linked in any way to the price of Nearmap Shares or the value of Nearmap or any part thereof, except in accordance with (i) the terms of any employment agreements or arrangements or (ii) any award agreements under the Nearmap Plan Rules or otherwise with respect to, and upon vesting, exercise or settlement of, Nearmap Options or Nearmap Restricted Stock Units, in each of the cases in clauses (i) and (ii), in effect on the date of this deed; provided that any issuances of Nearmap Shares in respect of the settlement of interests under Nearmap's Employee Share Scheme (ESS) will require the prior approval of the Bidder (not to be unreasonably withheld or delayed);
 - (c) **(indebtedness)** repurchase, prepay, or incur any indebtedness or guarantee any indebtedness of another person, in each case, in excess of \$1,300,000 and excluding indebtedness resulting from drawdown or the extension or renewal of facilities existing as at the date of this deed and trade creditors incurred in the ordinary course of business;
 - (d) **(debt securities)** issue or sell any debt securities or options, warrants, calls, or other rights to acquire any debt securities of any member of the Nearmap Group, guarantee any debt securities of a person other than a member of the Nearmap Group, enters into any "keep well" or other agreement to maintain the financial condition of a person other than a member of the Nearmap Group, or enter into any arrangement having the economic effect of any of the foregoing;
 - (e) **(loans)** make any loans or advances of greater than \$1,300,000, or capital contributions to, or investments in, any other person, other than a member of the Nearmap Group, and excluding trade debtors incurred in the ordinary course of business;
 - (f) **(derivative instruments)** enter into any agreement, arrangement or transaction with respect to derivative instruments (including swaps, futures contracts, forward commitments, commodity derivatives or options) or similar instruments;
 - (g) **(related party transactions)** enter into any transaction with any related party of Nearmap as defined in section 228 of the Corporations Act which requires Nearmap Shareholder approval under the Corporations Act or Listing Rules;
 - (h) **(acquisitions or disposals)** acquire or dispose of (or agree to acquire or dispose of) any business, entity, undertaking for an amount greater than \$1,300,000;
 - (i) **(capital expenditures)** make any capital expenditures, or incur any obligations or liabilities in connection therewith, except pursuant to existing contracts or that, in the aggregate, would not exceed \$1,300,000 during any fiscal quarter;
 - (j) **(leases)** enter into, amend, or terminate any lease of real property (excluding any sub-lease) (whether as a lessor or lessee) or fail to exercise any right to renew any lease of real property;
 - (k) **(assets)** create any Encumbrance, other than a Permitted Encumbrance or otherwise dispose of any of its properties or assets having a value greater than \$1,300,000;

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- (l) **(accounting policies)** change any accounting policy applied by a member of the Nearmap Group to report their financial position other than any change required by a change in Accounting Standards;
 - (m) **(tax)** settle or compromise or make any concessions in relation to any audit, dispute or inquiry in relation to tax or make any material election in relation to tax, which is outside the ordinary course of business as it was conducted prior to the date of this deed;
 - (n) **(legal proceedings)** (i) settle any legal proceedings, claim, investigation, arbitration or other like proceedings where the amount claimed exceeds \$1,300,000; (ii) settle any legal proceedings, claim, investigation, arbitration or other like proceedings on terms involving an injunction, prohibition or any other restriction on the business of Nearmap or the Nearmap Group or (iii) commence any legal proceeding, claim or arbitration (including counterclaims in any legal proceeding, claim or arbitration existing as of the date hereof), where the amount claimed exceeds \$1,300,000;
 - (o) **(employment agreements)** (i) increase the remuneration of (including with regard to superannuation benefits) or benefits provided to or pay any bonus (other than in accordance with existing arrangements and in the ordinary course) or issue any securities or options to, or otherwise materially vary the employment agreements with, any of its directors, officers, or senior employees or executives whose total employment cost (based on rights or entitlements in effect at the date of this deed) exceeds \$200,000; (ii) hire or terminate any employee or engage an individual independent contractor, except, in the case of each of clauses (i) and (ii), (A) in the ordinary course of business with respect to persons eligible to earn an annual base salary or wages (or, in the case of non-employee service providers, equivalent compensation) of \$200,000 or less; (B) to the extent required by applicable laws or pursuant to any benefit plan in effect on the date of this deed; (C) in conjunction with annual renewal or plan design changes for the benefit plans (other than severance or separation plans, bonus or other incentive plans or equity or equity-based awards, plans and agreements) that are made in the ordinary course of business and do not materially increase the cost to the Nearmap Group;
 - (p) **(accelerate rights)** accelerate the rights of any of its directors or employees to benefits of any kind;
 - (q) **(termination payments)** pay a director, executive or employee a termination or retention payment, but excluding any redundancy payment made in the ordinary course and consistent with historical practices of the Nearmap Group preceding the date of this deed, or required by law or existing employment or contractual arrangements;
 - (r) **(employees)** terminate (other than for cause) any director, executive or employee with a base salary of \$200,000 or higher;
 - (s) **(adviser arrangements)** amend in any material respect any arrangement with its advisers in respect of the transactions contemplated by this deed;
 - (t) **(dividends)** (i) announce, declare, determine or pay any dividends, (ii) split, combine, or reclassify any of its share capital or other equity or voting interests, or issue or authorize the issuance of any other securities in respect of, in lieu of, or in substitution for shares of its share capital or other equity or voting interests, (iii) purchase, redeem, or otherwise acquire any share capital or any other securities of any member of the Nearmap Group or any options, warrants, calls, or rights to acquire any such shares or other securities (including any Nearmap Options or Nearmap Restricted Stock Units) or (iv) take any action that would result in any change of any term (including any conversion price thereof) of any debt security of any member of the

Nearmap Group, other than (A) the acquisitions of Nearmap Shares in connection with the surrender of Nearmap Shares by holders of Nearmap Options in order to pay the exercise price of such Nearmap Options, (B) the withholding of Nearmap Shares to satisfy tax obligations incurred in connection with the exercise of Nearmap Options and the vesting and settlement of Nearmap Restricted Stock Units, (C) the acquisition by Nearmap of Nearmap Options and Nearmap Restricted Stock Units in connection with the forfeiture of such awards, in each case in accordance with their terms; and (D) the transfer of Nearmap Shares in connection with or for the purpose of satisfying an entitlement to Nearmap Shares pursuant to, the Nearmap Employee Matching Share Rights Plan Rules;

- (u) **(intellectual property)** sell, license, transfer, assign, abandon, dedicate to the public, permit to lapse or otherwise dispose of any intellectual property assets that are material to the business of any member of the Nearmap Group, except for non-exclusive licenses of the Nearmap Group's commercial software offerings to customers in the ordinary course of business, or otherwise in the ordinary course of business;
- (v) **(trade secrets and source code)** (A) disclose any trade secrets or industrial secret rights, inventions (whether or not patentable), know-how, ideas, methods, techniques, specifications, designs, algorithms, source code, data, confidential or proprietary business or technical information, including any of the foregoing that derives independent economic value from not being known to other persons, that are material to the business of the Nearmap Group, taken as a whole, that the Nearmap Group reasonably wishes to preserve, except in the ordinary course of business pursuant to confidentiality obligations, or (B) disclose, make available, deliver, license or place into escrow any source code owned by the Nearmap Group with respect to software that is material to the business of the Nearmap Group, taken as a whole, otherwise than in the ordinary course of business; or
- (w) **(agree)** agree to do any of the matters set out above.

Nearmap permitted activities

- 7.3 The obligations of Nearmap under clause 7.1 and 7.2 do not apply in respect of any matter:
- (a) required or permitted to be done by this deed or the Scheme;
 - (b) to the extent it is Fairly Disclosed in:
 - (i) the Nearmap Disclosure Materials; or
 - (ii) an announcement made by Nearmap to ASX in the past three years or a publicly available document lodged by a member of the Nearmap Group with ASIC in the past three years;
 - (c) required by law or by an order of a court or Government Agency;
 - (d) required to be done to reasonably and prudently respond to an emergency or disaster (including a situation giving rise to a risk of personal injury or material damage to property); or
 - (e) the undertaking of which the Bidder has previously approved in writing (which approval must not be unreasonably withheld or delayed).
- 7.4 Without limiting clause 11, nothing in clause 7.1 or 7.2 restricts the ability of Nearmap to respond to a Competing Proposal, or disclose information for the purpose of facilitating a Superior Proposal.

Access to Nearmap

- 7.5 Between the date of this deed and the Implementation Date and for so long as a majority of the Nearmap Directors maintain their Recommendation, Nearmap must procure that the Bidder is provided with access to information, documents, records, premises and senior executives, of the Nearmap Group, reasonably requested by the Bidder solely for the purposes of:
- (a) implementing the Transaction;
 - (b) obtaining an understanding, or furthering its understanding, of the Nearmap Group or its business, financial position, prospects or assets in order to allow the Bidder to develop, finalise and implement its plans for the Nearmap Group following implementation of the Transaction;
 - (c) keeping the Bidder informed of material developments relating to the Nearmap Group; or
 - (d) any other purpose agreed between the Bidder and Nearmap,
- provided that compliance with any such request would not, in the reasonable opinion of Nearmap (acting in good faith), result in undue disruption to the Nearmap Group's business.
- 7.6 Nearmap will not be required to provide any access or information or otherwise take any action or omit to take any action contemplated by clause 7.5 to the extent that to do so would:
- (a) breach any applicable law or regulation or any obligations of confidentiality owed to third parties, or result in the loss of legal privilege or breach any directors' duty or would otherwise cause undue disruption to the Nearmap Group's business; or
 - (b) result in disclosure of information concerning the Nearmap Board's consideration of the Transaction, or any Competing Proposal.

Change of control

- 7.7 As soon as practicable after the date of this deed, Nearmap must:
- (a) seek to identify any change of control or unilateral termination rights in any material contract (including any lease) to which a member of the Nearmap Group is party which may be triggered by the implementation of the Transaction (**Change of Control Requirements**); and
 - (b) use all reasonable endeavours to agree a proposed strategy with the Bidder to obtain any consents required in accordance with the terms of any identified Change of Control Requirements, and to then expeditiously seek those consents in accordance with the agreed strategy.
- 7.8 A failure to obtain any counterparty consent will not constitute a breach of this deed by Nearmap, and together with any consequences which arise, will be disregarded when assessing the operation of any other provision of this deed.
- 7.9 The Bidder must cooperate with, and provide all reasonable assistance to, Nearmap to obtain such consents or confirmations in relation to any identified Change of Control Requirements, including by promptly providing any information reasonably required by counterparties.

No amendment or waiver of Equity Commitment Letter

- 7.10 The Bidder will not, without Nearmap's prior written consent, amend or permit the amendment of the Equity Commitment Letter nor waive any of its rights under the Equity Commitment Letter in any respect which will prejudice the Bidder's ability to pay the Scheme Consideration in accordance with this deed, the Scheme and the Deed Poll.

Cooperation with financing

- 7.11 Nearmap agrees to provide timely cooperation in connection with the syndication of any debt financing by the Bidder Group as may be reasonably requested by the Bidder in writing from time to time, including furnishing the Bidder and its financing sources (within a reasonable timeframe) with financial or other pertinent information regarding the Nearmap Group as may be reasonably requested by the Bidder for the purposes of such syndication.
- 7.12 The Bidder agrees to release, indemnify and hold harmless each Nearmap Party from and against any and all losses, damages, claims, costs or expenses suffered or incurred by any of them in connection with any action taken under clause 7.11 and any such financing and any information utilised in connection therewith.
- 7.13 Nothing in clause 7.11 will require any Nearmap Group member to provide cooperation with financing to the extent that it would:
- (a) cause any Conditions set forth in clause 3.1 to not be satisfied or cause a breach of this deed;
 - (b) require a member of the Nearmap Group to take any action that would reasonably be expected to conflict with or violate that member of the Nearmap Group's constituent documents or any law, or that would breach an obligation to any person (including any confidentiality obligations);
 - (c) provide any confidential, competitively sensitive or privileged information where the provision of such information is reasonably likely to cause prejudice to the commercial or legal interests of the Nearmap Group taken as a whole, or would be reasonably likely to jeopardise any attorney-client or other legal privilege; or
 - (d) require the approval of shareholders of Nearmap under section 260B of the Corporations Act or equivalent or analogous restriction in any jurisdiction;
 - (e) require a Nearmap Party to execute prior to the implementation of the Scheme any agreements, including any credit or other agreements, pledge or security documents or other certificates, legal opinions or documents in connection with any financing; or
 - (f) to the extent it would cause undue disruption to the operation of the Nearmap Group's business in the ordinary course.
- 7.14 The Bidder must promptly reimburse Nearmap for all reasonable and documented out-of-pocket costs incurred by the Nearmap Group in connection with any cooperation provided under clause 7.11 (including reasonable and documented out-of-pocket advisors' fees and expenses).
- 7.15 In no circumstance shall a breach of clause 7.11 by Nearmap constitute a material breach entitling the Bidder to terminate this deed.

8 Reconstitution of the Nearmap Board

Reconstitution of the Nearmap Board

8.1 Subject to the Scheme Consideration having been delivered to Scheme Shareholders in accordance with the Scheme, Nearmap must as soon as practicable take all reasonable steps to:

- (a) cause the appointment of the nominees of the Bidder to the Nearmap Board; and
- (b) procure that each Nearmap Director resigns from their office as a director of Nearmap by providing to the Nearmap Board their resignation in writing (such resignation, to the extent reasonable, to include a statement to the effect that the outgoing director has no claim outstanding against any member of the Nearmap Group, in their capacity as a Nearmap Director, and without prejudice to any rights they may have under any deed of indemnity, access and insurance or policy of directors and officers insurance, or equivalent); and
- (c) procure that each director of each other member of the Nearmap Group resigns from their office as a director by providing to the board of the relevant member of the Nearmap Group their resignation in writing (such resignation, to the extent reasonable, to include a statement to the effect that the outgoing director has no claim outstanding against any member of the Nearmap Group, in their capacity as a director, and without prejudice to any rights they may have under any deed of indemnity, access and insurance or policy of directors and officers insurance, or equivalent), and cause the appointment of the nominees of the Bidder to those boards,

in each case subject to the requirements of the relevant company's constituent documents, the Corporations Act, Listing Rules and any other laws.

Sequence of actions

8.2 The transactions which form part of the Scheme will be implemented in the following sequence:

- (a) no later than the Business Day before the Implementation Date, the Bidder will deposit the aggregate Scheme Consideration into a specified Nearmap trust account (**Consideration Account**) in accordance with the Scheme;
- (b) on the Implementation Date, Nearmap will disburse the Scheme Consideration to the Scheme Shareholders in accordance with the Scheme;
- (c) the Bidder will acquire all of the Scheme Shares in accordance with the Scheme; and
- (d) the Nearmap Board will be reconstituted in accordance with clause 8.1.

9 Representations and warranties

Bidder representations and warranties

9.1 The Bidder represents and warrants to Nearmap that:

Validly existing

- (a) the Bidder is a validly existing corporation registered under the laws of its place of incorporation;

Authority and power

- (b) the execution and delivery of this deed and the Deed Poll has been properly authorised by all necessary corporate action and the Bidder has full capacity, corporate power and lawful authority to execute and deliver this deed and the Deed Poll and to perform or cause to be performed its obligations under this deed and the Deed Poll;

No default

- (c) the execution and delivery of this deed by the Bidder does not and the execution and delivery by the Bidder of the Deed Poll will not, conflict with or result in a breach of or default under any provision of any Bidder Group member's constituent documents or any writ, order or injunction, rule, contracts, agreement, obligation or regulation to which the Bidder or any other Bidder Group member is a party or is bound;

Deed binding

- (d) this deed is a valid and binding obligation of the Bidder, enforceable in accordance with its terms;

No approvals

- (e) Other than as expressly contemplated by clause 3, no shareholder or Regulatory Approvals are required to be obtained by the Bidder in order for it to execute and perform its obligations under this deed or the Deed Poll;

Bidder Information

- (f) as at the First Court Date, the date the Scheme Booklet is despatched to Nearmap Shareholders and the date of the Scheme Meeting, the Bidder Information in the Scheme Booklet (as updated by the Bidder Information in any supplementary disclosure to Nearmap Shareholders) will:
 - (i) comply in all material respects with the requirements of all applicable laws (including the Corporations Act, Corporations Regulations, the Listing Rules, RG 60 and other relevant Regulatory Guides); and
 - (ii) not be misleading or deceptive in any material respect (whether by omission or otherwise);

New information

- (g) the Bidder will, as a continuing obligation, provide to Nearmap all further or new information which arises after the Scheme Booklet has been dispatched to Nearmap Shareholders until the date of the Scheme Meeting which is necessary to ensure that the Bidder Information is not misleading or deceptive in any material respect (including by way of omission);

Independent Expert

- (h) all information provided by or on behalf of the Bidder to the Independent Expert to enable the Independent Expert's Report to be included in the Scheme Booklet to be

prepared and completed will not be misleading or deceptive in any material respect (whether by omission or otherwise) and will be provided in good faith and on the understanding that the Independent Expert will rely upon that information for the purposes of preparing the Independent Expert's Report for inclusion in the Scheme Booklet;

Other dealings

- (i) neither the Bidder nor any of its Associates has any agreement, arrangement or understanding with any Scheme Shareholder under which that Scheme Shareholder (or an Associate of that Scheme Shareholder) would be entitled to receive consideration for their Scheme Shares different from the Scheme Consideration or under which the Scheme Shareholder agrees to vote in favour of the Scheme or against any Competing Proposal;

Dealings with officers and employees

- (j) neither the Bidder nor any of its Associates has any agreement, arrangement or understanding with any director, officer or employee of any Nearmap Group member relating in any way to the Transaction;

Form of Equity Commitment Letter

- (k) the Equity Commitment Letter as provided to Nearmap on the date of this deed is current, accurate and complete;

Equity Commitment Letter

- (l) the Equity Commitment Letter has been duly executed by the parties thereto and constitutes legally binding obligations on those parties that are enforceable in accordance with their respective terms and the Equity Commitment Letter has not been terminated as of the date of this deed;

Amendment and enforcement of Equity Commitment Letter

- (m) as a continuing obligation, without the prior consent of Nearmap, the Bidder will not, and will procure each other Bidder Group member does not:
 - (i) terminate the Equity Commitment Letter other than in accordance with its terms;
 - (ii) replace, amend or agree to amend the Equity Commitment Letter in any respect which will, or is reasonably likely to, prejudice the Bidder's ability to pay any amount in accordance with this deed and the Deed Poll; and
 - (iii) waive any of its rights under the Equity Commitment Letter in any respect which will, or is reasonably likely to, prejudice the Bidder's ability to pay any amount in accordance with this deed and the Deed Poll;

No default under Equity Commitment Letter

- (n) the Bidder is not in default under the Equity Commitment Letter and no event has occurred which with notice, lapse of time or both, would result in a default under such letter;

Sufficient cash amounts - reasonable expectation at the date of this deed

- (o) at all times between the date of this deed and 8.00am on the Second Court Date, the Bidder has a reasonable basis to expect that it will have available to it sufficient cash amounts (whether from internal cash resources or external financing commitments, or a combination of both) to satisfy the Bidder's obligation to pay the aggregate Scheme Consideration in accordance with its obligations under this deed, the Scheme and the Deed Poll;

Sufficient cash amounts - unconditional at Second Court Date

- (p) by 8:00am on the Second Court Date, the Bidder will have available to it on an unconditional basis (other than conditions relating to the approval of the Scheme by the Court and related procedural matters or documentary requirements which, by their terms or nature, can only be satisfied or performed after the Second Court Date) sufficient cash amounts (whether from internal cash resources or external financing commitments, or a combination of both) to satisfy the Bidder's obligation to pay the aggregate Scheme Consideration in accordance with its obligations under this deed, the Scheme and the Deed Poll;

Sufficient cash amounts - available on Implementation Date:

- (q) on the Implementation Date, the Bidder will have available to it on an unconditional basis sufficient cash amounts (whether from internal cash resources or external financing commitments, or a combination of both) to satisfy the Bidder's obligation to pay the aggregate Scheme Consideration in accordance with its obligations under this deed, the Scheme and the Deed Poll;

Dealings in Nearmap securities

- (r) as at the date of this deed:
- (i) the Bidder and its Associates do not have a Relevant Interest in any Nearmap Shares, and neither the Bidder nor any Associate of the Bidder has a Relevant Interest in, or a right to acquire, any other Nearmap Shares (whether issued or not or held by the Bidder or not); and
 - (ii) the Bidder and each of its Associates have not entered into any agreement or arrangement that confers rights the economic effect of which is equivalent or substantially equivalent to holding, acquiring or disposing of securities in any Nearmap Group member or of any assets of any Nearmap Group member (including cash-settled derivative contracts, contracts for difference or other derivative contracts); and

Insolvency Event or regulatory action

- (s) no member of the Bidder Group is Insolvent, nor has any regulatory action of any nature been taken that would prevent or restrict its ability to fulfil its obligations under this deed, the Scheme or the Deed Poll.

Nearmap representations and warranties

9.2 Nearmap represents and warrants to the Bidder that:

Validly existing

- (a) Nearmap is a validly existing corporation registered under the laws of its place of incorporation;

For personal use only

Authority and power

- (b) the execution and delivery of this deed by Nearmap has been properly authorised by all necessary corporate action and Nearmap has full capacity, corporate power and lawful authority to execute and deliver this deed and to perform or cause to be performed its obligations under this deed;

No default

- (c) the execution and delivery of this deed by Nearmap does not conflict with or result in a breach of or default under any provision of Nearmap's constitution or any writ, order or injunction, rule, contracts, agreement, obligation or regulation to which Nearmap is a party or is bound;

Deed binding

- (d) this deed is a valid and binding obligation of Nearmap, enforceable in accordance with its terms;

No approvals

- (e) other than as expressly contemplated by clause 3, no shareholder or Regulatory Approvals are required to be obtained by Nearmap in order for it to execute and perform its obligations under this deed or the Scheme;

Nearmap Information

- (f) as at the First Court Date, the date the Scheme Booklet is despatched to Nearmap Shareholders and the date of the Scheme Meeting, the Nearmap Information in the Scheme Booklet (as updated by Nearmap Information in any supplementary disclosure to Nearmap Shareholders) will:
 - (i) comply in all material respects with the requirements of all applicable laws (including the Corporations Act, Corporations Regulations, Listing Rules, RG 60 and other relevant Regulatory Guides); and
 - (ii) not be misleading or deceptive in any material respect (whether by omission or otherwise);

New information

- (g) Nearmap will, as a continuing obligation (but in respect of Bidder Information, only to the extent that the Bidder provides Nearmap with updates to the Bidder Information), ensure that the Scheme Booklet is updated and supplemented to include all further and new information which arises and Nearmap becomes aware of after the Scheme Booklet has been despatched to Nearmap Shareholders until the date of the Scheme Meeting which is necessary to ensure that the Scheme Booklet is not misleading or deceptive in any material respect (including by way of omission);

Independent Expert

- (h) all information provided by or on behalf of Nearmap to the Independent Expert to enable the Independent Expert's Report to be included in the Scheme Booklet to be prepared and completed will not be misleading or deceptive in any material respect (whether by omission or otherwise) and will be provided in good faith and on the understanding that the Independent Expert will rely upon that information for the purposes of preparing the Independent Expert's Report for inclusion in the Scheme Booklet;

Continuous disclosure

- (i) as at the date of this deed, Nearmap has complied in all material respects with its continuous disclosure obligations under Listing Rule 3.1 and is not relying on the exclusion in Listing Rule 3.1A to withhold any information from disclosure (other than in relation to the Transaction or as Fairly Disclosed in the Nearmap Disclosure Materials);

Issued capital

- (j) the issued capital of Nearmap as of the date of this deed is set out in Schedule 4 and Nearmap has not issued (and has not agreed to issue) any other Nearmap Shares, or options, performance rights, warrants, convertible notes, instruments or other securities that may convert into Nearmap Shares;

Due diligence information

- (k) the Nearmap Due Diligence Materials were provided or made available to the Bidder in good faith and Nearmap has not knowingly included any factual statement in the Nearmap Due Diligence Material which was misleading or deceptive in any material respect (whether by omission or otherwise), however Nearmap does not make any representation or warranty as to the accuracy or adequacy of any forecast, prediction, projection, budget, business plan or other forward looking statement included in the Nearmap Due Diligence Material;
- (l) Nearmap has not knowingly withheld or omitted information from disclosure to the Bidder which could reasonably be expected to be material to the Bidder's evaluation of the Nearmap Group and the merits of the Transaction. For the avoidance of doubt, Nearmap makes no representation or warranty whatsoever as to the adequacy or sufficiency of the Nearmap Due Diligence Materials for the purpose of the Bidder acquiring the Scheme Shares or for the Bidder's funding of that acquisition, which are matters of which the Bidder has to satisfy itself;

Insolvency Event or regulatory action

- (m) no member of the Nearmap Group is Insolvent, nor has any regulatory action of any nature been taken that would prevent or restrict its ability to fulfil its obligations under this deed;

Financial Statements

- (n) Nearmap's financial statements as disclosed to the ASX on 17 August 2022, have been prepared in accordance with Accounting Standards on a basis consistent with past practice financial statements, and so far as Nearmap is aware, there has not been any event, change, effect or development which would cause Nearmap to restate its financial statements as disclosed to the ASX on 17 August 2022;

Compliance with applicable law, material contracts and licences

- (o) each member of the Nearmap Group has complied in all material respects with all Australian or foreign laws and regulations applicable to them or orders of Australian or foreign Government Agencies having jurisdiction over it and with all licences, authorisations and permits and with all Material Contracts to which any member of the Nearmap Group is a party;

No approvals

- (p) so far as Nearmap is aware, no shareholder or Regulatory Approvals are required to be obtained by Nearmap in order for it to execute and perform its obligations under this deed, other than as contemplated by this deed; and

No Material Adverse Change

- (q) as far as Nearmap is aware, as at the time immediately prior to entry into this deed, there is no information relating to Nearmap or any Nearmap Group entity or its respective businesses that could reasonably be expected to give rise to a Material Adverse Change.

Qualifications on the Nearmap Warranties

9.3 Each of the Nearmap Warranties are subject to matters:

- (a) Fairly Disclosed in, or which ought to have been expected to arise from anything Fairly Disclosed in:
 - (i) the Nearmap Disclosure Materials; or
 - (ii) any announcement by Nearmap to the ASX, or in a publicly available document lodged by it or a Nearmap Group member with ASIC, in each case within three years prior to the date of this deed;
- (b) that are within the knowledge of the Bidder as described in clause 1.4;
- (c) Fairly Disclosed in the Public Searches; and
- (d) required or permitted to be done by this deed or the Scheme.

Survival of representations

9.4 Each representation and warranty in clauses 9.1 and 9.2:

- (a) is severable;
- (b) will survive the termination of this deed; and
- (c) is given with the intent that liability thereunder will not be confined to breaches which are discovered prior to the date of termination of this deed.

Timing of representations and warranties

9.5 Each representation and warranty made or given under clauses 9.1 or 9.2 is given at the date of this deed, at the date the Scheme Booklet is despatched to Nearmap Shareholders and as at 8:00am on the Second Court Date unless that representation or warranty is expressed to be given only at a particular time, in which case it is given only at that time.

No representation or reliance

9.6 Each party acknowledges that no party (nor any person acting on its behalf) has made any representation or other inducement to it to enter into this deed, except for representations or inducements expressly set out in this deed and (to the maximum extent permitted by law) all other representations, warranties and conditions implied by statute or otherwise in relation to any matter relating to this deed, the circumstances surrounding the parties' entry into it and the transactions contemplated by it are expressly excluded.

- 9.7 Each party acknowledges and confirms that it does not enter into this deed in reliance on any representation or other inducement by or on behalf of any other party, except for any representations or inducement expressly set out in this deed.

10 Public Announcements

Public Announcements on execution

- 10.1 Immediately after execution of this deed, the Bidder and Nearmap must issue a public announcement in a form previously agreed to in writing between them.

Public announcements

- 10.2 Subject to clause 10.3, no public announcement or public disclosure of the Transaction or any other transaction the subject of this deed, the Deed Poll or the Scheme may be made other than in a form approved by each party in writing (acting reasonably), but each party must use all reasonable endeavours to provide such approval as soon as practicable, provided that neither party will be required to consult with the other in relation to any public announcement or disclosure relating to termination of this deed or any Competing Proposal.

Required Disclosure

- 10.3 Where a party is required by applicable law or the Listing Rules to make any announcement or to make any disclosure in connection with the Transaction or any other transaction the subject of this deed, the Deed Poll or the Scheme, it may do so despite clause 10.2, but must use all reasonable endeavours, to the extent practicable and lawful, to consult with the other party prior to making the relevant disclosure and take into account any reasonable comments received from the other party in relation to the form and content of the announcement or disclosure.

11 Exclusivity

No current discussions

- 11.1 Nearmap represents and warrants to the Bidder that:

- (a) as at the time of execution of this deed, it and its Authorised Persons are not in any negotiations, discussions or other communications, and have ceased any negotiations, discussions or other communications, in respect of, or which could reasonably be expected to lead to, any actual, proposed or potential Competing Proposal with any person;
- (b) by the date of this deed, any due diligence access granted to any person for the purposes of such person making, formulating, developing or finalising any actual, proposed or potential Competing Proposal has been terminated; and
- (c) by the date of this deed, any person to whom non-public information in relation to the Nearmap Group has been provided or made available for the purposes of such person making, formulating, developing or finalising an actual, proposed or potential Competing Proposal will have been requested to immediately return or destroy that non-public information in accordance with any agreed terms of confidentiality currently in place with such person.

No-shop

- 11.2 During the Exclusivity Period, Nearmap must not, and must ensure that its Authorised Persons do not directly or indirectly:

- For personal use only
- (a) solicit, invite, initiate or encourage (including by the provision of non-public information) any actual, proposed or potential Competing Proposal;
 - (b) solicit, invite, initiate or encourage any enquiries, expressions of interests, offers, proposals, discussions or negotiations in relation to, or which may reasonably be expected to encourage or lead to, an actual, proposed or potential Competing Proposal; or
 - (c) communicate to any person any intention to do any of the things referred to in clauses 11.2(a) or 11.2(b).

No-talk

11.3 Subject to clause 11.7, during the Exclusivity Period, Nearmap must not, and must ensure that its Authorised Persons do not, directly or indirectly:

- (a) participate in or continue any negotiations or discussions with respect to any inquiry, expression of interest, offer, proposal or discussion by any person to make, or which would reasonably be expected to lead to the making of, an actual, proposed or potential Competing Proposal;
- (b) negotiate, accept or enter into any agreement, arrangement or understanding regarding, or which would reasonably be expected to lead to the making of, an actual, proposed or potential Competing Proposal; or
- (c) communicate to any person an intention to do anything referred to in clauses 11.3(a) or 11.3(b),

even if the relevant Competing Proposal was not directly or indirectly solicited, invited, encouraged, facilitated or initiated by Nearmap or any of its Authorised Persons.

No due diligence restriction

11.4 Subject to clause 11.7, during the Exclusivity Period, Nearmap must not directly or indirectly disclose or otherwise provide or make available any non-public information about the business or affairs of the Nearmap Group to any person (other than the Bidder, its Related Bodies Corporate or their respective Authorised Persons) with a view to obtaining or which may reasonably be expected to lead to the formulation, receipt or announcement of, an actual, proposed or potential Competing Proposal.

Notification of approaches

11.5 During the Exclusivity Period, Nearmap must notify the Bidder in writing within 48 hours if it or its Authorised Persons receives an approach, inquiry or proposal with respect to an actual, proposed or potential Competing Proposal (including a proposal to engage in any activity prohibited by this clause 11, or which would be prohibited by this clause 11, but for clause 11.7) (each, a **Notifiable Proposal**).

11.6 The notice referred to in clause 11.5 must set out the material terms, including the identity of the proposed bidder (unless the Nearmap Board acting in good faith and after receiving advice from its external legal advisors, determines that disclosing the identity of the proposed bidder would constitute, or would be reasonably likely to constitute, a breach of any of the fiduciary or statutory duties of any Nearmap Director), price and value, conditions precedent, timetable, break or reimbursement fee (if any), deal protection provisions or any other similar term of the Notifiable Proposal and documents (to the extent known by Nearmap and its Authorised Persons), and the Bidder agrees that:

- For personal use only
- (a) any such information received shall be confidential information and subject to the Confidentiality Agreement; and
 - (b) it shall not, directly or indirectly, contact the third party that made the Notifiable Proposal for any purpose relating to the Transaction, the Competing Proposal or any similar transaction, without the prior written consent of Nearmap.

Fiduciary out

11.7 Clauses 11.3, 11.4 and 11.14, do not apply to the extent that they prohibit or restrict Nearmap or any of its Authorised Persons from taking or refusing to take any action with respect to a bona fide written Competing Proposal (in relation to which there has been no material contravention of this clause 11) provided that the Nearmap Board has determined in good faith after:

- (a) consultation with Nearmap's financial and external legal advisers, that the Competing Proposal, approach, inquiry, proposal or request for information (as the case may be) is or may be reasonably be expected to lead to a Superior Proposal; and
- (b) receiving advice from Nearmap's external legal advisers specialising in the area of corporate law, that failing to take the action or refusing to take the action (as the case may be) would constitute, or would be reasonably likely to constitute, a breach of any of the fiduciary or statutory duties of any Nearmap Director,

and for the avoidance of doubt, the evaluation of a Competing Proposal for the purposes of this clause 11.7 is not a breach of this clause 11.

Equal information

11.8 During the Exclusivity Period Nearmap must promptly provide the Bidder with:

- (a) in the case of written materials, a copy of; or
- (b) any other case, a written statement of,

any material non-public information relating to Nearmap, its Related Bodies Corporate, or any of their businesses and operations made available or received by any third party in connection with such third party formulating, developing or finalising, or assisting in the formulation, development or finalisation of, a Competing Proposal and which has not previously been provided to the Bidder.

11.9 Where Nearmap is permitted pursuant to clause 11.7 to provide or make available any non-public information to any third party in connection with such third party formulating, developing or finalising, or assisting in the formulation, development or finalisation of, a Competing Proposal and which has not previously been provided to the Bidder, Nearmap will only make such information available for a period of four weeks.

Matching right

11.10 If during the Exclusivity Period any Competing Proposal is made, announced or received, Nearmap must:

- (a) not, and must procure that each of its Subsidiaries does not, enter into any agreement, arrangement or understanding to give effect to, consent to, or accept the Competing Proposal; and
- (b) use its best endeavours to procure each Nearmap Director not to withdraw, adversely change or modify his or her Recommendation or Voting Intention (as set out in

clause 6) in response to a Competing Proposal, or publicly recommend, support or endorse a Competing Proposal,

unless:

- (c) the Nearmap Board acting in good faith and in order to satisfy what it considers to be their statutory or fiduciary duties determines in accordance with clause 11.7 that the actual, proposed or potential Competing Proposal would be or would be reasonably likely to be an actual, proposed or potential Superior Proposal;
- (d) Nearmap has notified the Bidder of the material terms and conditions of the Competing Proposal in accordance with clause 11.6, including the price and identity of any person(s) making the actual, proposed or potential Competing Proposal (in each case, to the extent known); and
- (e) either:
 - (i) the Bidder has not announced or provided to Nearmap a revised proposal in writing to Nearmap (**Updated Bidder Proposal**) on or before the date which falls five Business Days after the notification given by Nearmap under clause 11.10(d) (**Cut off Date**); or
 - (ii) the Bidder has announced or provided to Nearmap an Updated Bidder Proposal on or before the Cut Off Date and the Nearmap Board has determined in accordance with clause 11.11(a), in good faith, that the Updated Bidder Proposal would not provide an outcome for Nearmap Shareholders that is equally as favourable to, or more favourable to, Nearmap Shareholders as a whole than the relevant Competing Proposal.

11.11 If Nearmap gives notice to the Bidder under clause 11.10(d), the Bidder may on or before the Cut off Date, provide the Updated Bidder Proposal to Nearmap and if it does so then:

- (a) the Nearmap Board must within five business days review the Updated Bidder Proposal in good faith to determine whether, acting in good faith and having consulted their external legal and financial advisors, the Updated Bidder Proposal would provide an outcome for Nearmap Shareholders that is equally as favourable to, or more favourable to, Nearmap Shareholders as a whole than the relevant Competing Proposal (having regard to matters including, but not limited to, consideration, conditionality, funding, certainty, timing and other matters affecting the probability of the Competing Proposal being completed compared to the Updated Bidder Proposal); and
- (b) if the Nearmap Board determines that the Updated Bidder Proposal would provide an outcome for Nearmap Shareholders that is equally as favourable to, or more favourable to, Nearmap Shareholders as a whole than the relevant Competing Proposal (having regard to matters including, but not limited to, consideration, conditionality, funding, certainty, timing and other matters affecting the probability of the Competing Proposal being completed compared to the Updated Bidder Proposal), then the Bidder and Nearmap must use their respective best endeavours to agree and enter into such documentation as is reasonably necessary to reflect the Updated Bidder Proposal, as soon as reasonably practicable.

Variations to a Competing Proposal

11.12 For the purposes of clauses 11.5 and 11.6, 11.10 and 11.11, any material modification to a Competing Proposal shall be taken to make that proposal a new Competing Proposal in respect of which Nearmap must comply with its obligations under that clause.

Normal provision of information

- 11.13 Nothing in this clause 11 prevents Nearmap or its Authorised Persons from:
- (a) providing information required to be provided by any law, any court of competent jurisdiction, any Government Agency or the Listing Rules, including in order to comply with continuous disclosure obligations; or
 - (b) making presentations to, and responding to enquiries from, Nearmap Shareholders, brokers, portfolio investors and equity market analysts in relation to the Transaction or the business of the Nearmap Group, in the ordinary course.

Provision of Commercially Sensitive Information

- 11.14 During the Exclusivity Period, Nearmap must not, and must procure that its Authorised Persons do not, directly or indirectly, disclose or otherwise provide or make available any Commercially Sensitive Information of the Nearmap Group to a third party (other than the Bidder and the Bidder Parties) in connection with, or with a view to obtaining, a Competing Proposal, unless:
- (a) providing access to such information is permitted by clause 11.7; and
 - (b) in the event that the relevant third party is a Specified Party, subject to clause 11.7:
 - (i) no Commercially Sensitive Information of the Nearmap Group is provided to such third party until after the matching right process set out in clause 11.10 and 11.11 has been followed and completed in respect of any Competing Proposal of the relevant third party (including in respect of each new successive material variation or amendment under clause 11.12) and clause 11.10(e) applies; and
 - (ii) any Commercially Sensitive Information that is shared is done so in accordance with appropriate rules, protocols and guidelines under applicable laws to preserve the commercially sensitive nature of such information.

12 Nearmap Break Fee

Background to Nearmap Break Fee

- 12.1 Nearmap and the Bidder each acknowledge that, if they enter into this deed and the Scheme is subsequently not implemented, the Bidder will incur significant costs, including those set out in clause 12.8.
- 12.2 In the circumstances referred to in clause 12.1, Nearmap has agreed that provision be made for the payment outlined in clause 12.4, without which the Bidder would not have entered into this deed or otherwise agreed to implement the Scheme.
- 12.3 Nearmap and the Nearmap Board believe, having taken advice from its legal and financial advisors, that the implementation of the Scheme will provide benefits to it and Nearmap Shareholders and that it is appropriate for Nearmap to agree to the payment referred to in clause 12.4 in order to secure the Bidder's participation in the Transaction.

Nearmap Break Fee

- 12.4 Nearmap must pay the Nearmap Break Fee to the Bidder if, during the Exclusivity Period:
- (a) any Nearmap Director:

- (i) fails to make, or makes and then withdraws or adversely revises or qualifies their Recommendation; or
 - (ii) publicly recommends, supports or endorses a Competing Proposal or publicly states they no longer recommend, support or endorse the Transaction,
- unless:
- (iii) the Independent Expert concludes in the Independent Expert's Report (or any update of, revision or amendment or addendum to, that report) that the Scheme is not in the best interests of Nearmap Shareholders (except where that conclusion is due to the existence of a Competing Proposal);
 - (iv) the Nearmap Director is permitted to do so under clause 6.3(c); or
 - (v) Nearmap is entitled to terminate this deed pursuant to clause 14.1 or clause 14.2(b) and has given the appropriate termination notice to the Bidder;
- (b) a Competing Proposal is announced prior to the End Date or if earlier, the date the deed is terminated under clause 14 and, within nine months after the date of such announcement, the party that proposed the Competing Proposal:
- (i) completes in all material respects a transaction of the kind referred to in paragraphs (b),(c) or (d) of the definition of Competing Proposal; or
 - (ii) acquires a Relevant Interest in more than 50% of the Nearmap Shares under a transaction that is or has become wholly unconditional; and
- (c) the Bidder has validly terminated this deed under clauses 14.1(a) or 14.3(c).

12.5 The parties agree that no Nearmap Break Fee will be payable in any circumstances solely as the result of a Condition not being satisfied, provided that Nearmap has complied with its obligations under clauses 3.2 and 3.3.

Demand for Payment of Nearmap Break Fee

12.6 Nearmap must pay the Nearmap Break Fee into an account nominated by the Bidder, without set-off or withholding, within 20 Business Days after receiving a demand for payment from the Bidder in accordance with the requirements of clause 12.7.

12.7 A demand by the Bidder for payment of the Nearmap Break Fee under clause 12.6 must:

- (a) be in writing;
- (b) only be made after the occurrence of the event in clause 12.4, giving rise to the right to payment;
- (c) state the circumstances which give rise to the demand; and
- (d) nominate an account into which Nearmap is to pay the Nearmap Break Fee.

Basis of Nearmap Break Fee

12.8 The Nearmap Break Fee has been calculated to reimburse the Bidder for costs, including the following:

- For personal use only
- (a) fees for legal, financial and other professional advice in planning and implementing the Transaction (excluding success fees);
 - (b) reasonable opportunity costs incurred in engaging in the Transaction or in not engaging in other alternative transactions or strategic initiatives;
 - (c) costs of management and directors' time in planning and implementing the Transaction;
 - (d) out of pocket expenses incurred directly or by employees, advisors and agents in planning and implementing the Transaction; and
 - (e) any damage to reputation associated with a failed transaction,

and the Bidder and Nearmap agree that:

- (f) the costs actually incurred by the Bidder will be of such a nature that they cannot all be accurately ascertained;
- (g) the Nearmap Break Fee is a genuine and reasonable pre-estimate of those costs; and
- (h) both parties have received advice from their respective legal advisors on the operation of this clause 12.

No payment if Scheme becomes Effective

- 12.9 No Nearmap Break Fee is payable if the Scheme becomes Effective. To the extent that any amount has already been paid under this clause 12 and the Scheme does become Effective, such amount must be immediately refunded to Nearmap.

Nearmap Break Fee payable once

- 12.10 The Nearmap Break Fee is payable by Nearmap to the Bidder only once and where the Nearmap Break Fee becomes payable to the Bidder under clause 12.4 and is actually paid to the Bidder, the Bidder cannot make any claim against Nearmap for any further payment of the Nearmap Break Fee.

Other Claims by Bidder

- 12.11 Where an amount becomes payable to the Bidder under clause 12.4 and is actually paid to the Bidder (or is payable, but no demand is made under clauses 12.6 to 12.7), the Bidder may not make any Claim (other than a Claim under this clause 12) against Nearmap which relates to the event that gave rise to the right to make a demand under clauses 12.6 to 12.7.
- 12.12 Notwithstanding any other provision of this deed, other than in the case of fraud or wilful misconduct by a Nearmap Party:
- (a) the maximum aggregate liability of Nearmap to the Bidder under or in connection with this deed, the Transaction or the Scheme, including in respect of any breach of this deed, is the amount of the Nearmap Break Fee;
 - (b) payment by Nearmap to the Bidder of the Nearmap Break Fee in accordance with this clause 12 represents the sole and absolute liability of Nearmap to the Bidder under or in connection with this deed, the Transaction and the Scheme and no further damages, fees, expenses or reimbursements of any kind will be payable by Nearmap to the Bidder in connection with this deed, the Transaction and the Scheme; and

- (c) the amount of the Nearmap Break Fee payable to the Bidder under this clause 12 will be reduced by the amount of any loss or damage recovered by the Bidder in relation to a breach of any other clause of this deed.

Compliance with law

12.13 If it is finally determined following the exhaustion of all reasonable avenues of appeal to the Takeovers Panel or a court (or the Bidder and Nearmap agree in writing not to appeal the decision) that all or any part of the Nearmap Break Fee required to be paid under clause 12.4 (**Break Fee Impugned Amount**):

- (a) is unenforceable or unlawful;
- (b) involves a breach of directors' duties; or
- (c) constitutes unacceptable circumstances or breaches an order of the Takeovers Panel,

then:

- (d) the requirement to pay the Nearmap Break Fee does not apply to the extent of the Break Fee Impugned Amount; and
- (e) if the Bidder has received the Break Fee Impugned Amount, it must refund it to Nearmap within five Business Days of the final determination being made.

13 Bidder Break Fee

Background to Bidder Break Fee

- 13.1 Nearmap and the Bidder each acknowledge that, if they enter into this deed and the Scheme is subsequently not implemented, Nearmap will incur significant costs, including those set out in clause 13.8.
- 13.2 In the circumstances referred to in clause 13.1, the Bidder has agreed that provision be made for the payment outlined in clause 13.4, without which Nearmap would not have entered into this deed or otherwise agreed to implement the Scheme.
- 13.3 The Bidder believes, having taken advice from its legal and financial advisors, that the implementation of the Scheme will provide benefits to it and that it is appropriate for the Bidder to agree to the payment referred to in clause 13.4 in order to secure Nearmap's participation in the Transaction.

Bidder Break Fee

- 13.4 The Bidder must pay the Bidder Break Fee to Nearmap if:
- (a) Nearmap has terminated this deed pursuant to clause 14.1(a) or 14.2(b); or
 - (b) the Scheme becomes Effective but the Bidder does not pay the Scheme Consideration in accordance with its obligations under this deed and the Deed Poll.
- 13.5 The parties agree that no Bidder Break Fee will be payable in any circumstances solely as the result of a Condition not being satisfied, provided that the Bidder has complied with its obligations under clauses 3.2 and 3.3.

Demand for Payment of Bidder Break Fee

- 13.6 The Bidder must pay the Bidder Break Fee into an account nominated by Nearmap, without set-off or withholding, within 20 Business Days after receiving a demand for payment from Nearmap in accordance with the requirements of clause 13.7.
- 13.7 A demand by Nearmap for payment of the Bidder Break Fee under clause 13.6 must:
- (a) be in writing;
 - (b) only be made after the occurrence of the event in clause 13.4, giving rise to the right to payment;
 - (c) state the circumstances which give rise to the demand; and
 - (d) nominate an account into which the Bidder is to pay the Bidder Break Fee.

Basis of Bidder Break Fee

- 13.8 The Bidder Break Fee has been calculated to reimburse Nearmap for costs, including the following:
- (a) fees for legal, financial and other professional advice in planning and implementing the Transaction (excluding success fees);
 - (b) reasonable opportunity costs incurred in engaging in the Transaction or in not engaging in other alternative transactions or strategic initiatives;
 - (c) costs of management and directors' time in planning and implementing the Transaction;
 - (d) out of pocket expenses incurred directly or by employees, advisors and agents in planning and implementing the Transaction; and
 - (e) any damage to reputation associated with a failed transaction,
- and the Bidder and Nearmap agree that:
- (f) the costs actually incurred by Nearmap will be of such a nature that they cannot all be accurately ascertained;
 - (g) the Bidder Break Fee is a genuine and reasonable pre-estimate of those costs; and
 - (h) both parties have received advice from their respective legal advisors on the operation of this clause 13.

Bidder Break Fee payable once

- 13.9 The Bidder Break Fee is payable by the Bidder to Nearmap only once and where the Bidder Break Fee becomes payable to Nearmap under clause 13.4 and is actually paid to Nearmap, Nearmap cannot make any claim against the Bidder for any further payment of the Bidder Break Fee.

Other Claims by Nearmap

- 13.10 Subject to clause 13.13, where an amount becomes payable to Nearmap under clause 13.4 and is actually paid to Nearmap (or is payable, but no demand is made under clauses 13.6 to 13.7), Nearmap may not make any Claim (other than a Claim under this clause 13) against

the Bidder which relates to the event that gave rise to the right to make a demand under clauses 13.6 to 13.7.

13.11 Subject to clause 13.13, other than in the case of fraud or wilful misconduct by a Bidder Party:

- (a) the maximum aggregate liability of the Bidder to Nearmap under or in connection with this deed, the Transaction or the Scheme, including in respect of any breach of this deed, is the amount of the Bidder Break Fee;
- (b) payment by the Bidder to Nearmap of the Bidder Break Fee in accordance with this clause 13 represents the sole and absolute liability of the Bidder to Nearmap under or in connection with this deed, the Transaction and the Scheme and no further damages, fees, expenses or reimbursements of any kind will be payable by the Bidder to Nearmap in connection with this deed, the Transaction and the Scheme; and
- (c) the amount of the Bidder Break Fee payable to Nearmap under this clause 13 will be reduced by the amount of any loss or damage recovered by Nearmap in relation to a breach of any other clause of this deed.

Compliance with law

13.12 If it is finally determined following the exhaustion of all reasonable avenues of appeal to the Takeovers Panel or a court (or the Bidder and Nearmap agree in writing not to appeal the decision) that all or any part of the Bidder Break Fee required to be paid under clause 13.4 (**Break Fee Impugned Amount**):

- (a) is unenforceable or unlawful;
- (b) involves a breach of directors' duties; or
- (c) constitutes unacceptable circumstances or breaches an order of the Takeovers Panel,

then:

- (d) the requirement to pay the Bidder Break Fee does not apply to the extent of the Break Fee Impugned Amount; and
- (e) if Nearmap has received the Break Fee Impugned Amount, it must refund it to the Bidder within five Business Days of the final determination being made.

Claims under the Deed Poll

13.13 Nothing in this clause 13 or otherwise in this deed will limit the Bidder's liability under or in connection with a breach of clause 4.2 of this deed or the Deed Poll.

14 Termination

Termination by notice

14.1 Nearmap or the Bidder may terminate this deed by written notice to the other party at any time before 8:00am on the Second Court Date:

- (a) if the other party has materially breached this deed (other than in respect of a breach of either a Nearmap Warranty or a Bidder Warranty, which are dealt with in clauses 14.2(b) and 14.3(c) respectively) and the party in breach has failed to remedy

the breach within ten Business Days (or such shorter period ending at 5:00pm on the Business Day before the Second Court Date) after receipt by it of a notice in writing from the terminating party setting out details of the relevant circumstances giving rise to the breach and requesting the party in breach of this deed to remedy the breach;

- (b) if the Court or another Government Agency (including any other court) has taken any action permanently restraining or otherwise prohibiting or preventing the Transaction, or has refused to do anything necessary to permit the Transaction, and the action or refusal has become final and cannot be appealed or reviewed or the party, acting reasonably, believes that there is no realistic prospect of a successful appeal or review succeeding by the End Date (provided that the party purporting to terminate this deed has complied with its obligations in clause 3.12 to the extent applicable);
- (c) in the circumstances set out in, and in accordance with, clauses 3.12 to 3.14; or
- (d) if the Effective Date for the Scheme has not occurred, or will not occur, on or before the End Date.

Termination by Nearmap

14.2 Nearmap may, by notice in writing to the Bidder, terminate this deed at any time prior to 8:00am on the Second Court Date if at any time before then:

- (a) a majority of the Nearmap Directors change, withdraw or modify their Recommendation as permitted under clause 6.3(a) (provided that the Nearmap Break Fee has been paid to the Bidder in accordance with clause 12 to the extent required) or 6.3(b); or
- (b) the Bidder breaches a Bidder Warranty and the breach is material in the context of the Transaction taken as a whole, and the Bidder has failed to remedy the breach within ten Business Days (or such shorter period ending at 5:00pm on the Business Day before the Second Court Date) after receipt by it of a notice in writing from Nearmap setting out details of the relevant circumstances giving rise to the breach and requesting the Bidder to remedy the breach.

Termination by Bidder

14.3 The Bidder may, by notice in writing to Nearmap, terminate this deed at any time prior to 8:00am on the Second Court Date if, at any time before then:

- (a) a Nearmap Director:
 - (i) publicly withdraws or adversely revises his or her Recommendation or Voting Intention, other than where the Nearmap Director withdraws their Recommendation in accordance with clause 6.3(c); or
 - (ii) publicly recommends, endorses or supports any Competing Proposal;
- (b) a member of the Nearmap Group enters into a definitive agreement to give effect to or implement a Competing Proposal or a Competing Proposal is announced or made and is publicly recommended, supported or endorsed by a Nearmap Director. For the avoidance of doubt, any such definitive agreement does not include a Nearmap Group member entering into a confidentiality agreement or like agreement for the sole or dominant purpose of providing Nearmap non-public information in relation to an actual, proposed or potential Competing Proposal;
- (c) Nearmap breaches a Nearmap Warranty, and the breach is material in the context of the Transaction taken as a whole, and Nearmap has failed to remedy the breach

within ten Business Days (or such shorter period ending at 5:00pm on the Business Day before the Second Court Date) after receipt by it of a notice in writing from the Bidder setting out details of the relevant circumstances giving rise to the breach and requesting Nearmap to remedy the breach.

Effect of termination

- 14.4 In the event of termination of this deed in accordance with clauses 3.13 or 14.1 to 14.3 (inclusive), this deed will cease to have force and effect without any liability or obligation on the part of any party, except that:
- (a) this deed will become void and have no effect, except that the provisions of this clause 14.4 and clauses 1, 12, 13, 15, 16, 17 and 18 survive termination;
 - (b) each party will retain the rights it has or may have against the other party in respect of any past breach of this deed; and
 - (c) in all other respects, all future obligations of the parties under this deed will immediately terminate and be of no further force and effect including any further obligations in respect of the Scheme.

No other termination

- 14.5 Neither party may terminate or rescind this deed, except as permitted under clauses 3.12 to 3.14, or this clause 14, or if the parties agree in writing to terminate this deed.

15 Releases

Nearmap and Nearmap directors and officers

- 15.1 The Bidder releases its rights, and agrees with Nearmap that neither it nor any of its Related Bodies Corporate as at the date of this deed and from time to time will make a claim, against any Nearmap Party (other than Nearmap and its Related Bodies Corporate) as at the date of this deed and from time to time in connection with any matter arising in connection with this deed or the Transaction, including:

- (a) any breach of any representations and warranties of Nearmap or any other member of the Nearmap Group in this deed;
- (b) the implementation of the Scheme;
- (c) any disclosures containing any statement which is false or misleading whether in content or by omission; or
- (d) any failure to provide information in connection with the Transaction,

whether current or future, known or unknown, arising at common law, in equity, under statute or otherwise, except where the Nearmap Party has engaged in wilful misconduct or fraud. For the avoidance of doubt, nothing in this clause 15.1 limits the Bidder's rights to terminate this deed under clause 14.1(a) or 14.3(c).

- 15.2 Nearmap receives and holds the benefit of this clause 15 to the extent it relates to each Nearmap Party as trustee for each of them.

Bidder and Bidder directors and officers

- 15.3 Nearmap releases its rights, and agrees with the Bidder that it will not make a claim, against any Bidder Party (other than the Bidder and its Related Bodies Corporate) as at the date of this deed and from time to time in connection with any matter arising in connection with this deed or the Transaction, including:
- (a) any breach of any representations and warranties of the Bidder or any other member of the Bidder Group in this deed;
 - (b) the implementation of the Scheme;
 - (c) any disclosure containing any statement which is false or misleading whether in content or by omission; or
 - (d) any failure to provide information in connection with the Transaction,
- whether current or future, known or unknown, arising at common law, in equity, under statute or otherwise, except where the Bidder Party has engaged in wilful misconduct or fraud. For the avoidance of doubt, nothing in this clause 15.3 limits Nearmap's rights to terminate this deed under clause 14.1(a) or 14.2(b).
- 15.4 The Bidder receives and holds the benefit of this clause 15 to the extent it relates to each Bidder Party as trustee for each of them.

Deeds of indemnity

- 15.5 Subject to the Scheme becoming Effective, the Bidder undertakes in favour of Nearmap and each other person who is a Nearmap Party that it will:
- (a) for seven years from the Implementation Date, ensure that the constitutions of Nearmap and each other member of the Nearmap Group continue to contain such rules as are contained in those constitutions at the date of this deed that provide for each company to indemnify each of its directors and officers against any liability 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 Nearmap Group; and
 - (b) procure that Nearmap and each other member of the Nearmap Group complies with any deeds of indemnity, access and insurance made by them in favour of their respective directors and officers from time to time and, without limiting the foregoing, ensure that directors' and officers' runoff insurance cover entered into in accordance with clause 15.8(b) for such directors and officers is maintained for a period of seven years from the retirement date of each director and officer, and not take any action which would prejudice or adversely affect any directors' and officers' runoff insurance cover taken out in accordance with clause 15.8(b).
- 15.6 The undertakings contained in clause 15.5 are subject to any Corporations Act restriction, or any restriction in the law of a jurisdiction in which an entity is incorporated, and will be read down accordingly.
- 15.7 Nearmap receives and holds for the benefit of clause 15.5, to the extent it relates to the other Nearmap Parties, as trustee for them.

Directors' and officers' insurance

- 15.8 The Bidder acknowledges that Nearmap will in respect of Nearmap and all other members of the Nearmap Group:

- (a) prior to the Effective Date, if required by Nearmap, arrange for the cover currently provided under the directors' and officers' insurance policy for Nearmap and all other members of the Nearmap Group (**Policy**) to be extended for a further 12 months; and
- (b) by no later than the Implementation Date arrange for the cover provided under the Policy to be amended so as to provide run off cover in accordance with the terms of the Policy for seven years from the end of the term of the Policy, and pay all premiums required so as to ensure that insurance cover is provided under the Policy on those terms until that date.

Obligations in relation to directors' and officers' insurance

15.9 From the Implementation Date, Nearmap must not:

- (a) vary or cancel the Policy; or
- (b) unless required under the Policy, commit any act or omission that may prejudice any claim by a director or officer of Nearmap under the Policy,

as amended to provide for run off cover in accordance with clause 15.8(b).

16 Confidentiality

16.1 Nearmap and the Bidder acknowledge and agree that Nearmap and Thoma Bravo, L.P. continue to be bound by the Confidentiality Agreement after the date of this deed on the terms of that Confidentiality Agreement, which the Bidder agrees to be bound by as if named in it in place of Thoma Bravo, L.P., provided that this deed prevails to the extent of any inconsistency. For the avoidance of doubt, the rights and obligations of the parties under the Confidentiality Agreement survive termination of this deed.

17 Notices

Service of notices

17.1 A notice, consent or other communication under this deed (**Notice**) is only effective if:

- (a) it is in writing, signed by or on behalf of the party giving it; and
- (b) it is directed to the recipient's address for notices as follows:

Nearmap	
Address:	Level 4, 100 Barangaroo Avenue, Barangaroo, NSW 2000
Email:	rob.newman@nearmap.com
Attn:	Robert Newman
<i>With a copy to:</i>	David Ryan
Address:	DLA Piper Australia, Level 22, No. 1 Martin Place Sydney NSW 2000
Email:	david.ryan@dlapiper.com

Attn:	David Ryan
Bidder	
Address:	150 N. Riverside Plaza, Suite 2800, Chicago, IL 60606
Email:	phernandez@thomabravo.com
Attn:	Peter Hernandez
<i>With a copy to:</i>	Peter Cook and David Johanson
Address:	Gilbert + Tobin Level 35, Tower Two, International Towers Sydney, 200 Barangaroo Avenue, Barangaroo NSW 2000 and Goodwin Procter LLP, 100 Northern Avenue Boston, MA 02210
Email:	pcook@gtlaw.com.au and DJohanson@goodwinlaw.com
Attn:	Peter Cook and David Johanson

17.2 If a party changes address and fails to notify the other party of this change and the new address, delivery of Notices to a new address, or otherwise brought to the attention of the addressee, are deemed compliance with the notice obligations under this clause 17.1 and 17.2.

Effective on receipt

17.3 A Notice given in accordance with clause 17.1 and 17.2 takes effect when received (or at a later time specified in it), and is taken to be received:

- (a) if hand delivered, on delivery;
- (b) if sent by prepaid post, the third day after the date of posting (or ninth day after posting if sent from one country to another); or
- (c) if sent by email, whichever of the following happens first:
 - (i) when the sender receives an automated message confirming delivery; or
 - (ii) four hours after the time sent (as recorded on the device from which the email was sent), provided that the sender does not receive an automated message that the email has not been delivered,

but if the delivery or transmission under clause 17.3(a) or 17.3(b) is not on a Business Day or after 5:00pm on a Business Day, the Notice is taken to be received at 9:00am on the Business Day after that delivery, receipt or transmission.

18 General

Amendments

- 18.1 This deed may only be amended in writing and where such amendment is signed by all the parties.

Assignments

- 18.2 None of the rights or obligations of a party under this deed may be assigned or transferred without the prior written consent of the other party.

No partnership or joint venture

- 18.3 Subject to the terms of this deed, the business of each party will continue to operate independently from the other until the Implementation Date. The parties agree that nothing in this document constitutes the relationship of a partnership or a joint venture between the parties.

Consents and approvals

- 18.4 Except as otherwise expressly provided in this deed a party may give or withhold its consent to or approval of any matter referred to in this deed in its absolute discretion and may give such consent or approval conditionally or unconditionally. A party that gives its consent to or approval of any matter referred to in this deed is not taken to have made any warranty or representation as to any matter or circumstance connected with the subject matter of that consent or approval.

Costs

- 18.5 Except as otherwise expressly provided in this deed, each party must pay the costs and expenses incurred by it in connection with entering into and performing its obligations under this deed, the Scheme and the Deed Poll. Nearmap will provide a reasonable estimate of its fees and expenses in connection with the Transaction as reasonably requested by the Bidder before the Effective Date.

No withholdings

- 18.6 Subject to clause 18.7, the Bidder must make all payments that become due under this deed (including the Scheme Consideration) free and clear and without deduction of any withholdings (including taxes, duties, levies, imposts, deductions and charges of Australia or any other jurisdiction).
- 18.7 If the Bidder is required by law to deduct or withhold an amount from any payment due under this deed, then in addition to any payments under this deed, the Bidder must pay to Nearmap and/or each Scheme Shareholder an additional amount that ensures that, after the deduction or withholding is made, the net amount actually received equals the amount Nearmap and/or Scheme Shareholder would have otherwise been entitled to, if the deduction or withholding was not required.

Duty

- 18.8 The Bidder is liable for and must pay all stamp duty, registration fees and similar taxes (including any related fines, interest and penalties) payable on or relating to this deed, the Scheme and any transfer of the Scheme Shares.

GST

- 18.9 For the purposes of clauses 18.10 to 18.15:
- (a) **GST Act** means the A New Tax System (Goods and Services Tax) Act 1999 (Cth);
 - (b) a term which has a defined meaning in the GST Act has the same meaning when used in this clause, unless the contrary intention appears; and
 - (c) each periodic or progressive component of a supply to which section 156-5(1) of the GST Act applies will be treated as if it were a separate supply.
- 18.10 Unless this deed expressly states otherwise, all consideration to be provided under this deed is exclusive of GST.
- 18.11 If GST is payable, or notionally payable, on a supply in connection with this deed, the party providing the consideration for the supply agrees to pay to the supplier an additional amount equal to the amount of GST payable on that supply (**GST Amount**).
- 18.12 Subject to the prior receipt of a tax invoice, the GST Amount is payable at the same time as the GST-exclusive consideration for the supply, or the first part of the GST-exclusive consideration for the supply (as the case may be), is payable or is to be provided.
- 18.13 This clause does not apply to the extent that the consideration for the supply is expressly stated to include GST or the supply is subject to a reverse-charge.
- 18.14 If an adjustment event arises for a supply made in connection with this deed, the GST Amount must be recalculated to reflect that adjustment. The supplier or the recipient (as the case may be) agrees to make any payments necessary to reflect the adjustment and the supplier agrees to issue an adjustment note.
- 18.15 Any payment, indemnity, reimbursement or similar obligation that is required to be made in connection with this deed which is calculated by reference to an amount paid by another party must be reduced by the amount of any input tax credits which the other party (or the representative member of any GST group of which the other party is a member) is entitled. If the reduced payment is consideration for a taxable supply, clause 18.11 will apply to the reduced payment.

No third party beneficiary

- 18.16 This deed shall be binding on and inure solely to the benefit of each party to it and each of their respective permitted successors and assigns, and nothing in this deed is intended to or shall confer on any other person other than the Nearmap Parties and the Bidder Parties, in each case to the extent set forth in clause 15, any third party beneficiary rights.

Entire agreement

- 18.17 This deed contains the entire agreement between the parties relating to the Transaction and supersedes all previous agreements, whether oral or in writing, between the parties relating to the Transaction, other than, except as expressly provided otherwise in this deed and the Confidentiality Agreement.
- 18.18 Without limiting clause 18.17, the parties agree that agreement between Nearmap and Thoma Bravo, L.P. set out in the non-binding indicative offer letter dated 15 August 2022 has been superseded by this agreement and terminates and is no longer of any force and effect as at the date of this deed.

Execution in counterparts

- 18.19 This deed may be executed in any number of counterparts. All counterparts taken together will be deemed to constitute one document. PDF and electronic signatures are taken to be valid and binding to the same extent as physical signatures.
- 18.20 A party may sign electronically a soft copy of this deed through an electronic signature or digital platform that indicates on the instrument that a digital signature was applied (including DocuSign and AdobeSign) and bind itself accordingly. This will satisfy any statutory or other requirements for this deed to be in writing and signed by that party. The parties intend that:
- (a) any soft copy so signed will constitute an executed original counterpart, and any print out of the copy with the relevant signatures appearing will also constitute an executed original counterpart; and
 - (b) each signatory confirms that their signature appearing in this deed, including any such print-out (irrespective of which party printed it), is their personal signature authenticating it.

Exercise and waiver of rights

- 18.21 The rights of each party under this deed:
- (a) may be exercised as often as necessary;
 - (b) except as otherwise expressly provided by this deed, are cumulative and not exclusive of rights and remedies provided by law; and
 - (c) may be waived only in writing and specifically,
- and delay in exercising or non-exercise of any such right is not a waiver of that right.

Further assurance

- 18.22 Each party undertakes, at the request, cost and expense of the other party, to sign all documents and to do all other acts, which may be necessary to give full effect to this deed.

No merger

- 18.23 Each of the obligations, warranties any undertakings set out in this deed (excluding any obligation which is fully performed at the Implementation Date) must continue in force after the Implementation Date.

No reliance

- 18.24 Each party acknowledges that in agreeing to enter into this deed it has not relied on any express or implied representation, warranty, collateral contract or other assurance made by or on behalf of the other party before the entering into of this deed. To the maximum extent permitted by law, each party waives all rights and remedies which, but for this clause 18.24 might otherwise be available to it in respect of any such representation, warranty, collateral contract or other assurance including all rights and remedies under Part 7.10 of the Corporations Act, Part 2 Division 2 of the *Australian Securities and Investments Act 2001*(Cth), section 18, Schedule 2 (Australian Consumer Law) of the *Competition and Consumer Act 2010* (Cth) or any corresponding or equivalent provision of any legislation having effect in any relevant jurisdiction.

Severability

- 18.25 The provisions contained in each clause of this deed are enforceable independently of each other clause of this deed and the validity and enforceability of any clause of this deed will not be affected by the invalidity or unenforceability of any other clause.

Governing law and jurisdiction

- 18.26 This deed is governed by the laws of New South Wales, Australia. Each party submits to the non-exclusive jurisdiction of courts exercising jurisdiction in New South Wales, Australia and courts of appeal from them in connection with matters concerning this deed. 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.

Schedule 1 Indicative Timetable

Event	Date
Lodge the Scheme Booklet with ASIC for review and comment	Late September 2022
First Court Date	Early October 2022
Scheme Booklet registered with ASIC	Early October 2022
Despatch Scheme Booklet to Nearmap Shareholders	Mid October 2022
Scheme Meeting	Mid November 2022
Second Court Date	Mid November 2022
Effective Date	Late November 2022
Implementation Date	Late November 2022
Date of delisting of Nearmap	Late November 2022

Schedule 2 Scheme of Arrangement

For personal use only

For personal use only

Scheme of Arrangement

Nearmap Ltd

Scheme Shareholders

Dated

2022



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Parties

1. **Nearmap Ltd** ACN 083 702 907 of Level 4, 100 Barangaroo Avenue, Barangaroo NSW 2000 (**Nearmap**)
2. Each Scheme Shareholder

Agreed terms

1 Defined terms and interpretation

Defined terms

- 1.1 In this Scheme the following definitions apply:

ASIC means the Australian Securities and Investments Commission.

ASX means ASX Limited (ABN 98 008 624 691) or, if the context requires, the financial market operated by it.

Bidder means Atlas AU BidCo Pty Ltd (ACN 661 798 465).

Business Day means a day that is not a Saturday, Sunday or a public holiday or bank holiday in Sydney, New South Wales.

CHES means the Clearing House Electronic Subregister System operated by ASX Settlement Pty Limited and ASX Clear Pty Limited.

CHES Holding has the meaning given in the Settlement Rules.

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

Court means the Federal Court of Australia or any other court of competent jurisdiction under the Corporations Act as the parties may agree in writing.

Deed Poll means the deed poll in the form set out in Schedule 3 to the Scheme Implementation Deed under which the Bidder covenants to provide the Scheme Consideration to Scheme Shareholders under this Scheme.

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

Effective Date, with respect to the Scheme, means the date on which this Scheme becomes Effective.

End Date means the date that is 12 months after the date of this deed, or such other date agreed in writing by the parties.

Government Agency means any government or representative of a government or any governmental, non governmental, administrative, fiscal, regulatory or judicial body,

department, commission, authority, tribunal, agency, competition authority or entity and includes any minister, ASIC, ASX, the Takeovers Panel and any regulatory organisation established under statute or any stock exchange.

Immediately Available Funds means a bank cheque or other form of cleared funds acceptable to Nearmap (acting reasonably).

Implementation Date means, with respect to the Scheme, the fifth Business Day, or such other Business Day as Bidder and Nearmap agree, after the Scheme Record Date.

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

Nearmap Registry means Automic, or any replacement provider of share registry services to Nearmap.

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

Nearmap Share Register or **Nearmap Register** means the register of members of Nearmap maintained by or on behalf of Nearmap in accordance with s168(1) of the Corporations Act.

Nearmap Shareholder means each person who is registered in the Nearmap Share Register as a holder of Nearmap Shares.

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

Scheme means this scheme of arrangement under Part 5.1 of the Corporations Act between Nearmap and the Scheme Shareholders, subject to any alterations or conditions made or required by the Court under section 411(6) of the Corporations Act and agreed in writing by Nearmap and the Bidder.

Scheme Booklet means the scheme booklet to be prepared by Nearmap in respect of the Scheme in accordance with the terms of the Scheme Implementation Deed and to be despatched to Nearmap Shareholders.

Scheme Consideration means the consideration to be provided by the Bidder to each Scheme Shareholder for the transfer to the Bidder of each Scheme Share, being \$2.10 cash for each Scheme Share held by a Scheme Shareholder as at the Scheme Record Date.

Scheme Implementation Deed means the scheme implementation deed dated [insert] between the Bidder and Nearmap relating to (among other things) the implementation of this Scheme.

Scheme Record Date means the time and date for determining entitlements to receive the Scheme Consideration, being 7:00pm on the second Business Day after the Effective Date (or such other time and date as the parties agree in writing).

Scheme Share means a Nearmap Share on issue as at the Scheme Record Date.

Scheme Shareholder means a Nearmap Shareholder as at the Scheme Record Date.

Scheme Transfer means one or more proper instruments of transfer in respect of the Scheme Shares for the purposes of section 1071B of the Corporations Act, in favour of the Bidder as transferee, which may be or include a master transfer of all or part of the Scheme Shares.

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

the application is adjourned or subject to appeal for any reason, means the day on which the adjourned or appeal application is heard.

Settlement Rules means the ASX Settlement Operating Rules, being the official operating rules of the settlement facility provided by ASX Settlement Pty Ltd.

Trust Account means an Australian dollar denominated trust account operated by Nearmap as trustee for the Scheme Shareholders, details of which Nearmap must notify to the Bidder no later than five Business Days before the Implementation Date.

Unclaimed Money Act means the *Unclaimed Money Act 1995* (NSW).

Interpretation

1.2 In this Scheme, the following provisions apply unless the context otherwise require:

- (a) any reference, express or implied, to any legislation in any jurisdiction includes:
 - (i) that legislation as amended, extended or applied by or under any other legislation made before or after signature of this Scheme;
 - (ii) any legislation which that legislation re-enacts with or without modification; and
 - (iii) any subordinate legislation made before or after signature of this Scheme under that legislation, including (where applicable) that legislation as amended, extended or applied as described in clause 1.2(a)(i), or under any legislation which it re-enacts as described in clause 1.2(a)(ii);
- (b) references to persons or entities include natural persons, bodies corporate, partnerships, trusts and unincorporated associations of persons;
- (c) references to an individual or a natural person include his estate and personal representatives;
- (d) a reference to a clause, schedule or appendix is a reference to a clause, schedule or appendix of or to this Scheme (and the schedules and appendices form part of this Scheme);
- (e) references to a party to this Scheme include the successors or assigns (immediate or otherwise) of that party;
- (f) a reference to any instrument or document includes any variation or replacement of it;
- (g) unless otherwise indicated, a reference to any time is, a reference to that time in Sydney, Australia;
- (h) a reference to \$, A\$ or dollars is to Australian currency;
- (i) singular words include the plural and vice versa;
- (j) a word of any gender includes the corresponding words of any other gender;
- (k) if a word or phrase is defined, other grammatical forms of that word have a corresponding meaning;
- (l) 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 (including

particular examples introduced by "including", "for example", "such as" or similar expressions);

- (m) nothing is to be construed adversely to a party just because that party put forward this Scheme or the relevant part of this Scheme;
- (n) the headings do not affect interpretation;
- (o) this Scheme includes any schedule;
- (p) a term defined in or for the purposes of the Corporations Act, and which is not defined in clause 1.1, has the same meaning when used in this Scheme;
- (q) a term defined in or for the purposes of the GST Law, and which is not defined in clause 1.1, has the same meaning when used in this Scheme;
- (r) a reference to the Listing Rules includes any variation, consolidation or replacement of these rules and is taken to be subject to any waiver or exemption granted to the compliance of those rules by a party;
- (s) a period of time starting from a given day or the day of an act or event, is to be calculated exclusive of that day;
- (t) if a party must do something under this Scheme on or by a given day and it is done after 5.00pm on that day, it is taken to be done on the next day; and
- (u) if the day on which a party must do something under this Scheme is not a Business Day, the party must do it on the next Business Day.

2 Preliminary matters

2.1 Nearmap is an Australian public company limited by shares, and has been admitted to the official list of ASX. Nearmap Shares are quoted for trading on the ASX.

2.2 As at the date of the Scheme Implementation Deed, there were on issue:

- (a) 500,054,764 Nearmap Shares, which are quoted for trading on the ASX;
- (b) 13,802,216 options to subscribe for Nearmap Shares, which are not quoted for trading on any stock exchange; and
- (c) 1,757,804 restricted stock units issued by Nearmap, which are not quoted for trading on any stock exchange.

2.3 The Bidder is Atlas AU BidCo Pty Ltd (ACN 661 798 465).

2.4 If this Scheme becomes Effective, then subject to the terms of this Scheme, on the Implementation Date:

- (a) the Bidder must provide or procure the provision of the Scheme Consideration to Scheme Shareholders in accordance with this Scheme and the Deed Poll; and
- (b) all the Scheme Shares, and all the rights and entitlements attaching to them as at the Implementation Date, will be transferred to the Bidder and Nearmap will enter the name of the Bidder in the Nearmap Share Register in respect of all the Scheme Shares.

- 2.5 The Bidder and Nearmap have entered into the Scheme Implementation Deed in respect of (among other things) the implementation of this Scheme.
- 2.6 This Scheme attributes actions to Bidder but does not itself impose any obligations on Bidder to perform those actions. The Bidder, by executing and delivering the Deed Poll, has agreed to perform the actions attributed to it under this Scheme, including providing or procuring the provision of the Scheme Consideration to the Scheme Shareholders in accordance with the terms of this Scheme.

3 Conditions

Conditions precedent

- 3.1 This Scheme is conditional on and will have no force or effect unless and until the following conditions precedent are satisfied:
- (a) all the conditions in clause 3.1 of the Scheme Implementation Deed (other than the condition in clause 3.1(g) (Court Approval)) are satisfied or waived in accordance with the terms of the Scheme Implementation Deed;
 - (b) neither the Scheme Implementation Deed nor the Deed Poll is terminated in accordance with their terms before 8:00am on the Second Court Date;
 - (c) this Scheme is approved by the Court under section 411(4)(b) of the Corporations Act, including with any alterations made or required by the Court under section 411(6) of the Corporations Act and agreed to or consented to in writing by Nearmap and the Bidder (such agreement not to be unreasonably withheld);
 - (d) such other conditions made or required by the Court under section 411(6) of the Corporations Act in relation to this Scheme as are agreed to or consented to in writing Nearmap and the Bidder are satisfied or waived; and
 - (e) the orders of the Court made under section 411(4)(b) (and, if applicable, section 411(6)) of the Corporations Act approving this Scheme comes into effect pursuant to section 411(10) of the Corporations Act on or before the End Date.

Certificates

- 3.2 Each of Nearmap and the Bidder will provide a certificate to the Court on the Second Court Date (signed for and on behalf of Nearmap and the Bidder respectively), or such other evidence as the Court requests, confirming (in respect of matters within their respective knowledge) whether or not the conditions precedent in clauses 3.1(a) and 3.1(b) of this Scheme have been satisfied or waived.
- 3.3 The certificates given by Nearmap and the Bidder under clause 3.2 constitute conclusive evidence that such conditions precedent have been satisfied or waived.

Termination and End Date

- 3.4 Without limiting any rights under the Scheme Implementation Deed, if:
- (a) the Scheme Implementation Deed or the Deed Poll is terminated in accordance with its terms before the Scheme becomes Effective; or
 - (b) the Effective Date has not occurred on or before the End Date,

then the Scheme will lapse and each of the Bidder and Nearmap are released from any further obligation to take steps to implement this Scheme, and any liability with respect to this Scheme, unless the Bidder and Nearmap otherwise agree in writing (and, if required, as approved by the Court).

4 Implementation of this Scheme

Lodgement of Court orders with ASIC

- 4.1 For the purposes of section 411(10) of the Corporations Act, Nearmap must lodge with ASIC an office copy of the order made by the Court under section 411(4)(b) of the Corporations Act approving this Scheme as soon as possible following such approval and, in any event, by no later than 5:00pm on the Business Day following the day on which such office copy is received by Nearmap or such later date as Nearmap and Bidder agree in writing.

Transfer of Scheme Shares

- 4.2 Subject to the Scheme becoming Effective, on the Implementation Date:
- (a) subject to the Bidder providing or procuring the provision of the Scheme Consideration in accordance with this Scheme and the Deed Poll and confirming in writing to Nearmap that it has done so, all of the Scheme Shares, together with all rights and entitlements attaching to the Scheme Shares as at the Implementation Date, must be transferred to the Bidder without the need for any further act by any Scheme Shareholder (other than acts performed by Nearmap or its directors, officers and secretaries as attorney and agent for Scheme Shareholders under clause 8.7 of this Scheme or otherwise) by:
 - (i) Nearmap delivering to the Bidder a duly completed and executed Scheme Transfer, executed on behalf of the Scheme Shareholders by Nearmap (or any of its directors, officers or secretaries) as their attorney and agent; and
 - (ii) the Bidder duly executing the Scheme Transfer and delivering the executed and, if required, stamped Scheme Transfer to Nearmap for registration; and
 - (b) immediately following receipt of the duly executed Scheme Transfer in accordance with clause 4.2(a)(ii), Nearmap must enter, or procure the entry of, the name of the Bidder in the Nearmap Share Register in respect of all of the Scheme Shares transferred to the Bidder in accordance with this Scheme.

5 Scheme Consideration

Entitlement to Scheme Consideration

- 5.1 Subject to the terms of this Scheme, on the Implementation Date, in consideration for the transfer to the Bidder of the Scheme Shares, each Scheme Shareholder will be entitled to receive the Scheme Consideration in respect of each of their Scheme Shares in accordance with the terms of this Scheme.

Provision of Scheme Consideration

- 5.2 The obligation of the Bidder to provide the Scheme Consideration under this Scheme and the Deed Poll will be satisfied by the Bidder, by no later than the Business Day before the Implementation Date, depositing (or procuring the deposit), in Immediately Available Funds, an amount equal to the aggregate amount of the Scheme Consideration payable to all Scheme Shareholders into the Trust Account, such amount to be held by Nearmap on trust for the purpose of paying the Scheme Consideration to Scheme Shareholders who are

entitled to receive it pursuant to clause 5.12 (except that the amount of any interest on the amount deposited, less bank fees and other charges, will be credited to the Bidder's account).

5.3 On the Implementation Date, and subject to receipt of the funds from the Bidder in accordance with clause 5.2 and subject to clause 5.5, Nearmap must pay (or procure payment) from the Trust Account to each Scheme Shareholder an amount equal to the applicable amount of Scheme Consideration that the Scheme Shareholder is entitled based on the number of Scheme Shares held by that Scheme Shareholder as at the Record Date, for each Scheme Share transferred to the Bidder on the Implementation Date by that Scheme Shareholder.

5.4 Nearmap's obligation under clause 5.3 will be satisfied by Nearmap (in its absolute discretion, and despite any election referred to in clause 5.4(a) or authority referred to in clause 5.4(b) made or given by the Scheme Shareholder):

- (a) where a Scheme Shareholder has, before the Scheme Record Date, made an election in accordance with the requirements of the Nearmap Registry to receive payments from Nearmap by electronic funds transfer to an Australian dollar denominated bank account nominated by the Scheme Shareholder, paying, or procuring the payment of, the relevant amount in Australian currency by electronic means in accordance with that election;
- (b) paying, or procuring the payment of, the relevant amount in Australian currency by electronic means to an Australian dollar denominated bank account nominated by the Scheme Shareholder by an appropriate authority from the Scheme Shareholder to Nearmap; or
- (c) dispatching, or procuring the dispatch of, a cheque in Australian currency for the relevant amount to the Scheme Shareholder by prepaid post to their Registered Address, such cheque being drawn in the name of the Scheme Shareholder (or in the case of joint holders, in accordance with clauses 5.10 and 5.11).

5.5 In the event that:

- (a) a Scheme Shareholder does not have a, or Nearmap believes that the Scheme Shareholder is not known at their, Registered Address and no account has been notified in accordance with clause 5.4(a) or 5.4(b) or a deposit into such an account is rejected or refunded; or
- (b) a cheque issued under this clause 5 has been cancelled in accordance with clause 5.13,

Nearmap as the trustee for the Scheme Shareholders may credit the amount payable to the relevant Scheme Shareholder to a separate bank account of Nearmap (**Separate Account**) to be held until the Scheme Shareholder claims the amount or the amount is dealt with in accordance with the Unclaimed Money Act. To avoid doubt, if the amount is not credited to a Separate Account, the amount will continue to be held in the Trust Account until the Scheme Shareholder claims the amount or the amount is dealt with in accordance with the Unclaimed Money Act.

5.6 Until such time as the amount is dealt with in accordance with the Unclaimed Money Act, Nearmap must hold the amount on trust for the relevant Scheme Shareholder, but any interest or other benefit accruing from the amount will be to the benefit of the Bidder. An amount credited to the Separate Account or Trust Account (as applicable) is to be treated as having been paid to the Scheme Shareholder when credited to the Separate Account or Trust Account (as applicable). Nearmap must maintain records of the amounts paid, the people who are entitled to the amounts and any transfers of the amounts.

5.7 To the extent that there is a surplus in the amount held by Nearmap as the trustee for the Scheme Shareholders in the Trust Account, that surplus may be paid by Nearmap as the trustee for the Scheme Shareholders to the Bidder following the satisfaction of Nearmap's obligations as the trustee for the Scheme Shareholders under this clause 5.2 to 5.7.

5.8 Nearmap must pay any accrued interest to any account nominated by Bidder following satisfaction of Nearmap's obligations under clause 5.4.

Joint holders

5.9 In the case of Scheme Shares held in joint names:

- (a) subject to clause 5.4 the Scheme Consideration is payable to the joint holders and any cheque required to be sent under this Scheme will be made payable to the joint holders and sent to either, at the sole discretion of Nearmap, the holder whose name appears first in the Nearmap Share Register as at the Scheme Record Date or to the joint holders (unless the joint holders have nominated a bank account under clauses 5.4(a) or 5.4(b), in which case the amount must be deposited directly to the nominated bank account of the joint holders); and
- (b) any other document required to be sent under this Scheme will be forwarded to either, at the sole discretion of Nearmap, the holder whose name appears first in the Share Register as at the Record Date or to the joint holders.

Cancellation and re issue of cheques

5.10 Nearmap may cancel a cheque issued under this clause 5 if the cheque:

- (a) is returned to Nearmap; or
- (b) has not been presented for payment within six months after the date on which the cheque was sent.

5.11 During the period of one year commencing on the Implementation Date, on request in writing from a Scheme Shareholder to Nearmap (or the Nearmap Registry) (which request may not be made until the date which is five Business Days after the Implementation Date), a cheque that was previously cancelled under clause 5.10 must be reissued.

Unclaimed monies

5.12 The Unclaimed Money Act will apply in relation to any Scheme Consideration which becomes "unclaimed money" (as defined in section 3 of the Unclaimed Money Act).

5.13 Any interest or other benefit accruing from unclaimed Scheme Consideration will be to the benefit of the Bidder.

Orders of a court

5.14 If written notice is given to Nearmap (or the Nearmap Registry) or the Bidder of an order or direction made by a court of competent jurisdiction or by another Government Agency that:

- (a) requires payment to a third party of a sum in respect of Scheme Shares held by a particular Scheme Shareholder, which sum would otherwise be payable to that Scheme Shareholder by Nearmap in accordance with this clause 5, then Nearmap will be entitled to make that payment (or procure that it is made) in accordance with that order or direction; or

- (b) prevents Nearmap from making a payment to a particular Scheme Shareholder in accordance with clause 5.2, or such payment is otherwise prohibited by applicable law, Nearmap will be entitled to retain an amount, in Australian dollars, equal to the amount of the relevant payment until such time as payment in accordance with this clause 5.14(b) is permitted by that (or another) order or direction or otherwise by law.

Fractional entitlements and share splitting or division

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

6 Dealings in Nearmap Shares

Determination of Scheme Shareholders

- 6.1 To establish the identity of the Scheme Shareholders, dealings in Nearmap Shares or other alterations to the Nearmap Share Register will only be recognised if:
- (a) in the case of dealings of the type to be effected using CHESS, the transferee is registered in the Nearmap Share Register as the holder of the relevant Nearmap Shares at or before the Scheme Record Date; and
 - (b) in all other cases, registrable transfer or transmission applications in respect of those dealings, or valid requests in respect of other alterations, are received at or before the Scheme Record Date at the place where the Nearmap Share Register is kept,

and Nearmap must not accept for registration, nor recognise for any purpose (except a transfer to the Bidder pursuant to this Scheme and any subsequent transfer by the Bidder or its successors in title), any transfer or transmission application or other request received on or after the Scheme Record Date, or received prior to the Scheme Record Date but not in registrable or actionable form.

Nearmap Share Register

- 6.2 Nearmap must register, or cause to be registered, registrable transmission applications or transfers of Nearmap Shares in accordance with clause 6.1(b) at or before the Scheme Record Date, provided that nothing in this clause 6.2 requires Nearmap to register a transfer that would result in a Nearmap Shareholder holding a parcel of Nearmap Shares that is less than a 'marketable parcel' (as defined in the operating rules of ASX).
- 6.3 If this Scheme becomes Effective, a Scheme Shareholder (and any person claiming through that holder) must not dispose of or otherwise deal with, or purport or agree to dispose of or otherwise deal with, any Scheme Shares or any interest in them after the Scheme Record Date otherwise than pursuant to this Scheme, and any attempt to do so will have no effect and Nearmap will be entitled to disregard any such disposal, purported disposal, dealing or agreement.
- 6.4 For the purpose of determining entitlements to the Scheme Consideration, Nearmap must maintain the Nearmap Share Register in accordance with the provisions of these clauses 6.2 to 6.6 until the Scheme Consideration has been paid to the Scheme Shareholders. The Nearmap Share Register in this form will solely determine entitlements to the Scheme Consideration.
- 6.5 All statements of holding for Nearmap Shares (other than statements of holding in favour of the Bidder) will cease to have effect after the Scheme Record Date as documents of title in respect of those Nearmap Shares and, as from that date, each entry current at that date on

the Nearmap Share Register (other than entries in respect of the Bidder) will cease to have effect except as evidence of entitlement to the Scheme Consideration in respect of the Scheme Shares relating to that entry.

- 6.6 As soon as possible after the Scheme Record Date, and in any event within one Business Day after the Scheme Record Date, Nearmap will ensure that details of the names, Registered Addresses and holdings of Nearmap Shares for each Scheme Shareholder as shown in the Nearmap Share Register as at the Scheme Record Date are available to the Bidder in the form the Bidder reasonably requires.

7 Quotation of Nearmap Shares

- 7.1 Provided that the Scheme has been fully implemented in accordance with its terms, Nearmap will apply to ASX to suspend trading in Nearmap Shares with effect from the close of trading on the Effective Date.

- 7.2 Nearmap will apply:

- (a) for termination of the official quotation of Nearmap Shares on the ASX; and
- (b) to have itself removed from the official list of ASX,

in each case with effect on and from the close of trading on the trading day immediately following, or shortly after, the Implementation Date.

8 General Scheme provisions

Consent to amendments to this Scheme

- 8.1 If the Court proposes to approve this Scheme subject to any alterations or conditions:
- (a) Nearmap may by its counsel consent on behalf of all persons concerned to those alterations or conditions to which the Bidder has consented; and
 - (b) each Scheme Shareholder agrees to any such alterations or conditions which Nearmap has consented to in accordance with clause 8.1(a).

Scheme Shareholders' agreements and warranties

- 8.2 Each Scheme Shareholder:
- (a) agrees to the transfer of their Scheme Shares to the Bidder together with all rights and entitlements attaching to those shares in accordance with this Scheme;
 - (b) agrees to the variation, cancellation or modification of the rights attached to their Scheme Shares constituted by or resulting from this Scheme;
 - (c) agrees:
 - (i) that after the transfer of the Scheme Shares to Bidder, any share certificate relating to the Scheme Shares will not constitute evidence of title to those Scheme Shares; and
 - (ii) at the direction of the Bidder, to destroy any share certificates relating to the Scheme Shares; and

- (d) who holds their Scheme Shares in a CHESS Holding agrees to the conversion of those Scheme Shares to an Issuer Sponsored Holding and irrevocably authorises Nearmap to do anything necessary or expedient (whether required by the Settlement Rules or otherwise) to effect or facilitate such conversion; and
- (e) acknowledges that this Scheme binds Nearmap and all Scheme Shareholders (including those who did not attend the Scheme Meeting and those who did not vote, or voted against this Scheme, at the Scheme Meeting) without the need for any further act by the Scheme Shareholder.

8.3 Each Scheme Shareholder is taken to have warranted to Nearmap and the Bidder, and appointed and authorised Nearmap as its attorney and agent to warrant to the Bidder, that as at the Implementation Date:

- (a) all their Scheme Shares (including any rights and entitlements attaching to their Scheme Shares) which are transferred under this Scheme will, at the time of transfer of them to the Bidder (be fully paid and free from all:
 - (i) mortgages, charges, liens, encumbrances, pledges, security interests (including any 'security interests' within the meaning of section 12 of the *Personal Properties Securities Act 2009* (Cth)) and interests of third parties of any kind, whether legal or otherwise; and
 - (ii) restrictions on transfer of any kind; and
- (b) they have full power and capacity to transfer their Scheme Shares to the Bidder together with any rights attaching to those Scheme Shares; and
- (c) except as otherwise provided for or contemplated in the Scheme Implementation Deed, they have no existing right to be issued any Nearmap Shares, or any other Nearmap securities.

8.4 Nearmap undertakes that it will provide the warranties in clause 8.3 to the Bidder as agent and attorney for each Scheme Shareholder.

Title to and rights in Scheme Shares

8.5 To the extent permitted by law, the Scheme Shares (including all rights and entitlements attaching to the Scheme Shares) transferred under this Scheme will, at the time of transfer of them to the Bidder, vest in the Bidder free from all:

- (a) mortgages, charges, liens, encumbrances, pledges, security interests (including any 'security interests' within the meaning of section 12 of the *Personal Properties Securities Act 2009* (Cth)) and interests of third parties of any kind, whether legal or otherwise; and
- (b) restrictions on transfer of any kind.

8.6 On and from the Implementation Date, subject to the Scheme having become Effective and the Scheme Consideration having been provided in accordance with clause 5.3, the Bidder will be beneficially entitled to the Scheme Shares to be transferred to it under this Scheme pending registration by Nearmap of the Bidder in the Nearmap Share Register as the holder of the Scheme Shares.

Appointment of sole proxy

- 8.7 Immediately upon the Scheme Consideration having been provided in accordance with clause 5.3 and until Nearmap registers the Bidder as the holder of all Scheme Shares in the Nearmap Share Register:
- (a) each Scheme Shareholder is deemed to have irrevocably appointed the Bidder as attorney and agent (and directed the Bidder in each such capacity) to appoint any director, officer, secretary or agent nominated by the Bidder as its sole proxy and, where applicable or appropriate, corporate representative to attend shareholders' meetings, exercise the votes attaching to the Scheme Shares registered in their name and sign any shareholders' resolution whether in person, by proxy or by corporate representative;
 - (b) no Scheme Shareholder may itself attend or vote at any shareholders' meetings or sign any shareholders' resolutions, whether in person, by proxy or by corporate representative (other than pursuant to clause 8.7(a));
 - (c) each Scheme Shareholder must take all other actions in the capacity of a registered holder of Scheme Shares as the Bidder reasonably directs; and
 - (d) each Scheme Shareholder acknowledges and agrees that in exercising the powers conferred by clause 8.7(a), the Bidder and any director, officer, secretary or agent nominated by the Bidder under that clause may act in the best interests of the Bidder as the intended registered holder of the Scheme Shares.

Authority given to Nearmap

- 8.8 On the Effective Date, each Scheme Shareholder, without the need for any further act, irrevocably appoints Nearmap and each of its directors, officers and secretaries (jointly and each of them severally) as its attorney and agent for the purpose of:
- (a) enforcing the Deed Poll against the Bidder; and
 - (b) executing any document, or doing or taking any other act, necessary, desirable or expedient to give full effect to this Scheme and the transactions contemplated by it, including executing and delivering the Scheme Transfer,

and Nearmap accepts such appointment. Nearmap, as attorney and agent of each Scheme Shareholder, may sub delegate its functions, authorities or powers under this clause 8.8 to all or any of its directors, officers or employees (jointly, severally or jointly and severally).

Binding effect of this Scheme

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

9 General

Stamp duty

- 9.1 The Bidder will:

- For personal use only
- (a) pay all stamp duty (if any) and any related fines and penalties payable on or in respect of the transfer by the Scheme Shareholders of the Scheme Shares to the Bidder pursuant to this Scheme or the Deed Poll; and
 - (b) indemnify each Scheme Shareholder against any liability incurred by the Scheme Shareholder arising from failure to comply with clause 9.1(a).

Consent

- 9.2 Each Scheme Shareholder consents to Nearmap doing all things necessary or incidental to give full effect to the implementation of this Scheme and the transactions contemplated by it.

Enforcement of Deed Poll

- 9.3 Nearmap undertakes in favour of each Scheme Shareholder to enforce the Deed Poll against the Bidder on behalf of and as agent and attorney for the Scheme Shareholder.

Notices

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

Governing law and jurisdiction

- 9.6 This Scheme and any non-contractual obligations arising out of or in connection with it is governed by the law applying in New South Wales.
- 9.7 The courts having jurisdiction in New South Wales have non-exclusive jurisdiction to settle any dispute arising out of or in connection with this Scheme (including a dispute relating to any non-contractual obligations arising out of or in connection with this Scheme) and each party irrevocably submits to the non-exclusive jurisdiction of the courts having jurisdiction in New South Wales.

Further action

- 9.8 Nearmap must do all things and execute all documents necessary to give full effect to this Scheme and the transactions contemplated by it.

No liability when acting in good faith

- 9.9 None of Nearmap, the Bidder, nor any of their respective directors, officers, secretaries or employees will be liable for anything done or omitted to be done in the performance of this Scheme or the Deed Poll in good faith.

Schedule 3 Deed Poll

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Deed Poll

Atlas AU BidCo Pty Ltd

(ACN 661 798 465)

In favour of each Scheme Shareholder

Dated

2022



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Parties

Bidder

Name Atlas AU BidCo Pty Ltd
ACN 661 798 465
Address L35, Tower Two, International Towers Sydney
200 Barangaroo Avenue, Barangaroo NSW 2000

In favour of:

Each Scheme Shareholder

Background

- A The Bidder and Nearmap Ltd (ACN 083 702 907) (**Nearmap**) have entered into the Scheme Implementation Deed on [insert date], under which the Bidder, subject to the satisfaction or waiver of certain conditions precedent, is to pay the Scheme Consideration and acquire all Scheme Shares held by Scheme Shareholders under the Scheme, and also under which the Bidder has agreed to enter into this deed poll.
- B The Bidder is entering into this deed poll for the purpose of covenanting in favour of the Scheme Shareholders to perform, or procure the performance of its obligations under the Scheme Implementation Deed and the Scheme.

Agreed terms

1 Defined terms and interpretation

Defined terms

- 1.1 Unless the context otherwise requires, terms defined in the Scheme have the same meaning when used in this deed poll and:

First Court Date has the meaning given in the Scheme Implementation Deed.

Insolvent has the meaning given in the Scheme Implementation Deed.

Scheme means the scheme of arrangement under Part 5.1 of the Corporations Act between the Scheme Shareholders and **Nearmap**, in the form of Schedule 2 to **the Scheme Implementation Deed**, or in such other form as Nearmap and the Bidder agree in writing,

subject to any alterations or conditions made or required by the Court under section 411(6) of the Corporations Act and approved in writing by Nearmap and Bidder.

Interpretation

- 1.2 Clause 1.2 of the Scheme applies to the interpretation of this deed poll, except that references to 'Scheme' are to be read as references to 'deed poll'.

Nature of deed poll

- 1.3 The Bidder acknowledges and agrees that:
- (a) this deed poll may be relied on and enforced by any Scheme Shareholder in accordance with its terms even though the Scheme Shareholders are not party to it; and
 - (b) under the Scheme, each Scheme Shareholder irrevocably appoints Nearmap and each of its directors, officers and secretaries (jointly and each of them severally) as its agent and attorney to enforce this deed poll against the Bidder.

2 Conditions

Conditions

- 2.1 The obligations of the Bidder under this deed poll are subject to the Scheme becoming Effective.

Termination

- 2.2 The obligations of the Bidder under this deed poll will automatically terminate and the terms of this deed poll will be of no further force or effect if:

- (a) the Scheme Implementation Deed is terminated in accordance with its terms; or
- (b) the Scheme does not become Effective by the End Date,

unless the Bidder and Nearmap otherwise agree in writing (and, if required, as approved by the Court).

Consequences of termination

- 2.3 If this deed poll is terminated under clause 2.2, in addition and without prejudice to any other available rights, powers or remedies:

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

3 Scheme obligations

- 3.1 Subject to clause 2, the Bidder undertakes, in favour of each Scheme Shareholder to:
- (a) provide or procure the provision of the Scheme Consideration for all Scheme Shares in accordance with the terms of the Scheme; and

- (b) undertake all other actions, and give each acknowledgement, representation and warranty (if any), attributed to it under the Scheme,

in each case subject to and in accordance with the terms of the Scheme.

4 Warranties

4.1 The Bidder represents and warrants that:

- (a) it is a corporation validly existing under the laws of its place of incorporation;
- (b) it has the corporate power to enter into and perform its obligations under this deed poll and to carry out the transactions contemplated by this deed poll;
- (c) it has taken all necessary corporate action to authorise its entry into this deed poll and has taken or will take all necessary corporate action to authorise the performance by it of this deed poll;
- (d) this deed poll is valid and binding on it and is enforceable against it in accordance with its terms;
- (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; and
- (f) it is not Insolvent.

5 Continuing obligations

5.1 This deed poll is irrevocable and, subject to clause 2, remains in full force and effect until:

- (a) the Bidder has fully performed its obligations under this deed poll; or
- (b) the earlier termination of this deed poll under clause 2.2.

6 Further assurances

6.1 The Bidder will, at its own expense, do all things reasonably required of it and execute all documents reasonably necessary to give full effect to this deed poll, the Scheme and the transactions contemplated by them.

7 General

Stamp duty

7.1 The Bidder must:

- (a) pay or procure the payment of all stamp duty (if any) and any related fines and penalties payable on or in respect of the transfer by the Scheme Shareholders of the Scheme Shares to the Bidder pursuant to the Scheme or this deed poll; and
- (b) indemnify each Scheme Shareholder against any liability arising from failure to comply with clause 7.1(a).

Notices

7.2 Any notice or other communication to the Bidder in connection with this deed poll must be:

- (a) signed by the person making the communication or that person's duly authorised agent; and
- (b) given by hand delivery, pre-paid post or email in accordance with the details set out below:

Bidder	
Address:	150 N. Riverside Plaza, Suite 2800, Chicago, IL 60606
Email:	phernandez@thomabravo.com
Attn:	Peter Hernandez
<i>With a copy to:</i>	Peter Cook and David Johanson
Address:	Gilbert + Tobin Level 35, Tower Two, International Towers Sydney, 200 Barangaroo Avenue, Barangaroo NSW 2000 and Goodwin Procter LLP, 100 Northern Avenue Boston, MA 02210
Email:	pcook@gtlaw.com.au and DJohanson@goodwinlaw.com
Attn:	Peter Cook and David Johanson

- (c) Subject to clause 7.2(d), any notice or other communication given in accordance with clause 7.2 will be deemed to have been duly given as follows:
 - (i) if delivered by hand, on delivery;
 - (ii) if sent by pre-paid post, the third day after the date of posting (or ninth day after posting if sent from one country to another); and
 - (iii) if sent by email, whichever of the following happens first:
 - (A) when the sender receives an automated message confirming delivery; or
 - (B) four hours after the time sent (as recorded on the device from which the email was sent), provided that the sender does not receive an automated message that the email has not been delivered.:
- (d) Any notice or other communication that, pursuant to clause 7.2(c), would be deemed to be given:
 - (i) other than on a Business Day or after 5:00pm on a Business Day is regarded as given at 9:00am on the following Business Day; and

- (ii) before 9:00am on a Business Day is regarded as given at 9:00am on that Business Day,

where references to time are to time in the place the recipient is located.

Cumulative rights

- 7.3 The rights, powers and remedies of the Bidder and the Scheme Shareholders under this deed poll are cumulative with and do not exclude the rights, powers or remedies provided by law independently of this deed poll.

Waiver and variation

- 7.4 A party waives a right under this deed poll only by written notice that it waives that right. A waiver is limited to the specific instance to which it relates and to the specific purpose for which it is given.
- 7.5 Failure to exercise or enforce, a delay in exercising or enforcing or the partial exercise or enforcement of any right, power or remedy provided by law or under this deed poll by any party will not in any way preclude, or operate as a waiver of, any exercise or enforcement, or further exercise or enforcement, of that or any other right, power or remedy provided by law or under this deed poll.
- 7.6 A provision of this deed poll may not be varied unless:
- (a) if before the First Court Date, the variation is agreed to by Nearmap in writing; or
 - (b) if on or after the First Court Date, the variation is agreed to by Nearmap in writing and the Court indicates that the variation would not of itself preclude approval by the Court of the Scheme,

in which event the Bidder must enter into a further deed poll in favour of the Scheme Shareholders giving effect to the variation.

Governing law and jurisdiction

- 7.7 This deed and any non-contractual obligations arising out of or in connection with it is governed by the law applying in New South Wales.
- 7.8 The courts having jurisdiction in New South Wales have non-exclusive jurisdiction to settle any dispute arising out of or in connection with this deed (including a dispute relating to any non-contractual obligations arising out of or in connection with this deed) and each party irrevocably submits to the non-exclusive jurisdiction of the courts having jurisdiction in New South Wales.

Assignment

- 7.9 The rights created by this deed poll are personal to the Bidder and each Scheme Shareholder and must not be dealt with at law or in equity without the prior written consent of the Bidder.
- 7.10 Any purported dealing in contravention of clause 7.9 is invalid.

Signature page

Executed as a deed.

Executed by **Atlas AU BidCo Pty Ltd ACN 661 798 465** in accordance with s 127 of the *Corporations Act 2001* (Cth):

.....
Signature of director

.....
Signature of director/company secretary

.....
Name of director (print)

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

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Schedule 4 Nearmap issued capital

Part 1 Nearmap ordinary shares

500,054,764 Nearmap Shares (which includes 211,473 Nearmap Shares reserved under the Employee Matching Share Rights Plan of which there are 211,473 Matching Share Rights outstanding)

Part 2 Nearmap options

12,427,917 Nearmap options under the ESOP; of which 4,260,000 have an exercise price which is below \$2.10 (resulting in a potential dilution of Nearmap ordinary shares by 793,571 units, calculated in accordance with the treasury stock method)

1,374,299 Nearmap options under the LTIP; all of which have an exercise price which is equal to or exceeds \$2.10


Part 3 Nearmap restricted stock units

1,757,804 Nearmap restricted stock units

Signature page

Executed as a deed.

Executed by **Nearmap Ltd ACN 083 702 907** in accordance with s127 of the *Corporations Act 2001* (Cth):



.....
Signature of director

Peter James

.....
Name of director (print)



.....
Signature of director/company secretary

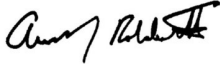
Robert Newman

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

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For personal use only

Executed by **Atlas AU BidCo Pty Ltd ACN 661 798 465** in accordance with s 127 of the *Corporations Act 2001* (Cth):



.....
Signature of director

A.J. Rohde

.....
Name of director (print)



.....
Signature of director/~~company secretary~~

Peter Hernandez

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