



**Australian Clinical Labs Limited**

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Monday, 20 March 2023

**Takeover Offer for Healius Limited**

Australian Clinical Labs Limited (ASX:ACL) (**ACL**) announces its intention to make an off-market takeover offer to acquire all of the fully paid ordinary shares (**Healius Shares**) on issue in Healius Limited (ASX:HLS) (**Healius**) (the **Offer**).

**Details of the Offer**

- The Offer will be made by way of an off-market takeover offer by ACL to acquire all of the Healius Shares on issue.
- ACL's Offer is 0.74 ACL Shares for every 1 Healius Share held (the **Offer Consideration**).<sup>1</sup>
- ACL's Offer represents a nil-premium merger based on the volume weighted average price (**VWAP**) of Healius Shares and ACL Shares on the ASX for the period from (and including) 28 February 2023 (being the date after which Healius released its 1H23 Report<sup>2</sup> to the ASX) to 17 March 2023 (**Last Practicable Date**).<sup>3</sup>
- If ACL is successful in acquiring all of the Healius Shares on issue under the Offer, Healius Shareholders and ACL Shareholders will hold approximately 68% and 32% of ACL as at immediately after completion of the Offer (the **Merged Group**), respectively.<sup>4</sup>
- The key terms of the Offer are set out in Attachment 1 (*Key Terms of the Offer*).
- The Offer is subject to the conditions set out in Attachment 2 (*Offer Conditions*) (**Offer Conditions**).
- Further, detailed information regarding the Offer is set out in ACL's Bidder's Statement in respect of the Offer (**Bidder's Statement**), which ACL lodged with the Australian Securities and Investments Commission (**ASIC**), and which will be released to the ASX, today. The Bidder's Statement is currently expected to be despatched to Healius Shareholders in April 2023. The Bidder's Statement sets out important information for Healius Shareholders, including how to accept the Offer, information about ACL and the Merged Group, and detailed information about the key reasons why Healius Shareholders should **ACCEPT** the Offer, which Healius Shareholders should read in conjunction with this announcement.

<sup>1</sup> See Attachment 1 (*Key Terms of the Offer*) for the key terms of the Offer, including the Offer Consideration. The Bidder's Statement sets out the full details (including the terms and conditions) of the Offer.

<sup>2</sup> Healius' Appendix 4D – Half Year Report for the financial half-year that ended on 31 December 2022.

<sup>3</sup> Being \$2.72 in respect of Healius Shares and \$3.66 in respect of ACL Shares. The Offer also represents (i) a nil premium merger based on the 10-day VWAP (to and including the Last Practicable Date) of Healius Shares and ACL Shares on the ASX (being \$2.73 in respect of Healius Shares and \$3.69 in respect of ACL Shares), and (ii) a 4.2% discount to the closing price of Healius Shares on the ASX on the Last Practicable Date (being \$2.78) based on the closing price of ACL Shares on the ASX on the Last Practicable Date (being \$3.60).

<sup>4</sup> The assumptions that ACL has made in calculating these indicative Merged Group ownership percentages are set out in the Bidder's Statement.

## Strategic rationale and highlights

There is a compelling rationale for Healius Shareholders to **ACCEPT** the Offer.

Bringing Healius and ACL together by way of the acquisition by ACL of all of the Healius Shares (**Proposed Merger**) is expected to bring significant benefits to both Healius and ACL shareholders and ACL believes that the two companies have the potential to be worth significantly more together than as standalone entities.

Key reasons why Healius Shareholders should accept the Offer include (which are set out in detail in the Bidder's Statement):

### 1. Larger, more diversified earnings base as Australia's largest pathology business

- Expected to create Australia's largest pathology provider, with more approved collection centres (ACCs) nationally than any other pathology provider in the Australian market<sup>5</sup>
- Complementary networks expected to enable more efficient service delivery
- Expected to be better positioned to pursue future organic and inorganic growth opportunities

### 2. Material synergy potential of approximately \$95 million by bringing the companies together

- Expected to unlock approximately \$95 million of annual, recurring, pre-tax cost synergies (**Expected Cost Synergies**),<sup>6</sup> equivalent to approximately 95% of Healius' FY23 EBIT<sup>7</sup>
- Delivery of Expected Cost Synergies expected within four years of completion (with more than 50% expected in the first two years)<sup>8</sup>
- Key areas: lab consolidation, logistics optimisation, procurement benefits, and back-office and support restructuring

### 3. De-risks operational turnaround of Healius with a proven management team

- ACL's management team has consistently delivered superior financial performance to Healius<sup>9</sup>
- Healius has stated that it expects to achieve a Cost Base Reset,<sup>10</sup> which ACL has calculated implies approximately \$95 million of annualised EBIT savings (**Potential Operational Improvement Benefit**)<sup>11</sup>
- While Healius has announced several operational turnaround initiatives since 2018, these initiatives have faced material implementation issues and Healius' margins have continued to deteriorate<sup>12</sup>
- ACL believes that it is well-equipped to de-risk Healius' operational turnaround with deep acquisition and turnaround experience

<sup>5</sup> As at the time that the Merged Group is created (if the Offer is successful).

<sup>6</sup> The Bidder's Statement contains detailed information on the Expected Cost Synergies, including the basis (including the assumptions) on which they were calculated.

<sup>7</sup> Based on an average broker forecast for Healius FY23 EBIT. The Bidder's Statement contains further details on this average broker forecast, including a summary of the selection criteria, number, range and date of the broker forecasts used.

<sup>8</sup> The realisation of the Expected Cost Synergies is expected to lead to one-off cash costs of approximately \$70 million in total, which are expected to be incurred progressively over the four-year integration period after completion of the Proposed Merger.

<sup>9</sup> Since the time of ACL's listing on the ASX on 14 May 2021 to 31 December 2022. See further detail on Page 6 of the investor presentation released by ACL to the ASX on 20 March 2023 in relation to the Offer and the "Why You Should Accept the Offer" section of the Bidder's Statement.

<sup>10</sup> Announced by Healius in the investor presentation released by Healius to the ASX on 27 February 2023 in respect of Healius' financial half-year that ended on 31 December 2022.

<sup>11</sup> The Bidder's Statement contains detailed information on the Potential Operational Improvement Benefit, including the basis on which it has been calculated by ACL.

<sup>12</sup> For further detail, see Page 7 of the investor presentation released by ACL to the ASX on 20 March 2023 in relation to the Offer and the "Why You Should Accept the Offer" section of the Bidder's Statement.

#### 4. Significant potential value creation of 90% above Healius Share price

- Potential Merged Group pro forma FY23 EBIT of \$361 million<sup>13</sup> including Expected Cost Synergies and the Potential Operational Improvement Benefit
- Potential value uplift of approximately \$2.1 billion<sup>14</sup> if the Merged Group trades at the current blended forward EV/EBIT multiple of 17.5x<sup>15</sup>
- Equates to a 90% increase in the value per Healius Share implied by the Offer Consideration<sup>16</sup>
- ACL believes that the Merged Group will be approaching the threshold for inclusion in the S&P/ASX 100 index over time<sup>17</sup>

#### 5. Better patient and doctor outcomes and delivery of ESG benefits

- Expected to create an improved ability to provide high-quality, accessible, and bulk-billed pathology services
- Optimisation of laboratory networks expected to enhance service levels, safety standards and the environmental profile of the Merged Group
- Expected increased free cash flow and balance sheet strength<sup>18</sup> to support strategic investments in expanding doctor and patient services

#### 6. ACL has a track record of successfully integrating acquisitions

- Strong acquisition track record, completing and integrating five acquisitions over the past seven years<sup>19</sup>
- ACL's highly experienced project management team has consistently achieved or exceeded the planned synergies from these acquisitions over the past seven years, on time and on budget

#### 7. CGT rollover relief may be available

- Healius Shareholders may benefit from CGT scrip for scrip rollover relief if they accept the Offer<sup>20</sup>

<sup>13</sup> EBIT presented on a post AASB 16 basis. Potential Merged Group pro forma FY23 EBIT based on realising the Expected Cost Synergies and the Potential Operational Improvement Benefit in FY23, and adding this to the average broker forecast FY23 EBIT for Healius and the midpoint of the ACL FY23 EBIT guidance range set out below. The Bidder's Statement contains more information on: (i) the average broker forecast for Healius, including a summary of the selection criteria, number, range and date of the broker forecasts used; and (ii) the basis for the calculation of the potential Merged Group pro forma FY23 EBIT.

<sup>14</sup> Relative to the combined equity value of each of Healius and ACL on a standalone basis, calculated based on the VWAP of Healius Shares and ACL Shares on the ASX for the period from (and including) 28 February 2023 to the Last Practicable Date and fully diluted shares on issue.

<sup>15</sup> Blended forward EV/EBIT multiple based on the post AASB 16 enterprise value (based on the VWAP of Healius Shares and ACL Shares on the ASX for the period from (and including) 28 February 2023 to the Last Practicable Date) and average broker FY24 EBIT multiples for Healius and ACL as at the Last Practicable Date. The Bidder's Statement contains more information on: (i) these average broker FY24 EBIT multiples; and (ii) the basis for the calculation of the blended forward EV/EBIT multiple. However, whether ACL will achieve such a trading multiple after the Proposed Merger is dependent on a range of factors, and no assurance can be provided that ACL will achieve this blended EV/EBIT multiple after Successful Offer Completion or at any time after that. See section 8.4(m) of the Bidder's Statement for more information.

<sup>16</sup> Based on the VWAP of Healius Shares on the ASX for the period from (and including) 28 February 2023 to the Last Practicable Date (being \$2.72).

<sup>17</sup> Based on the implied market capitalisation of the Merged Group (based on the VWAP of Healius Shares and ACL Shares on the ASX for the period from (and including) 28 February 2023 to the Last Practicable Date) (assuming achievement of the Expected Cost Synergies and Potential Operational Improvement Benefit). The Bidder's Statement contains more information on the basis for ACL's calculation of the implied market capitalisation of the Merged Group.

<sup>18</sup> The Merged Group has pro forma leverage of 1.9x (excluding Expected Cost Synergies) as at 31 December 2022. Healius' bank gearing ratio as at 31 December 2022 was 3.0x. See the Bidder's Statement for more information.

<sup>19</sup> Refer to the "Why You Should Accept the Offer" section of the Bidder's Statement for further detail on ACL's acquisition track record.

<sup>20</sup> The Bidder's Statement contains a general summary of the likely Australian tax consequences for Healius Shareholders who accept the Offer. However, Healius Shareholders should consult their financial, tax or other professional adviser on the tax implications of acceptance of the Offer.

In ACL's view, based on publicly available information, the Proposed Merger is the most value accretive option available to both Healius Shareholders and ACL Shareholders.

ACL Chairman, Michael Alscher, said:

*"The merger of Healius with Australian Clinical Labs and the synergies and value creation that are expected to be unlocked is expected to create a fundamental step change in value for both shareholder groups."*

ACL Chief Executive Officer, Melinda McGrath, said:

*"Our vision is to create Australia's largest pathology provider, with enhanced scale, profitability, and potential for expansion. The Proposed Merger is expected to unlock \$95 million in synergies and de-risk the required operational turnaround at Healius, with the potential for an additional \$95 million of Potential Operational Improvement Benefit to be achieved through improved performance at Healius. Together, this is expected to deliver stronger earnings, and has the potential to create a value uplift for the Merged Group of \$2.1 billion."*

*"The increased balance sheet strength achieved through the Proposed Merger will enable acceleration of investments to enhance and expand a range of patient and doctor services, including developing and bringing new tests into Australia, creating centres of clinical excellence, enhancing regional service sustainability, and investment in digital and automated solutions."*

*"We believe the Merged Group will deliver stronger outcomes for both groups of shareholders, and for doctors and patients, and deliver environmental benefits through a reduced carbon footprint."*

### Offer Conditions

ACL's Offer is subject to the Offer Conditions, which are set out in full in Attachment 2 (*Offer Conditions*) of this announcement. The Offer Conditions include (but are not limited to):

- a 90% minimum acceptance condition (see paragraph (a) of Attachment 2);
- Australian Competition and Consumer Commission (**ACCC**) clearance for the Proposed Merger, which ACL believes it has good prospects of securing<sup>21</sup> (see paragraph (c) of Attachment 2);
- Foreign Investment Review Board (**FIRB**) approval (see paragraph (b) of Attachment 2);
- ACL Shareholder approval under the applicable ASX Listing Rule(s) (see paragraph (e) of Attachment 2);
- certain conditions relating to the financial performance of Healius in FY23 (see paragraph (f) and (g) of Attachment 2);
- Healius not publicly making certain statements regarding the Healius Group not achieving a specified EBIT margin after FY23 (see paragraph (i) of Attachment 2);
- Healius' net debt plus current tax liabilities less current tax assets not exceeding, or being likely to exceed, specified amounts (see paragraph (p) of Attachment 2);
- no material adverse change in respect of Healius or market fall during the Offer period (see paragraphs (m) and (n) of Attachment 2); and
- other conditions relating to Healius' financial condition, contracts and corporate actions, and the conduct of the Healius Group's business, during the Offer period.

<sup>21</sup> The Bidder's Statement sets out the reasons for ACL's view on the prospects of ACCC clearance of the Proposed Merger.

## FY23 EBIT Guidance

In relation to the Offer and this announcement, the Board of ACL believes it is prudent to provide guidance on FY23 EBIT for ACL. ACL expects that its EBIT for FY23 will be within the range of \$68 million and \$74 million.

This earnings guidance (including the basis of its preparation, the key assumptions underlying it and a sensitivity analysis) is set out in section 1.6 of the Bidder's Statement. The Board of ACL encourages ACL Shareholders and Healius Shareholders to read this section of the Bidder's Statement in its entirety in conjunction with this announcement.

## Timetable

Set out below is the expected timetable for the Offer as at the date of this announcement.

| Event  | Date                     |
|--|--------------------------|
| • Announcement of Offer                                  | <b>20 March 2023</b>     |
| • ACL lodges Bidder's Statement with ASIC and ASX        | <b>20 March 2023</b>     |
| • Dispatch of Bidder's Statement to Healius Shareholders | <b>April 2023</b>        |
| • Offer opens  | <b>April 2023</b>        |
| • Offer closes <sup>22</sup>                             | <b>29 September 2023</b> |

These dates may change as permitted under the *Corporations Act 2001* (Cth) (**Corporations Act**). ACL will announce any changes to the above timetable to the ASX.

## Advisers

ACL is advised by Goldman Sachs as financial adviser and Gilbert + Tobin as legal adviser in relation to the Offer.

## Additional information

As stated above, detailed information about the Offer is set out in the Bidder's Statement, which ACL lodged with ASIC, and which will be released to the ASX, today. ACL strongly encourages Healius Shareholders to read the Bidder's Statement in its entirety before making a decision as to whether to accept the Offer.

ACL has established an information line for the purposes of the Offer (**Offer Information Line**), details of which are included in the Bidder's Statement. Healius Shareholders are able to contact the Offer Information Line if they have questions about the Offer.

## Investor webinar

ACL Chair, Michael Alscher, and Chief Executive Officer and Executive Director, Melinda McGrath, will host an investor webinar via Zoom at 10.30am AEDT today to provide more information to ACL

<sup>22</sup> Unless withdrawn or extended in accordance with the *Corporations Act*.



Shareholders and Healius Shareholders. A copy of the presentation for that investor webinar will be released to the ASX following this announcement.

Participants will need to register in advance for the webinar by clicking on the link below:

[https://clinicallabs-au.zoom.us/webinar/register/WN\\_SE-Qew1TQOeAsIM35997Fw](https://clinicallabs-au.zoom.us/webinar/register/WN_SE-Qew1TQOeAsIM35997Fw)

Registered participants will receive a confirmation email containing information on how to join the webinar.

A recording of the webinar will be available on our Investor Centre website [here](#). By choosing to attend the webinar, you consent to the recording being made and shared. Please also note our Privacy Collection Statement below.

**– ENDS –**

This announcement was authorised for release to ASX by the Board of ACL. For further information regarding this announcement, please contact:

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**Privacy Collection Statement**

Privacy is important to Australian Clinical Labs Limited (ACN 645 711 128) (**ACL, we, us or our**). If you choose to register for our investor webinar, we will collect your name and email address as set out in the registration form. The purpose of collecting your personal information is to facilitate your participation in our webinar in connection with the Offer. If you do not provide this personal information or provide incomplete information, we may not be able to process this form and you may not be able to attend. We otherwise use, disclose, process and handle your personal information (including sensitive information) in accordance with our [Privacy Policy](#) which can be found on our website. We operate and communicate with organisations throughout Australia and overseas. Therefore, some disclosures may occur outside the state or territory in which an individual is resident, and in some circumstances, outside Australia. We will only disclose information to an organisation in a country which has a substantially similar privacy regime.

Our [Privacy Policy](#) also contains the contact details of the Quality Manager and information regarding your rights and how you can seek to access and correct your personal information or raise a privacy concern with us. If you have any concerns about this Privacy Collection Statement, our [Privacy Policy](#) or how we handle your personal information, please contact our Quality Manager.

**About Australian Clinical Labs**

ACL is a leading Australian private provider of pathology services. Our NATA accredited laboratories perform a diverse range of pathology tests each year for a range of clients including doctors, specialists, patients, hospitals and corporate clients. ACL is one of the largest private hospital pathology businesses nationally. ACL is focused on its mission of combining talented people, and medical and scientific leadership, with innovative thinking and technologies to empower decision making that saves and improves patients' lives.

## ATTACHMENT 1

### KEY TERMS OF THE OFFER

Capitalised terms used, but not otherwise defined, in this Attachment 1 (*Key Terms of the Offer*) have the meanings given to them in Attachment 3 (*Definitions*).

#### 1 Offer Consideration

Subject to the detailed terms of the Offer, which are set out in the Bidder's Statement, Healius Shareholders will be entitled to receive 0.74 ACL Shares for every 1 Healius Share held as at the Register Date (as specified in the Bidder's Statement and announced to the ASX) (**Offer Consideration**). If this calculation results in an entitlement to a fraction of an ACL Share, that fraction will be rounded down to the nearest whole number of ACL Shares.

If, at the time the Offer is made, a Healius Shareholder:

- (a) has a registered address outside certain permitted jurisdictions (which will include Australia and other jurisdictions specified in the Bidder's Statement); or
- (b) will receive a total number of ACL Shares having a value of less than \$500 based on the highest closing price of ACL Shares on the ASX during the period from the date of the Bidder's Statement until the earlier of the end of the Offer Period and five ASX trading days before the first day on which ACL must provide the Offer Consideration under the Offer,

that Healius Shareholder will not receive ACL Shares as consideration under the Offer and will instead receive a cash amount determined in accordance with the terms set out in the Bidder's Statement after the sale on the ASX of the ACL Shares that they would otherwise have been entitled to receive under the Offer by a nominee approved by ASIC.

#### 2 Healius convertible securities

Pursuant to section 617(2) of the Corporations Act (as extended by ASIC Class Order 13/521), the Offer will extend to Healius Shares issued during the period from the Register Date to the end of the Offer Period due to the conversion of, or exercise of rights conferred by, other securities, including Healius Rights (subject to ASIC granting a modification to permit the Offer to extend to any Healius Shares that come into existence between the Register Date and the end of the Offer Period in accordance with the terms of, or otherwise in connection with, Healius Rights that exist as at the Register Date that will convert, or may be converted, into Healius Shares, or which confer an entitlement of any kind to be issued Healius Shares) and Healius Options (where those securities exist or will exist as at the Register Date).

#### 3 Offer Conditions

The completion of the Offer and any contract that results from an acceptance of the Offer is subject to the conditions set out at Attachment 2 (*Offer Conditions*) (**Offer Conditions**) being satisfied (or waived) by the end of the Offer Period (or, in the case of the condition at paragraph (o) of Attachment 2 (*Offer Conditions*), at the end of the third Business Day after the end of the Offer Period).

The Offer Condition at paragraph (b) of Attachment 2 (*Offer Conditions*) (**FIRB Condition**) is a condition precedent to ACL's acquisition of any interest in Healius Shares under the Offer. Accordingly, unless and until the FIRB Condition has been satisfied (or waived) in accordance with the terms of the Offer set out in the Bidder's Statement, no contract for the sale of Healius Shares under the Offer will come into force or be binding on any Healius Shareholder or ACL.

## ATTACHMENT 2

### OFFER CONDITIONS

Capitalised terms used, but not otherwise defined, in this Attachment 2 (*Offer Conditions*) have the meanings given to them in Attachment 3 (*Definitions*).

#### **Minimum Healius Shareholder acceptance of the Offer**

##### **(a) 90% Minimum Acceptance Condition**

At the end of the Offer Period, ACL has a Relevant Interest in such number of Healius Shares which represents at least 90% (by number) of all of the Healius Shares (on a fully diluted basis).

#### **Regulatory matters**

##### **(b) FIRB Condition**

Before the end of the Offer Period:

- (i) the Treasurer (or the Treasurer's delegate) has provided a notice in writing to ACL under FATA stating that, or to the effect that, the Australian Commonwealth Government does not object to ACL acquiring all of the Healius Shares under the Offer without condition (other than the conditions set out in the list of 'standard' tax conditions set out in section D of FIRB Guidance 12 – Tax Conditions dated 9 July 2021); or
- (ii) by reason of the elapse of time, the Treasurer (and each of the Treasurer's delegates) ceases to be empowered to make any order or decision under Division 2 of Part 3 of FATA in respect of the acquisition of all of the Healius Shares by ACL under the Offer.

##### **(c) ACCC Clearance Condition**

Before the end of the Offer Period, ACL has received notice in writing from the ACCC stating either:

- (i) that, or to the effect that, the ACCC does not intend to conduct a public review of the acquisition by ACL of the Healius Shares under the Offer; or
- (ii) that, or to the effect that, the ACCC does not intend to oppose, intervene or seek to prevent the proposed acquisition of the Healius Shares by ACL under the Offer pursuant to section 50 of the *Competition and Consumer Act 2010* (Cth) on an unconditional basis.

##### **(d) No other regulatory action**

Between the Announcement Date and the end of the Offer Period (each inclusive):

- (i) there is not in effect any preliminary or final decision, order or decree issued by any Public Authority (other than FIRB or the ACCC);
- (ii) no action, audit or investigation is announced, commenced or threatened by any Public Authority (other than FIRB or the ACCC); and
- (iii) no application is made to any Public Authority (other than FIRB or the ACCC), other than by ACL or any Associate of ACL,

in consequence of or in connection with the Offer (other than an application to, or a decision or order of, or action or investigation by, ASIC or the Takeovers Panel in exercise of the powers and discretions conferred by the Corporations Act) which restrains, prohibits or impedes, or threatens



to restrain, prohibit or impede, or materially impacts upon, the making of the Offer and the completion of any transaction contemplated by the Bidder's Statement (including, without limitation, full, lawful, timely and effectual implementation of the intentions set out in the section of the Bidder's Statement entitled "*ACL's intentions in relation to Healius*") or which requires the divestiture by ACL of any Healius Shares or any material assets of any Healius Group Member.

### **Approval of ACL Shareholders**

#### **(e) ACL Shareholder Approval Condition**

- (i) ACL Shareholders in a general meeting pass:
  - (A) a resolution as required under ASX Listing Rule 7.1 to permit ACL to issue the Offer Consideration (comprising ACL Shares) under the Offer; and
  - (B) if required by the ASX under ASX Listing Rule 11.1.2, a resolution as required under ASX Listing Rule 11.1.2 to approve the acquisition of the Healius Shares under the Offer,

(each, an **ACL Shareholder Approval**); and
- (ii) each ACL Shareholder Approval remains valid and has not expired under the ASX Listing Rules at the end of the Offer Period.

### **Financial matters relating to Healius**

#### **(f) Announcements regarding Healius' expected FY23 financial performance**

Between the Announcement Date and the end of the Offer Period (each inclusive), Healius does not make a public announcement (whether to ASX or otherwise), or state in its Target's Statement (or a Supplementary Target's Statement), that (or to the effect that):

- (i) the underlying EBIT of the Healius Group for FY23 (if calculated in the same manner (including, but not limited to, by applying the same accounting policies) as underlying EBIT for the Healius Group for 1H23 (as stated on page 7 of the Healius 1H23 Report) was calculated) will be, or is expected or is likely to be, less than \$99.7 million;
- (ii) the reported EBIT of the Healius Group for FY23 (if calculated in the same manner (including, but not limited to, by applying the same accounting policies) as reported EBIT for the Healius Group for 1H23 (as stated on page 7 of the Healius 1H23 Report) was calculated) will be, or is expected or is likely to be, less than \$46.1 million, excluding the impact of:
  - (A) pathology digital transformation costs (calculated in the same manner (including, but not limited to, by applying the same accounting policies) as pathology digital transformation costs for the Healius Group for 1H23 (as stated on page 7 of the Healius 1H23 Report) were calculated) incurred by the Healius Group in 2H23, provided that such costs do not exceed \$4.0 million (if they do, only \$4.0 million of such costs are excluded);
  - (B) restructuring & termination costs (calculated in the same manner (including, but not limited to, by applying the same accounting policies) as restructuring & termination costs for the Healius Group for 1H23 (as stated on page 7 of the Healius 1H23 Report) were calculated) incurred by the Healius Group in 2H23, provided that such costs do not exceed \$2.0 million (if they do, only \$2.0 million of such costs are excluded); and

- (C) transaction costs incurred by the Healius Group in connection with the Offer in 2H23, provided that such costs do not exceed \$2.0 million (if they do, only \$2.0 million of such costs are excluded); and/or
- (iii) profit for the year from continuing operations for the Healius Group for FY23 (if calculated in the same manner (including, but not limited to, by applying the same accounting policies) as profit for the year from continuing operations for the Healius Group for 1H23 (as stated on page 13 of the Healius 1H23 Report) was calculated) will be, or is expected or is likely to be, less than -\$2.1 million, excluding the impact of:
  - (A) pathology digital transformation costs (calculated in the same manner (including, but not limited to, by applying the same accounting policies) as pathology digital transformation costs for the Healius Group for 1H23 (as stated on page 7 of the Healius 1H23 Report) were calculated, but on a post-tax adjusted basis) incurred by the Healius Group in 2H23, provided that such costs do not exceed \$2.8 million (if they do, only \$2.8 million of such costs are excluded);
  - (B) restructuring & termination costs (calculated in the same manner (including, but not limited to, by applying the same accounting policies) as restructuring & termination costs for the Healius Group for 1H23 (as stated on page 7 of the Healius 1H23 Report) were calculated) incurred by the Healius Group in 2H23, provided that such costs do not exceed \$1.4 million (if they do, only \$1.4 million of such costs are excluded); and
  - (C) transaction costs incurred by the Healius Group in connection with the Offer in 2H23, provided that such costs do not exceed \$1.4 million (if they do, only \$1.4 million of such costs are excluded).

(g) **Healius' FY23 financial results**

Healius releases the audited financial statements for the Healius Group for FY23 (**Healius FY23 Financial Statements**) and Healius' annual report for FY23 (**Healius FY23 Annual Report**) to the ASX before the end of the Offer Period and:

- (i) free cash flow less growth capex for the Healius Group for FY23, as stated or otherwise shown in the Healius FY23 Annual Report, was:
  - (A) not less than \$250.0 million; and
  - (B) in the case of each of free cash flow and growth capex for the Healius Group for FY23, calculated in the same manner (including, but not limited to, by applying the same accounting policies) as free cash flow or growth capex (as applicable) for the Healius Group for 1H23 (as stated on page 6 of the Healius 1H23 Report) was calculated;
- (ii) underlying EBIT for the Healius Group for FY23, as stated or otherwise shown in the Healius FY23 Annual Report, was:
  - (A) not less than \$99.7 million; and
  - (B) calculated in the same manner (including, but not limited to, by applying the same accounting policies) as underlying EBIT for the Healius Group for 1H23 (as stated on page 7 of the Healius 1H23 Report) was calculated;
- (iii) reported EBIT for the Healius Group for FY23, as stated or otherwise shown in the Healius FY23 Annual Report, was:
  - (A) not less than \$46.1 million, excluding the impact of:

- (1) pathology digital transformation costs (calculated in the same manner (including, but not limited to, by applying the same accounting policies) as pathology digital transformation costs for the Healius Group for 1H23 (as stated on page 7 of the Healius 1H23 Report) were calculated) incurred by the Healius Group in 2H23, provided that such costs do not exceed \$4.0 million (if they do, only \$4.0 million of such costs are excluded);
- (2) restructuring & termination costs (calculated in the same manner (including, but not limited to, by applying the same accounting policies) as restructuring & termination costs for the Healius Group for 1H23 (as stated on page 7 of the Healius 1H23 Report) were calculated) incurred by the Healius Group in 2H23, provided that such costs do not exceed \$2.0 million (if they do, only \$2.0 million of such costs are excluded); and
- (3) transaction costs incurred by the Healius Group in connection with the Offer in 2H23, provided that such costs do not exceed \$2.0 million (if they do, only \$2.0 million of such costs are excluded); and
- (B) was otherwise calculated in the same manner (including, but not limited to, by applying the same accounting policies) as reported EBIT for the Healius Group for 1H23 (as stated on page 7 of the Healius 1H23 Report) was calculated;
- (iv) profit for the year from continuing operations for the Healius Group for FY23, as stated or otherwise shown in the Healius FY23 Financial Statements, was:
- (A) not less than -\$2.1 million, excluding the impact of:
- (1) pathology digital transformation costs (calculated in the same manner (including, but not limited to, by applying the same accounting policies) as pathology digital transformation costs for the Healius Group for 1H23 (as stated on page 7 of the Healius 1H23 Report) were calculated, but on a post-tax adjusted basis) incurred by the Healius Group in 2H23, provided that such costs do not exceed \$2.8 million (if they do, only \$2.8 million of such costs are excluded);
- (2) restructuring & termination costs (calculated in the same manner (including, but not limited to, by applying the same accounting policies) as restructuring & termination costs for the Healius Group for 1H23 (as stated on page 7 of the Healius 1H23 Report) were calculated) incurred by the Healius Group in 2H23, provided that such costs do not exceed \$1.4 million (if they do, only \$1.4 million of such costs are excluded); and
- (3) transaction costs incurred by the Healius Group in connection with the Offer in 2H23, provided that such costs do not exceed \$1.4 million (if they do, only \$1.4 million of such costs are excluded); and
- (B) otherwise calculated in the same manner (including, but not limited to, by applying the same accounting policies) as profit for the year from continuing operations for the Healius Group for 1H23 (as stated in the audited financial statements on page 13 of the Healius 1H23 Report) was calculated; and
- (v) net debt plus current tax liabilities less current tax assets for the Healius Group as at 30 June 2023, as stated in the Healius FY23 Financial Statements was:
- (A) not greater than \$437.3 million; and
- (B) calculated in the same manner (including, but not limited to, by applying the same accounting policies) as each of net debt, current tax liabilities and current tax assets

for the Healius Group as at 31 December 2022 (as stated on pages 6 (in the case of net debt) and 15 (in the case of current tax liabilities and current tax assets) of the Healius 1H23 Report) were calculated.

(h) **Accounting policies**

In preparing the Healius FY23 Financial Statements, no Healius Group Member changes any accounting policy applied by it in preparing its audited financial statements for FY22, other than as required by applicable law.

(i) **Healius' post-FY23 EBIT margin**

Between the Announcement Date and the end of the Offer Period (each inclusive), Healius does not make a public announcement (whether to the ASX, in its financial statements in respect of a reporting period, or otherwise), or state in its Target's Statement (or a Supplementary Target's Statement), that (or to the effect that):

- (i) the Healius Group will not, is likely to not, or does not expect to, achieve or obtain (or has not achieved or obtained) a reported EBIT margin and an underlying EBIT margin in any financial half-year or financial year of the Healius Group after FY23 of at least 9.2%;
- (ii) the Healius Group will, is likely to, or expects to, achieve or obtain (or has achieved or obtained) a reported EBIT margin and an underlying EBIT margin in any financial half-year or financial year of the Healius Group after FY23 of less than 9.2%; or
- (iii) the Healius Group's revenue, EBIT and any other financial metric for any financial half-year or financial year of the Healius Group after FY23 is, was, will be, is likely to be, or is expected to be, such amount that it is reasonably likely that the Healius Group:
  - (A) will not achieve or obtain, or has not achieved or obtained, a reported EBIT margin or an underlying EBIT margin in that financial half-year of at least 9.2%; or
  - (B) will achieve or obtain, or has achieved or obtained, a reported EBIT margin or an underlying EBIT margin in that financial half-year of less than 9.2%.

**ACL Competing Proposals**

(j) **No ACL Competing Proposal**

Between the Announcement Date and the end of the Offer Period (each inclusive), no ACL Competing Proposal is made or announced by a Third Party or is otherwise received by ACL.

**Access to information relating to Healius**

(k) **Equal access to information**

Between the Announcement Date and the end of the Offer Period (each inclusive), Healius promptly (and in any event within two Business Days) provides to ACL a copy of all information that is not generally available (within the meaning of section 1042C of the Corporations Act) relating to any Healius Group Member or any of their respective assets, liabilities, operations or businesses, that has been provided, or made available, by a Healius Group Member or any of its directors, officers, employees, agents, professional advisers or representatives to any person (other than a member of the ACL Group) between the Announcement Date and the end of the Offer Period (each inclusive) for the purpose of soliciting, encouraging or facilitating a proposal or offer by that person to implement a transaction under which:

- (i) any person (together with its Associates) may acquire voting power of 10% or more in Healius (whether by way of a takeover bid, compromise or arrangement under Part 5.1 of the Corporations Act, or otherwise);
- (ii) any person (together with its Associates) may acquire, directly or indirectly (whether by way of joint venture, dual listed company structure or otherwise), any interest in all or a substantial part of the business or assets of any material Healius Group Member or the Healius Group as a whole;
- (iii) that person may otherwise acquire control of, or merge or amalgamate with, any material Healius Group Member; or
- (iv) any transaction having a similar economic effect to a transaction contemplated by paragraph (i), (ii) or (iii) above.

(l) **No materially inaccurate public information**

Between the Announcement Date and the end of the Offer Period (each inclusive) neither of the following things occurs:

- (i) ACL becomes aware; or
- (ii) Healius publicly discloses (whether in an announcement to ASX or in its Target's Statement (or a Supplementary Target's Statement)),

that:

- (iii) any document filed or lodged by or on behalf of any Healius Group Member with ASX or ASIC:
  - (A) contains a statement which is incorrect or misleading in any material respect; or
  - (B) from which there is a material omission; or
- (iv) without limiting paragraph (iii) above, any financial result or metric stated in an annual report or half-year report in respect of the Healius Group that was filed or lodged by or on behalf of a Healius Group Member with ASX or ASIC was materially misstated.

**No material adverse change or market fall**

(m) **No material adverse change**

- (i) Between the Announcement Date and the end of the Offer Period (each inclusive), no event, change, matter, condition or thing, other than an event, change, matter, condition or thing that was publicly announced to the ASX by Healius before the Announcement Date, (each, a **Specified Event**) which, whether individually or when aggregated with all Specified Events, has had, will have or is reasonably likely to have, the effect of a diminution in the value (whether now or in the future) of the consolidated net assets of the Healius Group (calculated in the same manner (including, but not limited to, applying the same accounting policies) as the consolidated net assets for the Healius Group as at 31 December 2022 (as stated in the Healius 1H23 Report) was calculated) by at least \$90.0 million occurs, is disclosed or announced (whether by Healius or otherwise) or becomes known to ACL (whether or not it becomes public).
- (ii) Between 30 June 2023 and the end of the Offer Period (each inclusive), no Specified Event which, whether individually or when aggregated with all Specified Events, has had, will have or is reasonably likely to have, the effect (whether now or in the future) that the free cash flow less growth capex of the Healius Group (calculated in the same manner

(including, but not limited to, by applying the same accounting policies) as free cash flow less growth capex of the Healius Group for FY23, as stated in the Healius 1H23 Report, was calculated) is less than the amount of the free cash flow less growth capex for the Healius Group for FY23 (as stated in the Healius FY23 Annual Report) in any financial year of the Healius Group after FY23, occurs, is disclosed or announced (whether by Healius or otherwise) or becomes known to ACL (whether or not it becomes public).

- (iii) Between 30 June 2023 and the end of the Offer Period (each inclusive), no Specified Event which, whether individually or when aggregated with all Specified Events, has had, will have or is reasonably likely to have, the effect (whether now or in the future) that the revenue of the Healius Group (calculated in the same manner (including, but not limited to, by applying the same accounting policies) as revenue of the Healius Group for FY23, as stated in the Healius FY23 Annual Report, was calculated) is less than the amount of the revenue for the Healius Group for FY23 (as stated in the Healius FY23 Annual Report) in any financial year of the Healius Group after FY23, occurs or is disclosed or announced (whether by Healius or otherwise) or becomes known to ACL (whether or not it becomes public).
- (iv) Between 30 June 2023 and the end of the Offer Period (each inclusive), no Specified Event which, whether individually or when aggregated with all Specified Events, has had, will have or is reasonably likely to have, the effect (whether now or in the future) that the profit for the year from continuing operations of the Healius Group (calculated in the same manner (including, but not limited to, by applying the same accounting policies) as profit for the year from continuing operations of the Healius Group for FY23, as stated in the Healius FY23 Annual Report, was calculated) is less than the amount of the profit for the year from continuing operations for the Healius Group for FY23 (as stated in the Healius FY23 Annual Report) in any financial year of the Healius Group after FY23, occurs or is disclosed or announced (whether by Healius or otherwise) or becomes known to ACL (whether or not it becomes public).

(n) **No market fall**

Between the Announcement Date and the end of the Offer Period (each inclusive), the S&P/ASX 200 Index does not fall by 10% or more from the level of that index at close of trading on the trading day immediately prior to the Announcement Date and remain at, or below, that level for at least two consecutive trading days.

**Conduct of Healius' business**

(o) **Prescribed Occurrences Condition**

Between the Announcement Date and the date 3 Business Days after the end of the Offer Period (each inclusive), none of the following prescribed occurrences (being the occurrences listed in section 652C of the Corporations Act) happen:

- (i) Healius converting all or any of its Shares into a larger or smaller number of shares under section 254H of the Corporations Act;
- (ii) any Healius Group Member resolving to reduce its share capital in any way;
- (iii) any Healius Group Member entering into a buy-back agreement or resolving to approve the terms of such an agreement under sections 257C(1) or 257D(1) of the Corporations Act;
- (iv) any Healius Group Member making an issue of shares or granting an option over its Shares or agreeing to make such an issue or grant such an option, other than the issue of a Healius Share as a result of the conversion of a Healius Option or a Healius Right that was on issue on the Announcement Date;



- (v) any Healius Group Member issuing, or agreeing to issue, convertible notes;
  - (vi) any Healius Group Member disposing or agreeing to dispose of the whole, or a substantial part, of its business or property;
  - (vii) any Healius Group Member granting, or agreeing to grant, a Security Interest in the whole, or a substantial part, of its business or property;
  - (viii) any Healius Group Member resolving that it be wound up;
  - (ix) the appointment of a liquidator or provisional liquidator of any Healius Group Member;
  - (x) the making of an order by a court for the winding up of any Healius Group Member;
  - (xi) an administrator of any Healius Group Member being appointed under sections 436A, 436B or 436C of the Corporations Act;
  - (xii) any Healius Group Member executing a deed of company arrangement; or
  - (xiii) the appointment of a receiver, receiver and manager, other controller (as defined in the Corporations Act) or similar official in relation to the whole, or a substantial part, of the property of any Healius Group Member.
- (p) **No other material occurrences**

Between the Announcement Date and the end of the Offer Period (each inclusive), none of the following occurs or is publicly announced by Healius (whether to the ASX or otherwise), except to the extent fully and fairly disclosed by Healius in an announcement made by Healius to ASX before the Announcement Date:

- (i) **acquisitions or disposals:** the Healius Group (or any Healius Group Member(s), either alone or collectively) acquiring or disposing of or agreeing to acquire or dispose of (including the granting, or acquiring, of a lease in respect of):
  - (A) any company, business or shares or other securities in any company (or part thereof) (including, but not limited to, any Healius Shares, whether by way of an on-market buy-back under s257B of the Corporations Act, or otherwise); or
  - (B) any asset with an individual value, or assets with an aggregate value, of \$50,000,000.
- (ii) **net debt:**
  - (A) at any time before completion of the Day Hospitals Sale, the Healius Group's net debt plus current tax liabilities less current tax assets exceeding, or being reasonably likely to exceed, \$558.0 million (calculated in the same manner (including, but not limited to, by applying the same accounting policies) as each of net debt, current tax liabilities and current tax assets for the Healius Group as at 31 December 2022 (as stated on pages 6 (in the case of net debt) and 15 (in the case of current tax liabilities and current tax assets) of the Healius 1H23 Report) were calculated) and remaining, or being reasonably likely to remain, in excess of such amount for a period of 30 days; or
  - (B) at any time after completion of the Day Hospitals Sale, the Healius Group's net debt plus current tax liabilities less current tax assets exceeding, or being reasonably likely to exceed, \$437.3 million (calculated in the same manner (including, but not limited to, by applying the same accounting policies) as each of net debt, current tax liabilities and current tax assets for the Healius Group as at 31 December 2022 (as

stated on pages 6 (in the case of net debt) and 15 (in the case of current tax liabilities and current tax assets) of the Healius 1H23 Report) were calculated) and remaining, or being reasonably likely to remain, in excess of such amount for a period of 30 days;

- (iii) **disputes:** any Healius Group Member (or any Healius Group Member(s) collectively) discharging, settling, satisfying, compromising, waiving or releasing any legal proceedings, claim, investigation, arbitration or other like proceeding where the amount claimed by or against the Healius Group Member exceeds \$50,000,000;
- (iv) **ceasing to carry on business:** a Healius Group Member that is material to the Healius Group (taken as a whole) ceasing to carry on business;
- (v) **acceleration of rights to benefits, and termination payments:** a Healius Group Member:
- (A) accelerates (or agrees to accelerate) the rights of any officer or employee (other than a medical practitioner) whose total remuneration package was \$300,000 or more (on a pre-tax basis) for FY23 (**Senior Healius Employee**) to benefits of any kind (other than the exercise by the Healius Board of any right or discretion given to the Healius Board under the rules of an incentive plan governing, or the terms of issue of, any Healius Right and/or Healius Option to accelerate the vesting and/or exercise of any Healius Rights and/or Healius Options before the scheduled vesting or exercise date (as applicable)); or
  - (B) pays or agrees to pay a termination payment (including, but not limited to, a 'golden parachute') to a Senior Healius Employee other than in accordance with that Senior Healius Employee's employment contract, or in accordance with a Healius Group policy in force, on the day immediately before the Announcement Date;
- (vi) **bonuses, retention payments and other incentives:** a Healius Group Member:
- (A) pays, or agrees to pay, any bonus or other incentive payment or retention payment (including any retention bonus) (whether or not the payment of which is subject to the satisfaction of performance or other conditions) to any Senior Healius Employee (other than such a payment that the Healius Group Member determined or agreed to pay before the Announcement Date); or
  - (B) increases, or agrees to increase, the salary, remuneration or other compensation of a Senior Healius Employee (other than as expressly provided for in the Senior Healius Employee's employment contract before the Announcement Date),
- (each, a **Relevant Remuneration Payment or Increase**), if the payment of that Relevant Remuneration Payment or Increase to that Senior Healius Employee (whether by itself or together with each other Relevant Remuneration Payment or Increase paid or agreed to be paid to that Senior Healius Employee after the Announcement Date) would result in the aggregate remuneration of that Senior Healius Employee (on a pre-tax basis) in any financial year increasing by 7% or more compared to that Senior Healius Employee's aggregate remuneration for FY23 as at the day before the Announcement Date; or
- (vii) **agreement or arrangement:** entering into any agreement or arrangement that will result in any event described in paragraphs (p)(i) to (p)(vi) (inclusive) occurring.

(q) **No action in relation to Healius' billing practices**

Between the Announcement Date and the end of the Offer Period (each inclusive):

- (i) there is not in effect any preliminary or final decision, order or decree issued by, any fine or penalty imposed by, or demand or requirement for repayment made by, any Public Authority;
- (ii) no action, audit or investigation is announced, commenced or threatened by any Public Authority, and no litigation or proceedings are announced, commenced or threatened; and
- (iii) no application is made to any Public Authority (other than by ACL or any Associate of ACL),

in relation to the billing practices of any Healius Group Member (including overbilling):

- (iv) where the amount claimed, or the amount of the fine or penalty imposed by or demand or requirement for repayment made by the applicable Public Authority, or the subject of the application to the applicable Public Authority (as applicable); or
- (v) which would, or is reasonably likely to, result in, or has resulted in, the Healius Group being required to make, or voluntarily making, a payment (or payments) or incurring expenditure (alone or in aggregate),

in excess of \$10,000,000.

(r) **Debt Covenants**

Between the Announcement Date and the end of the Offer Period (each inclusive):

- (i) no Healius Group Member (individually or collectively with any other Healius Group Members) is in breach of any financial covenant (or other undertaking) in respect of the maintenance of that Healius Group Member's or the Healius Group's capital structure (including, but not limited to, the maintenance of financial ratios) within certain parameters that is made or given by one or more Healius Group Members under a Debt Facility (each, a **Debt Covenant**);
- (ii) no waivers, standstills or similar indulgences have been granted or otherwise permitted by the applicable lender(s) in respect of a breach (or a fact, matter, circumstance, action or inaction which, in the absence of such a waiver, standstill or similar indulgence, would have been a breach) by a Healius Group Member (individually or collectively with any other Healius Group Members) of a Debt Covenant.

(s) **No cessation of licences, registrations, certifications or accreditations**

Between the Announcement Date and the end of the Offer Period (each inclusive), no entity within the Healius Group and no employee of the Healius Group breaches the terms and conditions of, fails to renew or ceases to hold, any licenses, registrations, certifications or accreditations required for Medicare billing eligibility.

(t) **No litigation on foot or pending**

Between the Announcement Date and the end of the Offer Period (each inclusive):

- (i) no litigation or proceedings against any Healius Group Member which (when aggregated with all other such litigation or proceedings) would, or is reasonably likely to, result in a judgement or order for an amount in excess of \$50,000,000 or which (when aggregated with all other such litigation or proceedings) would, or is reasonably likely to, require the

Healius Group to undertake expenditure in excess of \$50,000,000 is commenced, is pending, is threatened to be commenced, is announced, or is made known to ACL (whether or not becoming public) or Healius, other than any such litigation or proceedings that was publicly announced to the ASX by Healius before the Announcement Date;

- (ii) no judgement or order is given or sought in relation to litigation or proceedings against any Healius Group Member for an amount (when aggregated with all other such judgements and orders) in excess of \$50,000,000 or requiring (or which, if given, would require) the Healius Group to undertake expenditure (when aggregated with all other such judgements and orders) in excess of \$50,000,000, except to the extent such judgement or order, or the seeking of such judgement or order, was publicly announced to the ASX by Healius before the Announcement Date.

(u) **No regulatory action in respect of the conduct of the Healius Group's business**

- (i) Between the Announcement Date and the end of the Offer Period (each inclusive):
  - (A) there is not in effect any preliminary or final decision, order or decree issued by any Public Authority; and
  - (B) no action, audit or investigation is announced, commenced or threatened by any Public Authority,

specifically against, or otherwise specifically in relation to, any Healius Group Member that Healius or the relevant Public Authority publicly announces, or is required to publicly announce (whether under the ASX Listing Rules or any other applicable law or regulation), other than in consequence of, or in connection with, the Offer or an application to, or a decision or order of, or action or investigation by, ASIC or the Takeovers Panel in exercise of the powers and discretions conferred by the Corporations Act (**Material Regulatory Action**).

- (ii) Between the Announcement Date and the end of the Offer Period (each inclusive), no event, change, matter, condition or thing occurs, or is publicly announced by Healius (whether to the ASX or otherwise), which will, or is reasonably likely to, result in a Material Regulatory Action.

(v) **No distributions**

Between the Announcement Date and the end of the Offer Period (each inclusive), Healius does not announce, make, declare or pay any distribution (whether by way of dividend, capital reduction or otherwise and whether in cash or in specie), other than where:

- (i) in relation to any such distribution in, or in respect of, a financial half year of the Healius Group ending 31 December (**Financial Half Year**) (**HY Distribution**), the amount of the HY Distribution, when aggregated with the amount of all other such distributions declared or paid by Healius in, or in respect of, that Financial Half Year, does not exceed, and is not reasonably likely to exceed, an amount equal to 70% of the Healius Group's underlying NPAT for that Financial Half Year (calculated in the same manner (including, but not limited to, by applying the same accounting policies) as the underlying NPAT for the Healius Group for 1H23 (as stated on page 7 of the Healius 1H23 Report) was calculated); or
- (ii) in relation to any such distribution in, or in respect of, a full financial year of the Healius Group ending on 30 June (**Financial Year**) (**FY Distribution**), the amount of the FY Distribution, when aggregated with the amount of all other such distributions (including, but not limited to, any HY Distributions or other FY Distributions declared or paid by Healius in or in respect of that Financial Year) declared or paid by Healius in, or in respect of, that Financial Year, does not exceed, and is not reasonably likely to exceed, an amount equal to 70% of the Healius Group's underlying NPAT for that Financial Year (calculated in the

same manner (including, but not limited to, by applying the same accounting policies) as the underlying NPAT for the Healius Group for 1H23 (as stated on page 7 of the Healius 1H23 Report) was calculated).

### **No change of control right exercised**

#### **(w) No change of control right exercised**

Between the Announcement Date and the end of the Offer Period (each inclusive), no person exercises or purports to exercise, or states an intention to exercise, any rights under any provision of any agreement or any other instrument to which a Healius Group Member is a party, or by or to which a Healius Group Member or any of its assets may be bound or be subject, which results (or, if the right was exercised, would result) or would reasonably be expected to result (or, if the right was exercised, would reasonably be expected to result) in:

- (i) any moneys borrowed by one or more Healius Group Members in excess of \$30,000,000 being or becoming repayable or being capable of being declared repayable immediately or earlier than the repayment date specified in the agreement or other instrument under which (or which otherwise set out the terms and conditions on which) such moneys have been made available to the applicable Healius Group Member(s) (**Debt Facility**) or the terms of such a Debt Facility being varied or being capable of being varied (in each case including, but not limited to, because a “review event” (or provision with substantially the same effect) has occurred or been triggered or enlivened under a Debt Facility);
- (ii) the interest of a Healius Group Member in any partnership, joint venture, trust, corporation or other entity (or any arrangements relating to such interest) that contributes, or would reasonably be expected to contribute, more than \$5,000,000 of underlying EBIT to the Healius Group in any financial year of the Healius Group after FY22 being terminated or disposed of,

as a result of the acquisition of Healius Shares by ACL (other than a right in respect of which a written, enforceable, irrevocable and unconditional waiver has been obtained and announced by Healius to the ASX).

### **Convertible securities**

#### **(x) No issue of convertible securities, derivatives or other rights**

Between the Announcement Date and the end of the Offer Period (each inclusive), Healius does not issue or grant, or agree to issue or grant, any securities, derivatives or other rights (including Healius Options and/or Healius Rights) convertible into or that may result in the issue of Healius Shares, or any other incentives which are convertible into or may result in the issue of Healius Shares, whether under the long-term or equity incentive plans operated by Healius as at the Announcement Date or otherwise, and does not alter its capital structure or the rights attached to any of the Healius Shares (other than pursuant to the issue of Healius Shares that come to be in the bid class between the Register Date and the end of the Offer Period in accordance with the terms of, or otherwise in connection with, Healius Options and/or Healius Rights, securities, derivatives or other rights that are on issue as at the Register Date).

#### **(y) Treatment of Healius Rights and Healius Options**

By the end of the Offer Period, all Healius Rights and Healius Options have either converted into Healius Shares or lapsed:

- (i) in each case, without any cost to or payment by a Healius Group Member; and
- (ii) without limiting subparagraph (i) above, in the case of any Healius Option that is exercised before the end of the Offer Period:

- (A) after the holder of that Healius Option has paid or procured the payment of the exercise price in respect of that Healius Option to Healius in full (and in accordance with the terms of issue of that Healius Option as at the Announcement Date); and
- (B) no Healius Group Member has made a loan to the holder of that Healius Option of, or to otherwise allow the holder of that Healius Option to fund the payment of, the exercise price in respect of that Healius Option.



## ATTACHMENT 3

## DEFINITIONS

| Term                          | Meaning  |
|-------------------------------|--|
| <b>1H23</b>                   | the half year to 31 December 2022.   |
| <b>2H23</b>                   | the half year to 30 June 2023.   |
| <b>ACCC</b>                   | the Australian Competition and Consumer Commission.  |
| <b>ACL</b>                    | Australian Clinical Labs Limited (ACN 645 711 128).  |
| <b>ACL Competing Proposal</b> | <p>an offer or proposal that would, if completed substantially in accordance with its terms, result in a Third Party (other than an Associate of ACL), either alone or together with any Associate (other than an Associate of ACL):</p> <ul style="list-style-type: none"> <li>(a) directly or indirectly acquiring a Relevant Interest in, or having a right to acquire, a legal, beneficial or economic interest in, or control of, 20% or more of the ACL Shares;</li> <li>(b) acquiring Control of ACL;</li> <li>(c) otherwise directly or indirectly: <ul style="list-style-type: none"> <li>(i) acquiring or merging with ACL, or having the right to so acquire or merge with ACL; or</li> <li>(ii) acquiring or becoming the holder of, or otherwise acquiring or having a right to acquire, a legal, beneficial or economic interest in, or control of, all or a material part of the business or assets of ACL,</li> </ul> </li> </ul> <p>in each case, whether by way of takeover bid, scheme of arrangement, securityholder-approved acquisition or resolution, de-stapling, reverse takeover bid, capital reduction, capital raising, security buy-back, sale or purchase of assets, joint venture, dual listed company and/or trust structure, synthetic merger or other transaction or arrangement, which is stated to be conditional on the Offer lapsing, being withdrawn or otherwise not proceeding (whether in its entirety or on the terms and/or conditions of the Offer at the applicable time).</p> |
| <b>ACL Group</b>              | ACL and each of its subsidiaries.  |
| <b>ACL Shareholder</b>        | a person who is registered as the holder of an ACL Share in the ACL share register.  |
| <b>ACL Shares</b>             | fully paid ordinary shares in the capital of ACL.  |
| <b>Announcement Date</b>      | the date of the announcement of the Offer by ACL, being 20 March 2023.   |
| <b>ASIC</b>                   | the Australian Securities and Investments Commission.  |
| <b>ASX</b>                    | as the context requires, ASX Limited (ABN 98 008 624 691) or the securities market conducted by it.  |
| <b>ATO</b>                    | the Australian Taxation Office.  |
| <b>Associate</b>              | has the meaning given in section 12 of the Corporations Act.   |

| Term                                      | Meaning  |
|---|--|
| <b>ASX Listing Rules or Listing Rules</b> | the Official Listing Rules of ASX, as amended and waived by ASX from time to time.   |
| <b>Bidder's Statement</b>                 | the statement of ACL under Part 6.5 Division 2 of the Corporations Act relating to the Offer.  |
| <b>Business Day</b>                       | a day on which banks are open for business in Sydney, New South Wales, excluding a Saturday, Sunday or public holiday.   |
| <b>Control</b>                            | has the meaning given in section 50AA of the Corporations Act.   |
| <b>Corporations Act</b>                   | the <i>Corporations Act 2001</i> (Cth).  |
| <b>Day Hospitals Sale</b>                 | the sale by Healius of its "Montserrat Day Hospitals" business, whether on the terms of the binding agreement with Nexus Hospitals announced to the ASX on 9 December 2022 (announcement dated 8 December 2022) or on materially similar terms.                                      |
| <b>EBIT</b>                               | earnings before interest and taxes.  |
| <b>FATA</b>                               | the <i>Foreign Acquisitions and Takeovers Act 1975</i> (Cth).  |
| <b>FIRB</b>                               | the Foreign Investment Review Board.   |
| <b>FY22</b>                               | the financial year ended 30 June 2022.   |
| <b>FY23</b>                               | the financial year ending 30 June 2023.  |
| <b>Healius</b>                            | Healius Limited (ACN 064 530 516).   |
| <b>Healius 1H23 Report</b>                | Healius' Appendix 4D – Half Year Report for the financial half-year that ended on 31 December 2022 that Healius released to the ASX on 27 February 2023.   |
| <b>Healius Board</b>                      | the board of directors of Healius.   |
| <b>Healius Employee Service Rights</b>    | a right to acquire a Healius Share under the terms of the applicable Healius long-term or equity incentive plan(s) operated by Healius as at the Announcement Date, if the applicable vesting conditions are satisfied (or, if applicable, waived).                                  |
| <b>Healius Group</b>                      | Healius and each of its subsidiaries.  |
| <b>Healius Group Member</b>               | each of Healius and its subsidiaries (as the context requires).  |
| <b>Healius Options</b>                    | an option to acquire a Healius Share under the terms of the applicable Healius long-term or equity incentive plan(s) operated by Healius as at the Announcement Date at an exercise price of \$3.05, if the applicable vesting conditions are satisfied (or, if applicable, waived). |
| <b>Healius Performance Right</b>          | a performance right to acquire a Healius Share under the terms of the applicable Healius long-term or equity incentive plan(s) operated by Healius as at the Announcement Date, if the applicable vesting conditions are satisfied (or, if applicable, waived).                      |
| <b>Healius Rights</b>                     | Healius Performance Rights, Healius Share Rights, Healius Employee Service Rights and Healius Service Rights.  |
| <b>Healius Service Rights</b>             | a right to acquire a Healius Share under the terms of the applicable Healius long-term or equity incentive plan(s) operated by Healius as at   |

| Term                                    | Meaning   |
|---|---|
|   | the Announcement Date, if the applicable vesting conditions are satisfied (or, if applicable, waived).  |
| <b>Healius Shareholders</b>             | a person who is registered as the holder of a Healius Share in the Healius share register.  |
| <b>Healius Share Rights</b>             | a right to acquire a Healius Share under the terms of the applicable Healius long-term or equity incentive plan(s) operated by Healius as at the Announcement Date, if the applicable vesting conditions are satisfied (or, if applicable, waived).   |
| <b>Healius Shares or Shares</b>         | fully paid ordinary shares in the capital of Healius, including those shares on issue at the end of the Offer Period.   |
| <b>NPAT</b>                             | net profit after tax.   |
| <b>Offer</b>                            | the offer for Healius Shares under the terms and conditions contained in the Bidder's Statement.  |
| <b>Offer Consideration</b>              | 0.74 ACL Shares for each Healius Share.   |
| <b>Offer Period</b>                     | the period during which the Offer will remain open for acceptance in accordance with the Bidder's Statement.  |
| <b>Public Authority</b>                 | any government or any governmental, semi governmental, statutory or judicial entity, agency or authority, whether in Australia or elsewhere, including (without limitation) any self regulatory organisation established under statute or otherwise discharging substantially public or regulatory functions, ASX or any other stock exchange, the ATO, the Office of the Australian Information Commissioner and Medicare. |
| <b>Relevant Interest</b>                | has the meaning given to that term in sections 608 and 609 of the Corporations Act.   |
| <b>Register Date</b>                    | the date set by ACL under section 633(2) of the Corporations Act.   |
| <b>Security Interest</b>                | has the same meaning as in section 51A of the Corporations Act.   |
| <b>Supplementary Target's Statement</b> | a supplementary statement to be provided by Healius under Part 6.5 Division 4 of the Corporations Act relating to the Offer.  |
| <b>Target's Statement</b>               | the statement to be provided by Healius under Part 6.5 Division 3 of the Corporations Act relating to the Offer.  |
| <b>Third Party</b>                      | means a party other than ACL, Healius and any of their Associates.  |
| <b>Treasurer</b>                        | the Treasurer of the Commonwealth of Australia.   |