

# ASX Release

11 December 2023

## Transformational Merger of Sigma Healthcare Limited and Chemist Warehouse Group and Equity Raising

Sigma Healthcare Limited (**Sigma**) is pleased to announce it has entered into a Merger Implementation Agreement (**MIA**) to merge with CW Group Holdings Limited (**CWG** or **Chemist Warehouse Group**) to create a leading healthcare wholesaler, distributor and retail pharmacy franchisor (**Proposed Merger**).

In addition, Sigma is undertaking a fully underwritten pro-rata accelerated non-renounceable entitlement offer to raise gross proceeds of approximately \$400 million (**Entitlement Offer**) to provide the increased working capital required to implement the Chemist Warehouse supply contract (signed 31 August 2023) commencing on 1 July 2024 and progress business growth initiatives (**Equity Raising**). In the event the Proposed Merger proceeds to completion, and to the extent the proceeds have not been applied to fund working capital needs and new business initiatives discussed in the Investor Presentation – some of the net proceeds from the Entitlement Offer may instead be used to partially fund the cash consideration payable under the Proposed Merger.

### Highlights

#### Transformational merger between Sigma and CWG to create a leading healthcare wholesaler, distributor and retail pharmacy franchisor

- CWG is a leading Australian retail pharmacy franchisor, supporting a multi-national Retail Network of ~600 stores, mainly operating under the highly recognised Chemist Warehouse brand
- Sigma is a major Australian pharmaceutical wholesaler and pharmacy franchisor
- Proposed Merger to be effected by Sigma acquiring CWG via a scheme of arrangement (**Scheme**) in exchange for Sigma shares and \$700 million cash consideration<sup>1</sup>
- CWG shareholders to hold 85.75% and Sigma shareholders to hold 14.25% of the merged group (**MergeCo**) upon completion of the Proposed Merger<sup>2</sup>

<sup>1</sup> Subject to any leakage adjustment under the MIA.

<sup>2</sup> On a fully diluted basis (including cash-settled and share-based rights, grants or other incentive arrangements which have either been exercised, exchanged or converted for cash since 11 December 2023 or remain outstanding upon completion of the Proposed Merger). In conjunction with entering into the MIA, Sigma and CWG have agreed to defer the issuance of 126,947,040 Sigma shares already agreed to be issued to CWG on 31 August 2023 in conjunction with the CWG supply agreement due to commence on 1 July 2024 (**Placement Shares**) while the MIA remains on foot. If the Proposed Merger

- Proposed Merger has the potential to unlock significant efficiencies, with cost synergies initially estimated at c.\$60 million per annum, expected to be realised four years post completion<sup>3</sup>
- Indicative MergeCo market capitalisation >\$8.8 billion<sup>4</sup> and expected to be eligible to sit well within the S&P/ASX200 following quarterly re-balancing<sup>5</sup>
- Proposed Merger is subject to a number of conditions including ACCC and (if required) OIO approvals, CWG shareholder approval of the Scheme (by 75% of the votes cast and by a majority under the headcount test) and Sigma shareholder approvals (by ordinary resolutions and a special resolution)

#### **Fully underwritten \$400 million pro-rata accelerated non-renounceable entitlement offer**

- Sigma simultaneously announces a pro-rata accelerated non-renounceable entitlement offer fully underwritten by Goldman Sachs Australia Pty Ltd to raise gross proceeds of approximately \$400 million to fund increased working capital required to implement the new Chemist Warehouse supply contract commencing on 1 July 2024 and progress business growth initiatives<sup>6</sup>

#### **Attractive Strategic and Commercial Rationale**

The combination of Sigma and CWG is a transformational and compelling transaction for both companies:

- Creation of a **full-service wholesaler, distributor and retail pharmacy franchisor**
- Combines Sigma's **extensive and state-of-the-art distribution infrastructure** with CWG's **leading retailing know-how**
- Larger and more diversified earnings base, with **aggregate annual historical MergeCo EBIT >\$495 million<sup>7</sup>**, before synergies

completes, these Placement Shares will not be issued. If the MIA is terminated, the Placement Shares will be issued to CWG (or a subsidiary of CWG) on the later of 1 July 2024 and 20 business days post termination of the MIA.

<sup>3</sup> On a run-rate basis. One-off costs to achieve estimated at c.\$75 million. Refer to page 28 of the Investor Presentation for further detail.

<sup>4</sup> Based on estimated MergeCo shares at completion of the Proposed Merger of 11.6 billion (including shares issued in the \$400 million capital raising announced today) and based on Sigma's last traded price of \$0.7625/sh on 6 December 2023.

<sup>5</sup> Based on indicative free float market capitalisation >\$4.1 billion, assuming free float of c.47% on completion of the Proposed Merger (illustrative potential free float excludes Escrowed Holders and directors and officers of MergeCo). Refer to the notes on page 30 of the Investor Presentation for further detail.

<sup>6</sup> In the event the Proposed Merger proceeds to completion, and to the extent the proceeds have not been applied to fund working capital needs and new business initiatives – some of the net proceeds from the Entitlement Offer may instead be used to partially fund the cash consideration to CWG shareholders.

<sup>7</sup> 12 months to June 2023 in the case of CWG and 12 months to July 2023 in the case of Sigma. Shown on an aggregated basis and does not take into account intercompany adjustments. Refer to page 42 of the Investor Presentation for further detail. This is based on historical financial information of CWG and Sigma and is given for illustrative purposes only and should not be relied upon as Sigma's views on its future financial performance following completion of the Proposed Merger. There has been no alignment of the financial year ends of Sigma and CWG to present the aggregated MergeCo financial information. Year-end reporting periods will be aligned post implementation of the Proposed Merger.

- **Significant potential for synergies** – initial estimate of c.\$60 million per annum of cost synergies<sup>8</sup>
- **Highly experienced management team and Board**
- **Greater scale, investor interest and balance sheet strength** – indicative MergeCo market capitalisation of >\$8.8 billion<sup>9</sup> and expected to be eligible to sit well within the S&P/ASX200 following quarterly re-balancing<sup>10</sup>

Sigma Chairman Michael Sammells said: “The Proposed Merger is a step-change event for Sigma. With Sigma having had a commercial relationship with CWG and its founders spanning more than 40 years, we are excited by the efficiencies, synergies and growth opportunities that we anticipate being unlocked through the merger of the two complementary businesses. The combined group will have extensive capabilities and expertise to benefit franchisees and customers, including through more brand choice, products and services and expanded marketing capabilities.”

CWG Chairman Jack Gance said: “The combination of CWG’s retailing and marketing capabilities and Sigma’s state-of-the-art distribution infrastructure and logistics capabilities presents a unique opportunity for both CWG and Sigma shareholders. We look forward to building the next chapter of CWG’s success for the benefit of our customers, staff, franchisees and shareholders.”

### **Proposed Merger Overview**

Under the terms of the MIA, Sigma has agreed to acquire 100% of the issued shares in CWG via a Scheme. A copy of the MIA is included in Appendix B to this announcement.

### *Transaction Details*

- CWG shareholders will receive in aggregate, \$700 million in cash subject to any leakage adjustment under the MIA. CWG shareholders will also receive such number of Sigma shares that results in CWG shareholders owning 85.75% of MergeCo<sup>11</sup>
- Upon completion of the Proposed Merger, CWG shareholders will own 85.75% of MergeCo, and Sigma shareholders will hold the remaining 14.25%<sup>12</sup>
- Sigma has received a credit approved commitment letter from ANZ<sup>13</sup> and NAB<sup>14</sup> for a new \$1.0 billion debt facility to fund the cash consideration required under the Proposed Merger and to

<sup>8</sup> On a run-rate basis. Synergies expected to be achieved four years post completion of the Proposed Merger. One-off costs to achieve estimated at c.\$75 million. Refer to page 28 of the Investor Presentation for further detail.

<sup>9</sup> Based on estimated MergeCo shares at completion of the Proposed Merger of 11.6 billion (including shares issued in the \$400 million capital raising announced today) and based on Sigma’s last traded price of \$0.7625/sh on 6 December 2023.

<sup>10</sup> Based on indicative free float market capitalisation >\$4.1 billion, assuming free float of c.47% on completion of the Proposed Merger (illustrative potential free float excludes Escrowed Holders and directors and officers of MergeCo). Refer to the notes on page 30 of the Investor Presentation for further detail.

<sup>11</sup> See footnote 2.

<sup>12</sup> See footnote 2.

<sup>13</sup> Australia and New Zealand Banking Group Limited (ABN 11 005 357 522).

<sup>14</sup> National Australia Bank Limited (ABN 12 004 044 937).

refinance existing CWG indebtedness. The commitment letter is subject to customary conditions including that the financiers are satisfied of each of the due diligence reports prepared in connection with the Proposed Merger including vendor due diligence on Sigma and successful completion of the Entitlement Offer (which would not be satisfied if the Underwriting Agreement was terminated). To the extent proceeds from the equity raising have not already been applied to meet working capital requirements and to fund business growth initiatives as discussed in the Investor Presentation, some of the net proceeds from the Entitlement Offer may instead be used to partially fund the cash consideration to CWG shareholders

- The Proposed Merger is subject to a number of conditions including:
  - ACCC and (if required) OIO approvals
  - Approval of the Proposed Merger by the requisite majorities of CWG shareholders<sup>15</sup>
  - Court approval of the Scheme in accordance with the Corporations Act 2001 (Cth) (**Corporations Act**)
  - Sigma shareholder approvals, including pursuant to ASX Listing Rule 11.1.2 (change of scale of Sigma), ASX Listing Rule 7.1 (issuance of securities under the transaction), ASX Listing Rule 10.1 (in relation to certain business arrangements between MergeCo and its directors and holders of 10% or more of its shares)<sup>16</sup> and under Sigma's constitution to appoint the CWG nominees to the board (all 50% ordinary resolutions) as well as a resolution of Sigma shareholders under Part 2J.3 of the Corporations Act in relation to the proposed new debt facility (a 75% special resolution)
  - Neither company being affected by a material adverse change or prescribed occurrence and other customary conditions

A full list of conditions is set out in the MIA (see Appendix B to this announcement).

The MIA includes reciprocal exclusivity arrangements (including “no shop”, “no talk” and “no due diligence” restrictions and notification obligations, with customary “fiduciary outs”) and reciprocal matching rights. A break fee of \$25 million is payable by CWG and reverse break fee of \$10 million is payable by Sigma in certain circumstances (as detailed in the MIA).

The key dates and steps for the Proposed Merger are set out at the end of this announcement.

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<sup>15</sup> At least 75% of the votes cast and a majority in the number of CWG shareholders voting on the resolution (in person or by proxy).

<sup>16</sup> The business arrangements that may require Sigma shareholder approval under ASX Listing Rule 10.1 include the following existing arrangements that will continue post completion of the Proposed Merger: (i) franchise and associated arrangements under which MergeCo will receive certain payments (such as franchise fees, management fees, supply fees and licences) from franchisees who are related parties in exchange for, amongst other things, franchise services, the supply of goods and occupation of property, (ii) leases where the related party is the landlord and will receive rent from MergeCo and (iii) a supply arrangement under which MergeCo will make payments to an entity partly owned by a related party in consideration for the supply of goods. In addition to and separate from the Sigma shareholder approval under ASX Listing Rule 10.1 for these existing arrangements that will continue post completion of the Proposed Merger, the ability for MergeCo to enter into additional transactions with related parties post completion of the Proposed Merger may be constrained by the ASX Listing Rules, in particular ASX Listing Rule 10.1, and Sigma shareholders may be asked to approve the entry into future arrangements.

Subject to the ACCC approval process, and the satisfaction (or waiver) of the other conditions under the MIA, the Proposed Merger is expected to complete in 2H CY24.

In the event the Proposed Merger does not proceed (including as a result of conditions not being satisfied), Sigma will continue to operate as a standalone company. Investors should take into account this uncertainty in deciding whether or not to buy or sell Sigma securities.

### *MergeCo Board and Management*

Post completion of the Proposed Merger, MergeCo will benefit from the combined skills and experience of the Boards and management teams of both Sigma and CWG.

Michael Sammells will be the independent chair of the MergeCo Board and Vikesh Ramsunder will be the Chief Executive Officer and Managing Director of MergeCo. Mark Davis will be appointed as Chief Financial Officer. Current Chief Executive Officer and Managing Director of CWG, Mario Verrocchi, will continue to manage the CWG business post completion of the Proposed Merger and will also be appointed to the MergeCo Board as an Executive Director. Current CWG Chairman & Co-founder Jack Gance, current CWG Chief Commercial Officer Damien Gance and current CWG Chief People Officer and CWG franchisee Danielle Di Pilla will also be appointed to the Board.

Post completion of the Proposed Merger, the MergeCo Board will be comprised of four independent directors (being existing Sigma directors Michael Sammells, Neville Mitchell, Annette Carey and Chris Roberts), four CWG representatives (as set out above) and Vikesh Ramsunder as Managing Director.

### *Board Recommendations*

Sigma's Board of Directors believes the Proposed Merger represents a significant and compelling opportunity which is expected to create material value for Sigma shareholders. The Sigma Board unanimously recommends that Sigma shareholders vote in favour of the resolutions that require the approval of Sigma's shareholders for the Proposed Merger, in the absence of a superior proposal for Sigma and subject to the Sigma independent expert concluding (and continuing to conclude) that the business arrangements relating to CWG between MergeCo and its directors and holders of more than 10% of its shares are fair and reasonable or not fair but reasonable. Each Sigma director intends to vote all of the Sigma shares they hold or control in favour of all resolutions that require the approval of Sigma's shareholders for the Proposed Merger, subject to those same qualifications.

The CWG Board of Directors unanimously recommends CWG shareholders vote in favour of the Proposed Merger and intend to vote in favour of the Proposed Merger all of the CWG shares that they own or control (being 71% of the fully diluted CWG shares on issue as at today's announcement), in each case in the absence of a superior proposal for CWG and subject to the CWG independent expert concluding (and continuing to conclude) that the Proposed Merger is in the best interests of CWG shareholders.

## Major Shareholder Support

Both HMC Capital Limited (**HMC**) and HMC Capital Partners Fund I (**Major Shareholder**)<sup>17</sup> have advised Sigma that they support the Proposed Merger and intend to vote all of the Sigma shares that they hold at the date of the Sigma EGM in favour of the Sigma resolutions to approve the Proposed Merger, in the absence of a superior proposal and subject to the Sigma independent expert concluding (and continuing to conclude) that the business arrangements relating to CWG between MergeCo and its directors and holders of more than 10% of its shares are fair and reasonable or not fair but reasonable.

## Overview of Chemist Warehouse Group

Founded by the Gance and Verrocchi families in Melbourne, with a heritage dating back over 50 years, CWG has grown into a leading Australian retail pharmacy franchisor, with a multi-national Retail Network<sup>18</sup> of more than 600 stores. CWG provides high quality support services to franchisees operating under the highly recognised 'Chemist Warehouse' brand and 'My Chemist' brand. CWG is a wholesale supplier of front-of-store consumer goods to franchisees, and supplies front-of-store consumer goods directly online to consumers.<sup>19</sup> Other CWG activities also include complementary media, advertising and marketing services. CWG is a part-owner of a leading pharmacy network in New Zealand and also has operations in Ireland and China.

CWG generates revenue through:

- Sales, comprising wholesale sales delivered through distribution centres and retail sales undertaken directly by CWG, including certain online sales (c.73% of FY23 revenue);
- Fees, comprising wholesale sales delivered directly by suppliers that are accounted for as the net amount of consideration that CWG retains after paying the external party for the goods (c.5% of FY23 revenue);
- Franchise and related fees, comprising fees for support services provided to franchisees and New Zealand stores (c.2% of FY23 revenue); and
- Marketing, advertising, promotional and other (c.20% of FY23 revenue).

Investors should refer to Appendix A of this announcement and the Investor Presentation released in conjunction with this announcement for additional information regarding the CWG business model, the Proposed Merger and the Entitlement Offer.

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<sup>17</sup> Position is held in the HMC Capital Partners Fund I via HMC Capital Partners Holdings Pty Ltd as trustee of HMC Capital Partners Holding Trust.

<sup>18</sup> The "Retail Network" includes a combination of franchised stores in Australia and wholly and part owned stores across New Zealand, China and Ireland. All Chemist Warehouse and My Chemist pharmacies are franchised in Australia.

<sup>19</sup> Any online sales in Australia involving scheduled medicines, or where the consumer selects Click & Collect or Fast Delivery, are directed to and fulfilled by franchisees. Where an online order relates only to consumer goods, the products are generally delivered to the customer direct from a CWG distribution centre, but may instead be directed to a franchisee for fulfilment if the distribution centre is unable to fulfil the order. Online sales in New Zealand are fulfilled by the pharmacy.



CWG's audited financial statements for the financial years ending 30 June 2021, 30 June 2022 and 30 June 2023 have been released to ASX today in conjunction with this announcement.

#### *CWG Founder Disposal Restrictions*

CWG founders Mario Verrocchi, Jack Gance and Sam Gance (**Escrowed Holders**), who will collectively hold c.49% of MergeCo at completion of the Proposed Merger<sup>20</sup>, have agreed to escrow arrangements with Sigma in relation to those shares (**Escrowed Shares**).<sup>21</sup> For further details of these arrangements, please refer to page 14 of the Investor Presentation and Appendix A of this announcement.

#### **Equity Raising**

Sigma is undertaking a fully underwritten \$400 million Entitlement Offer to:

- Support the delivery of the new Chemist Warehouse supply contract (signed 31 August 2023) which is expected to generate a minimum of \$3 billion revenue in the first full year of the contract, through funding the procurement of inventory prior to contract commencement in July 2024; and
- Provide funding for key growth initiatives, including the roll-out of Sigma's private label range and investment in the pharmacy brand strategy (Amcal).

These initiatives will position Sigma for growth, with a strong balance sheet and net cash balance post completion of the Entitlement Offer and positions Sigma to accelerate its path to delivering a targeted EBIT margin of 1.5 – 2.5% on a standalone basis. The proceeds of the Entitlement Offer will allow Sigma to be able to retain ownership of strategically important DCs at Truganina, Canning Vale and Townsville.

In the event the Proposed Merger proceeds to completion, and to the extent the proceeds have not been applied to fund working capital needs and new business initiatives, some of the net proceeds from the Entitlement Offer may instead be used to partially fund the cash consideration to CWG shareholders.

#### *Underwriting and Major Shareholder Support*

The Entitlement Offer is fully underwritten by Goldman Sachs Australia Pty Ltd (**Underwriter**). HMC (the manager of Sigma's Major Shareholder who holds 19.07% of Sigma shares on issue) has provided a priority sub-underwriting commitment for \$76 million (equivalent to the value of the Major Shareholder's entitlement under the Entitlement Offer) (**HMC Priority Sub-underwriting**). The HMC Priority Sub-underwriting does not involve payment of any sub-underwriting fees and (save with respect to priority and fees) is on the same terms as other sub-underwriters to the Offer. The HMC Priority Sub-underwriting is conditional on the Underwriting Agreement not being terminated. The result is that the Major

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<sup>20</sup> On a fully diluted basis (for further detail refer to footnote 2).

<sup>21</sup> Implementation of the restrictions in the escrow arrangements is conditional upon Sigma obtaining certain technical relief from ASIC under the Corporations Act, which Sigma will seek in due course prior to implementation.

Shareholder (through its related entities under the HMC Priority Sub-underwriting) will subscribe in full for the Major Shareholder's entitlement under the Offer.

In addition to the HMC Priority Sub-underwriting, HMC has also agreed with the Underwriter to partially sub-underwrite the Retail Entitlement Offer up to \$27 million (**HMC Additional Sub-underwriting**). The Additional Sub-underwriting is on the same terms as that of other sub-underwriters and HMC will receive a fee of 1.0% (including GST) on the value of securities sub-underwritten under the Retail Entitlement Offer (other than the HMC Priority Sub-underwriting as described above, which it will not receive any fees on), which is equivalent to the fee that any other sub-underwriter will receive on the value of securities sub-underwritten by them under the Retail Entitlement Offer.

Under the Entitlement Offer, eligible institutional and retail shareholders will be entitled to subscribe for 1 new Sigma share (**New Shares**) for every 1.85 Sigma shares held on the record date (**Offer Ratio**) being 7.00pm (Melbourne Time) on Wednesday, 13 December 2023 (**Record Date**).

The Entitlement Offer will be conducted at \$0.70 per New Share (**Offer Price**), representing a:

- 8.2% discount to Sigma's last traded price of \$0.7625 on Wednesday, 6 December 2023; and
- 5.5% discount to the theoretical ex-rights price (**TERP**) of \$0.7406.<sup>22</sup>

Approximately 572.6 million New Shares will be issued under the Entitlement Offer, representing approximately 54.1% of Sigma's existing shares on issue. The New Shares issued under the Entitlement Offer will rank equally with existing fully paid Sigma shares from the date of issue.

The Entitlement Offer is non-renounceable and entitlements will not be tradeable on the ASX or be otherwise transferable. Shareholders who do not take up their full entitlement will not receive any payment in respect of entitlements they do not take up and their percentage equity interest in Sigma will be diluted.

The key dates for the Entitlement Offer are set out at the end of this announcement.

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<sup>22</sup> TERP is the theoretical price at which Sigma shares should trade immediately following the ex-date for the Entitlement Offer. TERP is calculated by reference to Sigma's last traded price of \$0.7625 on 6 December 2023, being the last trading day prior to the announcement of the Entitlement Offer. TERP is a theoretical calculation only and the actual price at which Sigma shares trade immediately after the ex-date of the Entitlement Offer will depend on many factors and may not be equal to TERP.



## *Sigma FY24 YTD Trading Update*

Sigma provides the following trading update for FY24 YTD (for the nine months ending October 2023):

- Like-for-like wholesale sales (excluding Rapid Antigen Tests) of \$2.3 billion, up \$146 million or 6.8% on pcp
- Total expenses of \$192 million, down \$48 million or 20% on pcp reflecting ongoing benefit of improved cost management
- **Sigma remains on track to achieve reaffirmed full year FY24 EBIT guidance of \$26 million - \$31 million<sup>23</sup>**

### *Institutional Entitlement Offer*

The institutional component of the Entitlement Offer (**Institutional Entitlement Offer**) opens today and closes on Tuesday, 12 December 2023. Eligible institutional shareholders can choose to take-up all, part or none of their entitlement under the Entitlement Offer.

Institutional entitlements that eligible institutional shareholders do not take up, and institutional entitlements that would otherwise have been offered to ineligible institutional shareholders, may be offered to eligible institutional shareholders who apply for New Shares in excess of their entitlement, as well as to certain other eligible institutional investors, through an institutional shortfall bookbuild to be conducted concurrently with the Institutional Entitlement Offer.

The voluntary suspension of Sigma shares is expected to continue until completion of the Institutional Entitlement Offer.

### *Retail Entitlement Offer*

Eligible retail shareholders in Australia and New Zealand will be invited to participate in the retail component of the Entitlement Offer (**Retail Entitlement Offer**) at the same Offer Price and Offer Ratio as the Institutional Entitlement Offer. The Retail Entitlement Offer opens at 9:00am (Melbourne Time) on Monday, 18 December 2023 and closes at 5:00pm (Melbourne Time) on Friday, 19 January 2024.

Eligible retail shareholders will receive by email (if they have elected to receive electronic communications) or post, a detailed information booklet in relation to the Entitlement Offer (**Retail Offer Booklet**) and a personalised entitlement and acceptance form.

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<sup>23</sup> Excluding transaction costs related to the Proposed Merger with CWG and Sigma Equity Raising. Consistent with Sigma's disclosure at its 1H24 results release on 20 September 2023, FY24 EBIT guidance is inclusive of other one-off costs anticipated in 2H24.

Eligible retail shareholders under the Retail Entitlement Offer may:

- Elect to take up all or part of their pro-rata entitlement prior to 5:00pm (Melbourne time) on Friday, 19 January 2024; or
- Do nothing and let their pro-rata entitlement lapse.

Eligible retail shareholders who take up their entitlement in full will be entitled to apply for up to an additional 25% of their entitlement to the extent there is retail shortfall, subject to scale back on a pro-rata basis or to the extent considered necessary to prevent the issue of securities contrary to the law or ASX Listing Rules.<sup>24</sup>

Shareholders outside of Australia or New Zealand are ineligible to participate in the Retail Entitlement Offer. Shareholders in the United States are not eligible to participate in the Entitlement Offer, and those who are acting for the account or benefit of persons in the United States (including custodians and nominees) are not eligible to participate on behalf of those persons.

Further details on the eligibility criteria for the Retail Entitlement Offer will be set out in the Retail Offer Booklet.

### **Conference Call**

Sigma will host an investor call at 10.30am (Melbourne time) today, 11 December 2023. To participate in the live teleconference, investors and media are invited to register at <https://edge.media-server.com/mmc/p/uy6cy3fk>.

A live webcast of the conference will be available via <https://sigmahealthcare.com.au/>.

### **Notification of ASX under Listing Rule 11.1**

Prior to announcement of the Proposed Merger, Sigma notified ASX of the Proposed Merger pursuant to ASX Listing Rule 11.1. ASX determined that, among other things, Sigma is not required to re-comply with ASX's admission and quotation requirements for the Proposed Merger subject to certain conditions including that certain information about the Proposed Merger and CWG satisfactory to ASX is disclosed to the market on announcement of the Proposed Merger. Appendix A to this announcement (together with the additional disclosures which are cross-referenced in Appendix A) contain the information requested by ASX. There were certain other conditions imposed by ASX, including the need for Sigma to provide a prospectus for MergeCo, which are outlined in Appendix A.

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<sup>24</sup> The Major Shareholder's entitlement is excluded from allocation in this over-subscription facility as this will be allocated to HMC under its priority sub-underwriting arrangement to the extent this is not exercised by the Major Shareholder.

## Advisers

HMC is acting as strategic adviser to Sigma in relation to the Proposed Merger.<sup>25</sup> Goldman Sachs is acting as financial adviser to the Sigma Board in relation to the Proposed Merger and Underwriter in respect of the Equity Raising. Gilbert + Tobin is acting as legal adviser to Sigma in relation to the Proposed Merger and Equity Raising.

Rothschild & Co and Oaktower Partnership are acting as financial advisers and Herbert Smith Freehills is acting as Australian legal counsel to CWG for the Proposed Merger.

*This announcement is authorised by order of the Board.*

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## IMPORTANT NOTICE AND DISCLAIMER

This announcement contains summary information about Sigma, CWG and their respective activities current as at the date of this announcement (unless otherwise stated), is for information purposes only and is not, and does not comprise all of the information which would be required to be disclosed in a prospectus, product disclosure statement or other offering document under Australian law or any other law and will not be lodged with ASIC or any foreign regulator. Certain information in this announcement has been sourced from, or is based on information sourced from, CWG or its representatives or associates. While steps have been taken to confirm that information to the extent practicable, no representation or warranty, expressed or implied, is made as to its fairness, accuracy, completeness, reliability or adequacy.

This announcement includes certain historical financial information of Sigma as at 31 July 2023 or certain financial information of CWG as at 30 June 2023 unless stated otherwise. The financial information in this announcement is presented in an abbreviated form insofar as it does not include all the presentation and disclosures, statements or comparative information as required by Australian Accounting Standards (AAS) and other mandatory professional reporting requirements applicable to general purpose financial reports prepared in accordance with the Corporations Act. Certain financial measures included in this announcement are “non-IFRS financial information” under ASIC Regulatory Guide 230 and non-GAAP financial measures under Regulation G of the U.S. Securities Act. All dollar values in this announcement, including in the appendices, are in Australian dollars (A\$ or AUD) unless stated otherwise and are subject to rounding.

Past performance and aggregated historical information of Sigma and CWG given in this announcement are given for illustrative purposes only and should not be relied upon as (and is not) an indication of Sigma’s views on its future performance or condition including following completion of the Proposed Merger. The aggregated historical financial information is not pro forma financial information of MergeCo. Importantly, such information is subject to the assumptions and qualifications set out in the notes on page 42 of the investor presentation released by Sigma to ASX on the date of this announcement in connection with the Proposed Merger and Equity Raising (Investor Presentation). Certain forward-looking information in this announcement, including information about potential synergies in connection with

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<sup>25</sup> HMC is not receiving a fee for acting in this capacity.

the Proposed Merger, may assume the successful integration of CWG into Sigma's business. The success of this (like any of Sigma's commercial strategies) is based on certain assumptions which may prove to be incorrect.

Further information in relation to the matters described in this announcement is set out in included in the Investor Presentation. In particular, please refer to the statements in the "Important Notice and Disclaimer" and Appendix H ("Disclaimer of Liability") included in the Investor Presentation, which are incorporated by reference into this announcement.

## Key steps and dates for the Proposed Merger

Event	Date
Dispatch of Notice of Meeting and Explanatory Memorandum to Sigma shareholders	At or around the time of expected ACCC determination (timing to be confirmed in due course)
Dispatch of Scheme Booklet to CWG shareholders	At or around the time of expected ACCC determination (timing to be confirmed in due course)
Sigma Extraordinary General Meeting	Approximately 1 month post dispatch of Notice of Meeting
Completion of the Proposed Merger	Once all conditions to the Proposed Merger have been satisfied or waived
Issuance of prospectus (see Appendix A to this announcement for further details)	At or around the time of implementation of the Proposed Merger

## Key dates for the Equity Raising

Event	Date
Announcement of Entitlement Offer (with voluntary suspension of Sigma shares to continue)	Monday, 11 December 2023
Institutional Entitlement Offer opens	Monday, 11 December 2023
Institutional Entitlement Offer closes	Tuesday, 12 December 2023
Announcement of results of Institutional Entitlement Offer	Wednesday, 13 December 2023
Voluntary suspension lifted and Sigma shares recommence trading	Wednesday, 13 December 2023
Entitlement Offer Record Date	7:00pm on Wednesday, 13 December 2023
Retail Entitlement Offer opens and Retail Offer Booklet made available	Monday, 18 December 2023
Settlement of New Shares issued under the Institutional Entitlement Offer	Tuesday, 19 December 2023
Allotment and normal trading of New Shares issued under the Institutional Entitlement Offer	Wednesday, 20 December 2023
Retail Entitlement Offer closes	5:00pm on Friday, 19 January 2024
Announcement of results of Retail Entitlement Offer	Wednesday, 24 January 2024
Settlement of New Shares issued under the Retail Entitlement Offer	Thursday, 25 January 2024
Allotment of New Shares issued under the Retail Entitlement Offer	Monday, 29 January 2024
Normal trading of New Shares issued under the Retail Entitlement Offer	Tuesday, 30 January 2024
Holding statements dispatched in respect of New Shares issued under the Retail Entitlement Offer	Tuesday, 30 January 2024

These dates (except where historical) are indicative only and are subject to change without notice. All times and dates refer to the time and date in Melbourne, Australia (Melbourne time).



## Appendix A – Additional information about the Proposed Merger

Type of information	Details or location of information
The parties to, and material terms of, the Proposed Merger	<p>The parties to the Proposed Merger are Sigma Healthcare Limited (ACN 088 417 403) (<b>Sigma</b>) and CW Group Holdings Limited (ACN 635 851 839) (<b>CWG</b>). Sigma and CWG have entered into a merger implementation agreement to document their agreement to pursue the Proposed Merger (<b>MIA</b>). Under the MIA:</p> <p>(a) CWG has, among other things:</p> <ul style="list-style-type: none"> <li>(i) agreed to propose a members' scheme of arrangement under Part 5.1 of the <i>Corporations Act 2001</i> (Cth) (<b>Corporations Act</b>) under which all the shares on issue in CWG will be transferred to Sigma on and subject to the terms and conditions set out in MIA; and</li> <li>(ii) represented and warranted that all of CWG's directors have confirmed that they will unanimously recommend that CWG shareholders vote in favour of the scheme and will vote, or procure the voting of, any CWG shares they own or control in favour of the scheme, in each case in the absence of a superior proposal emerging for CWG and subject to the independent expert concluding (and continuing to conclude) that the scheme is in the best interests of CWG shareholders;</li> </ul> <p>(b) Sigma has, among other things:</p> <ul style="list-style-type: none"> <li>(i) agreed to convene an extraordinary general meeting of its shareholders to consider and vote on the resolutions that require the approval of Sigma's shareholders for the Proposed Merger (discussed further below); and</li> <li>(ii) represented and warranted that all of Sigma's directors have confirmed that they will unanimously recommend that Sigma shareholders vote in favour of the resolutions that require the approval of Sigma's shareholders for the Proposed Merger and vote in favour of those resolutions in respect of all Sigma shares they own or control, in each case in the absence of a superior proposal for Sigma and subject to the Sigma independent expert concluding (and continuing to conclude) that the related party arrangements relating to CWG are fair and reasonable or not fair but reasonable;</li> </ul> <p>(c) Sigma and CWG have agreed to conduct their respective businesses in the ordinary course with restrictions on specified actions, including acquisitions, disposals, entry into material contracts, providing financial accommodation, commencing or settling of legal proceedings, capital expenditure and other customary actions over specified thresholds;</p> <p>(d) Sigma and CWG have agreed to consult on, consider comments on, provide information for and update key disclosure documents in respect of the Proposed Merger;</p>

Type of information	Details or location of information
	<p>(e) Sigma and CWG have agreed to standard mutual deal protection mechanisms, including a \$25m break fee (payable by CWG) and a \$10m reverse break fee (payable by Sigma). The parties have also agreed to customary no-shop, no-talk and no-due diligence (subject to a fiduciary out) provisions as well as notification and matching rights and restrictions;</p> <p>(f) CWG has agreed to provide Sigma with information in relation to CWG that Sigma requires to comply with its continuous disclosure obligations, and CWG and Sigma have agreed to consult in good faith with respect to any relevant disclosure;</p> <p>(g) Sigma and CWG have each warranted and undertaken that no leakage will occur in respect of their groups between the date of reference accounts and implementation of the scheme. Leakage includes payments or distributions to shareholders, incurring indebtedness in favour of shareholders, forgiving amounts owed by shareholders and transfers of assets or other benefits to shareholders. Leakage excludes 'permitted leakage', which covers permitted dividends, certain payments in the ordinary course of business and consistent with past practice, certain payments disclosed, leakage reversed or reduced and approved payments. If the value of leakage for Sigma exceeds the value of leakage for CWG, the cash consideration will be increased. If the value of leakage for CWG exceeds the value of leakage for Sigma, the cash consideration will be decreased;</p> <p>(h) Sigma and CWG have agreed to standard termination provisions and customary representations and warranties; and</p> <p>(i) Sigma and CWG have agreed to the conditions to the scheme as described below.</p> <p>A copy of the MIA is included with this announcement at Appendix B.</p> <p><b>In addition to the scheme needing to be approved by the requisite majorities of CWG shareholders (discussed further below) and the satisfaction or waiver of a number of other conditions (discussed further below), the Proposed Merger requires the approval of Sigma's shareholders, including under ASX Listing Rules 7.1, 11.1.2 and 10.1, under Sigma's constitution to appoint CWG nominees to the Board as well as a resolution of Sigma shareholders under Part 2J.3 of the Corporations Act in relation to the proposed new debt facility (a 75% special resolution). If Sigma shareholder approval is not obtained, the Proposed Merger will not proceed. Investors should take account of these uncertainties in deciding whether or not to buy or sell Sigma's securities.</b></p> <p>Approval of Sigma's shareholders is being sought under ASX Listing Rules 7.1, 11.1.2 and 10.1 because:</p> <ul style="list-style-type: none"> <li>ASX Listing Rule 7.1 – the issue of Sigma shares to CWG shareholders as consideration under the Proposed Merger will exceed Sigma's placement capacity under ASX Listing Rule 7.1. As the Proposed Merger is a 'reverse takeover' for the purposes of the ASX Listing Rules, exceptions 6 (issuance of</li> </ul>

Type of information	Details or location of information
	<p>securities under a takeover bid or scheme of arrangement) and 7 (issuance of securities to fund the cash consideration payable under a takeover bid or scheme of arrangement) under ASX Listing Rule 7.2 are not available to Sigma;</p> <ul style="list-style-type: none"> <li>ASX Listing Rule 11.1.2 – the Proposed Merger is expected to result in a ‘significant’ change to the scale of Sigma’s activities as defined in ASX’s guidance in Guidance Note 12; and</li> <li>ASX Listing Rule 10.1 – CWG has in place certain business arrangements with related parties that will continue post-completion of the Proposed Merger meaning those arrangements will exist between MergeCo and its directors and holders of 10% or more of its shares.<sup>26</sup> Accordingly, shareholder approval will be sought in relation to those arrangements.</li> </ul> <p>Sigma is not aware of any of its shareholders, other than CWG in respect of its 0.7% Sigma shareholding, being prohibited from being able to vote on the above resolutions.</p>
Overview of CWG	<p>See pages 15 to 23 and Appendix C of the investor presentation lodged with ASX by Sigma on the same date as this announcement (<b>Investor Presentation</b>) for information about CWG and its business including its principal activities, business model and the jurisdictions in which it operates. The key risks associated with CWG’s business model are summarised in Appendix E of the Investor Presentation.</p> <p>Copies of CWG’s audited financial statements for its financial years ending 30 June 2021, 30 June 2022 and 30 June 2023 are being disclosed to ASX at the same time as the release of this announcement.</p>
Impact of the Proposed Merger on key Sigma metrics and capital structure	<p>See Appendix B of the Investor Presentation which set out the:</p> <ul style="list-style-type: none"> <li>(a) impact of the Proposed Merger on the total consolidated assets, total equity interests and total securities on issue (fully diluted) of Sigma;</li> <li>(b) likely effect of the Proposed Merger on the consolidated EBITDA, EBIT, annual profit before tax, annual revenue and annual expenditure of Sigma; and</li> <li>(c) impact of the Proposed Merger on Sigma’s capital structure (including the impact of the Equity Raising).</li> </ul> <p>This information is given for illustrative purposes only and should not be relied upon as (and is not) an indication of Sigma’s views on its future financial performance or condition following completion of the Proposed Merger; they are not representations as to future matters. Importantly, the information is subject to the assumptions and qualifications set out in the notes included in those pages of the Investor Presentation. The information about the likely financial effect of the Proposed Merger on Sigma is based on historical financial information of Sigma and</p>

<sup>26</sup> See footnote 16 for further details.

Type of information	Details or location of information
	<p>CWG. Past performance should not be relied upon as an indicator of future performance.</p> <p>Sigma and CWG have different year end reporting periods with Sigma reporting on a year ended 31 January basis and CWG using 30 June. There has been no alignment of the financial year ends of Sigma and CWG to present the aggregated MergeCo financial information. Year-end reporting periods will be aligned post implementation of the Proposed Merger.</p> <p>In addition, as set out on page 14 of the Investor Presentation, Mario Verrocchi is expected to acquire voting power of 22.3% in Sigma as a result of the Proposed Merger.</p>
<p>Details of any changes proposed to the Board or senior management of Sigma as result of the Proposed Merger</p>	<p>The proposed Board and senior management team of Sigma on completion of the Proposed Merger is set out on page 5 of this announcement and pages 32 and 33 of the Investor Presentation.</p> <p>An overview of the qualifications and experience of each member of the proposed Sigma board of directors on completion of the Proposed Merger is included at Appendix D of the Investor Presentation.</p> <p>As at the date of this announcement, no decisions have been made about any changes to be made to the terms and conditions of employment of the executives of MergeCo other than the retention arrangements described below.</p> <p>The Sigma Board has approved the following retention arrangements for Vikesh Ramsunder (Sigma's current, and MergeCo's proposed, Chief Executive Officer and Managing Director) which would run for a 24-month period from 11 December 2023 to 10 December 2025:</p> <ul style="list-style-type: none"> <li>• a cash payment of \$1 million to be paid 12 months from the date of announcement of the Proposed Merger (ie the date of this announcement) (<b>Announcement Date</b>); and</li> <li>• a further cash payment of \$0.5 million to be paid 24 months from the date of Announcement Date.</li> </ul> <p>In circumstances where no change of control event occurs during the 24 month performance period, the second cash payment will increase to \$1 million. This is considered appropriate in order to retain the CEO for Sigma's benefit in circumstances where the Proposed Merger does not proceed.</p> <p>To qualify for the above payments, the CEO must be employed, have not provided notice of termination of employment at the relevant time, and have maintained satisfactory performance during the preceding 12 month period as determined by the Board. These retention arrangements will also be subject to certain leaver provisions. It is expected that in view of the greater scale and complexity of Sigma, there will be an increase in the pool of fees payable to non-executive directors. No</p>

Type of information	Details or location of information
	decision has been made in this regard and shareholder approval will be sought in due course.
The timetable for implementing the Proposed Merger, including the process and timetable for seeking the approval of Sigma shareholders	<p>An indicative timetable for the Proposed Merger is included on page 13 of this announcement. This timetable is subject to change by the parties.</p> <ul style="list-style-type: none"> <li>At or around the time of expected ACCC determination (timing to be confirmed in due course) – Dispatch of scheme booklet by CWG to its shareholders (<b>CWG Scheme Booklet</b>) and dispatch of Notice of Meeting and Explanatory Memorandum by Sigma to its shareholders (<b>Sigma NoM</b>).</li> <li>Approximately 1 month post-dispatch of Sigma NoM – extraordinary general meeting of Sigma's shareholders to approve the Proposed Merger (the approvals to be sought being those described above in this Appendix A).</li> <li>At or around the time of implementation of the Proposed Merger – Sigma will issue the Prospectus (as defined below).</li> </ul>
Details of any regulatory approvals or waivers or other material conditions that must be satisfied for the Proposed Merger to proceed	<p>The Proposed Merger is conditional on the satisfaction or waiver (where capable of waiver) of the following conditions:</p> <ol style="list-style-type: none"> <li>ACCC approval – The Proposed Merger being approved by the Australian Competition and Consumer Commission (<b>ACCC</b>).</li> <li>OIO approval – The Proposed Merger being consented to by the New Zealand Overseas Investment Office if required.</li> <li>Regulatory approvals – All other regulatory approvals that CWG and Sigma agree are necessary or desirable to implement the Proposed Merger are obtained.</li> <li>CWG independent expert – An independent expert appointed by CWG concluding that the CWG scheme of arrangement is the best interests of CWG shareholders.</li> <li>Sigma independent expert – An independent expert appointed by Sigma concluding that the relevant related party arrangements relating to CWG are fair and reasonable or not fair but reasonable.</li> <li>Mandatory scheme conditions for shareholder and court approval – CWG shareholders approve the scheme by the requisite majorities at the scheme meeting, being at least 75% of the total number of votes cast and a majority (by number) of the CWG shareholders present and voting at the scheme meeting, and the court approves the scheme.</li> <li>Shareholder approval – Sigma obtaining the approval by ordinary resolution of its shareholders under ASX Listing Rules 7.1, 11.1.2 and 10.1, and its constitution as well as by special resolution under Part 2J.3 of the Corporations Act.</li> </ol>

Type of information	Details or location of information
	<p>(h) No CWG material adverse change – There being no events, changes, conditions, circumstances, matters or things occurring (<b>CWG Specified Event</b>) that have had or would be considered reasonably likely to have the effect of a diminution in the value of the EBIT of CWG, taken as a whole, by at least 15% against what it would reasonably have been expected to have been but for such CWG Specified Event, and there being no governmental agency order or other decision which has a materially disproportionate impact on CWG compared to other industry participants, requires a significant adverse change to CWG's business and has an adverse effect which cannot be overcome or mitigated in accordance with law.</p> <p>(i) No CWG prescribed occurrence – Certain events in respect of CWG not occurring such as changes to CWG's capital structure, insolvency events, disposing of a substantial part of its business or ceasing a material part of its business (subject to customary exceptions).</p> <p>(j) No Sigma material adverse change – There being no events, changes, conditions, circumstances, matters or things occurring (<b>Sigma Specified Event</b>) that have had or would be considered reasonably likely to have the effect of a diminution in the value of the EBIT of Sigma, taken as a whole, by at least \$20 million against what it would reasonably have been expected to have been but for such Sigma Specified Event, and there being no governmental agency order or other decision which has a materially disproportionate impact on Sigma compared to other industry participants, requires a significant adverse change to Sigma's business and has an adverse effect which cannot be overcome or mitigated in accordance with law.</p> <p>(k) No Sigma prescribed occurrence – Certain events in respect of Sigma not occurring such as changes to Sigma's capital structure, insolvency events, disposing of a substantial part of its business or ceasing a material part of its business (subject to customary exceptions).</p> <p>(l) Restraints – There being no order, injunction, decree, ruling or other action issued by a court or government agency in effect that prevents, makes illegal or prohibits the scheme.</p> <p>(m) Equity funding – The underwriting agreement between Sigma and Goldman Sachs Australia Pty Ltd in respect of the Equity Raising not being terminated or breached and the relevant conditions being satisfied or waived.</p> <p>(n) Debt funding – The debt commitment letter between Sigma and certain financial institutions in respect of the debt funding of the cash component of the consideration not being terminated or breached, the relevant conditions being satisfied or waived, the relevant parties under the debt commitment letter entering into a debt facility agreement and related finance documents and all conditions precedent to drawing under the debt finance documents being satisfied or waived.</p> <p>(o) Rollover relief – CWG obtaining a draft ruling from the Australian Tax Office confirming that scrip-for-scrip rollover relief will be available to CWG</p>



Type of information	Details or location of information
	<p>shareholders in respect of the shares issued to them by Sigma as consideration under the Proposed Merger.</p> <p>(p) CWG equity incentives – all CWG equity incentives have been dealt with such that there are no CWG equity incentives in existence on the Scheme record date.</p> <p>The above is a summary only of the conditions precedent of the Proposed Merger. For full details of the conditions precedent, please refer to clause 8 and schedule 3 of the MIA.</p>
<p>Other information required by ASX to be provided on announcement of the Proposed Merger</p>	<p>(a) Sigma has obtained in-principle advice from ASX that:</p> <p>(i) ASX Listing Rule 11.1.2 applies to the Proposed Merger. Accordingly, Sigma will be seeking shareholder approval by ordinary resolution for the approvals required under ASX Listing Rules 7.1, 10.1 and 11.1.2 (and any other relevant approvals) as set out in a notice of meeting containing the information required in the relevant ASX guidance notes to be approved by ASX and dispatched by Sigma for an extraordinary general meeting of its shareholders (to be scheduled).</p> <p>(ii) ASX Listing Rule 11.1.3 does not apply to the Proposed Merger, meaning Sigma is not required to re-comply with ASX's admission and quotation requirements. This is subject to the following conditions:</p> <p>(A) ASX being satisfied that Sigma's structure and operations following completion of the Proposed Merger will be appropriate for a listed entity. Sigma confirms that ASX has provided this confirmation.</p> <p>(B) Sigma providing disclosure to the market of the Proposed Merger and of CWG that is satisfactory to ASX. ASX takes no responsibility for the contents of this announcement or the Investor Presentation.</p> <p>(C) Sigma having in place the arrangements described in paragraph (e) below.</p> <p>(D) Sigma providing all documents that Sigma lodges with ASIC which become public in connection with the Proposed Merger to ASX for release to the market at the same time as those documents are lodged with ASIC.</p> <p>(E) Sigma issuing a prospectus that complies with the detailed content requirements in section 710 of the Corporations Act and the prospectus being lodged with ASIC and ASX before or concurrently with completion of the Proposed Merger (<b>Prospectus</b>).</p>

Type of information	Details or location of information
	<p>(F) ASX has confirmed that it does not object to the Equity Raising for the purposes of permitting the continued trading in Sigma following announcement of the Proposed Merger.</p> <p>(iii) Sigma's structure and operations following completion of the Proposed Merger will be appropriate for a listed entity. This is subject to:</p> <p>(A) Sigma complying with all of the conditions described in paragraph (a)(ii) above; and</p> <p>(B) Sigma obtaining, prior to completion of the Proposed Merger, shareholder approval under ASX Listing Rule 10.1 for all agreements and arrangements in existence at the time of completion of the Proposed Merger which provide for CWG, or any of its child entities, to acquire or dispose of a substantial asset to or from a person listed in ASX Listing Rule 10.1.1 to 10.1.5. Such shareholder approval must be on terms, and must be provided following disclosure, acceptable to ASX and which upholds the spirit, intention and purpose of ASX Listing Rule 10.1.</p> <p>(b) Details of any issue of securities by Sigma that has occurred in the 6-month period before the date of this announcement – 13,697,020 unquoted rights to acquire Sigma shares issued to certain Sigma executives (including Vikesh Ramsunder) between 13 June 2023 and 15 June 2023 pursuant to Sigma's 2023 Executive Equity Grant Plan, of which 1,940,467 rights have been forfeited.</p> <p>In addition, Sigma advises that, due to an administrative oversight, the number of unquoted rights to acquire Sigma shares (<b>Rights</b>) notified to ASX is not reflective of the actual number of Rights on issue. As at the date of this announcement, Sigma has 15,536,023 Rights on issue with an additional grant of 403,918 Rights (to non-KMP Sigma management) that has been approved but not yet issued as at the date of this announcement.</p> <p>(c) Details of any proposed issue of securities by Sigma or CWG prior to completion of the Proposed Merger:</p> <p>(i) Sigma proposes to issue 572.6 million fully paid ordinary shares pursuant to the Equity Raising. Details of the Equity Raising are set out on pages 7 to 10 of this announcement, pages 8 to 10 and Appendix A of the Investor Presentation and the Appendix 3B lodged by Sigma with ASX on the same date as this announcement.</p> <p>(ii) Sigma may also issue securities pursuant to incentive grants made to Sigma executives. These may consist of new grants of rights to acquire shares or shares issued on the exercise of existing rights following the satisfaction of applicable vesting conditions.</p>

Type of information	Details or location of information
	<p>(iii) CWG currently proposes to issue the following securities prior to completion of the Proposed Merger:</p> <ul style="list-style-type: none"> <li>(A) for nil consideration, as placements to existing or former employees or affiliated pharmacists (currently expected to comprise of approximately 3.5 million CWG securities);</li> <li>(B) upon exercise of existing performance rights granted to senior management following the satisfaction of applicable vesting conditions (currently expected to comprise of approximately 450,000 CWG securities); and</li> <li>(C) as scrip consideration for business acquisitions (currently expected to comprise of approximately 3 million CWG securities),</li> </ul> <p>on a non-underwritten basis, prior to completion of the Proposed Merger. CWG may issue securities from time to time for a range of reasons, including to employees or as consideration for acquisitions, and may do so prior to completion of the Proposed Merger subject to the terms of the MIA.</p> <p>For completeness, as set out in the MIA, the previously agreed placement of 126,947,040 shares to be issued to CWG (or a subsidiary of CWG) at the start of the supply contract on 1 July 2024 will be deferred while the MIA remains on foot and, if the Proposed Merger completes, immediately terminated. If the MIA is terminated, completion of this placement will occur on the later of 1 July 2024 and 20 business days after the MIA is terminated.</p> <p>(d) Details of any fees paid or payable by Sigma to any person for finding, arranging or facilitating the Proposed Merger – no such fees are payable other than customary fees payable by Sigma to its legal, financial, accounting and tax advisers in connection with due diligence and negotiation of the Proposed Merger;</p> <p>(e) Under the MIA, from the date of this announcement until implementation of the Proposed Merger (or termination of the MIA), Sigma has appropriate arrangements in place for CWG to provide to Sigma:</p> <ul style="list-style-type: none"> <li>(i) all the information that Sigma requires to comply with ASX Listing Rule 3.1 and Sigma will give that information to ASX for release to the market if necessary for Sigma to comply with its obligations under the ASX Listing Rules; and</li> <li>(ii) all financial statements that CWG lodges with ASIC and all documents that CWG lodges with ASIC which become public in connection with the Proposed Merger at the same time as they are lodged with ASIC and that these documents will be immediately given to ASX for release to the market,</li> </ul>

Type of information	Details or location of information
	<p>including by requiring CWG to adopt a continuous disclosure and market communications policy on substantially the same terms as the one currently in place in relation to Sigma.</p> <p>(f) Sigma confirms that it has undertaken appropriate enquiries into the assets and liabilities, financial position and performance, profits and losses, and prospects of CWG for the Sigma Board to be satisfied that the Proposed Merger is in the interests of Sigma and its securityholders.</p> <p>(g) Sigma confirms it is in compliance with its continuous disclosure obligations under ASX Listing Rule 3.1.</p> <p>(h) ASX takes no responsibility for the contents of this announcement or the Investor Presentation.</p>
<p>Exceptions to escrow arrangements in relation to the Escrowed Holders</p>	<p>Each Escrowed Holder may still deal in any of their Escrowed Shares during the escrow period:</p> <p>(a) if the dealing arises solely as a result of:</p> <p>(i) the acceptance of a bona fide third party offer under a Takeover Bid in relation to those Escrowed Shares, provided that the holders of at least half of Sigma shares that are not subject to any voluntary escrow deed, and to which the offers under the bid relate, have accepted the bid; or</p> <p>(ii) the transfer or cancellation of the Escrowed Shares in Sigma as part of a scheme of arrangement under Part 5.1 of the Corporations Act, provided that the scheme of arrangement has received all necessary approvals, including all such necessary court and shareholder approvals, provided,</p> <p>in each case, that if for any reason any or all Escrowed Shares are not transferred or cancelled in accordance with such a Takeover Bid or scheme of arrangement (including because the Takeover Bid does not become unconditional), then the Escrowed Shareholder agrees that the restrictions applying to the Escrowed Shares will continue to apply and without limiting the foregoing, any holding lock will be re-applied to all Escrowed Shares not so transferred or cancelled;</p> <p>(b) if the dealing is required by applicable law (including a court of competent jurisdiction), provided that any recipient of the Escrowed Shares will no longer be bound by any holding lock or other restrictions on dealing;</p> <p>(c) upon the death or incapacity of an Escrowed Holder, provided that the transferee will no longer be bound by any holding lock or restrictions on dealing;</p> <p>(d) to another person provided such transferee agrees to be bound by the terms and conditions of this deed for the remainder of the Escrow Period by</p>

Type of information	Details or location of information
	<p>entering into a deed equivalent to the escrow deed and any dealing does not result in a change in the beneficial ownership of the Escrow Shares; or</p> <p>(e) to the extent permitted by Sigma (which may only provide such permission with the consent of each of the independent non-executive directors of Sigma).</p>
Transaction advisers to the Proposed Merger	<p>Goldman Sachs is acting as financial adviser to the Sigma Board in relation to the Proposed Merger and underwriter in respect of the Equity Raising. Gilbert + Tobin is acting as legal adviser to Sigma in relation to the Proposed Merger and Equity Raising. Ernst &amp; Young and KPMG are providing financial and taxation due diligence services, respectively, to Sigma in relation to the Proposed Merger. Additionally, HMC Capital Limited is providing complimentary transaction advisory services to Sigma in connection with the Proposed Merger.</p> <p>Rothschild &amp; Co and Oaktower Partnership are acting as financial advisers and Herbert Smith Freehills is acting as Australian legal counsel to CWG for the Proposed Merger. KPMG is providing financial and taxation due diligence services to CWG in relation to the Proposed Merger.</p>

**Appendix B: Copy of the Merger Implementation Agreement**

For personal use only





HERBERT  
SMITH  
FREEHILLS

## Agreement

Execution version

# Merger Implementation Agreement

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Sigma Healthcare Limited

CW Group Holdings Limited



## Contents

### Table of contents

<b>1</b>	<b>Definitions, interpretation and agreement components</b>	<b>2</b>
1.1	Definitions .....	2
1.2	Interpretation .....	26
1.3	Interpretation of inclusive expressions .....	27
1.4	Agreement components .....	27
<b>2</b>	<b>Agreement to proceed with the Transaction</b>	<b>28</b>
2.1	Chemist Warehouse to propose Scheme .....	28
2.2	Sigma to propose Sigma Resolutions .....	28
<b>3</b>	<b>Directors' recommendations</b>	<b>28</b>
3.1	Chemist Warehouse Directors' recommendation .....	28
3.2	Sigma Directors' recommendation .....	30
<b>4</b>	<b>Transaction announcement and investor presentation</b>	<b>31</b>
4.1	Announcement of Transaction .....	31
4.2	Subsequent announcements .....	31
4.3	Investor Presentation .....	31
<b>5</b>	<b>Transaction steps</b>	<b>32</b>
5.1	Scheme .....	32
5.2	Sigma Resolutions .....	32
5.3	Scheme Consideration .....	32
5.4	New Sigma Shares .....	33
5.5	Ineligible Foreign Shareholders .....	33
5.6	Provision of Chemist Warehouse Share information .....	33
5.7	No amendment to the Scheme without consent .....	34
5.8	Australian tax rollover relief .....	34
5.9	Chemist Warehouse Equity Incentives .....	34
5.10	Sigma Equity Incentives .....	35
<b>6</b>	<b>Implementation</b>	<b>35</b>
6.1	Timetable .....	35
6.2	Chemist Warehouse obligations .....	36
6.3	Sigma obligations .....	38
6.4	Conduct of Court proceedings .....	39
6.5	Appeal process .....	40
<b>7</b>	<b>Disclosure Documents</b>	<b>40</b>
7.1	Responsibility .....	40
7.2	Responsibility statements .....	40
7.3	Consultation on content of Disclosure Documents .....	41
7.4	Verification .....	45
7.5	Confirmations .....	45
<b>8</b>	<b>Conditions Precedent</b>	<b>46</b>
8.1	Conditions Precedent .....	46
8.2	Reasonable endeavours and cooperation .....	46
8.3	Waiver .....	47



## Contents

8.4	ACCC Approval application .....	47
8.5	Other regulatory approvals, rollover relief and consents .....	49
8.6	Further ACCC actions .....	49
8.7	Termination on failure of Condition Precedent .....	50
8.8	Certain notices relating to Conditions Precedent .....	51
<b>9</b>	<b>Access and assistance</b> .....	<b>51</b>
9.1	Access to information .....	51
9.2	Responses to Government Agencies .....	52
9.3	Change of control provisions .....	53
9.4	Working Party Committee .....	53
<b>10</b>	<b>Conduct of business and prohibited actions</b> .....	<b>54</b>
10.1	Conduct of business .....	54
10.2	Prohibited actions .....	56
10.3	Permitted activities .....	58
10.4	Chemist Warehouse Permitted Dividends .....	59
10.5	Sigma Permitted Dividends .....	59
10.6	Material developments .....	60
<b>11</b>	<b>No Leakage</b> .....	<b>61</b>
<b>12</b>	<b>Board composition</b> .....	<b>62</b>
<b>13</b>	<b>Releases</b> .....	<b>62</b>
13.1	Chemist Warehouse and Chemist Warehouse directors and officers .....	62
13.2	Sigma and Sigma directors and officers .....	63
<b>14</b>	<b>Exclusivity – Chemist Warehouse</b> .....	<b>63</b>
14.1	No current discussions regarding a Chemist Warehouse Competing Proposal .....	63
14.2	No shop .....	64
14.3	No talk .....	64
14.4	Fiduciary exception .....	65
14.5	Notification of approaches .....	65
14.6	Matching right .....	66
14.7	Chemist Warehouse IPO .....	68
14.8	Compliance with law .....	68
<b>15</b>	<b>Exclusivity – Sigma</b> .....	<b>68</b>
15.1	No current discussions regarding a Sigma Competing Proposal .....	68
15.2	No shop .....	69
15.3	No talk .....	69
15.4	Fiduciary exception .....	70
15.5	Notification of approaches .....	70
15.6	Matching right .....	71
15.7	Compliance with law .....	72
<b>16</b>	<b>Break Fee</b> .....	<b>73</b>
16.1	Background to Break Fee .....	73
16.2	Break Fee triggers .....	73
16.3	Payment of Break Fee .....	74
16.4	Basis of Break Fee .....	74
16.5	Compliance with law .....	75
16.6	Break Fee only payable once .....	75



## Contents

16.7	Other Claims .....	75
16.8	No Break Fee if Scheme Effective .....	75
<b>17</b>	<b>Reverse Break Fee</b>	<b>76</b>
17.1	Background to Reverse Break Fee.....	76
17.2	Reverse Break Fee triggers .....	76
17.3	Payment of Reverse Break Fee.....	76
17.4	Basis of Reverse Break Fee .....	77
17.5	Compliance with law .....	77
17.6	Reverse Break Fee only payable once.....	78
17.7	Other Claims .....	78
17.8	No Reverse Break Fee if Scheme Effective .....	78
<b>18</b>	<b>Treatment of Placement Agreement</b>	<b>78</b>
18.1	Deferment .....	78
18.2	Dividends .....	79
<b>19</b>	<b>Confidentiality</b>	<b>79</b>
<b>20</b>	<b>Warranties</b>	<b>79</b>
20.1	Chemist Warehouse representations and warranties.....	79
20.2	Sigma representations and warranties .....	80
20.3	Qualifications on representations and warranties.....	80
20.4	Survival of representations and warranties .....	80
20.5	Timing of representations and warranties .....	80
20.6	No representation or reliance .....	81
20.7	Notices relating to representations and warranties .....	81
<b>21</b>	<b>Termination</b>	<b>81</b>
21.1	Termination for material breach .....	81
21.2	Termination for breach of representations and warranties .....	82
21.3	Effect of termination .....	83
21.4	Termination .....	83
21.5	No other termination .....	83
<b>22</b>	<b>Duty, costs and expenses</b>	<b>83</b>
22.1	Stamp duty .....	83
22.2	Costs and expenses .....	84
<b>23</b>	<b>GST</b>	<b>84</b>
<b>24</b>	<b>Notices</b>	<b>85</b>
24.1	Form of Notice .....	85
24.2	How Notice must be given and when Notice is received .....	85
<b>25</b>	<b>General</b>	<b>86</b>
25.1	Governing law and jurisdiction .....	86
25.2	No merger .....	86
25.3	Invalidity and enforceability.....	86
25.4	Waiver .....	86
25.5	Variation.....	87
25.6	Assignment of rights .....	87
25.7	Further assurances .....	87
25.8	Entire agreement .....	87



## Contents

25.9 Counterparts .....	87
25.10 Relationship of the parties .....	87
25.11 Remedies cumulative .....	88
25.12 Exercise of rights .....	88
25.13 Attorneys .....	88

### Schedules

#### Schedule 1

Chemist Warehouse Representations and Warranties	90
--------------------------------------------------	----

#### Schedule 2

Sigma Representations and Warranties	93
--------------------------------------	----

#### Schedule 3

Conditions Precedent	97
----------------------	----

#### Schedule 4

Chemist Warehouse's capital structure	101
---------------------------------------	-----

#### Schedule 5

Sigma's capital structure	102
---------------------------	-----

Signing page	103
--------------	-----

#### Attachment 1

Scheme of arrangement	
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#### Attachment 2

##### Deed poll

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## Merger Implementation Agreement

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Date ►

Between the parties

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Sigma

**Sigma Healthcare Limited**

ACN 088 417 403 of Level 6, 2125 Dandenong Road, Clayton VIC 3168

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Chemist Warehouse

**CW Group Holdings Limited**

ACN 635 851 839 of 6 Albert Street, Preston VIC 3072

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Recitals

- 1 The parties have agreed that Sigma will acquire all the shares in Chemist Warehouse by means of a scheme of arrangement under Part 5.1 of the Corporations Act between Chemist Warehouse and the Scheme Shareholders, and the Chemist Warehouse Directors are proposing to recommend the Scheme in the absence of a Chemist Warehouse Superior Proposal and subject to the Chemist Warehouse Independent Expert concluding (and continuing to conclude) that the Scheme is in the best interests of Chemist Warehouse Shareholders.
  - 2 The Scheme is conditional on the approval of the Sigma Resolutions by the Sigma Shareholders and the Sigma Directors are proposing to recommend that Sigma Shareholders vote in favour of the Sigma Resolutions in the absence of a Sigma Superior Proposal and subject to the Sigma Independent Expert concluding (and continuing to conclude) that the Related Party Arrangements are fair and reasonable or not fair but reasonable.
  - 3 The parties have agreed to implement the Scheme on the terms and conditions set out in this agreement.
- 

The parties agree as follows:

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# 1 Definitions, interpretation and agreement components

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## 1.1 Definitions

The meanings of the terms used in this agreement are set out below.

Term	Meaning
ACCC	Australian Competition and Consumer Commission.
ACCC Approval	the written approval, consent, declaration, order or other indication set out in the Condition Precedent in clause 1.6 of Schedule 3.
Accounting Standards	<ol style="list-style-type: none"><li>1 the Australian Accounting Standards and Interpretations issued by the Australian Accounting Standards Board; and</li><li>2 if no accounting standard or interpretation applies, the principles set out in Australian Statements of Accounting Concepts.</li></ol>
Adviser	any person who is engaged to provide professional advice of any type (including legal, accounting, consulting or financial advice).
Affiliate	<p>in respect of a person (<b>Primary Person</b>), a person:</p> <ol style="list-style-type: none"><li>1 Controlled directly or indirectly by the Primary Person;</li><li>2 Controlling directly or indirectly the Primary Person;</li><li>3 directly or indirectly Controlled by a person who Controls the Primary Person (whether alone or with another person or persons); or</li><li>4 directly or indirectly under the common Control of the Primary Person and another person or persons.</li></ol>
ASIC	the Australian Securities and Investments Commission.
Associate	has the meaning given in section 12 of the Corporations Act as if subsection 12(1) of the Corporations Act included a reference to this agreement.
ASX	ASX Limited (ACN 008 624 691) and, where the context requires, the financial market that it operates.



Term	Meaning
<b>Authorisation</b>	any authorisation, consent, approval, registration, agreement, notice of non-objection, licence, permit, authority or exemption from, by or with a Government Agency.
<b>Break Fee</b>	\$25 million.
<b>Business Day</b>	a day on which banks are open for business in Melbourne, other than a Saturday, Sunday or public holiday.
<b>CCA</b>	the <i>Competition and Consumer Act 2010</i> (Cth).
<b>Chemist Warehouse Board</b>	the board of directors of Chemist Warehouse.
<b>Chemist Warehouse Competing Proposal</b>	<ol style="list-style-type: none"><li>1 a Chemist Warehouse IPO; or</li><li>2 any proposal, expression of interest, agreement, arrangement or transaction which, if entered into or completed, would result in a Third Party (either alone or together with any Associate):<ul style="list-style-type: none"><li>– 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 Chemist Warehouse Shares;</li><li>– acquiring Control of Chemist Warehouse;</li><li>– directly or indirectly 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 substantial part of the business or assets of the Chemist Warehouse Group;</li><li>– being directly or indirectly acquired by Chemist Warehouse for consideration that is or includes Chemist Warehouse Shares and that results in pre-existing shareholders in the Third Party holding (in aggregate) a Relevant Interest in 20% or more of the Chemist Warehouse Shares;</li><li>– otherwise directly or indirectly acquiring or merging with Chemist Warehouse; or</li><li>– requiring Chemist Warehouse to abandon, or otherwise fail to proceed with, the Transaction,</li></ul>in each case whether by way of takeover bid, members' or creditors' scheme of arrangement, reverse takeover, shareholder approved acquisition, capital reduction, buy-back, sale or purchase of shares, other securities or assets, assignment of assets and liabilities, incorporated or unincorporated joint venture, dual-listed company (or other synthetic merger), deed of company</li></ol>



Term	Meaning
	arrangement, any debt for equity arrangement recapitalisation, refinancing or other transaction or arrangement.  Each successive material modification or variation of a Chemist Warehouse Competing Proposal will constitute a new Chemist Warehouse Competing Proposal.
<b>Chemist Warehouse Data Room</b>	the online data room for Project Orbit established by Chemist Warehouse which is accessed at <a href="https://dataroom.ansarada.com/mvc/jmmbcfqavz0l%7C141275/6924580/spa/documents">https://dataroom.ansarada.com/mvc/jmmbcfqavz0l%7C141275/6924580/spa/documents</a> .
<b>Chemist Warehouse Director</b>	a director of Chemist Warehouse.
<b>Chemist Warehouse Disclosure Materials</b>	the documents and information contained in the folders titled '18. SA Employment Tribunals Claim', '20. Como Disclosure Materials' and 'R1 Franchise and wholesale model' in the Chemist Warehouse Data Room as at 11 December 2023, as included on one or more USBs delivered to Sigma (or its lawyers) on or around the date of this agreement.
<b>Chemist Warehouse Equity Incentive</b>	any option, restricted share or right to Chemist Warehouse Shares issued under employee incentive arrangements of the Chemist Warehouse Group.
<b>Chemist Warehouse Group</b>	Chemist Warehouse and each of its Controlled entities, and a reference to a ' <b>Chemist Warehouse Group Member</b> ' or a ' <b>member of the Chemist Warehouse Group</b> ' is to Chemist Warehouse or any of its Controlled entities.
<b>Chemist Warehouse Indemnified Party</b>	Chemist Warehouse, its Related Bodies Corporate and their respective directors, officers and employees.
<b>Chemist Warehouse Independent Expert</b>	the independent expert to be appointed by Chemist Warehouse to prepare the Chemist Warehouse Independent Expert's Report in accordance with clause 6.2(a).
<b>Chemist Warehouse Independent Expert's Report</b>	the report prepared by the Chemist Warehouse Independent Expert in connection with the Scheme for inclusion in the Scheme Booklet opining on whether the Scheme is in the best interests of Chemist Warehouse Shareholders and the reasons for holding that opinion, and includes any update, revision, amendment or supplement to that report.



Term	Meaning
<b>Chemist Warehouse Information</b>	<p>information regarding the Chemist Warehouse Group and the Merged Group provided or prepared by or on behalf of Chemist Warehouse for inclusion in the Disclosure Documents (as applicable), including:</p> <ol style="list-style-type: none"><li>1 any letter from Chemist Warehouse's chair;</li><li>2 any information regarding the Merged Group;</li><li>3 information about Chemist Warehouse, its Related Bodies Corporate, its business, employees and interests; and</li><li>4 any other information required under the Corporations Act, Corporations Regulations or applicable guidance from a Government Agency to enable the Disclosure Documents to be prepared.</li></ol> <p>For the avoidance of doubt, the Chemist Warehouse Information excludes the Sigma Information, the Chemist Warehouse Independent Expert's Report, the Sigma Independent Expert's Report, any investigating accountant's report and any other report or opinion prepared by an external adviser to Chemist Warehouse.</p>
<b>Chemist Warehouse IPO</b>	<p>an initial public offering of shares in Chemist Warehouse or a Chemist Warehouse Group Member (or any company which is proposed by the Chemist Warehouse Board to become the ultimate holding company of the Chemist Warehouse Group or any entity which is established for the purpose of listing the business of the Chemist Warehouse Group) from time to time in connection with a Listing.</p>
<b>Chemist Warehouse Leakage</b>	<ol style="list-style-type: none"><li>1 any dividend or other distribution of profits or assets which is paid or made by any Chemist Warehouse Group Member to or for the benefit of any Chemist Warehouse Shareholder or any of their Affiliates;</li><li>2 any payments made by any Chemist Warehouse Group Member to any Chemist Warehouse Shareholder or any of their Affiliates in respect of any share or loan capital or other securities of a Chemist Warehouse Group Member being issued, redeemed, purchased or repaid, or any other return of capital;</li><li>3 any payment (in cash or in kind) made by or on behalf of Chemist Warehouse Group Member to or for the benefit of any Chemist Warehouse Shareholder or any of their Affiliates;</li><li>4 any incurrence of indebtedness by any Chemist Warehouse Group Member in favour of any Chemist Warehouse Shareholder or any of their Affiliates;</li><li>5 any cancellation, waiver or forgiveness of any amounts or obligations owed to any Chemist Warehouse Group Member by any Chemist Warehouse Shareholder or any of their Affiliates;</li><li>6 any transfer or provision of assets, rights or other benefits by or from any Chemist Warehouse Group Member to any Chemist Warehouse Shareholder or any of their Affiliates; or</li></ol>



Term	Meaning
	<p>7 any agreement or commitment to do any of the things referred to in 1 to 6 above,</p> <p>but excluding in each case any Chemist Warehouse Permitted Leakage.</p>
<b>Chemist Warehouse Material Adverse Change</b>	<p>1 an order, injunction, decision, judgement or decree is issued by any court or Government Agency which:</p> <ul style="list-style-type: none"><li>– applies to the Chemist Warehouse Group;</li><li>– has an impact on the Chemist Warehouse Group that is materially disproportionate to its application to other participants in the pharmacy industry;</li><li>– has the effect of reasonably requiring a significant adverse change to all or a material part of the Chemist Warehouse Group's business, structure or operations conducted at the date of this agreement; and</li><li>– the adverse effect of which cannot be reasonably and substantially overcome or mitigated by actions that can be taken by the Chemist Warehouse Group in compliance with applicable laws; or</li></ul> <p>2 an event, change, condition, circumstance, matter or thing that occurs, is announced, is disclosed or otherwise becomes known to Chemist Warehouse after the date of this agreement, whether it becomes public or not (each a <b>Specified Event</b>) which, whether individually or when aggregated with all such events, changes, conditions, circumstances, matters, or things of a like kind that have occurred, has had or would be considered reasonably likely to have the effect of, a diminution on a recurring basis in the value of the earnings before interest and tax of the Chemist Warehouse Group, taken as a whole, by at least 15% against what it would reasonably have been expected to have been but for such Specified Event (based on Chemist Warehouse's reasonable calculation of financial performance, prepared in good faith and in accordance with Accounting Standards and past practice), determined after taking into account any matters which offset the impact of the Specified Event giving rise to the adverse effect, other than an event, change, condition, circumstance, matter or thing:</p> <ul style="list-style-type: none"><li>– required or expressly permitted by this agreement, the Scheme or the transactions contemplated by any of them;</li><li>– which directly results from this agreement, the Scheme or the transactions contemplated by any of them (including all amounts payable to Advisers by the Chemist Warehouse Group in relation to the Transaction);</li><li>– to the extent Fairly Disclosed in the Chemist Warehouse Disclosure Materials;</li><li>– to the extent Fairly Disclosed in a document lodged with ASIC in the 24 months prior to the date of this agreement;</li></ul>

Term	Meaning
	<ul style="list-style-type: none"> <li>– to the extent Fairly Disclosed in a publicly available document which would be disclosed in a search of the PPS Register 2 Business Days before the date of this agreement;</li> <li>– arising from changes in economic or business conditions that impact on Chemist Warehouse and its competitors in a similar manner (including interest rates, general economic, political or business conditions, including disruptions to, or fluctuations in, domestic or international financial markets);</li> <li>– which Sigma has previously approved or agreed to in writing or which arises as a result of a Sigma Group Member taking or refusing to take certain action within its control in respect of a Chemist Warehouse Group Member or its business;</li> <li>– arising as a result of any applicable change in law, regulation, generally accepted accounting standards or generally accepted accounting principles or the interpretation of any such standards or principles, or policy of a Government Agency; or</li> <li>– arising from any act of non-cyber terrorism, outbreak or escalation of war (whether or not declared) or major hostilities, an act of God, lightning, storm, flood, fire, earthquake or explosion, cyclone, tidal wave, landslide, other natural disaster or adverse weather conditions or the like.</li> </ul>
<b>Chemist Warehouse Material Contract</b>	<p>a contract or commitment under which the revenue or expenditure for the Chemist Warehouse Group:</p> <ol style="list-style-type: none"> <li>1 is greater than \$23 million in any one year; or</li> <li>2 is greater than \$69 million over the term of the contract or commitment,</li> </ol> <p>but excludes this agreement.</p>
<b>Chemist Warehouse Permitted Dividend</b>	<p>has the meaning given in clause 10.4.</p>
<b>Chemist Warehouse Permitted Leakage</b>	<ol style="list-style-type: none"> <li>1 any payment that is expressly permitted or required to be done by or under this agreement;</li> <li>2 the Chemist Warehouse Permitted Dividends and the \$100.9 million dividend declared and paid by Chemist Warehouse in October 2023;</li> <li>3 any payment, performance, elimination or discharge (in whole or part) of any liability or provision provided for, accrued or reserved against (including by way of offset) in the Reference Accounts;</li> <li>4 the performance of any obligation under, or any step contemplated by, any agreement, arrangement or understanding by a Chemist Warehouse Group Member Fairly Disclosed in the Chemist Warehouse Disclosure Materials</li> </ol>



Term	Meaning
	<p>(including any repayment or draw down made under existing financing facilities in place as at the date of this agreement);</p> <p>5 any payment, transaction or other action made, entered into or undertaken by a Chemist Warehouse Group Member in the ordinary course of its business, the nature and overall scale of which is consistent with past practices of the Chemist Warehouse Group, including any such payment, transaction or other action relating to:</p> <ul style="list-style-type: none"> <li>– property lease agreements or arrangements;</li> <li>– provision of seed funding and fit out financing to franchisees of the Chemist Warehouse Group; or</li> <li>– payments made by a Chemist Warehouse Group Member that are recharged to stores or franchisees of the Chemist Warehouse Group;</li> </ul> <p>6 without limiting paragraph 5, remuneration, fees, disbursements, and/or other amounts paid or payable by a Chemist Warehouse Group Member (including employment related taxes or similar deductions), under agreements Fairly Disclosed in the Chemist Warehouse Disclosure Materials, to or for the benefit of a director, officer or employee or any of their Affiliates;</p> <p>7 the procuring of and payment for insurance for a Chemist Warehouse Group Member (and its directors and officers) on market standard terms, in the ordinary course of business and consistent with past practice;</p> <p>8 any Chemist Warehouse Leakage to the extent that the financial impact on the Chemist Warehouse Group of that Chemist Warehouse Leakage has been reversed, eliminated or reduced prior to the Implementation Date;</p> <p>9 any Chemist Warehouse Leakage which:</p> <ul style="list-style-type: none"> <li>– involves an individual amount, benefit or value of an asset less than \$50,000; and</li> <li>– occurs unknowingly, inadvertently or without detection and is not for the purpose of transferring value from the Chemist Warehouse Group to a Chemist Warehouse Shareholder or an Affiliate,</li> </ul> <p>provided that the aggregate amount of all Chemist Warehouse Leakage under this paragraph is less than \$2 million; or</p> <p>10 any payment which is approved in writing by Sigma for the purposes of this definition.</p>
<b>Chemist Warehouse Prescribed Occurrence</b>	<p>other than any matter:</p> <p>1 required or expressly permitted by this agreement, the Scheme or the transactions contemplated by any of them;</p> <p>2 Fairly Disclosed in the Chemist Warehouse Disclosure Materials;</p>



Term	Meaning
	<p>3 Fairly Disclosed in a document lodged with ASIC in the 24 months prior to the date of this agreement;</p> <p>4 required by law or by an order of a court or Government Agency; or</p> <p>5 which Sigma has previously approved or agreed to in writing, the occurrence of any of the following:</p> <p>6 a member of the Chemist Warehouse Group converting all or any of its shares into a larger or smaller number of shares;</p> <p>7 a member of the Chemist Warehouse Group resolving to reduce its share capital in any way;</p> <p>8 a member of the Chemist Warehouse Group:</p> <ul style="list-style-type: none"><li>– entering into a buy-back agreement; or</li><li>– resolving to approve the terms of a buy-back agreement under the Corporations Act;</li></ul> <p>9 a member of the Chemist Warehouse Group disposing, or agreeing to dispose, of the whole, or a substantial part, of its business or property;</p> <p>10 a member of the Chemist Warehouse Group granting a Security Interest, or agreeing to grant a Security Interest, in the whole, or a substantial part, of its business or property, other than in the ordinary course of business;</p> <p>11 an Insolvency Event occurs in relation to a member of the Chemist Warehouse Group;</p> <p>12 any Chemist Warehouse Group Member pays, declares, distributes or incurs a liability to make or pay a dividend, bonus or other share of its profits, income, capital or assets by way of dividend or other form of distribution, other than a Chemist Warehouse Permitted Dividend;</p> <p>13 any Chemist Warehouse Group Member ceases, or threatens to cease, the whole or a material part of the business of the Chemist Warehouse Group;</p> <p>14 any Chemist Warehouse Group Member creates any new security-based (or phantom security-based) incentive plan or scheme; or</p> <p>15 any Chemist Warehouse Group Member directly or indirectly authorises, commits or agrees to take any of the actions referred to in paragraphs 6 to 14 above.</p>
<b>Chemist Warehouse Registry</b>	Computershare Limited (ACN 005 485 825).
<b>Chemist Warehouse Representations and Warranties</b>	the representations and warranties of Chemist Warehouse set out in Schedule 1.





Term	Meaning
<b>Chemist Warehouse Share</b>	a fully paid ordinary share in the capital of Chemist Warehouse.
<b>Chemist Warehouse Shareholder</b>	a person who is registered as the holder of a Chemist Warehouse Share in the Chemist Warehouse Share Register.
<b>Chemist Warehouse Share Register</b>	the register of members of Chemist Warehouse maintained by the Chemist Warehouse Registry in accordance with the Corporations Act.
<b>Chemist Warehouse Superior Proposal</b>	<p>a bona fide, written Chemist Warehouse Competing Proposal of the kind referred to in paragraph 2 of the definition of Chemist Warehouse Competing Proposal not resulting from a breach by Chemist Warehouse of any of its obligations under clause 14, which the Chemist Warehouse Board, acting in good faith and in order to satisfy what the Chemist Warehouse Board considers to be the Chemist Warehouse Board's statutory or fiduciary duties (after receiving advice from reputable external legal and financial advisers) determines:</p> <ol style="list-style-type: none"><li>1 is reasonably capable of being valued and completed substantially in accordance with its terms within a reasonable timeframe; and</li><li>2 would, if completed substantially in accordance with its terms, result in a transaction that is more favourable to Chemist Warehouse Shareholders (taken as a whole) than the Transaction,</li></ol> <p>taking into account all terms, conditions and other aspects of the Chemist Warehouse Competing Proposal and the Transaction, including conditions, the identity, reputation and financial condition of the person making the proposal and all relevant legal, regulatory and financial matters (including the value and type of consideration, funding, any timing considerations, any conditions precedent or other matters affecting the probability of the proposal being completed).</p>
<b>Claim</b>	<p>any claim, demand, legal proceedings or cause of action, including any claim, demand, legal proceedings or cause of action:</p> <ol style="list-style-type: none"><li>1 based in contract (including breach of any warranty);</li><li>2 based in tort (including misrepresentation or negligence);</li><li>3 under common law or equity; or</li><li>4 under statute (including the Australian Consumer Law (being Schedule 2 of the CCA) or Part VI of the CCA, or like provisions in any state or territory legislation),</li></ol> <p>in any way relating to this agreement or the transaction contemplated by it.</p>



Term	Meaning
<b>Conditions Precedent</b>	the conditions set out in Schedule 3.
<b>Confidentiality Agreement</b>	the confidentiality agreement dated 16 October 2023 between Sigma and Chemist Warehouse.
<b>Control</b>	has the meaning given in section 50AA of the Corporations Act, disregarding subsection 50AA(4).
<b>Corporations Act</b>	the <i>Corporations Act 2001</i> (Cth).
<b>Corporations Regulations</b>	the <i>Corporations Regulations 2001</i> (Cth).
<b>Court</b>	the Federal Court of Australia or such other court of competent jurisdiction under the Corporations Act agreed to in writing by Chemist Warehouse and Sigma.
<b>CW Retail</b>	CW Retail Holdings Pty Ltd (ACN 608 416 164).
<b>Debt Commitment Letter</b>	the binding, credit approved, executed commitment letter, and accompanying form of term sheet setting out the proposed terms of the Debt Facility Agreement, from certain banks or other financial institutions addressed to Sigma and dated on or prior to the date of this agreement.
<b>Debt Facility Agreement</b>	a debt facility agreement to be entered into pursuant to a Debt Commitment Letter which includes a commitment to provide funding on a certain funds basis.
<b>Debt Finance Documents</b>	the Debt Facility Agreement and related finance documents.
<b>Deed Poll</b>	a deed poll to be entered into by Sigma substantially in the form of which is attached as Attachment 2 under which Sigma covenants in favour of the Scheme Shareholders to perform the obligations attributed to Sigma under the Scheme.
<b>Disclosure Documents</b>	1 Entitlement Offer Disclosure Documents; 2 the Scheme Booklet;



Term	Meaning
	<ul style="list-style-type: none"><li>3 Notice of Meeting; and</li><li>4 Re-listing Prospectus.</li></ul>
<b>Effective</b>	when used in relation to the Scheme, the coming into effect, under subsection 411(10) of the Corporations Act, of the order of the Court made under paragraph 411(4)(b) of the Corporations Act in relation to the Scheme.
<b>Effective Date</b>	the date on which the Scheme becomes Effective.
<b>End Date</b>	the date that is 12 months after the date of this agreement or such other date and time agreed in writing between Chemist Warehouse and Sigma.
<b>Entitlement Offer</b>	Sigma's proposed entitlement offer to fund working capital and other new business initiatives.
<b>Entitlement Offer Disclosure Documents</b>	<ul style="list-style-type: none"><li>1 the Merger Announcement;</li><li>2 the Investor Presentation;</li><li>3 the notice given to ASX by Sigma under paragraph 708AA(2)(f) of the Corporations Act in respect of the Entitlement Offer, meeting the requirements of subsection 708AA(7) of the Corporations Act as modified by the ASIC Corporations (Non-Traditional Rights Issues) Instrument 2016/84; and</li><li>4 the retail offer booklet and accompanying materials relating to the retail component of the Entitlement Offer made available to retail shareholders.</li></ul>
<b>Exclusivity Period</b>	the period from the date of this agreement until the earlier of: <ul style="list-style-type: none"><li>1 the date of termination of this agreement; and</li><li>2 the End Date.</li></ul>
<b>Fairly Disclosed</b>	disclosed in good faith and in sufficient detail to enable a reasonable and sophisticated recipient of the relevant information who is experienced in transactions similar to the Scheme and experienced in a business similar to the business of the Chemist Warehouse Group or Sigma Group (as applicable) to identify the nature, scope and impact of the relevant matter, event or circumstance.



Term	Meaning
<b>First Court Date</b>	the first day on which an application made to the Court for an order under subsection 411(1) of the Corporations Act convening the Scheme Meeting is heard or, if the application is adjourned or subject to appeal for any reason, the day on which the adjourned application is heard, with such hearing being the <b>First Court Hearing</b> .
<b>Government Agency</b>	any government or governmental, semi-governmental, administrative, monetary, fiscal, statutory or judicial body, department, commission, authority, tribunal, agency or entity in any part of the world.
<b>Implementation Date</b>	the fifth Business Day after the Scheme Record Date, or such other date after the Scheme Record Date as agreed in writing by Chemist Warehouse and Sigma or is ordered by the Court or required by ASX.
<b>Ineligible Foreign Shareholder</b>	a Scheme Shareholder whose address shown in the Chemist Warehouse Share Register on the Scheme Record Date is a place outside Australia and its external territories or New Zealand, unless Sigma (acting reasonably, and after consultation with Chemist Warehouse) determines that it is lawful and not unduly onerous or impracticable to issue that Scheme Shareholder with New Sigma Shares when the Scheme becomes Effective.
<b>Insolvency Event</b>	<p>in relation to an entity:</p> <ol style="list-style-type: none"><li>1 the entity resolving that it be wound up or a court making an order for the winding up or dissolution of the entity;</li><li>2 a Controller (as defined in the Corporations Act), liquidator, provisional liquidator, administrator, receiver, receiver and manager or other insolvency official being appointed to the entity or in relation to the whole, or a substantial part, of its assets;</li><li>3 an application is made to a court, a meeting is convened or a resolution is passed for the entity to be wound up or dissolved or for the appointment of a Controller (as defined in the Corporations Act), liquidator, provisional liquidator or administrator to the entity of any of its assets;</li><li>4 the entity seeks or obtains protection from its creditors under any statute or any other law;</li><li>5 the entity executing a deed of company arrangement;</li><li>6 the entity ceases, or threatens to cease to, carry on substantially all the business conducted by it as at the date of this agreement;</li><li>7 the entity is or becomes unable to pay its debts when they fall due, is insolvent within the meaning of the Corporations Act (or, if appropriate, legislation of its place of incorporation) or is</li></ol>



Term	Meaning
	<p>otherwise presumed to be insolvent under the Corporations Act or any analogous circumstances arises under any other statute or law; or</p> <p>8 the entity being deregistered as a company or otherwise dissolved (whether pursuant to Chapter 5A of the Corporations Act or otherwise),</p> <p>or any other like event, matter or circumstance occurring in relation to an entity in another jurisdiction.</p>
<b>Investor Presentation</b>	the investor presentation in respect of the Transaction to be released to ASX by Sigma, as agreed between the parties.
<b>Leakage</b>	<p>1 when used in relation to Chemist Warehouse, Chemist Warehouse Leakage; and</p> <p>2 when used in relation to Sigma, Sigma Leakage.</p>
<b>Listing</b>	the admission for trading on a recognised stock exchange of securities (other than merely subordinated debt securities) in any Chemist Warehouse Group Member (or any company which is proposed by the Chemist Warehouse Board to become the ultimate holding company of the Chemist Warehouse Group or any entity which is established for the purpose of listing the Chemist Warehouse Group).
<b>Listing Rules</b>	the official listing rules of ASX.
<b>Merged Group</b>	the merged Chemist Warehouse Group and Sigma Group formed upon implementation of the Scheme.
<b>Merger Announcement</b>	the ASX announcement in respect of the Transaction as agreed between the parties.
<b>New Sigma Share</b>	a Sigma Share to be issued to Scheme Shareholders under the Scheme.
<b>Notice of Meeting</b>	the notice of meeting and explanatory memorandum to be sent to Sigma Shareholders in respect of the Sigma Shareholder Meeting, which will contain (among other things) the Sigma Independent Expert's Report.
<b>OIO</b>	Overseas Investment Office.



Term	Meaning
<b>Placement Agreement</b>	the placement agreement between Sigma and CW Retail dated 31 August 2023.
<b>Placement Completion</b>	completion under the Placement Agreement.
<b>Placement Shares</b>	has the meaning given under the Placement Agreement.
<b>PPSA</b>	the <i>Personal Property Securities Act 2009</i> (Cth).
<b>PPS Register</b>	the register established under the PPSA.
<b>Proceedings</b>	litigation, prosecution, arbitration, mediation, administrative proceedings or other proceedings (including any investigation by a Government Agency).
<b>Reference Accounts</b>	<ol style="list-style-type: none"><li>1 when used in relation to Chemist Warehouse, the audited consolidated balance sheet of the Chemist Warehouse Group on the Reference Accounts Date; and</li><li>2 when used in relation to Sigma, the reviewed consolidated balance sheet of the Sigma Group on the Reference Accounts Date.</li></ol>
<b>Reference Accounts Date</b>	<ol style="list-style-type: none"><li>1 when used in relation to Chemist Warehouse, 30 June 2023; and</li><li>2 when used in relation to Sigma, 31 July 2023.</li></ol>
<b>Registered Address</b>	in relation to a Chemist Warehouse Shareholder, the address shown in the Chemist Warehouse Share Register as at the Scheme Record Date.
<b>Related Body Corporate</b>	has the meaning given in section 50 of the Corporations Act.
<b>Related Party Arrangements</b>	those related party arrangements relating to the Chemist Warehouse Group that require approval under Listing Rule 10.1.
<b>Related Person</b>	in respect of a person or its Related Bodies Corporate: <ol style="list-style-type: none"><li>1 a director, officer or employee of that person;</li></ol>



Term	Meaning
	<ol style="list-style-type: none"><li>2 an Adviser of that person (and each director, officer, employee or contractor of that Adviser);</li><li>3 an agent or representative of that person; and</li><li>4 a Related Body Corporate of that person.</li></ol>
<b>Relevant Interest</b>	has the meaning given in sections 608 and 609 of the Corporations Act.
<b>Re-listing Prospectus</b>	the prospectus to be issued under Chapter 6D of the Corporations Act in respect of the re-compliance listing of Sigma on ASX as required by ASX.
<b>Reverse Break Fee</b>	\$10 million.
<b>RG 60</b>	Regulatory Guide 60 issued by ASIC in September 2020.
<b>Scheme</b>	the scheme of arrangement under Part 5.1 of the Corporations Act between Chemist Warehouse and the Scheme Shareholders, substantially in the form of which is attached as Attachment 1, subject to any alterations or conditions made or required by the Court under subsection 411(6) of the Corporations Act and such other form as agreed to in writing between Chemist Warehouse and Sigma.
<b>Scheme Booklet</b>	<p>the scheme booklet in respect of the Scheme to be prepared by Chemist Warehouse in accordance with clause 7.1(a) to be dispatched to Chemist Warehouse Shareholders, which will contain (among other things):</p> <ol style="list-style-type: none"><li>1 a copy of the Scheme,</li><li>2 an explanatory statement (as that term is defined in section 412 of the Corporations Act) complying with the requirements of the Corporations Act, the Corporations Regulations and RG 60;</li><li>3 the Chemist Warehouse Independent Expert's Report;</li><li>4 any investigating accountant's report;</li><li>5 a copy of the executed Deed Poll;</li><li>6 a notice of meeting in respect of the Scheme Meeting; and</li><li>7 a proxy form.</li></ol>
<b>Scheme Cash Consideration</b>	a cash amount per Scheme Share held by a Scheme Shareholder calculated as follows:



Term	Meaning
	$N = \frac{\$700 \text{ million} + A}{B}$ <p>where:</p> <p>N is the cash amount per Scheme Share held by a Scheme Shareholder;</p> <p>A is the net amount of any Leakage calculated in accordance with clause 11, provided that:</p> <ol style="list-style-type: none"><li>1 if any Sigma Leakage is greater than any Chemist Warehouse Leakage, A will be positive in accordance with clause 11(d)(1); and</li><li>2 if any Chemist Warehouse Leakage is greater than any Sigma Leakage, A will be negative in accordance with clause 11(d)(2); and</li></ol> <p>B is the total number of Scheme Shares.</p>
<b>Scheme Consideration</b>	<p>the consideration to be provided by Sigma to each Scheme Shareholder for the transfer to Sigma of each Scheme Share, being:</p> <ol style="list-style-type: none"><li>1 the Scheme Cash Consideration; and</li><li>2 the Scheme Share Consideration,</li></ol> <p>for each Chemist Warehouse Share held by a Scheme Shareholder as at the Scheme Record Date.</p>
<b>Scheme Meeting</b>	<p>the meeting of Chemist Warehouse Shareholders ordered by the Court to be convened under subsection 411(1) of the Corporations Act to consider and vote on the Scheme and includes any meeting convened following any adjournment or postponement of that meeting.</p>
<b>Scheme Record Date</b>	<p>7.00pm on the second Business Day after the Effective Date or such other time and date as Sigma and Chemist Warehouse agree in writing.</p>
<b>Scheme Share</b>	<p>a Chemist Warehouse Share held by a Scheme Shareholder as at the Scheme Record Date.</p>
<b>Scheme Share Consideration</b>	<p>for each Scheme Share held by a Scheme Shareholder, the number of New Sigma Shares calculated as follows:</p> $N = \frac{0.8575 \times (\frac{A}{0.1425})}{B}$ <p>where:</p> <p>N is the number of New Sigma Shares;</p>





Term	Meaning
	<p>A is the total number of Sigma Shares on issue on a fully diluted basis (assuming the full conversion of any options, rights or securities that are convertible into Sigma Shares) on the Scheme Record Date, which:</p> <ol style="list-style-type: none"><li>1 excludes any options, rights or securities existing as at the date of this agreement that are convertible into Sigma Shares in respect of which arrangements have been put in place by the Scheme Record Date for them to be cancelled or otherwise extinguished for nil consideration on or before the Implementation Date; and</li><li>2 includes any options, rights or securities existing as at the date of this agreement that are fully or partially convertible into Sigma Shares in respect of which arrangements have been put in place by the Scheme Record Date for them to be settled fully or partially for cash consideration; and</li></ol> <p>B is the total number of Scheme Shares.</p>
<b>Scheme Shareholder</b>	a Chemist Warehouse Shareholder as at the Scheme Record Date.
<b>Second Court Date</b>	the first day on which an application made to the Court for orders under paragraph 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, the day on which the adjourned application or appeal is heard, with such hearing being the <b>Second Court Hearing</b> .
<b>Security Interest</b>	any mortgage, charge, pledge, lien, assignment or other security interest or any other arrangement (including a right of set off or combination) entered into for the purpose of conferring a priority, including any security interest as defined in section 51A of the Corporations Act or in the PPSA.
<b>Sigma Board</b>	the board of directors of Sigma.
<b>Sigma Competing Proposal</b>	<p>any proposal, expression of interest, agreement, arrangement or transaction which, if entered into or completed, would result in a Third Party (either alone or together with any Associate):</p> <ol style="list-style-type: none"><li>1 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 Sigma Shares (other than an acquisition that results from a Third Party's participation in the Entitlement Offer (including as underwriter or sub-underwriter) or occurs pursuant to item 9 of section 611);</li><li>2 acquiring Control of Sigma;</li><li>3 directly or indirectly acquiring or becoming the holder of, or otherwise acquiring or having a right to acquire, a legal,</li></ol>

Term	Meaning
	<p>beneficial or economic interest in, or control of, all or a substantial part of the business or assets of the Sigma Group;</p> <p>4 being directly or indirectly acquired by Sigma for consideration that is or includes Sigma Shares and that results in pre-existing shareholders in the Third Party holding (in aggregate) a Relevant Interest in 20% or more of the Sigma Shares;</p> <p>5 otherwise directly or indirectly acquiring or merging with Sigma; or</p> <p>6 requiring Sigma to abandon, or otherwise fail to proceed with, the Transaction,</p> <p>in each case whether by way of takeover bid, members' or creditors' scheme of arrangement, reverse takeover, shareholder approved acquisition, capital reduction, buy-back, sale or purchase of shares, other securities or assets, assignment of assets and liabilities, incorporated or unincorporated joint venture, dual-listed company (or other synthetic merger), deed of company arrangement, any debt for equity arrangement recapitalisation, refinancing or other transaction or arrangement.</p> <p>Each successive material modification or variation of a Sigma Competing Proposal will constitute a new Sigma Competing Proposal.</p>
<b>Sigma Continuous Disclosure Policy</b>	the continuous disclosure and market communications policy of Sigma with an effective date of 1 July 2023.
<b>Sigma Data Room</b>	<p>the online data room for Project Orbit established by Sigma which is accessed at</p> <p><a href="https://dataroom.ansarada.com/_mvc/qtife8ib2erq%7C140338/7005106/spa/documents">https://dataroom.ansarada.com/_mvc/qtife8ib2erq%7C140338/7005106/spa/documents</a>.</p>
<b>Sigma Director</b>	a director of Sigma.
<b>Sigma Disclosure Materials</b>	the documents and information contained in folder 18 of the Sigma Data Room as at 11 December 2023, as included on one or more USBs delivered to Chemist Warehouse (or its lawyers) on or around the date of this agreement.
<b>Sigma Equity Incentive</b>	any option, restricted share or right to Sigma Shares issued under employee incentive arrangements of the Sigma Group.
<b>Sigma Group</b>	Sigma and each of its Controlled entities, and a reference to a ' <b>Sigma Group Member</b> ' or a ' <b>member of the Sigma Group</b> ' is to Sigma or any of its Controlled entities.

Term	Meaning
<b>Sigma Indemnified Party</b>	Sigma, its Related Bodies Corporate and their respective directors, officers and employees.
<b>Sigma Independent Expert</b>	the independent expert to be appointed by Sigma to prepare the Sigma Independent Expert's Report in accordance with clause 6.3(a).
<b>Sigma Independent Expert's Report</b>	the report prepared by the Sigma Independent Expert for inclusion in the Notice of Meeting opining on whether the Related Party Arrangements are fair and reasonable and the reasons for holding that opinion, and includes any update, revision, amendment or supplement to that report.
<b>Sigma Information</b>	<p>information regarding the Sigma Group and the Merged Group provided or prepared by or on behalf of Sigma for inclusion in the Disclosure Documents (as applicable), including:</p> <ol style="list-style-type: none"> <li>1 any letter from Sigma's chair;</li> <li>2 any information regarding the Merged Group;</li> <li>3 information about Sigma, its Related Bodies Corporate, its business, employees and interests; and</li> <li>4 any other information required under the Corporations Act, Corporations Regulations or applicable guidance from a Government Agency to enable the Disclosure Documents to be prepared.</li> </ol> <p>For the avoidance of doubt, the Sigma Information excludes the Chemist Warehouse Information, the Chemist Warehouse Independent Expert's Report, the Sigma Independent Expert's Report, any investigating accountant's report and any other report or opinion prepared by an external adviser to Sigma.</p>
<b>Sigma Leakage</b>	<ol style="list-style-type: none"> <li>1 any dividend or other distribution of profits or assets which is paid or made by any Sigma Group Member to or for the benefit of any Sigma Shareholder or any of their Affiliates;</li> <li>2 any payments made by any Sigma Group Member to any Sigma Shareholder or any of their Affiliates in respect of any share or loan capital or other securities of a Sigma Group Member being issued, redeemed, purchased or repaid, or any other return of capital;</li> <li>3 any payment (in cash or in kind) made by or on behalf of Sigma Group Member to or for the benefit of any Sigma Shareholder or any of their Affiliates;</li> <li>4 any incurrence of indebtedness by any Sigma Group Member in favour of any Sigma Shareholder or any of their Affiliates;</li> </ol>



Term	Meaning
	<p>5 any cancellation, waiver or forgiveness of any amounts or obligations owed to any Sigma Group Member by any Sigma Shareholder or any of their Affiliates;</p> <p>6 any transfer or provision of assets, rights or other benefits by or from any Sigma Group Member to any Sigma Shareholder or any of their Affiliates; or</p> <p>7 any agreement or commitment to do any of the things referred to in 1 to 6 above,</p> <p>but excluding in each case any Sigma Permitted Leakage.</p>
<b>Sigma Material Adverse Change</b>	<p>1 an order, injunction, decision, judgement or decree is issued by any court or Government Agency which:</p> <ul style="list-style-type: none"><li>– applies to the Sigma Group;</li><li>– has an impact on the Sigma Group that is materially disproportionate to its application to other participants in the pharmacy industry;</li><li>– has the effect of reasonably requiring a significant adverse change to all or a material part of the Sigma Group's business, structure or operations conducted at the date of this agreement; and</li><li>– the adverse effect of which cannot be reasonably and substantially overcome or mitigated by actions that can be taken by the Sigma Group in compliance with all applicable laws; or</li></ul> <p>2 an event, change, condition, circumstance, matter or thing that occurs is announced, is disclosed or otherwise becomes known to Sigma after the date of this agreement, whether it becomes public or not (each a <b>Specified Event</b>) which, whether individually or when aggregated with all such events, changes, conditions, circumstances, matters, or things of a like kind that have occurred, has had or would be considered reasonably likely to have the effect of a diminution on a recurring basis in the value of the earnings before interest and tax of the Sigma Group, taken as a whole, by at least \$20 million against what it would reasonably have been expected to have been but for such Specified Event (based on Sigma's reasonable calculation of financial performance, prepared in good faith and in accordance with Accounting Standards and past practice), determined after taking into account any matters which offset the impact of the Specified Event giving rise to the adverse effect, other than an event, change, condition, circumstance, matter or thing:</p> <ul style="list-style-type: none"><li>– required or expressly permitted by this agreement, the Scheme or the transactions contemplated by any of them;</li><li>– which directly results from this agreement, the Scheme or the transactions contemplated by any of them (including all amounts payable to Advisers by the Sigma Group in relation to the Transaction);</li></ul>

Term	Meaning
	<ul style="list-style-type: none"> <li>– to the extent Fairly Disclosed in the Sigma Disclosure Materials;</li> <li>– to the extent Fairly Disclosed in an announcement made to ASX or in a document lodged with ASIC in the 24 months prior to the date of this agreement;</li> <li>– to the extent Fairly Disclosed in a publicly available document which would be disclosed in a search of the PPS Register 2 Business Days before the date of this agreement;</li> <li>– arising from changes in economic or business conditions that impact on Sigma and its competitors in a similar manner (including interest rates, general economic, political or business conditions, including disruptions to, or fluctuations in, domestic or international financial markets);</li> <li>– which Chemist Warehouse has previously approved or agreed to in writing or which arises as a result of a Chemist Warehouse Group Member taking or refusing to take certain action within its control in respect of a Sigma Group Member or its business;</li> <li>– arising as a result of any applicable change in law, regulation, generally accepted accounting standards or generally accepted accounting principles or the interpretation of any such standards or principles, or policy of a Government Agency; or</li> <li>– arising from any act of non-cyber terrorism, outbreak or escalation of war (whether or not declared) or major hostilities, an act of God, lightning, storm, flood, fire, earthquake or explosion, cyclone, tidal wave, landslide, other natural disaster or adverse weather conditions or the like.</li> </ul>
<b>Sigma Material Contract</b>	<p>a contract or commitment under which the revenue or expenditure for the Sigma Group:</p> <ol style="list-style-type: none"> <li>1 is greater than \$950,000 in any one year; or</li> <li>2 is greater than \$2.85 million over the term of the contract or commitment,</li> </ol> <p>but excludes this agreement.</p>
<b>Sigma Permitted Dividend</b>	has the meaning given in clause 10.5.
<b>Sigma Permitted Leakage</b>	<ol style="list-style-type: none"> <li>1 any payment that is expressly permitted or required to be done by or under this agreement;</li> <li>2 the Sigma Permitted Dividends;</li> <li>3 any payment, performance, elimination or discharge (in whole or part) of any liability or provision provided for, accrued or</li> </ol>



Term	Meaning
	<p>reserved against (including by way of offset) in the Reference Accounts;</p> <p>4 the performance of any obligation under, or any step contemplated by, any agreement, arrangement or understanding by a Sigma Group Member Fairly Disclosed in the Sigma Disclosure Materials (including any repayment or draw down made under existing financing facilities in place as at the date of this agreement);</p> <p>5 any payment, transaction or other action made, entered into or undertaken by a Sigma Group Member in the ordinary course of its business, the nature and overall scale of which is and consistent with past practices of the Sigma Group, including any such payment, transaction or other action relating to:</p> <ul style="list-style-type: none"><li>– property lease agreements or arrangements;</li><li>– provision of seed funding and fit out financing to franchisees of the Sigma Group; or</li><li>– payments made by a Sigma Group Member that are recharged to stores or franchisees of the Sigma Group;</li></ul> <p>6 without limiting paragraph 5, remuneration, fees, disbursements, and/or other amounts paid or payable by a Sigma Group Member (including employment related taxes or similar deductions), under agreements Fairly Disclosed in the Sigma Disclosure Materials, to or for the benefit of a director, officer or employee or any of their Affiliates;</p> <p>7 the procuring of and payment for insurance for a Sigma Group Member (and its directors and officers) on market standard terms, in the ordinary course of business and consistent with past practice;</p> <p>8 any Sigma Leakage to the extent that the financial impact on the Sigma Group of that Sigma Leakage has been reversed, eliminated or reduced prior to the Implementation Date;</p> <p>9 any Sigma Leakage which:</p> <ul style="list-style-type: none"><li>– involves an individual amount, benefit or value of an asset less than \$50,000; and</li><li>– occurs unknowingly, inadvertently or without detection and is not for the purpose of transferring value from the Sigma Group to a Sigma Shareholder or an Affiliate,</li></ul> <p>provided that the aggregate amount of all Sigma Leakage under this paragraph is less than \$2 million; or</p> <p>10 any payment which is approved in writing by Chemist Warehouse for the purposes of this definition.</p>
<b>Sigma Prescribed Occurrence</b>	<p>other than any matter:</p> <p>1 required or expressly permitted by this agreement, the Scheme or the transactions contemplated by any of them;</p> <p>2 Fairly Disclosed in the Sigma Disclosure Materials;</p>



Term	Meaning
	<p>3 Fairly Disclosed in an announcement made to ASX or in a document lodged with ASIC in the 24 months prior to the date of this agreement;</p> <p>4 required by law or by an order of a court or Government Agency; or</p> <p>5 which Chemist Warehouse has previously approved or agreed to in writing,</p> <p>the occurrence of any of the following:</p> <p>6 a member of the Sigma Group converting all or any of its shares into a larger or smaller number of shares;</p> <p>7 a member of the Sigma Group resolving to reduce its share capital in any way;</p> <p>8 a member of the Sigma Group:</p> <ul style="list-style-type: none"><li>– entering into a buy-back agreement; or</li><li>– resolving to approve the terms of a buy-back agreement under the Corporations Act;</li></ul> <p>9 a member of the Sigma Group disposing, or agreeing to dispose, of the whole, or a substantial part, of its business or property;</p> <p>10 a member of the Sigma Group granting a Security Interest, or agreeing to grant a Security Interest, in the whole, or a substantial part, of its business or property, other than in the ordinary course of business;</p> <p>11 an Insolvency Event occurs in relation to a member of the Sigma Group;</p> <p>12 any Sigma Group Member pays, declares, distributes or incurs a liability to make or pay a dividend, bonus or other share of its profits, income, capital or assets by way of dividend or other form of distribution, other than a Sigma Permitted Dividend;</p> <p>13 any Sigma Group Member ceases, or threatens to cease, the whole or a material part of the business of the Sigma Group;</p> <p>14 any Sigma Group Member creates any new security-based (or phantom security-based) incentive plan or scheme; or</p> <p>15 any Sigma Group Member directly or indirectly authorises, commits or agrees to take any of the actions referred to in paragraphs 6 to 14 above.</p>
<b>Sigma Registry</b>	Link Market Services Limited (ACN 083 214 537).
<b>Sigma Representations and Warranties</b>	the representations and warranties of Sigma set out in Schedule 2.



Term	Meaning
<b>Sigma Resolutions</b>	<ol style="list-style-type: none"><li>1 the ordinary resolution of Sigma Shareholders under Listing Rule 11.1.2 in respect of the significant change to the nature and scale of Sigma's activities;</li><li>2 the ordinary resolution of Sigma Shareholders under Listing Rule 7.1 in respect of the approval of the issuance of Sigma Shares in connection with the Scheme;</li><li>3 the ordinary resolution of Sigma Shareholders under Listing Rule 10.1 in respect of the approval, of certain transactions between Chemist Warehouse and interests associated with some of its directors (including the Related Party Arrangements);</li><li>4 the special resolution of Sigma Shareholders for the purposes of section 260B(2) of the Corporations Act to approve the financial assistance to be provided by the Chemist Warehouse Group in connection with the Transaction arising from, amongst other things, their accession to, and their giving of guarantees and security in respect of, the facility under the Debt Facility Agreement;</li><li>5 the ordinary resolutions of Sigma Shareholders under clause 3.4 of Sigma's constitution to appoint each of the Chemist Warehouse nominees nominated in accordance with clause 11; and</li><li>6 any other resolutions the parties agree are required or desirable in connection with the Transaction.</li></ol>
<b>Sigma Share</b>	a fully paid ordinary share in the capital of Sigma.
<b>Sigma Shareholder</b>	a person who is registered as the holder of a Sigma Share in the Sigma Share Register.
<b>Sigma Shareholder Meeting</b>	the meeting of Sigma Shareholders to consider and vote on the Sigma Resolutions and includes any meeting convened following any adjournment or postponement of that meeting.
<b>Sigma Share Register</b>	the register of members of Sigma maintained by the Sigma Registry in accordance with the Corporations Act.
<b>Sigma Superior Proposal</b>	a bona fide, written Sigma Competing Proposal not resulting from a breach by Sigma of any of its obligations under clause 15, which the Sigma Board, acting in good faith and in order to satisfy what the Sigma Board considers to be the Sigma Board's statutory or fiduciary duties (after receiving advice from reputable external legal and financial advisers) determines:





Term	Meaning
	<p>1 is reasonably capable of being valued and completed substantially in accordance with its terms within a reasonable timeframe; and</p> <p>2 would, if completed substantially in accordance with its terms, result in a transaction that is more favourable to Sigma Shareholders (taken as a whole) than the Transaction, taking into account all terms, conditions and other aspects of the Sigma Competing Proposal and the Transaction, including conditions, the identity, reputation and financial condition of the person making the proposal and all relevant legal, regulatory and financial matters (including the value and type of consideration, funding, any timing considerations, any conditions precedent or other matters affecting the probability of the proposal being completed).</p>
<b>Tax Act</b>	the <i>Income Tax Assessment Act 1936</i> (Cth) or the <i>Income Tax Assessment Act 1997</i> (Cth), or both as the context requires.
<b>Third Party</b>	a person other than Chemist Warehouse, Sigma or their respective Related Bodies Corporate.
<b>Timetable</b>	the indicative timetable for the implementation of the Transaction as agreed between Chemist Warehouse and Sigma.
<b>Transaction</b>	the acquisition of all the Scheme Shares by Sigma through the implementation of the Scheme in accordance with the terms of this agreement.
<b>Underwriting Agreement</b>	the underwriting agreement between Sigma and Goldman Sachs Australia Pty Ltd (ACN 006 797 897) dated on or about the date of this agreement in respect of the Entitlement Offer.

## 1.2 Interpretation

In this agreement:

- (a) Headings and bold type are for convenience only and do not affect the interpretation of this agreement.
- (b) The singular includes the plural and the plural includes the singular.
- (c) Words of any gender include all genders.
- (d) Other parts of speech and grammatical forms of a word or phrase defined in this agreement have a corresponding meaning.



- (e) A reference to a person includes any company, partnership, joint venture, association, corporation or other body corporate and any Government Agency as well as an individual.
- (f) A reference to a clause, party, schedule, attachment or exhibit is a reference to a clause of, and a party, schedule, attachment or exhibit to, this agreement.
- (g) A reference to any thing (including, but not limited to, any right) includes a part of that thing, but nothing in this clause 1.2(g) implies that performance of part of an obligation constitutes performance of the obligation.
- (h) A reference to any legislation includes all delegated legislation made under it and amendments, consolidations, replacements or re-enactments of any of them.
- (i) A reference to a document includes all amendments or supplements to, or replacements or novations of, that document.
- (j) A reference to a party to a document includes that party's successors and permitted assignees.
- (k) A reference to an agreement other than this agreement includes a deed and any legally enforceable undertaking, agreement, arrangement or understanding, whether or not in writing.
- (l) A reference to liquidation or insolvency includes appointment of an administrator, compromise, arrangement, merger, amalgamation, reconstruction, winding up, dissolution, deregistration, assignment for the benefit of creditors, scheme, composition or arrangement with creditors, insolvency, bankruptcy, or any similar procedure or, where applicable, changes in the constitution of any partnership or person, or death.
- (m) No provision of this agreement will be construed adversely to a party because that party was responsible for the preparation of this agreement or that provision.
- (n) A reference to '\$' or 'dollars' is to Australian currency unless denominated otherwise.
- (o) A reference to any time is a reference to the time in Melbourne, Australia.
- (p) Where the day on or by which any thing is to be done is not a Business Day, that thing must be done on or by the next Business Day.
- (q) 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 agreement.
- (r) A reference to the Listing Rules includes any variation, consolidation or replacement of these rules and is to be taken to be subject to any waiver or exemption granted to the compliance of those rules by a party.

### 1.3 Interpretation of inclusive expressions

Specifying anything in this agreement after the words 'including', 'includes', 'for example' or similar expression does not limit what else is included unless there is express wording to the contrary.

### 1.4 Agreement components

This agreement includes any schedule.

## 2 Agreement to proceed with the Transaction

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### 2.1 Chemist Warehouse to propose Scheme

- (a) Chemist Warehouse agrees to propose the Scheme on and subject to the terms of this agreement.
- (b) Sigma agrees to assist Chemist Warehouse in proposing the Scheme on and subject to the terms of this agreement.
- (c) Chemist Warehouse and Sigma agree to implement the Scheme on and subject to the terms of this agreement.

### 2.2 Sigma to propose Sigma Resolutions

Sigma agrees to convene the Sigma Shareholder Meeting and propose the Sigma Resolutions to Sigma Shareholders on and subject to the terms of this agreement.

## 3 Directors' recommendations

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### 3.1 Chemist Warehouse Directors' recommendation

- (a) Chemist Warehouse represents and warrants that all of the Chemist Warehouse Directors have confirmed that, subject to clause 3.1(c):
  - (1) they unanimously recommend that Chemist Warehouse Shareholders vote in favour of the Scheme at the Scheme Meeting; and
  - (2) they will vote, or procure the voting of, all Chemist Warehouse Shares that they own or control in favour of the Scheme at the Scheme Meeting,in each case in the absence of a Chemist Warehouse Superior Proposal and subject to the Chemist Warehouse Independent Expert concluding (and continuing to conclude) in the Chemist Warehouse Independent Expert's Report that the Scheme is in the best interests of Chemist Warehouse Shareholders.
- (b) Subject to clause 3.1(c), Chemist Warehouse agrees:
  - (1) to include in the Scheme Booklet and all public statements (including statements to Chemist Warehouse Shareholders) relating to the Scheme, a statement to the effect that:
    - (A) the Chemist Warehouse Directors unanimously recommend that Chemist Warehouse Shareholders vote in favour of the Scheme at the Scheme Meeting; and
    - (B) each Chemist Warehouse Director will vote, or procure the voting of, all Chemist Warehouse Shares they own or control in favour of the Scheme at the Scheme Meeting,in each case in the absence of a Chemist Warehouse Superior Proposal and subject to the Chemist Warehouse Independent Expert concluding (and continuing to conclude) in the Chemist Warehouse Independent Expert's Report that the Scheme is in the best interests of Chemist Warehouse Shareholders;

- (2) not to make any public statement or take any other public action which would suggest that the Scheme is not unanimously recommended by the Chemist Warehouse Directors; and
- (3) to use reasonable endeavours to procure that the Chemist Warehouse Directors collectively, and each Chemist Warehouse Director individually, do not adversely change, withdraw or adversely modify his or her recommendation that Chemist Warehouse Shareholders vote in favour of the Scheme in accordance with clause 3.1(a).
- (c) Chemist Warehouse's obligations under clause 3.1(b) do not apply if:
- (1) the Chemist Warehouse Independent Expert in the Chemist Warehouse Independent Expert's Report (or any update of, or any revision, amendment or supplement to, that report) concludes that the Scheme is not in the best interests of Chemist Warehouse Shareholders;
- (2) each of the following has been satisfied:
- (A) Chemist Warehouse has received, other than as a result of a breach of clause 14, a Chemist Warehouse Competing Proposal;
- (B) the procedure in clause 14.6 has been fully complied with; and
- (C) the Chemist Warehouse Board has determined that the Chemist Warehouse Competing Proposal constitutes a Chemist Warehouse Superior Proposal; or
- (3) the adverse change, withdrawal or adverse modification in respect of a Chemist Warehouse Director occurs because of a requirement by a Government Agency, court of competent jurisdiction or ASIC or the Takeovers Panel that the relevant Chemist Warehouse Director abstains from making a recommendation that Chemist Warehouse Shareholders vote in favour of the Scheme after the date of this agreement.
- (d) For the purposes of this clause 3.1, customary qualifications and explanations contained in the Scheme Booklet or any announcement in relation to a recommendation to vote in favour of the Scheme, including to the effect that:
- (1) the recommendation is made in the absence of a Chemist Warehouse Superior Proposal; or
- (2) the recommendation is made subject to the Chemist Warehouse Independent Expert concluding (and continuing to conclude) in the Chemist Warehouse Independent Expert's Report (including in any update of, or any revision, amendment or supplement to, that report) that the Scheme is in the best interests of Chemist Warehouse Shareholders,
- will not be regarded as a failure to make or a withdrawal of a recommendation in favour of the Scheme.
- (e) Despite anything to the contrary in this clause 3.1 or elsewhere in this agreement, a statement made by Chemist Warehouse, the Chemist Warehouse Board or any Chemist Warehouse Director to the effect that no action should be taken by Chemist Warehouse Shareholders pending the assessment of a Chemist Warehouse Competing Proposal by the Chemist Warehouse Board or

the completion of the matching right process set out in clause 14.6 shall not contravene this clause 3.1 or any other provision of this agreement.

### 3.2 Sigma Directors' recommendation

- (a) Sigma represents and warrants that all of the Sigma Directors have confirmed that, subject to clause 3.2(c):
- (1) they unanimously recommend that Sigma Shareholders vote in favour of the Sigma Resolutions; and
  - (2) they will vote in favour of the Sigma Resolutions in respect of any Sigma Shares that they own or control,

in each case in the absence of a Sigma Superior Proposal and subject to the Sigma Independent Expert concluding (and continuing to conclude) in the Sigma Independent Expert's Report that the Related Party Arrangements are fair and reasonable or not fair but reasonable.

- (b) Subject to clause 3.2(c), Sigma agrees:
- (1) to include in the Notice of Meeting and all public statements relating to the Scheme a statement to the effect that:
    - (A) the Sigma Directors unanimously recommend that Sigma Shareholders vote in favour of the Sigma Resolutions; and
    - (B) each Sigma Director intends to vote in favour of the Sigma Resolutions in respect of any Sigma Shares that they own or control,

in each case in the absence of a Sigma Superior Proposal and subject to the Sigma Independent Expert concluding (and continuing to conclude) in the Sigma Independent Expert's Report that the Related Party Arrangements are fair and reasonable or not fair but reasonable;

- (2) not to make any public statement or take any other public action which would suggest that the Sigma Resolutions are not unanimously recommended by the Sigma Directors; and
  - (3) to use reasonable endeavours to procure that the Sigma Directors collectively, and each Sigma Director individually, do not adversely change, withdraw or adversely modify his or her recommendation that Sigma Shareholders vote in favour of the Sigma Resolutions.
- (c) Sigma's obligations under clause 3.2(b) do not apply if:
- (1) the Sigma Independent Expert in the Sigma Independent Expert's Report (or any update of, or any revision, amendment or supplement to, that report) concludes that the Related Party Arrangements are both not fair and not reasonable;
  - (2) each of the following has been satisfied:
    - (A) Sigma has received, other than as a result of a breach of clause 15, a Sigma Competing Proposal;
    - (B) the procedure in clause 15.6 has been fully complied with; and
    - (C) the Sigma Board has determined that the Sigma Competing Proposal constitutes a Sigma Superior Proposal; or

- (3) the adverse change, withdrawal or adverse modification in respect of a Sigma Director occurs because of a requirement by a Government Agency, court of competent jurisdiction or ASIC or the Takeovers Panel that the relevant Sigma Director abstains from making a recommendation that Sigma Shareholders vote in favour of the Sigma Resolutions after the date of this agreement.
- (d) For the purposes of this clause 3.2, customary qualifications and explanations contained in the Notice of Meeting or any announcement in relation to a recommendation to vote in favour of the Sigma Resolutions, including to the effect that:
- (1) the recommendation is made in the absence of a Sigma Superior Proposal; or
  - (2) the recommendation is made subject to the Sigma Independent Expert concluding (and continuing to conclude) in the Sigma Independent Expert's Report (including in any update of, or any revision, amendment or supplement to, that report) that the Related Party Arrangements are fair and reasonable or not fair but reasonable,
- will not be regarded as a failure to make or a withdrawal of a recommendation in favour of the Sigma Resolutions.
- (e) Despite anything to the contrary in this clause 3.2 or elsewhere in this agreement, a statement made by Sigma, the Sigma Board or any Sigma Director to the effect that no action should be taken by Sigma Shareholders pending the assessment of a Sigma Competing Proposal by the Sigma Board or the completion of the matching right process set out in clause 15.6 shall not contravene this clause 3.2 or any other provision of this agreement.

## 4 Transaction announcement and investor presentation

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### 4.1 Announcement of Transaction

- (a) Immediately after the execution and exchange of this agreement, Sigma and Chemist Warehouse must issue the Merger Announcement.
- (b) Neither Sigma nor Chemist Warehouse may issue any amended Merger Announcement without the prior written consent of the other party.

### 4.2 Subsequent announcements

Where a party proposes to make any public announcement about the Scheme (which, for the avoidance of doubt, does not include a public announcement in relation to a Chemist Warehouse Competing Proposal or a Sigma Competing Proposal), it must to the extent practicable and lawful to do so, consult with the other party prior to making the relevant disclosure and take account of any reasonable comments received from the other party in relation to the form and content of the announcement or disclosure.

### 4.3 Investor Presentation

- (a) As soon as reasonably practicable after the execution and exchange of this agreement, Sigma and Chemist Warehouse (as applicable) must announce to ASX and present the Investor Presentation.

- (b) Neither Sigma nor Chemist Warehouse may issue, announce or present any amended Investor Presentation without the prior written consent of the other party.

## 5 Transaction steps

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### 5.1 Scheme

Chemist Warehouse must propose the Scheme to Chemist Warehouse Shareholders in accordance with this agreement and the Scheme.

### 5.2 Sigma Resolutions

Sigma must propose the Sigma Resolutions to Sigma Shareholders in accordance with this agreement.

### 5.3 Scheme Consideration

- (a) Each Scheme Shareholder will be entitled to receive the Scheme Consideration in respect of each Scheme Share held by that Scheme Shareholder, on and subject to the terms of this agreement and the Scheme.
- (b) Subject to clauses 5.3(c), 5.3(d) and the Scheme becoming Effective, Sigma undertakes and warrants to Chemist Warehouse (in Chemist Warehouse's own right and separately as trustee for each of the Scheme Shareholders) that, in consideration of the transfer to Sigma of all Scheme Shares under the terms of the Scheme, on the Implementation Date Sigma will:
- (1) accept that transfer; and
  - (2) provide (or procure the provision) to each Scheme Shareholder the Scheme Consideration for each Scheme Share held by that Scheme Shareholder in accordance with the terms of this agreement and the Scheme.
- (c) Where the calculation of the Scheme Cash Consideration or number of New Sigma Shares to be issued to a particular Scheme Shareholder would result in the Scheme Shareholder becoming entitled to a fraction of a cent or New Sigma Share, the fractional entitlement will be rounded down to the nearest whole cent or number of New Sigma Shares, as applicable.
- (d) If Sigma or Chemist Warehouse is of the opinion, formed reasonably, that several Scheme Shareholders, each of which holds a holding of Chemist Warehouse Shares which results in a fractional entitlement to the Scheme Cash Consideration or New Sigma Shares have, before the Scheme Record Date, been party to a shareholding splitting or division in an attempt to obtain an advantage by reference to the rounding provided for in the calculation of each Scheme Shareholder's entitlement to the Scheme Consideration, Sigma may direct Chemist Warehouse to, and Chemist Warehouse may, give notice to those Scheme Shareholders:
- (1) setting out the names and Registered Addresses of all of them;
  - (2) stating that opinion; and
  - (3) attributing to one of them specifically identified in the notice the Chemist Warehouse Shares held by all of them,



and, after the notice has been so given, the Scheme Shareholder specifically identified in the notice shall, for the purposes of the Scheme, be taken to hold all those Chemist Warehouse Shares and each of the other Scheme Shareholders whose names are set out in the notice shall, for the purposes of the Scheme, be taken to hold no Chemist Warehouse Shares. Sigma, in complying with the provisions of the Scheme relating to it in respect of the Scheme Shareholder specifically identified in the notice as the deemed holder of all the specified Scheme Shares, will be taken to have satisfied and discharged its obligations to the other Scheme Shareholders named in the notice under the terms of the Scheme.

#### 5.4 New Sigma Shares

Sigma covenants in favour of Chemist Warehouse (in its own right and separately as trustee and nominee for each of the Scheme Shareholders) that, subject to Chemist Warehouse's compliance with the terms of this agreement and the accuracy of the Chemist Warehouse Representations and Warranties:

- (a) the New Sigma Shares issued as Scheme Share Consideration will, on their issue, rank equally in all respects with all other Sigma Shares on issue;
- (b) the New Sigma Shares issued as Scheme Share Consideration will be entitled to participate in and receive any dividends or distribution of capital paid and any other entitlements accruing in respect of Sigma Shares on and from the Implementation Date;
- (c) it will use its reasonable endeavours to ensure that the New Sigma Shares issued as Scheme Share Consideration will be listed for quotation on the official list of ASX with effect from the first Business Day after the Effective Date (or such later date as ASX may require), initially on a deferred settlement basis and, with effect from the first Business Day after the Implementation Date, on an ordinary (T+2) settlement basis; and
- (d) on issue, each New Sigma Share will be duly and validly issued in accordance with all applicable laws and the constitution of Sigma, fully paid and free from any mortgage, charge, lien, encumbrance, pledge or other security interest (including any 'security interest' within the meaning of section 12 of the PPSA).

#### 5.5 Ineligible Foreign Shareholders

- (a) Sigma will ensure that the New Sigma Shares to which an Ineligible Foreign Shareholder would otherwise have been entitled will be issued to a nominee appointed by Sigma and dealt with in accordance with the Scheme.
- (b) Sigma must appoint the nominee on terms reasonably acceptable to Chemist Warehouse at least 5 Business Days before the date of the Scheme Meeting.

#### 5.6 Provision of Chemist Warehouse Share information

- (a) In order to facilitate the provision of the Scheme Consideration, Chemist Warehouse must provide, or procure the provision of, to Sigma or a nominee of Sigma:
  - (1) such information as Sigma reasonably requests in relation to Chemist Warehouse Shareholders from time to time; and
  - (2) a complete copy of the Chemist Warehouse Share Register as at the Scheme Record Date (which must include the name, registered address and registered holding of each Scheme Shareholder as at the



Scheme Record Date), within 1 Business Day after the Scheme Record Date.

- (b) The details and information to be provided under clause 5.6(a) must be provided in such form as Sigma, its nominee or the Sigma Registry may reasonably require.

## 5.7 No amendment to the Scheme without consent

Chemist Warehouse 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 Sigma.

## 5.8 Australian tax rollover relief

- (a) Sigma acknowledges that each Scheme Shareholder who is an Australian resident shareholder who holds on capital account is expected to seek scrip-for-scrip rollover relief under subdivision 124-M of the Tax Act, to the extent permitted under the Tax Act.
- (b) Sigma undertakes that it will not make a choice to deny scrip-for-scrip rollover relief to the Scheme Shareholders under subsection 124-795(4) of the Tax Act.

## 5.9 Chemist Warehouse Equity Incentives

- (a) Chemist Warehouse confirms and Sigma acknowledges that Chemist Warehouse must put in place arrangements and take the following actions as is necessary to ensure that, before the Scheme Record Date, all Chemist Warehouse Equity Incentives and any other Chemist Warehouse equity incentives (including future grants of incentives) will vest or lapse in accordance with their terms such that there are no outstanding Chemist Warehouse Equity Incentives (or any other Chemist Warehouse equity incentives) which are not Chemist Warehouse Shares on issue as at the Scheme Record Date, and in relation to those Chemist Warehouse Equity Incentives and any other Chemist Warehouse equity incentives (including future grants of incentives) that will vest:
  - (1) the Chemist Warehouse Board will accelerate the vesting of, or waive any vesting conditions or vesting periods applying to, any or all Chemist Warehouse Equity Incentives and any other Chemist Warehouse equity incentives (subject to the proper exercise of the Chemist Warehouse Board's discretion); and
  - (2) Chemist Warehouse will issue or procure the issue or transfer of such number of Chemist Warehouse Shares as required by the terms of the Chemist Warehouse Equity Incentives and any other Chemist Warehouse equity incentives before the Scheme Record Date so that the holders of Chemist Warehouse Equity Incentives can participate as Scheme Shareholders in the Scheme and receive the Scheme Consideration.
- (b) For the avoidance of doubt, the exercise of any discretion by the Chemist Warehouse Board, or any other action, which is made in accordance with this clause 5.9, will not be a Chemist Warehouse Prescribed Occurrence, Chemist Warehouse Leakage or a breach of any provision of this agreement, or give rise to any right to terminate this agreement.

## 5.10 Sigma Equity Incentives

- (a) Sigma confirms and Chemist Warehouse acknowledges that Sigma must put in place arrangements and take the following actions as is necessary to ensure that, before the Scheme Record Date, all Sigma Equity Incentives and any other Sigma equity incentives (including future grants of incentives) will be dealt with in accordance with terms agreed between the parties before the Scheme Record Date, which actions may include:
- (1) the Sigma Board accelerating the vesting of, or waiving any vesting conditions or vesting periods applying to, any or all Sigma Equity Incentives and any other Sigma equity incentives (subject to the proper exercise of the Sigma Board's discretion); and
  - (2) Sigma issuing or procuring the issue or transfer of such number of Sigma Shares as required by the terms of the Sigma Equity Incentives and any other Sigma equity incentives before the Scheme Record Date.
- (b) For the avoidance of doubt, the exercise of any discretion by the Sigma Board, or any other action, which is made in accordance with this clause 5.10, will not be a Sigma Prescribed Occurrence, Sigma Leakage or a breach of any provision of this agreement, or give rise to any right to terminate this agreement.

## 6 Implementation

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### 6.1 Timetable

- (a) Subject to clause 6.1(b), but without limiting the parties' obligations under clauses 6 and 7, the parties must use reasonable endeavours to and ensure that their respective officers, employees and Advisers work in good faith and in a timely and cooperative fashion with the other party (including by attending meetings and by providing information) to:
- (1) comply with their respective obligations under clauses 6 and 7; and
  - (2) take all necessary steps and exercise all rights necessary to implement the Transaction,
- in accordance with the Timetable
- (b) Failure by a party to meet any timeframe or deadline set out in the Timetable will not constitute a breach of clause 6.1(a) to the extent that such failure is due to circumstances and matters outside the party's control.
- (c) Each party must keep the other informed about their progress against the Timetable and notify each other if it believes that any of the dates in the Timetable are not achievable.
- (d) To the extent that any of the dates or timeframes set out in the Timetable become not achievable due to matters outside of a party's control, the parties will consult in good faith to agree any necessary extension to ensure such matters are completed within the shortest possible timeframe.

## 6.2 Chemist Warehouse obligations

Subject to any change of recommendation by the Chemist Warehouse Board as permitted by clause 3.1 or the Sigma Board as permitted by clause 3.2, Chemist Warehouse must take all steps reasonably necessary to implement the Scheme in accordance with the Timetable and otherwise on and subject to the terms of this agreement, and must consult with Sigma on a regular basis about its progress in satisfying its obligations under this clause 6.2. Without limiting the foregoing, Chemist Warehouse must:

- (a) **Chemist Warehouse Independent Expert:** promptly after the date of this agreement, appoint the Chemist Warehouse Independent Expert and provide all assistance and information reasonably requested by the Chemist Warehouse Independent Expert in connection with the preparation of the Chemist Warehouse Independent Expert's Report for inclusion in the Scheme Booklet (including any update, revision, amendment or supplement to that report);
- (b) **Sigma Independent Expert's Report:** provide any assistance or information reasonably requested by Sigma or its Advisers, or by the Sigma Independent Expert, in connection with the preparation of the Sigma Independent Expert's Report;
- (c) **investigating accountant:** promptly after the date of this agreement, appoint any investigating accountant required in respect of the relevant Disclosure Documents other than the Entitlement Offer Disclosure Documents and provide the investigating accountant with reasonable access (at times mutually agreeable to the parties) to its auditors, accountants, books and records (including financial reports, audited or otherwise) for the sole purpose of preparation of an investigating accountant's report for inclusion in the relevant Disclosure Documents other than the Entitlement Offer Disclosure Document (including any update, revision, amendment or supplement to that report);
- (d) **lodgement of Scheme Booklet:** provide an advanced draft of the Scheme Booklet to ASIC for its review for the purposes of subsection 411(2) of the Corporations Act, provided that such draft must not be provided to ASIC without Sigma's prior written consent in respect of the Sigma Information;
- (e) **approval of Scheme Booklet:** procure that a meeting of the Chemist Warehouse Board (or a sub-committee thereof) is convened to approve the dispatch of the Scheme Booklet to Chemist Warehouse Shareholders, subject to orders of the Court under subsection 411(1) of the Corporations Act;
- (f) **no objection statement:** apply to ASIC for:
  - (1) a letter stating that ASIC does not intend to appear at the First Court Hearing; and
  - (2) a statement under paragraph 411(17)(b) of the Corporations Act stating that ASIC has no objection to the Scheme;
- (g) **First Court Hearing:** apply to the Court for orders under subsection 411(1) of the Corporations Act directing Chemist Warehouse to convene the Scheme Meeting;
- (h) **approval and registration of Scheme Booklet:** request that ASIC register the Scheme Booklet in accordance with subsection 412(6) of the Corporations Act;
- (i) **dispatch:** as soon as reasonably practicable following registration of the Scheme Booklet by ASIC, dispatch the Scheme Booklet to Chemist Warehouse Shareholders;



- (j) **Scheme Meeting:** convene and hold the Scheme Meeting to seek Chemist Warehouse Shareholders' agreement to the Scheme in accordance with the orders made by the Court at the First Court Hearing;
- (k) **Conditions Certificate:** at the Second Court Hearing, provide to the Court (through its counsel) a certificate confirming (in respect of matters within its knowledge) whether or not the Conditions Precedent (other than the Condition Precedent in clause 1.2 of Schedule 3 (Court approval)) have been satisfied or waived in accordance with this agreement, a draft of which must be provided to Sigma by 5.00pm on the date that is 2 Business Days prior to the Second Court Date;
- (l) **Second Court Hearing:** if the Scheme is approved by Chemist Warehouse Shareholders under subparagraph 411(4)(a)(ii) of the Corporations Act and it can reasonably be expected that all of the Conditions Precedent (other than the Condition Precedent in clause 1.2 of Schedule 3 (Court approval)) will be satisfied or waived in accordance with this agreement before 8.00am on the Second Court Date, apply to the Court for orders under paragraph 411(4)(b) of the Corporations Act approving the Scheme as agreed to by the Chemist Warehouse Shareholders at the Scheme Meeting (and, if it becomes apparent that a Condition Precedent (other than the Condition Precedent in clause 1.2 of Schedule 3 (Court approval)) will not be satisfied or waived in accordance with this agreement before 8.00am on that proposed Second Court Date, apply for an adjournment of that proposed Second Court Date to a date agreed in writing between the parties);
- (m) **Court documents:** prepare, and consult with Sigma in relation to the content of, the documents required for the purpose of each of the Court hearings held for the purpose of subsection 411(1) and paragraph 411(4)(b) of the Corporations Act in relation to the Scheme (including the originating process, affidavits, submissions and draft minutes of Court orders) and:
- (1) provide drafts of those documents to Sigma in a timely manner;
  - (2) provide Sigma with a reasonable opportunity to review and comment on those documents before they are lodged or filed with the Court; and
  - (3) consider in good faith, for the purpose of amending drafts of those documents, comments from Sigma and its Advisers on those documents;
- (n) **representation:** procure that it is represented by counsel at the First Court Hearing and Second Court Hearing;
- (o) **Sigma representation at Court hearings:** allow, and not oppose, any application by Sigma for leave of the Court to be represented by counsel at the First Court Hearing or Second Court Hearing;
- (p) **lodgement of Court order:** for the purposes of subsection 411(10) of the Corporations Act, lodge with ASIC an office copy of the orders made by the Court under paragraph 411(4)(b) of the Corporations Act before 5.00pm on the Business Day immediately following the day on which the Court order was made (or such later date as agreed in writing by Sigma);
- (q) **Scheme Consideration:** if the Scheme becomes Effective, finalise and close the Chemist Warehouse Share Register as at the Scheme Record Date, and determine entitlements to the Scheme Consideration, in accordance with the Scheme and Deed Poll;

- (r) **transfer and registration:** if the Scheme becomes Effective and subject to Sigma having issued the Scheme Consideration in accordance with the Scheme and Deed Poll:
  - (1) execute, on behalf of Scheme Shareholders, instruments of transfer and effect the transfer of all the Scheme Shares to Sigma; and
  - (2) register all transfers of the Scheme Shares to Sigma on the Implementation Date;
- (s) **promote the Scheme:** promote the merits of the Scheme and encourage Chemist Warehouse Shareholders to vote on the Scheme in accordance with the recommendation of the Chemist Warehouse Board, subject to applicable law and ASIC policy;
- (t) **Sigma Information:** without the prior written consent of Sigma, not use the Sigma Information for any purposes other than those expressly contemplated by this agreement or the Scheme;
- (u) **compliance with laws:** do everything reasonably within its power to ensure that the Transaction is effected in accordance with the terms of this agreement and applicable laws and regulations; and
- (v) **notification:** promptly notify Sigma if Chemist Warehouse becomes aware of anything that makes any of the Chemist Warehouse Representations and Warranties (on the dates they are given) false, inaccurate, misleading or deceptive in any material respect.

### 6.3 Sigma obligations

Subject to any change of recommendation by the Chemist Warehouse Board as permitted by clause 3.1 or the Sigma Board as permitted by clause 3.2, Sigma must take all steps reasonably necessary to implement the Scheme in accordance with the Timetable and otherwise on and subject to the terms of this agreement, and must consult with Chemist Warehouse on a regular basis about its progress in satisfying its obligations under this clause 6.3. Without limiting the foregoing, Sigma must:

- (a) **Sigma Independent Expert:** promptly after the date of this agreement, appoint the Sigma Independent Expert and provide all assistance and information reasonably requested by the Sigma Independent Expert in connection with the preparation of the Sigma Independent Expert's Report;
- (b) **Chemist Warehouse Independent Expert's Report:** provide any assistance or information reasonably requested by Chemist Warehouse or its Advisers, or by the Chemist Warehouse Independent Expert, in connection with the preparation of the Chemist Warehouse Independent Expert's Report;
- (c) **investigating accountant:** promptly after the date of this agreement, appoint any investigating accountant required in respect of the relevant Disclosure Documents other than the Entitlement Offer Disclosure Documents and provide the investigating accountant with reasonable access (at times mutually agreeable to the parties) to its auditors, accountants, books and records (including financial reports, audited or otherwise) for the sole purpose of preparation of an investigating accountant's report for inclusion in the relevant Disclosure Documents other than the Entitlement Offer Disclosure Documents (including any update, revision, amendment or supplement to that report);
- (d) **Deed Poll:** before 5.00pm on the Business Day before the First Court Date, execute the Deed Poll and deliver the executed Deed Poll to Chemist Warehouse;





- (e) **representation:** apply for leave of the Court to be, and if granted be, represented by counsel at the Court Hearings;
- (f) **Conditions Certificate:** before 8.00am on the Second Court Date, provide to Chemist Warehouse for provision to the Court at the Second Court Hearing a certificate confirming (in respect of matters within its knowledge) whether or not the Conditions Precedent (other than the Condition Precedent in clause 1.2 of Schedule 3 (Court approval)) have been satisfied or waived in accordance with this agreement, a draft of which must be provided to Chemist Warehouse by 5.00pm on the date that is 2 Business Days prior to the Second Court Date;
- (g) **Scheme Consideration:** if the Scheme becomes Effective, provide the Scheme Consideration in accordance with this agreement and the terms of the Scheme and Deed Poll;
- (h) **Scrip-for-scrip rollover relief:** to facilitate the availability of scrip-for-scrip rollover relief under subdivision 124-M of the Tax Act for eligible Chemist Warehouse Shareholders:
- (1) provide Chemist Warehouse with such assistance and information as may reasonably be requested by Chemist Warehouse for the purposes of obtaining from the Australian Tax Office rulings in a form reasonably acceptable to Chemist Warehouse confirming the availability of scrip-for-scrip rollover relief in respect of the exchange of the Chemist Warehouse Shares for New Sigma Shares pursuant to the Scheme;
  - (2) not make an election under subsection 124-795(4) of the Tax Act preventing the availability of the rollover relief; and
  - (3) if applicable, make any election required under Subdivision 124-M of the Tax Act in relation to the rollover;
- (i) **quotation of New Sigma Shares:** prior to the Scheme Meeting, apply to ASX for the New Sigma Shares to be issued pursuant to the Scheme to be approved in principle for official quotation (and keep Chemist Warehouse informed of the status of such application), and as soon as practicable following the Scheme Record Date, apply to ASX for final approval in respect of such quotation;
- (j) **share transfer:** if the Scheme becomes Effective, accept a transfer of the Scheme Shares in accordance with this agreement, the Scheme and the Deed Poll and execute instruments of transfer in respect of the Scheme Shares;
- (k) **Chemist Warehouse Information:** without the prior written consent of Chemist Warehouse, not use the Chemist Warehouse Information for any purposes other than those expressly contemplated by this agreement or the Scheme;
- (l) **compliance with laws:** do everything reasonably within its power to ensure that the Transaction is effected in accordance with the terms of this agreement and applicable laws and regulations; and
- (m) **notification:** promptly notify Chemist Warehouse if Sigma becomes aware of anything that makes any of the Sigma Representations and Warranties (on the dates they are given) false, inaccurate, misleading or deceptive in any material respect.

## 6.4 Conduct of Court proceedings

- (a) Chemist Warehouse and Sigma are entitled to separate representation at all Court proceedings affecting the Transaction.

- (b) This agreement does not give Chemist Warehouse (on the one hand), or Sigma (on the other hand) any right or power to give undertakings to the Court for or on behalf of Sigma (in the case of Chemist Warehouse) or Chemist Warehouse (in the case of Sigma) without that party's written consent.
- (c) Each party 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 agreement.

## 6.5 Appeal process

If the Court refuses to make any orders directing Chemist Warehouse to convene the Scheme Meeting or approving the Scheme, Chemist Warehouse and Sigma must:

- (a) consult with each other in good faith as to whether to appeal the Court's decision; and
- (b) appeal the Court's decision unless the parties agree otherwise under clause 6.5(a) or an independent senior counsel opines that, in his or her view, an appeal would have no reasonable prospect of success.

# 7 Disclosure Documents

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## 7.1 Responsibility

Subject to clause 7.2, the parties agree that:

- (a) subject to clauses 7.3(b)(2), 7.3(b)(3) and 7.3(b)(4), Chemist Warehouse will be responsible for preparing and dispatching the Scheme Booklet in accordance with all applicable laws (including the Corporations Act, the Corporations Regulations, RG 60 and any applicable regulatory guidance from a Government Agency); and
- (b) subject to clauses 7.3(a)(2), 7.3(a)(3) and 7.3(a)(4), Sigma will be responsible for preparing and dispatching the Notice of Meeting, Entitlement Offer Disclosure Documents and Re-listing Prospectus in accordance with all applicable laws (including the Corporations Act, the Corporations Regulations and any applicable regulatory guidance from a Government Agency).

## 7.2 Responsibility statements

- (a) The Disclosure Documents (as applicable) must contain a responsibility statement to the effect that:
  - (1) Chemist Warehouse is responsible for the Chemist Warehouse Information contained in the relevant Disclosure Document, and no Sigma Indemnified Party nor their Advisers assumes any responsibility or liability for the accuracy or completeness of the Chemist Warehouse Information;
  - (2) Sigma is responsible for the Sigma Information contained in the relevant Disclosure Document, and no Chemist Warehouse Indemnified Party nor their Advisers assumes any responsibility or liability for the accuracy or completeness of the Sigma Information;
  - (3) the Sigma Independent Expert is responsible for the Sigma Independent Expert's Report, and no Chemist Warehouse Indemnified

Party, Sigma Indemnified Party nor their Advisers, assumes any responsibility or liability for the accuracy or completeness of the Sigma Independent Expert's Report; and

- (4) the Chemist Warehouse Independent Expert is responsible for the Chemist Warehouse Independent Expert's Report, and no Chemist Warehouse Indemnified Party, Sigma Indemnified Party nor their Advisers, assumes any responsibility or liability for the accuracy or completeness of the Chemist Warehouse Independent Expert's Report.
- (b) If Chemist Warehouse and Sigma disagree on the form or content of a Disclosure Document, they must consult in good faith to try to settle an agreed form of the relevant Disclosure Document. If after 5 Business Days of consultation, Chemist Warehouse and Sigma are unable to agree on the form or content of the relevant Disclosure Document:
  - (1) where the determination relates to Chemist Warehouse Information, Chemist Warehouse will make the final determination, acting reasonably, as to the form and content of the Chemist Warehouse Information;
  - (2) where the determination relates to Sigma Information, Sigma will make the final determination, acting reasonably, as to the form and content of the Sigma Information; and
  - (3) in any other case, the final determination as to the form and content of the Disclosure Document will be made by the party who is responsible for that document in accordance with clause 7.1, acting reasonably.

### 7.3 Consultation on content of Disclosure Documents

- (a) Chemist Warehouse must:
  - (1) **preparation of Scheme Booklet:**
    - (A) promptly provide Sigma with successive advanced drafts of the Scheme Booklet and the Chemist Warehouse Independent Expert's Report to give Sigma a reasonable opportunity to review and make comments, provided that in relation to the Chemist Warehouse Independent Expert's Report, Sigma's review is to be limited to a factual accuracy review;
    - (B) take all timely and reasonable comments made by Sigma into account and consult in good faith when producing revised drafts of the Scheme Booklet;
    - (C) provide Sigma with a proposed final draft of the Scheme Booklet within a reasonable time prior to lodgement with ASIC and dispatch to give Sigma a reasonable opportunity to review and make comments; and
    - (D) seek written approval from Sigma on the form and context in which Sigma Information appears in the Scheme Booklet, with such approval not to be unreasonably withheld or delayed;
  - (2) **assistance with Disclosure Documents:** promptly provide any assistance or information reasonably requested by Sigma or its Advisers in connection with the preparation of the Disclosure



Documents (except the Scheme Booklet), review drafts of the Disclosure Documents (except the Scheme Booklet) and provide comments on those drafts promptly and in good faith (including any supplementary disclosure);

- (3) **provision of input into Merged Group information:** prepare and promptly share with Sigma any information regarding the Chemist Warehouse Group that the parties reasonably require in order to prepare the information regarding the Merged Group for inclusion in the Disclosure Documents (as applicable), and jointly (with Sigma) prepare the pro forma financial information for inclusion in the Disclosure Documents (as applicable);
- (4) **provision of Chemist Warehouse Information for Notice of Meeting, Entitlement Offer Disclosure Documents and Re-listing Prospectus:**
  - (A) provide Sigma with Chemist Warehouse Information as reasonably requested by Sigma and required by all applicable laws (including the Corporations Act, the Corporations Regulations and any applicable regulatory guidance from a Government Agency) in a timely manner for inclusion in the Notice of Meeting, Entitlement Offer Disclosure Documents (as relevant following the date of this agreement) and Re-listing Prospectus;
  - (B) allow Sigma a reasonable period to review the Chemist Warehouse Information and consider in good faith any comments provided by or on behalf of Sigma; and
  - (C) subject to Sigma complying with clause 7.3(b)(1), consent to the inclusion of Chemist Warehouse Information in the Notice of Meeting, Entitlement Offer Disclosure Documents (as relevant following the date of this agreement) and Re-listing Prospectus;
- (5) **engagement on the Scheme Booklet:** keep Sigma informed of any material matter raised by ASIC or ASX in relation to the Scheme Booklet or the Transaction and any steps proposed to be taken to address such issues, and to the extent that such issues relate to Sigma Information, Chemist Warehouse must not take any steps to address such issues without Sigma's prior written consent (not to be unreasonably withheld, conditioned or delayed);
- (6) **updated disclosure for Scheme Booklet:** until the date of the Scheme Meeting, promptly update the Scheme Booklet with any information that arises after the Scheme Booklet has been dispatched that is necessary to ensure that the Scheme Booklet does not contain any statement that is or has become false or misleading in any material respect including because of any material omission from that statement. Chemist Warehouse must consult with Sigma in good faith as to the need for, form of, and if applicable, content and presentation of the updated or supplementary Scheme Booklet in the manner contemplated by this clause 7.3(a), and, subject to compliance with this clause 7.3(a)(6), seek the Court's approval for the dispatch of any updated or supplementary Scheme Booklet. To the extent that the supplementary disclosure relates to (or constitutes) Sigma Information, it may only be made with Sigma's prior written consent (not to be unreasonably withheld, conditioned or delayed); and

(7) **updated Chemist Warehouse Information for Notice of Meeting, Entitlement Offer Disclosure Documents and Re-listing Prospectus:** until:

- (A) in the case of the Notice of Meeting, the date of the Sigma Shareholder Meeting;
- (B) in the case of the Entitlement Offer Disclosure Documents, the end of the Entitlement Offer; and
- (C) in the case of the Re-listing Prospectus, the allotment of Sigma securities under that prospectus,

promptly provide Sigma with any Chemist Warehouse Information required to update the Notice of Meeting, Entitlement Offer Disclosure Documents or Re-listing Prospectus as the case may be (each a **relevant document**) after the relevant document has been dispatched that is necessary to ensure that the relevant document does not contain any statement that is or has become false or misleading in any material respect including because of any material omission from that statement.

(b) Sigma must:

(1) **preparation of Disclosure Documents other than Scheme Booklet:**

- (A) promptly provide Chemist Warehouse with successive advanced drafts of the Notice of Meeting, Entitlement Offer Disclosure Documents (as relevant following the date of this agreement), Re-listing Prospectus and the Sigma Independent Expert's Report to give Chemist Warehouse a reasonable opportunity to review and make comments, provided that in relation to the Sigma Independent Expert's Report, Chemist Warehouse's review is to be limited to a factual accuracy review;
- (B) take all timely and reasonable comments made by Chemist Warehouse into account and consult in good faith when producing revised drafts of the Notice of Meeting, Entitlement Offer Disclosure Documents (as relevant following the date of this agreement) and Re-listing Prospectus;
- (C) provide Chemist Warehouse with proposed final drafts of the Notice of Meeting, Entitlement Offer Disclosure Documents (as relevant following the date of this agreement) and Re-listing Prospectus within a reasonable time prior to lodgement with ASIC or ASX or dispatch (as applicable) to give Chemist Warehouse a reasonable opportunity to review and make comments; and
- (D) seek written approval from Chemist Warehouse on the form and context in which Chemist Warehouse Information appears in the Notice of Meeting, Entitlement Offer Disclosure Documents (as relevant following the date of this agreement) and Re-listing Prospectus (if any) (such approval not to be unreasonably withheld or delayed);

(2) **assistance with Scheme Booklet:** promptly provide any assistance or information reasonably requested by Chemist Warehouse or its Advisers in connection with the preparation of the Scheme Booklet,

review drafts of the Scheme Booklet and provide comments on those drafts promptly and in good faith (including any supplementary disclosure);

- (3) **provision of input into Merged Group information:** prepare and promptly share with Chemist Warehouse any information regarding the Sigma Group that the parties reasonably require in order to prepare the information regarding the Merged Group for inclusion in the Disclosure Documents (as applicable), and jointly (with Sigma) prepare the pro forma financial information for inclusion in the Disclosure Documents (as applicable);
- (4) **provision of Sigma Information for Scheme Booklet:**
  - (A) provide Chemist Warehouse with Sigma Information as reasonably requested by Chemist Warehouse and required by all applicable laws (including the Corporations Act, the Corporations Regulations, RG 60 and any applicable regulatory guidance from a Government Agency) in a timely manner for inclusion in the Scheme Booklet;
  - (B) allow Chemist Warehouse a reasonable period to review the Sigma Information and consider in good faith any comments provided by or on behalf of Chemist Warehouse; and
  - (C) subject to Chemist Warehouse complying with clause 7.3(a)(1), consent to the inclusion of Sigma Information in the Scheme Booklet;
- (5) **engagement on Disclosure Documents other than Scheme Booklet:** keep Chemist Warehouse informed of any material matter raised by ASIC or ASX in relation to the Notice of Meeting, Entitlement Offer Disclosure Documents, Re-listing Prospectus or the Transaction and any steps proposed to be taken to address such issues, and to the extent that such issues relate to Chemist Warehouse Information, Sigma must not take any steps to address such issues without Chemist Warehouse's prior written consent (not to be unreasonably withheld, conditioned or delayed);
- (6) **updated disclosure:** until:
  - (A) in the case of the Notice of Meeting, the date of the Sigma Shareholder Meeting;
  - (B) in the case of the Entitlement Offer Disclosure Documents, the end of the Entitlement Offer; and
  - (C) in the case of the Re-listing Prospectus, the allotment of Sigma securities under that prospectus,

promptly update the Notice of Meeting, Entitlement Offer Disclosure Documents or Re-listing Prospectus as the case may be (each a **relevant document**) with any information that arises after the relevant document has been dispatched that is necessary to ensure that the relevant document does not contain any statement that is or has become false or misleading in any material respect including because of any material omission from that statement. Sigma must consult with Chemist Warehouse in good faith as to the need for, form of, and if applicable, content and presentation of the updated or supplementary relevant document, in the manner contemplated by this clause 7.3(a), and, subject to compliance with this clause 7.3(a)(6) and consultation with any relevant regulator, dispatch any updated or supplementary

relevant document. To the extent that the supplementary disclosure relates to (or constitutes) Chemist Warehouse Information, it may only be made with Chemist Warehouse's prior written consent (not to be unreasonably withheld, conditioned or delayed); and

- (7) **updated Sigma Information for Scheme Booklet:** until the date of the Scheme Meeting, promptly provide Chemist Warehouse with any Sigma Information required to update the Scheme Booklet after the Scheme Booklet has been dispatched that is necessary to ensure that the Scheme Booklet does not contain any statement that is or has become false or misleading in any material respect including because of any material omission from that statement.

## 7.4 Verification

- (a) Chemist Warehouse must take reasonable verification processes in relation to:
- (1) the information contained in the Scheme Booklet (other than the Sigma Information); and
  - (2) without limiting clause 7.4(a)(1), the Chemist Warehouse Information contained in any Disclosure Document,
- so as to ensure that such information is not misleading or deceptive in any material respect (whether by omission or otherwise).
- (b) Sigma must take reasonable verification processes in relation to:
- (1) the information contained in the Notice of Meeting, Entitlement Offer Disclosure Documents and Re-listing Prospectus (other than the Chemist Warehouse Information); and
  - (2) without limiting clause 7.4(b)(1), the Sigma Information contained in any Disclosure Document,
- so as to ensure that such information is not misleading or deceptive in any material respect (whether by omission or otherwise).
- (c) Chemist Warehouse and Sigma agree to make available to the other party and its Related Persons all verification materials in respect of its processes under clauses 7.4(a) and 7.4(b) if the other party is subject to an investigation, inquiry or request for information from a Government Agency or claim by a Third Party regarding the accuracy or adequacy of disclosure in a Disclosure Document.
- (d) Nothing in clause 7.4(c) requires either party to disclose to the other party any materials the subject matter of which:
- (1) is privileged, and cannot be provided pursuant to common interest privilege, or on an external counsel to counsel basis without waiving such privilege;
  - (2) cannot be disclosed due to the Confidentiality Agreement or confidentiality obligations owed to any Third Party (including any Government Agency); or
  - (3) may cause a breach of the CCA or any other law.

## 7.5 Confirmations

- (a) Before the draft Scheme Booklet is lodged with ASIC and again before the Scheme Booklet is dispatched to Chemist Warehouse Shareholders:

- (1) Chemist Warehouse must confirm in writing to Sigma that the Chemist Warehouse Information in the Scheme Booklet is not misleading or deceptive in any material respect, including by way of omission; and
- (2) Sigma must confirm in writing to Chemist Warehouse that the Sigma Information in the Scheme Booklet is not misleading or deceptive in any material respect, including by way of omission.
- (b) Before the draft Notice of Meeting is lodged with ASX and again before the Notice of Meeting is dispatched to Sigma Shareholders:
- (1) Sigma must confirm in writing to Chemist Warehouse that the Sigma Information in the Notice of Meeting is not misleading or deceptive in any material respect, including by way of omission; and
- (2) Chemist Warehouse must confirm in writing to Sigma that the Chemist Warehouse Information in the Notice of Meeting is not misleading or deceptive in any material respect, including by way of omission.
- (c) Before any draft Entitlement Offer Disclosure Documents (as relevant following the date of this agreement) are lodged with the relevant regulator and again before the relevant Entitlement Offer Disclosure Document is dispatched:
- (1) Sigma must confirm in writing to Chemist Warehouse that the Sigma Information in the relevant Entitlement Offer Disclosure Documents is not misleading or deceptive in any material respect, including by way of omission; and
- (2) Chemist Warehouse must confirm in writing to Sigma that the Chemist Warehouse Information in the relevant Entitlement Offer Disclosure Documents is not misleading or deceptive in any material respect, including by way of omission.
- (d) Before any pathfinder Re-listing Prospectus is released and again before the Re-listing Prospectus is lodged with ASIC:
- (1) Sigma must confirm in writing to Chemist Warehouse that the Sigma Information in the Re-listing Prospectus is not misleading or deceptive in any material respect, including by way of omission; and
- (2) Chemist Warehouse must confirm in writing to Sigma that the Chemist Warehouse Information in the Re-listing Prospectus is not misleading or deceptive in any material respect, including by way of omission.

## 8 Conditions Precedent

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### 8.1 Conditions Precedent

Subject to this clause 8, the Scheme will not become Effective, and the respective obligations of the parties in relation to the implementation of the Scheme are not binding, unless and until each Condition Precedent is satisfied or waived to the extent and in the manner set out in this clause 8.

### 8.2 Reasonable endeavours and cooperation

- (a) Subject to clause 8.2(b), each party:
- (1) must, to the extent it is within their power to do so, use all reasonable endeavours to satisfy the Conditions Precedent: and

- (2) agrees not to do, or omit to do, anything which will, or is likely to, result in any of the Conditions Precedent being breached.
- (b) A reference in this clause 8 to a Condition Precedent being breached includes a reference to the Condition Precedent not being, or not being capable of being, satisfied.

### 8.3 Waiver

- (a) The Conditions Precedent in clauses 1.3 of Schedule 3 (Court approval), 1.4 of Schedule 3 (Shareholder approval) and 1.5 of Schedule 3 (Sigma Resolutions) cannot be waived.
- (b) The Conditions Precedent in clauses 1.2 of Schedule 3 (Sigma Independent Expert), 1.6 of Schedule 3 (ACCC Approval), 1.7 of Schedule 3 (Regulatory approvals), 1.8 of Schedule 3 (OIO approval), 1.9 of Schedule 3 (Underwriting Agreement), 1.10 of Schedule 3 (Debt Commitment Letter) and 1.15 of Schedule 3 (Restraints) are for the benefit of both Chemist Warehouse and Sigma and may only be waived by written agreement between Chemist Warehouse and Sigma.
- (c) The Conditions Precedent in clauses 1.11 of Schedule 3 (Chemist Warehouse Prescribed Occurrence), 1.12 of Schedule 3 (Chemist Warehouse Material Adverse Change) and 1.17 of Schedule 3 (Chemist Warehouse Equity Incentives) are for the sole benefit of Sigma and may only be waived by Sigma in writing.
- (d) The Conditions Precedent in clauses 1.1 of Schedule 3 (Chemist Warehouse Independent Expert), 1.13 of Schedule 3 (Sigma Prescribed Occurrence), 1.14 of Schedule 3 (Sigma Material Adverse Change) and 1.16 of Schedule 3 (Rollover relief) are for the sole benefit of Chemist Warehouse and may only be waived by Chemist Warehouse in writing.
- (e) Waiver of breach or non-fulfilment of a Condition Precedent does not constitute:
  - (1) a waiver of breach or non-fulfilment of any other Condition Precedent resulting from the same event; or
  - (2) a waiver of breach or non-fulfilment of that Condition Precedent resulting from any other event.

### 8.4 ACCC Approval application

- (a) Without limiting clause 8.1, each of Chemist Warehouse and Sigma must:
  - (1) to the extent not already done so, discuss in good faith the form of application to be lodged with the ACCC and promptly provide notification to and seek informal clearance or merger authorisation from the ACCC for the purposes of satisfying the ACCC Approval;
  - (2) pursue the ACCC Approval as a joint exercise and, in that regard, at all times work cooperatively, and in good faith;
  - (3) consult with the other party or its legal representatives in relation to the preparation of any submission to the ACCC in relation to the ACCC Approval and any other application or evidence in relation to the ACCC Approval, including by providing to the other party a draft copy of the submissions or application that Chemist Warehouse or Sigma prepares (as applicable) and a reasonable opportunity to comment, and consider in good faith any comments made by the other party;





- (4) keep the other party informed of the progress of, and consult with the other party in relation to, the ACCC Approval (including any material matters raised by, or conditions or other arrangements proposed by, the ACCC or other Government Agency), and provide the other party with a draft copy of any material correspondence, further submissions, responses to any informal requests for information or documents or, as appropriate, section 155 notices to be provided to the ACCC or other Government Agency, or any application or evidence in relation to the ACCC Approval, and a reasonable opportunity to comment, and consider in good faith any comments made by the other party;
- (5) provide the other party with copies of the final material correspondence, further submissions, responses to any informal requests for information or documents or, as appropriate, section 155 notices to be provided to the ACCC or other Government Agency, and any application or evidence in relation to the ACCC Approval in relation to the ACCC Approval;
- (6) take all steps it is responsible for as part of the ACCC Approval process, including responding to informal requests for information or documents or section 155 notices from the ACCC or other Government Agency at the earliest practicable time;
- (7) not attend any meetings or take part in any substantive communications with the ACCC or another Government Agency in connection with the ACCC Approval without first offering an opportunity to, and allowing, the other party (or their external legal advisers) to be present and participate at any such meetings or communications;
- (8) not take any action that will or is likely to hinder or prevent the procuring of the ACCC Approval, except where any such action is required by law; and
- (9) provide the other party with all information reasonably requested in connection with the applications for, and progress of, the ACCC Approval,

provided that:

- (10) in respect of this clause 8.4(a), each of Chemist Warehouse and Sigma may withhold or redact information or documents from the other party if and to the extent that they are either confidential to a Third Party or commercially sensitive and confidential to that party or subject to legal professional privilege in favour of that party;
- (11) neither Chemist Warehouse nor Sigma is prevented from taking any step in connection with obtaining the ACCC Approval if the other party has unduly delayed and been notified of the same; and
- (12) nothing in this clause 8.4(a) requires either party to disclose to the other party any information, document, submission or other material or to permit the other party or its representatives to attend meetings the subject matter of which:
- (A) is privileged, and cannot be provided pursuant to common interest privilege, or on an external counsel to counsel basis without waiving such privilege;
  - (B) cannot be disclosed due to the Confidentiality Agreement or confidentiality obligations owed to any Third Party (including any Government Agency); or

- (C) may cause a breach of the CCA or any other law,  
provided each party provides such information, documents,  
submissions or other materials or permits the other party or a  
reasonable number of its representatives to attend meetings to the  
extent it is reasonably able to do so.
- (b) If the ACCC, Australian Competition Tribunal or Federal Court of Australia  
requires Chemist Warehouse or Sigma to enter into an undertaking or agree to  
any conditions to obtain ACCC Approval, the terms of any undertaking or  
conditions must be acceptable to each party (acting reasonably).

## 8.5 Other regulatory approvals, rollover relief and consents

Without limiting clause 8.1, each of Chemist Warehouse and Sigma must:

- (a) to the extent not already done so, promptly apply for any approval, consent,  
clearance, waiver, ruling, relief, confirmation, exemption, declaration or notice  
required to satisfy the Conditions Precedent in clauses 1.7 of Schedule 3  
(Regulatory approvals), 1.8 of Schedule 3 (OIO approval) and 1.16 of Schedule  
3 (Rollover relief) and, in that regard, at all times work cooperatively and in good  
faith;
- (b) consult with the other party or its legal representatives in relation to the  
preparation of any application or consent in respect of the Conditions Precedent  
in clauses 1.7 of Schedule 3 (Regulatory approvals), 1.8 of Schedule 3 (OIO  
approval) and 1.16 of Schedule 3 (Rollover relief), including by providing to the  
other party a draft copy of any application that Chemist Warehouse or Sigma  
prepares (as applicable) and a reasonable opportunity to comment, and  
consider in good faith any comments made by the other party;
- (c) keep the other party informed of the progress of, and consult with the other  
party in relation to, the Conditions Precedent in clauses 1.7 of Schedule 3  
(Regulatory approvals), 1.8 of Schedule 3 (OIO approval) and 1.16 of Schedule  
3 (Rollover relief) (including any material matters raised by, or conditions or  
other arrangements proposed by, a Government Agency or counterparty), and  
provide the other party with a copy of any material correspondence or further  
submissions, to be provided to a Government Agency or counterparty, and a  
reasonable opportunity to comment, and consider in good faith any comments  
made by the other party;
- (d) not take any action that will or is likely to hinder or prevent the satisfaction of the  
Conditions Precedent in clauses 1.7 of Schedule 3 (Regulatory approvals), 1.8  
of Schedule 3 (OIO approval) or 1.16 of Schedule 3 (Rollover relief), except  
where any such action is required by law; and
- (e) provide the other party with all information reasonably requested in connection  
with the applications, consents and progress in respect of the Conditions  
Precedent in clauses 1.7 of Schedule 3 (Regulatory approvals), 1.8 of Schedule  
3 (OIO approval) and 1.16 of Schedule 3 (Rollover relief),

provided that in respect of this clause 8.5, each of Chemist Warehouse and Sigma may  
withhold or redact information or documents from the other party if and to the extent that  
they are either confidential to a Third Party or commercially sensitive and confidential to  
that party or subject to legal professional privilege in favour of that party.

## 8.6 Further ACCC actions

- (a) If merger authorisation is sought from the ACCC and the ACCC does not grant  
authorisation under section 88 of the CCA in respect of the proposed acquisition



by Sigma of the Chemist Warehouse Shares pursuant to this agreement, then the parties must:

- (1) assess in good faith what options are reasonably available in order for the Scheme to proceed in a manner that is compliant with law and consistent with the terms of this agreement and consult in good faith with each other and their respective Advisers in relation to such options;
  - (2) consult in good faith to agree the course of action and an extension to the End Date (if applicable); and
  - (3) at their own cost, commit any resources reasonably required in order to take any action agreed by the parties to obtain the ACCC Approval, as expeditiously and diligently as possible, including by making available relevant personnel for the purpose of any such action.
- (b) If informal clearance is sought from the ACCC and the ACCC gives notice of its intention to oppose the proposed acquisition by Sigma of the Chemist Warehouse Shares pursuant to this agreement, then the parties must:
- (1) assess in good faith what options are reasonably available in order for the Scheme to proceed in a manner that is compliant with law and consistent with the terms of this agreement and consult in good faith with each other and their respective Advisers in relation to such options;
  - (2) consult in good faith to agree the course of action and an extension to the End Date (if applicable); and
  - (3) at their own cost, commit any resources reasonably required in order to take any action agreed by the parties to obtain the ACCC Approval, as expeditiously and diligently as possible, including by making available relevant personnel for the purpose of any such action.

## 8.7 Termination on failure of Condition Precedent

- (a) If:
- (1) there is an event or occurrence that would, or does, prevent any of the Conditions Precedent being satisfied; or
  - (2) there is an event or occurrence that would, or does, prevent any of the Conditions Precedent being satisfied by the time and date specified in this agreement for the satisfaction of that Condition Precedent or such Condition Precedent becomes incapable of being satisfied by the earlier of that time and date and the End Date,

then either party may give the other party written notice (**Consultation Notice**) within 5 Business Days after the relevant notice of the fact being given under clause 8.8, and upon delivery of the Consultation Notice the parties must consult in good faith to:

- (3) consider extending the relevant time or date for satisfaction of the Condition Precedent;
- (4) consider changing the First Court Date or to adjourn the application for order pursuant to subsection 411(1) of the Corporations Act convening the Scheme Meeting to another date agreed by the parties;
- (5) consider changing the Second Court Date or to adjourn the application for orders pursuant to paragraph 411(4)(b) of the

Corporations Act approving the Scheme to another date agreed by the parties;

- (6) consider extending the End Date (as applicable); or
  - (7) consider and, if agreed, determine whether the Scheme or Transaction may proceed by way of alternative means or methods.
- (b) If the parties are unable to reach agreement under clause 8.7(a) by the earliest of:
- (1) 5 Business Days after a Consultation Notice is given;
  - (2) 5 Business Days after the time and date specified in this agreement for the satisfaction of a Condition Precedent; or
  - (3) the End Date,
- as appropriate, then, unless that Condition Precedent has been waived in accordance with clause 8.3, either party may terminate this agreement without any liability to the other party because of that termination alone.
- (c) A party will not be entitled to give a Consultation Notice or terminate this agreement pursuant to clause 8.7(b) if the relevant Condition Precedent has not been satisfied as a result of:
- (1) a breach of this agreement by that party; or
  - (2) a deliberate act or omission of that party which directly and materially contributed to that Condition Precedent not being satisfied,
- although, for the avoidance of doubt, in such circumstances the other party may still terminate this agreement.

## 8.8 Certain notices relating to Conditions Precedent

Chemist Warehouse and Sigma (as the case may be) must:

- (a) keep the other promptly and reasonably informed of the steps it has taken and of its progress towards satisfaction of the Conditions Precedent;
- (b) promptly notify the other in writing if it becomes aware that any Condition Precedent has been satisfied; and
- (c) promptly notify the other in writing if it becomes aware that any Condition Precedent is or has become incapable of being satisfied (having regard to the respective obligations of each party under clause 8.2).

## 9 Access and assistance

### 9.1 Access to information

- (a) From the date of this agreement up to and including the earlier of the Implementation Date and termination of this agreement, each party (**Relevant Party**) must provide to the other party reasonable access to information, premises and such senior executives of the Relevant Party as reasonably requested by the other party at mutually convenient times, and afford the other party reasonable cooperation, for the sole purpose of:
  - (1) preparation of the Disclosure Documents;

- (2) implementation of the Scheme;
  - (3) finalising the Debt Facility Agreement and the financier's requirements in that regard; and
  - (4) the application to the ACCC for the purpose of the ACCC Approval in accordance with clause 8.4(a)(1).
- (b) In carrying out the obligations in this clause 9.1:
- (1) nothing in this clause will require Chemist Warehouse or Sigma to provide information concerning its directors' and management's consideration of the Scheme, a Chemist Warehouse Competing Proposal or Sigma Competing Proposal;
  - (2) information need not be provided if that would result in unreasonable disruptions to the Relevant Party's business or is (in the reasonable opinion of the Relevant Party) commercially sensitive;
  - (3) nothing in this clause 9.1, requires either party to disclose to the other party any information the subject matter of which:
    - (A) is privileged, and cannot be provided pursuant to common interest privilege, or on an external counsel to counsel basis without waiving such privilege;
    - (B) cannot be disclosed due to the Confidentiality Agreement or confidentiality obligations owed to any Third Party (including any Government Agency); or
    - (C) may cause a breach of the CCA or any other law; and
  - (4) the parties acknowledge that their investigations and obligations under this clause 9 are subject to:
    - (A) the Confidentiality Agreement;
    - (B) any clean teams and black box processes in respect of the Chemist Warehouse Data Room and Sigma Data Room;
    - (C) arrangements between the parties that are intended to preserve legal privilege; and
    - (D) all applicable laws and requirements of a Government Agency.

## 9.2 Responses to Government Agencies

From the date of this agreement up to and including the earlier of the end of the Implementation Date and termination of this agreement, and without limiting clauses 8.3, 8.5 and 8.6, each party must:

- (a) consult with the other party or its legal representatives in relation to any feedback, investigation, inquiry or request for information from a Government Agency;
- (b) work cooperatively and in good faith in determining any correspondence, response or submission to a Government Agency in respect of clause 9.2(a); and
- (c) provide to the other party a draft copy of any correspondence, response or submission that Chemist Warehouse or Sigma prepares (as applicable) and a reasonable opportunity to comment, and consider in good faith any comments made by the other party.

### 9.3 Change of control provisions

As soon as practicable after the date of this agreement, Chemist Warehouse and Sigma must seek to identify any change of control provisions in the Chemist Warehouse Material Contracts to which a Chemist Warehouse Group Member is party, or Sigma Material Contracts to which a Sigma Group Member is a party, which will be triggered by the implementation of the Transaction. In respect of those contracts, the parties agree as follows:

- (a) Chemist Warehouse and Sigma will in good faith agree a proposed course of action, and then jointly initiate contact with the relevant counterparties and request that they provide any required consents, waivers or agreements to novate the Chemist Warehouse Material Contracts or Sigma Material Contracts.
- (b) Chemist Warehouse and Sigma must use reasonable efforts to promptly seek to obtain consents, waivers or novation agreements prior to the Implementation Date in accordance with the agreed strategy. Each party and its Related Persons must not contact any counterparties of the other party without the other party being present or without the other party's prior written consent (which is not to be unreasonably withheld or delayed).
- (c) Chemist Warehouse and Sigma must cooperate with, and provide reasonable assistance to, each other to obtain such consents, waivers or novation agreements in accordance with this clause 9.3, including by promptly providing any information reasonably required by counterparties (but nothing in this clause requires either party to incur material expense).
- (d) A failure by a Chemist Warehouse Group Member or Sigma Group Member to obtain any Third Party consent, waiver or novation agreement will not constitute a breach of this agreement and, together with any consequences that arise, will be disregarded when assessing the operation of any other provision of this agreement.

### 9.4 Working Party Committee

- (a) As soon as reasonably practicable after the date of this agreement:
  - (1) Chemist Warehouse and Sigma agree to establish a committee (**Working Party Committee**) comprising two senior executive nominees appointed by Chemist Warehouse and two senior executive nominees appointed by Sigma; and
  - (2) Chemist Warehouse and Sigma must agree protocols to govern the activities of the Working Party Committee (**Working Party Protocols**).
- (b) The role of the Working Party Committee will be to act as a forum for discussion and planning, but not decision making, in relation to overseeing the progress of the Scheme in accordance with this agreement.
- (c) Without limiting clause 9.4(b), from the date of this agreement up to and including the Implementation Date, the Working Party Committee will:
  - (1) oversee implementation of the Scheme;
  - (2) report on key milestones (as determined by the Working Party Committee) in connection with implementation of the Scheme; and
  - (3) agree the process and the necessary steps which will result in:
    - (A) the transfer of the Scheme Shares to Sigma and provision of the Scheme Consideration to Scheme Shareholders in accordance with this agreement and the Scheme;

- (B) draw down under the Debt Finance Documents, and the provision of associated security and guarantees required under the Debt Finance Documents; and
- (C) the repayment and refinancing of Chemist Warehouse Group debt and the release of any guarantees or security provided by Chemist Warehouse Shareholders or their Affiliates in connection with the obligations or liabilities of the Chemist Warehouse Group.
- (d) Any information provided by one party to the other under this clause 9.4 will be subject to the Confidentiality Agreement.
- (e) The Working Party Committee will meet at least fortnightly or on such shorter timeframes as Chemist Warehouse and Sigma may agree. Meetings may be held via telephone.
- (f) The members of the Working Party Committee may agree to invite other persons to attend meetings of the Working Party Committee from time to time (including the parties' respective legal and financial advisers).
- (g) Chemist Warehouse and Sigma acknowledge that this clause 9.4 is subject to the Working Party Protocols, all applicable laws (including the CCA) and requirements of a Government Agency.
- (h) Nothing in this clause 9.4:
  - (1) requires either party to act at the direction of the other party or imposes any obligation on a party to conduct its business in accordance with any direction or representation made by the other party; or
  - (2) requires any party to act or participate in any forum to the extent that doing so is contrary to law or the requirements of any Government Agency.

## 10 Conduct of business and prohibited actions

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### 10.1 Conduct of business

- (a) Subject to clause 10.3(a), from the date of this agreement up to and including the Implementation Date, Chemist Warehouse must:
  - (1) conduct its businesses and operations, and must procure each Chemist Warehouse Group Member to conduct its respective business and operations, in the ordinary and usual course generally consistent with the manner in which each such business and operations have been conducted in the 12 month period prior to the date of this agreement, and in compliance in all material respects with all laws and regulations applicable to them;
  - (2) not enter into any significant line of business in which the Chemist Warehouse Group is not engaged as of the date of this agreement;
  - (3) comply, and must procure that each Chemist Warehouse Group Member complies, in all material respects, with all Chemist Warehouse Material Contracts;

- (4) comply with, and must procure that each Chemist Warehouse Group Member complies with, in all material respects, all Authorisations held or required to be held by the Chemist Warehouse Group which are material to the continued operation of a material part of the Chemist Warehouse business (as conducted in the 12 months before the date of this agreement);
- (5) use reasonable endeavours to ensure that there is no Chemist Warehouse Prescribed Occurrence; and
- (6) use reasonable endeavours, and procure that each other Chemist Warehouse Group Member uses reasonable endeavours, to:
- (A) preserve and maintain the value of the businesses and assets of the Chemist Warehouse Group;
  - (B) keep available the services of the directors, officers and employees of each member of the Chemist Warehouse Group;
  - (C) maintain and preserve their relationships with Government Agencies, customers, suppliers, joint venturers, licensors, licensees and others having business dealings with any Chemist Warehouse Group Member; and
  - (D) maintain (and where necessary, use reasonable endeavours to renew) each of the Authorisations held by a Chemist Warehouse Group Member that is material to the continued operation of a material part of the Chemist Warehouse business (as conducted in the 12 months before the date of this agreement).
- (b) Subject to clause 10.3(b), from the date of this agreement up to and including the Implementation Date, Sigma must:
- (1) conduct its businesses and operations, and must procure each Sigma Group Member to conduct its respective business and operations, in the ordinary and usual course generally consistent with the manner in which each such business and operations have been conducted in the 12 month period prior to the date of this agreement, and in compliance in all material respects with all laws and regulations applicable to them (including the Listing Rules);
  - (2) not enter into any significant line of business in which the Sigma Group is not engaged as of the date of this agreement;
  - (3) comply, and must procure that each Sigma Group Member complies, in all material respects, with all Sigma Material Contracts;
  - (4) comply with, and must procure that each Sigma Group Member complies with, in all material respects, all Authorisations held or required to be held by the Sigma Group which are material to the continued operation of a material part of the Sigma business (as conducted in the 12 months before the date of this agreement);
  - (5) use reasonable endeavours to ensure that there is no Sigma Prescribed Occurrence;
  - (6) use reasonable endeavours, and procure that each other Sigma Group Member uses reasonable endeavours, to:
    - (A) preserve and maintain the value of the businesses and assets of the Sigma Group;



- (B) keep available the services of the directors, officers and employees of each member of the Sigma Group;
- (C) maintain and preserve their relationships with Government Agencies, customers, suppliers, joint venturers, licensors, licensees and others having business dealings with any Sigma Group Member; and
- (D) maintain (and where necessary, use reasonable endeavours to renew) each of the Authorisations held by a Sigma Group Member that is material to the continued operation of a material part of the Sigma business (as conducted in the 12 months before the date of this agreement).

## 10.2 Prohibited actions

- (a) Subject to clause 10.3(a), from the date of this agreement up to and including the Implementation Date, Chemist Warehouse must not, and must procure that each Chemist Warehouse Group Member does not:
  - (1) dispose, or agree to dispose of any securities, business, assets, interest in a joint venture, entity or undertaking, the value of which exceeds \$10 million individually, or \$50 million in aggregate, to any person other than another Chemist Warehouse Group Member;
  - (2) acquire, or agree to acquire any securities, business, assets, interest in an entity or undertaking, the price of which exceeds \$10 million individually, or \$50 million in aggregate, from any person other than another Chemist Warehouse Group Member;
  - (3) provide any financial accommodation to a person other than a member of the Chemist Warehouse Group, a store owner or franchisee outside of the ordinary course of business;
  - (4) subject to the CCA, incur or enter into commitments involving capital expenditure of more than \$15 million individually or \$40 million in aggregate;
  - (5) enter into a new employment contract, terminate an employment contract other than for cause, or make any material variation to an existing employment contract, in respect of which the annual fixed remuneration is greater than \$500,000;
  - (6) pay a director or employee a termination payment in excess of \$100,000 other than as provided for in an existing employment contract and provided in the Chemist Warehouse Disclosure Materials;
  - (7) other than in the ordinary course of business, enter into, materially vary, terminate, exercise options under or submit tenders or proposals in relation to any contract or commitment, except for a retail lease, where:
    - (A) the revenue or expenditure for the Chemist Warehouse Group is greater than \$15 million in any one year or \$40 million over the term of the contract or commitment; or
    - (B) the term is greater than 10 years;
  - (8) waive any material Third Party default where the financial impact of the waiver on the Chemist Warehouse Group as a whole will be in excess of \$5 million individually or \$10 million in aggregate;



- (9) settle or commence any legal proceedings, claim, investigation, arbitration or other like proceeding where the settlement amount or amount claimed or sought in the proceedings exceeds \$5 million individually or \$10 million in aggregate;
- (10) enter into, materially amend or terminate any lease that is material to the continued operation of a material part of the Chemist Warehouse business (as conducted in the 12 months before the date of this agreement), other than in the ordinary course of business;
- (11) guarantee or indemnify the obligations of any person other than a member of the Chemist Warehouse Group, other than in the usual and ordinary course of business and consistent with past practice;
- (12) alter in any material respect any accounting policy of any member of the Chemist Warehouse Group, other than any change required by applicable accounting standards; or
- (13) agree to do any of the matters set out above.
- (b) Subject to clause 10.3(b), from the date of this agreement up to and including the Implementation Date, Sigma must not, and must procure that each Sigma Group Member does not:
- (1) dispose, or agree to dispose of any securities, business, assets, interest in a joint venture, entity or undertaking, the value of which exceeds \$2 million individually, or \$10 million in aggregate, to any person other than another Sigma Group Member;
- (2) acquire, or agree to acquire any securities, business, assets, interest in an entity or undertaking, the price of which exceeds \$2 million individually, or \$10 million in aggregate, from any person other than another Sigma Group Member;
- (3) provide any financial accommodation to a person other than a member of the Sigma Group, a store owner or franchisee outside of the ordinary course of business;
- (4) subject to the CCA, incur or enter into commitments involving capital expenditure of more than \$2.5 million individually or \$6 million in aggregate;
- (5) enter into a new employment contract, terminate an employment contract other than for cause, or make any material variation to an existing employment contract, in respect of which the annual fixed remuneration is greater than \$500,000;
- (6) pay a director or employee a termination payment in excess of \$100,000 other than as provided for in an existing employment contract and provided in the Sigma Disclosure Materials;
- (7) other than in the ordinary course of business, or in relation to Sigma's wholesale business in the ordinary course of business, enter into, materially vary, terminate, exercise options under or submit tenders or proposals in relation to any contract or commitment, except for retail leases, where:
- (A) the revenue or expenditure for the Sigma Group is greater than \$2.5 million in any one year or \$6 million over the term of the contract or commitment; or
- (B) the term is greater than 10 years;





- (8) waive any material Third Party default where the financial impact of the waiver on the Sigma Group as a whole will be in excess of \$1 million individually or \$2 million in aggregate;
- (9) settle or commence any legal proceedings, claim, investigation, arbitration or other like proceeding where the settlement amount or amount claimed or sought in the proceedings exceeds \$2.5 million individually or \$6 million in aggregate;
- (10) enter into, materially amend or terminate any lease that is material to the continued operation of a material part of the Sigma business (as conducted in the 12 months before the date of this agreement), other than in the ordinary course of business;
- (11) guarantee or indemnify the obligations of any person other than a member of the Sigma Group, other than in the usual and ordinary course of business and consistent with past practice;
- (12) alter in any material respect any accounting policy of any member of the Sigma Group, other than any change required by applicable accounting standards; or
- (13) agree to do any of the matters set out above.

### 10.3 Permitted activities

- (a) Nothing in clause 10.1(a) or clause 10.2(a) restricts the ability of Chemist Warehouse (or any Chemist Warehouse Group Member) to take any action:
  - (1) which is required by, or to enable compliance with or to seek to avoid a breach of, the CCA or any applicable law, regulation, Accounting Standards or principles, contract or by a Government Agency;
  - (2) which is required or expressly permitted by this agreement, the Scheme or the Deed Poll;
  - (3) for which Sigma has provided its prior written consent (such consent not to be unreasonably withheld or delayed); or
  - (4) which is Fairly Disclosed:
    - (A) in the Chemist Warehouse Disclosure Materials;
    - (B) in a document lodged with ASIC in the 24 months prior to the date of this agreement; or
    - (C) in a publicly available document which would be disclosed in a search of the PPS Register 2 Business Days before the date of this agreement.
- (b) Nothing in clause 10.1(b) or clause 10.2(b) restricts the ability of Sigma (or any Sigma Group Member) to take any action:
  - (1) which is required by, or to enable compliance with or to seek to avoid a breach of, the CCA or any applicable law, regulation, Accounting Standards or principles, contract or by a Government Agency;
  - (2) which is required or expressly permitted by this agreement, the Scheme or the Deed Poll;
  - (3) for which Chemist Warehouse has provided its prior written consent (such consent not to be unreasonably withheld or delayed); or
  - (4) which is Fairly Disclosed:

- (A) in the Sigma Disclosure Materials;
- (B) in an announcement made to ASX or in a document lodged with ASIC in the 24 months prior to the date of this agreement; or
- (C) in a publicly available document which would be disclosed in a search of the PPS Register 2 Business Days before the date of this agreement.

#### 10.4 Chemist Warehouse Permitted Dividends

- (a) From the date of this agreement until the Implementation Date, Chemist Warehouse may declare and pay one or more cash dividends to Chemist Warehouse Shareholders up to the lesser of:
  - (1) \$22 million per month (or such pro-rata amount for part of a month) for the period commencing on the Reference Accounts Date and ending on the date that the dividend is declared; and
  - (2) an aggregate amount equal to 75% of the Chemist Warehouse Group's net profit after tax (excluding the impact of any asset sales or any item which is non-cash and non-recurring items) for the period commencing on the Reference Accounts Date and ending on the date that the dividend is declared,
 (each, a **Chemist Warehouse Permitted Dividend**).
- (b) The Chemist Warehouse Group's net profit after tax (excluding the impact of any asset sales) under clause 10.4(a)(2) must be:
  - (1) prepared in accordance with Accounting Standards applied on a consistent basis; and
  - (2) determined reasonably and in good faith by Chemist Warehouse.
- (c) Any Chemist Warehouse Permitted Dividend may be fully or partly franked, provided that the Chemist Warehouse franking account does not fall into deficit upon payment of the Chemist Warehouse Permitted Dividend (or would fall into deficit if any claimed tax refund was received).
- (d) Chemist Warehouse must notify Sigma at least 5 Business Days before it determines to pay a Chemist Warehouse Permitted Dividend of the proposed amount of that Chemist Warehouse Permitted Dividend.

#### 10.5 Sigma Permitted Dividends

- (a) From the date of this agreement until the Implementation Date, Sigma may declare and pay one or more cash dividends to Sigma Shareholders up to the lesser of:
  - (1) an amount determined in accordance with Sigma's dividend policy in effect as at the date of this agreement; and
  - (2) an aggregate amount equal to 75% of the Sigma Group's net profit after tax (excluding the impact of any asset sales or any item which is non-cash and non-recurring) for the period commencing on the Reference Accounts Date and ending on the date that the dividend is declared,
 (each, a **Sigma Permitted Dividend**).

- (b) The Sigma Group's net profit after tax (excluding the impact of any asset sales) under clause 10.5(a)(2) must be:
  - (1) prepared in accordance with Accounting Standards applied on a consistent basis; and
  - (2) determined reasonably and in good faith by Sigma.
- (c) Any Sigma Permitted Dividend may be fully or partly franked, provided that the Sigma franking account does not fall into deficit upon payment of the Sigma Permitted Dividend (or would fall into deficit if any claimed tax refund was received).
- (d) Sigma must notify Chemist Warehouse at least 5 Business Days before it determines to pay a Sigma Permitted Dividend of the proposed amount of that Sigma Permitted Dividend.

## 10.6 Material developments

- (a) The parties acknowledge the need to ensure that Sigma is able to comply with Chapter 3 of the Listing Rules and obligations under Chapter 6CA of the Corporations Act (**Continuous Disclosure Obligations**) in the period between announcement of the Transaction and the earlier of termination of this agreement and the Implementation Date.
- (b) From the date of this agreement up to and including the earlier of the Implementation Date and termination of this agreement, Chemist Warehouse must:
  - (1) adopt, and follow, a continuous disclosure and market communications policy on substantially the same terms as the Sigma Continuous Disclosure Policy so Chemist Warehouse has appropriate systems in place to ensure Sigma's compliance with the Continuous Disclosure Obligations;
  - (2) immediately provide Sigma with information in relation to Chemist Warehouse that Sigma requires to comply with the Continuous Disclosure Obligations, which information Sigma may immediately give to ASX for release to the market if it considers that to be necessary to comply with its obligations under the Listing Rules; and
  - (3) immediately provide Sigma with all financial statements that Chemist Warehouse lodges with ASIC and all documents that Chemist Warehouse lodges with ASIC which become public in connection with the Transaction at the same time as they are lodged with ASIC, which documents Sigma may immediately give to ASX for release to the market.
- (c) To the extent practicable and legally permitted, and having regard to the obligation of Sigma to immediately disclose information in accordance with ASX Guidance Note 8, Chemist Warehouse and Sigma must consult in good faith with each other in relation to any relevant disclosure to ASX or otherwise under law which Sigma may have in relation to the information provided to it by Chemist Warehouse.
- (d) In carrying out the obligations in this clause 10.6, nothing in this clause will require Chemist Warehouse to provide information to Sigma:
  - (1) concerning its directors' and management's consideration of the Scheme or a Chemist Warehouse Competing Proposal; or



- (2) where that information would not be required to be disclosed to ASX due to the exception under Listing Rule 3.1A.

## 11 No Leakage

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- (a) Each party represents, warrants and undertakes to the other party that between the Reference Accounts Date up to (and including) the Implementation Date:
- (1) no Leakage has occurred or will occur; and
  - (2) no agreement, arrangement or understanding has occurred or will occur that will result in Leakage.
- (b) Between the date of this agreement and the Implementation Date, within 1 month of the end of each calendar month, each party must give the other party a copy of their consolidated balance sheet as at the end of, and consolidated cash flow statement in respect of, the previous month.
- (c) Each party must:
- (1) notify the other party in writing immediately if it becomes aware of a payment or transaction which constitutes, or which might constitute, a breach of clause 11(a); and
  - (2) without limiting clause 11(c)(1), must deliver to the other party:
    - (A) on the Business Day before the First Court Date; and
    - (B) on the Scheme Record Date,a certificate duly signed by their Chief Financial Officer confirming (as applicable), that so far as he or she is aware (after making reasonable enquiries), either:
    - (C) that no Leakage occurred during that period; or
    - (D) that Leakage did occur during that period (in which case the certificate must include reasonable details, including the amount or value, of each such instance of Leakage, and will be deemed for all purposes under this agreement to constitute an admission by that party of a breach of clause 11(a) in the amounts of the Leakage specified in the certificate),for which the Chief Financial Officer will not have personal liability unless they have engaged in wilful misconduct, wilful concealment or fraud.
- (d) In the event of any breach of clause 11(a) by a party (**defaulting party**), the aggregate Scheme Cash Consideration of the Scheme will:
- (1) if the defaulting party is Sigma, be increased by an amount that represents equivalent value to the amount of the Leakage; and
  - (2) if the defaulting party is Chemist Warehouse, be reduced by an amount that represents equivalent value to the amount of the Leakage.
- (e) The application of, and full compliance by the defaulting party with, clause 11(d), will fully and finally settle any claim the other party may have in respect of a breach of clause 11(a) and such Leakage.

- (f) If the Implementation Date does not occur, each party will have no liability to the other party under this clause 11.

## 12 Board composition

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- (a) Subject to and with effect from the Implementation Date, and subject to the receipt of the necessary signed consents to act, resignations, background information and information reasonably requested by Chemist Warehouse and Sigma, Chemist Warehouse and Sigma agree that:
- (1) the Sigma Board shall be comprised of 5 Sigma nominees and 4 Chemist Warehouse nominees as follows:
    - (A) Vikesh Ramsunder (Sigma nominee);
    - (B) Michael Sammells (Sigma nominee);
    - (C) Annette Carey (Sigma nominee);
    - (D) Chris Roberts (Sigma nominee);
    - (E) Neville Mitchell (Sigma nominee);
    - (F) Jack Gance (Chemist Warehouse nominee);
    - (G) Mario Verrocchi (Chemist Warehouse nominee);
    - (H) Damien Gance (Chemist Warehouse nominee); and
    - (I) Danielle Di Pilla (Chemist Warehouse nominee); and
  - (2) the Chemist Warehouse Board shall be comprised of those persons determined by the Sigma Board as constituted under clause 12(a)(1).
- (b) Chemist Warehouse and Sigma may agree in writing that:
- (1) a person specified in clause 12(a) will no longer be appointed on the Implementation Date; and
  - (2) another person not specified in clause 12(a) may instead be appointed on the Implementation Date.
- (c) Chemist Warehouse and Sigma must procure the resignation and appointment of directors in accordance with clause 12(a) as soon as practicable on the Implementation Date after the Scheme Consideration has been dispatched to Scheme Shareholders, with such written notice of resignation to confirm that the outgoing director has no claim outstanding against any Chemist Warehouse Group Member or Sigma Group Member as applicable (provided that nothing in this clause 12(c) requires any such director to forego any rights they may have under and subject to any agreement of access and indemnity or policy of directors' and officers' insurance).

## 13 Releases

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### 13.1 Chemist Warehouse and Chemist Warehouse directors and officers

- (a) Subject to any restrictions imposed by law, Sigma releases its rights, and agrees with Chemist Warehouse that it will not make any claim (including any

Claim) against any Chemist Warehouse Indemnified Party (other than Chemist Warehouse and its Controlled entities) as at the date of this agreement and from time to time in connection with:

- (1) any breach of any representations and warranties of Chemist Warehouse or any other member of the Chemist Warehouse Group in this agreement; or
- (2) any disclosures containing any statement which is false or misleading whether in content or by omission,

whether current or future, known or unknown, arising at common law, in equity, under statute or otherwise, except where the Chemist Warehouse Indemnified Party has not acted in good faith or has engaged in wilful misconduct or fraud. For the avoidance of doubt, nothing in this clause 13.1(a) limits Sigma's rights to terminate this agreement under clause 21.2(a).

- (b) This clause 13.1 is subject to any Corporations Act restriction and will be read down accordingly.
- (c) Chemist Warehouse receives and holds the benefit of this clause 13.1 to the extent it relates to each Chemist Warehouse Indemnified Party for the benefit of each of them.

### 13.2 Sigma and Sigma directors and officers

- (a) Subject to any restrictions imposed by law, Chemist Warehouse releases its rights, and agrees with Sigma that it will not make a claim (including any Claim), against any Sigma Indemnified Party (other than Sigma and its Controlled entities) as at the date of this agreement and from time to time in connection with:

- (1) any breach of any representations and warranties of Sigma or any other member of the Sigma Group in this agreement; or
- (2) any disclosure containing any statement which is false or misleading whether in content or by omission,

whether current or future, known or unknown, arising at common law, in equity, under statute or otherwise, except where the Sigma Indemnified Party has not acted in good faith or has engaged in wilful misconduct or fraud. For the avoidance of doubt, nothing in this clause 13.2(a) limits Chemist Warehouse's rights to terminate this agreement under clause 21.2(b).

- (b) This clause 13.2 is subject to any Corporations Act restriction and will be read down accordingly.
- (c) Sigma receives and holds the benefit of this clause 13.2 to the extent it relates to each Sigma Indemnified Party for the benefit of each of them.

## 14 Exclusivity – Chemist Warehouse

### 14.1 No current discussions regarding a Chemist Warehouse Competing Proposal

- (a) Chemist Warehouse represents and warrants to Sigma that, as at the date of this agreement it and each Chemist Warehouse Group Member:



- (1) is not a party to any agreement, arrangement or understanding with a Third Party entered into for the purpose of facilitating any actual, proposed or potential Chemist Warehouse Competing Proposal;
  - (2) is not directly or indirectly participating in any discussions, negotiations or other communications, and has terminated any existing discussions, negotiations or other communications, in relation to any actual, proposed or potential Chemist Warehouse Competing Proposal, or which could reasonably be expected to lead to a Chemist Warehouse Competing Proposal; and
  - (3) has ceased to provide or make available any non-public information in relation to the Chemist Warehouse Group to a Third Party where such information was provided for the purpose of facilitating, or could reasonably be expected to lead to, a Chemist Warehouse Competing Proposal.
- (b) As soon as practicable after the date of this agreement, Chemist Warehouse must use (and must procure that each Chemist Warehouse Group Member uses) reasonable endeavours to exercise any rights it has that enable it to require that any Third Party to which it has disclosed information in the 12 months preceding the date of this agreement in connection with any actual, proposed or potential Chemist Warehouse Competing Proposal, return or destroy that information.

## 14.2 No shop

During the Exclusivity Period, Chemist Warehouse must not, and must ensure that each of its Related Persons does not solicit, invite, encourage or initiate (including by the provision of non-public information to any Third Party) any inquiry, expression of interest, offer, proposal or discussion by any person in relation to, or which would reasonably be expected to lead to the making of, or with a view to obtaining any actual, proposed or potential Chemist Warehouse Competing Proposal or communicate to any person an intention to do anything referred to in this clause 14.2.

## 14.3 No talk

During the Exclusivity Period, and subject to clause 14.4, Chemist Warehouse must not, and must ensure that each of its Related Persons does not, directly or indirectly:

- (a) facilitate, participate in or continue any negotiations or discussions with respect to any inquiry, expression of interest, offer, proposal or discussion or other communication by any person which would reasonably be expected to lead to the making of, any actual, proposed or potential Chemist Warehouse Competing Proposal;
- (b) negotiate, accept or enter into, or offer to negotiate, accept or enter into, any agreement, arrangement or understanding regarding any actual, proposed or potential Chemist Warehouse Competing Proposal;
- (c) disclose or otherwise provide any non-public information about the business or affairs of the Chemist Warehouse Group to a Third Party (other than a Government Agency) with a view to obtaining, or which would reasonably be expected to lead to receipt of, a Chemist Warehouse Competing Proposal (including providing such information for the purposes of the conduct of due diligence investigations in respect of the Chemist Warehouse Group) whether by that Third Party or another person; or

- (d) communicate to any person an intention to do anything referred to in clause 14.3(a), 14.3(b) or 14.3(c).

in each case, even if the relevant Chemist Warehouse Competing Proposal was not directly or indirectly solicited, invited, encouraged, facilitated or initiated by Chemist Warehouse, another Chemist Warehouse Group Member, or a Related Person of a Chemist Warehouse Group Member, but nothing in this clause 14.3 prevents Chemist Warehouse or any of its Related Persons from:

- (e) making normal presentations to brokers, portfolio investors and analysts in the ordinary course of business or promoting the merits of the Transaction;
- (f) providing information to its auditors, advisors, lenders, customers, contractors and suppliers acting in that capacity and in the ordinary and usual course of business;
- (g) providing information required to be provided by law, including to satisfy its obligations of disclosure to any Government Agency; or
- (h) engaging with its shareholders (in their capacity as a shareholder) in the ordinary course and consistent with past practice, provided such engagement does not relate to Chemist Warehouse soliciting, inviting, encouraging, facilitating or initiating an actual or proposed or potential Chemist Warehouse Competing Proposal.

#### 14.4 Fiduciary exception

Clause 14.3 does not prohibit any action or inaction by Chemist Warehouse or any of its Related Persons in relation to any actual, proposed or potential Chemist Warehouse Competing Proposal, which the Chemist Warehouse Board acting in good faith determines, having regard to written advice from its external legal and financial advisers:

- (a) that the Chemist Warehouse Competing Proposal is or could reasonably be expected to lead to a Chemist Warehouse Superior Proposal; and
- (b) that the failure to take or not take such action would constitute, or would be likely to constitute, a breach of the fiduciary or statutory duties of the Chemist Warehouse Board,

provided that the actual, proposed or potential Chemist Warehouse Competing Proposal was not brought about by a breach of clause 14.1, 14.2 or 14.3.

#### 14.5 Notification of approaches

- (a) During the Exclusivity Period, Chemist Warehouse must as soon as reasonably practicable (and in any event within 48 hours) notify Sigma in writing if it, or any of its Related Persons, becomes aware of any:
  - (1) negotiations, discussions or other communications, or approach, in respect of any inquiry, expression of interest, offer, proposal or discussion in relation to, or that may reasonably be expected to lead to, any actual, proposed or potential Chemist Warehouse Competing Proposal;
  - (2) approach or proposal made to, or received by, Chemist Warehouse or any of its Related Persons in connection with, or in respect of any exploration or completion of, or that may reasonably be expected to lead to, any actual, proposed or potential Chemist Warehouse Competing Proposal (or which is otherwise, of itself, a Chemist Warehouse Competing Proposal);



- (3) any request made by a Third Party for any material non-public information concerning the business or operations of Chemist Warehouse or the Chemist Warehouse Group other than where the Chemist Warehouse Board reasonably believes that such request is not in connection with such Third Party formulating, developing or finalising, or assisting in the formulation, development or finalisation of, any actual, proposed or potential Chemist Warehouse Competing Proposal; or
- (4) provision by Chemist Warehouse or any of its Related Persons of any material non-public information concerning the business or operations of Chemist Warehouse or the Chemist Warehouse Group to any Third Party (other than a Government Agency) in connection with any actual, proposed or potential Chemist Warehouse Competing Proposal, or any of the things described in clauses 14.5(a)(1) to 14.5(a)(3) above (inclusive),

whether direct or indirect, solicited or unsolicited, and in writing or otherwise. For the avoidance of doubt, any of the acts described in clauses 14.5(a)(1) to 14.5(a)(4) may only be taken if permitted by clause 14.4.

- (b) A notification given under clause 14.5(a) must include all material terms and conditions of the Chemist Warehouse Competing Proposal to the extent known by Chemist Warehouse or its Related Persons and the identity of the Third Party.

## 14.6 Matching right

- (a) During the Exclusivity Period, without limiting the remainder of this clause 14, Chemist Warehouse:
  - (1) must not, and must procure that the Chemist Warehouse Group Members do not enter into a legally binding agreement, arrangement or understanding (whether or not in writing) pursuant to which one or more of a Third Party, Chemist Warehouse or a Chemist Warehouse Group Member proposes to undertake or give effect to an actual, proposed or potential Chemist Warehouse Competing Proposal (for the avoidance of doubt, and subject to this clause 14, any such legally binding agreement, arrangement or understanding does not include a Chemist Warehouse Group Member entering into a confidentiality agreement or like agreement including for the sole or dominant purpose of providing non-public information about Chemist Warehouse in relation to an actual, proposed or potential Chemist Warehouse Competing Proposal); and
  - (2) must use reasonable endeavours to procure that, in relation to a Chemist Warehouse Competing Proposal, no Chemist Warehouse Director:
    - (A) adversely changes, withdraws or adversely modifies their recommendation of the Scheme; or
    - (B) publicly recommends an actual, proposed or potential Chemist Warehouse Competing Proposal or publicly states that he or she no longer recommends the Scheme,
 (subject to any change of recommendation permitted under clause 3.1),

unless each of the following conditions has been satisfied:

- (3) the Chemist Warehouse Board determines that the Chemist Warehouse Competing Proposal constitutes a Chemist Warehouse Superior Proposal;
- (4) Chemist Warehouse has provided Sigma with the material terms and conditions of the Chemist Warehouse Competing Proposal, including price and the identity of the Third Party making the actual, proposed or potential Chemist Warehouse Competing Proposal (in each case, to the extent known);
- (5) Chemist Warehouse has given Sigma at least 5 Business Days after the date of the provision of the information referred to in clause 14.6(a)(4) to provide a counterproposal to the Chemist Warehouse Competing Proposal (**Sigma Counterproposal**); and
- (6) Sigma has not announced or otherwise proposed or provided to Chemist Warehouse such a Sigma Counterproposal by the expiry of the 5 Business Day period in clause 14.6(a)(5).
- (b) If Sigma provides to Chemist Warehouse a Sigma Counterproposal within the 5 Business Day period in clause 14.6(a)(5), Chemist Warehouse must procure that the Chemist Warehouse Board considers the Sigma Counterproposal and determines whether, acting reasonably and in good faith after consulting with Chemist Warehouse's financial advisers and reputable external Australian legal advisers, the Sigma Counterproposal would provide an equivalent or superior outcome for Chemist Warehouse Shareholders (as a whole) compared with the Chemist Warehouse Competing Proposal taking into account all terms and conditions and other aspects of:
- (1) the Sigma Counterproposal (including the value and type of consideration, funding, any timing considerations, any conditions precedent or other matters affecting the probability of the Sigma Counterproposal being completed compared to the Chemist Warehouse Competing Proposal or other relevant matters); and
- (2) the Chemist Warehouse Competing Proposal.
- (c) Following the determination under clause 14.6(b), Chemist Warehouse must:
- (1) procure that the Chemist Warehouse Board promptly, and in any event within 2 Business Days, notifies Sigma of the determination in writing, stating reasons for that determination; and
- (2) if the determination is that the Sigma Counterproposal would provide an outcome that is an equivalent or superior outcome for Chemist Warehouse Shareholders (as a whole) compared with the Chemist Warehouse Competing Proposal, then for a period of 2 Business Days after Chemist Warehouse delivers to Sigma the notice referred to above, Chemist Warehouse and Sigma must use their best endeavours to agree the transaction documentation (including amendments to this agreement) required to implement the Sigma Counterproposal as soon as reasonably practicable.
- (d) Despite any other provision in this agreement, a statement by Chemist Warehouse, the Chemist Warehouse Board or any Chemist Warehouse Director to the effect that:
- (1) the Chemist Warehouse Board has determined that a Chemist Warehouse Competing Proposal is a Chemist Warehouse Superior Proposal and has commenced the matching right process set out in this clause 14.6; or

- (2) Chemist Warehouse Shareholders should take no action pending the assessment of the Chemist Warehouse Competing Proposal by the Chemist Warehouse Board and completion of the matching right process set out in this clause 14.6,

does not of itself:

- (3) constitute an adverse change, withdrawal, adverse modification or adverse qualification of the recommendation by the Chemist Warehouse Director or an endorsement of a Chemist Warehouse Competing Proposal;
- (4) contravene this agreement;
- (5) give rise to an obligation to pay the Break Fee under clause 16.2; or
- (6) give rise to a termination right under clause 21.1(b).

## 14.7 Chemist Warehouse IPO

During the Exclusivity Period, Chemist Warehouse must not, and must ensure that each Chemist Warehouse Group Member does not, enter into any agreement, arrangement or understanding, or plan, allocate resources or take any action, to prepare for, develop or undertake a Chemist Warehouse IPO.

## 14.8 Compliance with law

- (a) If it is finally determined by a court, or the Takeovers Panel, that the agreement by the parties under this clause 14 or any part of it:
- (1) constituted, or constitutes, or would constitute, a breach of the fiduciary or statutory duties of the Chemist Warehouse Board;
- (2) constituted, or constitutes, or would constitute, 'unacceptable circumstances' within the meaning of the Corporations Act; or
- (3) was, or is, or would be, unlawful for any other reason,
- then, to that extent (and only to that extent) Chemist Warehouse will not be obliged to comply with that provision of clause 14.
- (b) The parties must not make or cause to be made, any application to a court or the Takeovers Panel for or in relation to a determination referred to in this clause 14.8.

# 15 Exclusivity – Sigma

## 15.1 No current discussions regarding a Sigma Competing Proposal

- (a) Sigma represents and warrants to Chemist Warehouse that, as at the date of this agreement it and each Sigma Group Member:
- (1) is not a party to any agreement, arrangement or understanding with a Third Party entered into for the purpose of facilitating any actual, proposed or potential Sigma Competing Proposal;
- (2) is not directly or indirectly participating in any discussions, negotiations or other communications, and has terminated any existing discussions, negotiations or other communications, in relation

to any actual, proposed or potential Sigma Competing Proposal, or which could reasonably be expected to lead to a Sigma Competing Proposal; and

- (3) has ceased to provide or make available any non-public information in relation to the Sigma Group to a Third Party where such information was provided for the purpose of facilitating, or could reasonably be expected to lead to, a Sigma Competing Proposal.
- (b) As soon as practicable after the date of this agreement, Sigma must use (and must procure that each Sigma Group Member uses) reasonable endeavours to exercise any rights it has that enable it to require that any Third Party to which it has disclosed information in the 12 months preceding the date of this agreement in connection with any actual, proposed or potential Sigma Competing Proposal, return or destroy that information.

## 15.2 No shop

During the Exclusivity Period, Sigma must not, and must ensure that each of its Related Persons does not solicit, invite, encourage or initiate (including by the provision of non-public information to any Third Party) any inquiry, expression of interest, offer, proposal or discussion by any person in relation to, or which would reasonably be expected to lead to the making of, or with a view to obtaining any actual, proposed or potential Sigma Competing Proposal or communicate to any person an intention to do anything referred to in this clause 15.2.

## 15.3 No talk

During the Exclusivity Period, and subject to clause 15.4, Sigma must not, and must ensure that each of its Related Persons does not, directly or indirectly:

- (a) facilitate, participate in or continue any negotiations or discussions with respect to any inquiry, expression of interest, offer, proposal or discussion or other communication by any person which would reasonably be expected to lead to the making of, any actual, proposed or potential Sigma Competing Proposal;
- (b) negotiate, accept or enter into, or offer to negotiate, accept or enter into, any agreement, arrangement or understanding regarding any actual, proposed or potential Sigma Competing Proposal;
- (c) disclose or otherwise provide any non-public information about the business or affairs of the Sigma Group to a Third Party (other than a Government Agency) with a view to obtaining, or which would reasonably be expected to lead to receipt of, a Sigma Competing Proposal (including providing such information for the purposes of the conduct of due diligence investigations in respect of the Sigma Group) whether by that Third Party or another person; or
- (d) communicate to any person an intention to do anything referred to in clause 15.3(a), 15.3(b) or 15.3(c).

in each case, even if the relevant Sigma Competing Proposal was not directly or indirectly solicited, invited, encouraged, facilitated or initiated by Sigma, another Sigma Group Member, or a Related Person of a Sigma Group Member, but nothing in this clause 15.3 prevents Sigma or any of its Related Persons from:

- (e) making normal presentations to brokers, portfolio investors and analysts in the ordinary course of business or promoting the merits of the Transaction;

- (f) providing information to its auditors, advisors, lenders, customers, contractors and suppliers acting in that capacity and in the ordinary and usual course of business;
- (g) providing information required to be provided by law, including to satisfy its obligations of disclosure under the Listing Rules or to any Government Agency; or
- (h) engaging with its shareholders (in their capacity as a shareholder) in the ordinary course and consistent with past practice, provided such engagement does not relate to Sigma soliciting, inviting, encouraging, facilitating or initiating an actual or proposed or potential Sigma Competing Proposal.

#### 15.4 Fiduciary exception

Clause 15.3 does not prohibit any action or inaction by Sigma or any of its Related Persons in relation to any actual, proposed or potential Sigma Competing Proposal, which the Sigma Board acting in good faith determines, having regard to written advice from its external legal and financial advisers:

- (a) that the Sigma Competing Proposal is or could reasonably be expected to lead to a Sigma Superior Proposal; and
- (b) that the failure to take or not take such action would constitute, or would be likely to constitute, a breach of the fiduciary or statutory duties of the Sigma Board,

provided that the actual, proposed or potential Sigma Competing Proposal was not brought about by a breach of clause 15.1, 15.2 or 15.3.

#### 15.5 Notification of approaches

- (a) During the Exclusivity Period, Sigma must as soon as reasonably practicable (and in any event within 48 hours) notify Chemist Warehouse in writing if it, or any of its Related Persons, becomes aware of any:
  - (1) negotiations, discussions or other communications, or approach, in respect of any inquiry, expression of interest, offer, proposal or discussion in relation to, or that may reasonably be expected to lead to, any actual, proposed or potential Sigma Competing Proposal;
  - (2) approach or proposal made to, or received by, Sigma or any of its Related Persons in connection with, or in respect of any exploration or completion of, or that may reasonably be expected to lead to, any actual, proposed or potential Sigma Competing Proposal (or which is otherwise, of itself, a Sigma Competing Proposal);
  - (3) any request made by a Third Party for any material non-public information concerning the business or operations of Sigma or the Sigma Group other than where the Sigma Board reasonably believes that such request is not in connection with such Third Party formulating, developing or finalising, or assisting in the formulation, development or finalisation of, any actual, proposed or potential Sigma Competing Proposal; or
  - (4) provision by Sigma or any of its Related Persons of any material non-public information concerning the business or operations of Sigma or the Sigma Group to any Third Party (other than a Government Agency) in connection with any actual, proposed or potential Sigma

Competing Proposal, or any of the things described in clauses 15.5(a)(1) to 15.5(a)(3) above (inclusive),

whether direct or indirect, solicited or unsolicited, and in writing or otherwise. For the avoidance of doubt, any of the acts described in clauses 15.5(a)(1) to 15.5(a)(4) may only be taken if permitted by clause 15.4.

- (b) A notification given under clause 15.5(a) must include all material terms and conditions of the Sigma Competing Proposal to the extent known by Sigma or its Related Persons and the identity of the Third Party.

## 15.6 Matching right

- (a) During the Exclusivity Period, without limiting the remainder of this clause 15, Sigma:
- (1) must not, and must procure that the Sigma Group Members do not enter into a legally binding agreement, arrangement or understanding (whether or not in writing) pursuant to which one or more of a Third Party, Sigma or a Sigma Group Member proposes to undertake or give effect to an actual, proposed or potential Sigma Competing Proposal (for the avoidance of doubt, and subject to this clause 15, any such legally binding agreement, arrangement or understanding does not include a Sigma Group Member entering into a confidentiality agreement or like agreement including for the sole or dominant purpose of providing non-public information about Sigma in relation to an actual, proposed or potential Sigma Competing Proposal); and
  - (2) must use reasonable endeavours to procure that, in relation to a Sigma Competing Proposal, no Sigma Director:
    - (A) adversely changes, withdraws or adversely modifies their recommendation of the Sigma Resolutions; or
    - (B) publicly recommends an actual, proposed or potential Sigma Competing Proposal or publicly states that he or she no longer recommends the Sigma Resolutions,
 (subject to any change of recommendation permitted under clause 3.2),

unless each of the following conditions has been satisfied:

- (3) the Sigma Board determines that the Sigma Competing Proposal constitutes a Sigma Superior Proposal;
- (4) Sigma has provided Chemist Warehouse with the material terms and conditions of the Sigma Competing Proposal, including price and the identity of the Third Party making the actual, proposed or potential Sigma Competing Proposal (in each case, to the extent known);
- (5) Sigma has given Chemist Warehouse at least 5 Business Days after the date of the provision of the information referred to in clause 15.6(a)(4) to provide a counterproposal to the Sigma Competing Proposal (**Chemist Warehouse Counterproposal**); and
- (6) Chemist Warehouse has not announced or otherwise proposed or provided to Sigma such a Chemist Warehouse Counterproposal by the expiry of the 5 Business Day period in clause 15.6(a)(5).



- (b) If Chemist Warehouse provides to Sigma a Chemist Warehouse Counterproposal within the 5 Business Day period in clause 15.6(a)(5), Sigma must procure that the Sigma Board considers the Chemist Warehouse Counterproposal and determines whether, acting reasonably and in good faith after consulting with Sigma's financial advisers and reputable external Australian legal advisers, the Chemist Warehouse Counterproposal would provide an equivalent or superior outcome for Sigma Shareholders (as a whole) compared with the Sigma Competing Proposal taking into account all terms and conditions and other aspects of:
- (1) the Chemist Warehouse Counterproposal (including the value and type of consideration, funding, any timing considerations, any conditions precedent or other matters affecting the probability of the Chemist Warehouse Counterproposal being completed compared to the Sigma Competing Proposal or other relevant matters); and
  - (2) the Sigma Competing Proposal.
- (c) Following the determination under clause 15.6(b), Sigma must:
- (1) procure that the Sigma Board promptly, and in any event within 2 Business Days, notifies Chemist Warehouse of the determination in writing, stating reasons for that determination; and
  - (2) if the determination is that the Chemist Warehouse Counterproposal would provide an outcome that is an equivalent or superior outcome for Sigma Shareholders (as a whole) compared with the Sigma Competing Proposal, then for a period of 2 Business Days after Sigma delivers to Chemist Warehouse the notice referred to above, Sigma and Chemist Warehouse must use their best endeavours to agree the transaction documentation (including amendments to this agreement) required to implement the Chemist Warehouse Counterproposal as soon as reasonably practicable.
- (d) Despite any other provision in this agreement, a statement by Sigma, the Sigma Board or any Sigma Director to the effect that:
- (1) the Sigma Board has determined that a Sigma Competing Proposal is a Sigma Superior Proposal and has commenced the matching right process set out in this clause 15.6; or
  - (2) Sigma Shareholders should take no action pending the assessment of the Sigma Competing Proposal by the Sigma Board and completion of the matching right process set out in this clause 15.6,
- does not of itself:
- (3) constitute an adverse change, withdrawal, adverse modification or adverse qualification of the recommendation by the Sigma Director or an endorsement of a Sigma Competing Proposal;
  - (4) contravene this agreement;
  - (5) give rise to an obligation to pay the Reverse Break Fee under clause 17.2; or
  - (6) give rise to a termination right under clause 21.1(c).

## 15.7 Compliance with law

- (a) If it is finally determined by a court, or the Takeovers Panel, that the agreement by the parties under this clause 15 or any part of it:



- (1) constituted, or constitutes, or would constitute, a breach of the fiduciary or statutory duties of the Sigma Board;
  - (2) constituted, or constitutes, or would constitute, 'unacceptable circumstances' within the meaning of the Corporations Act; or
  - (3) was, or is, or would be, unlawful for any other reason,
- then, to that extent (and only to that extent) Sigma will not be obliged to comply with that provision of clause 15.
- (b) The parties must not make or cause to be made, any application to a court or the Takeovers Panel for or in relation to a determination referred to in this clause 15.7.

## 16 Break Fee

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### 16.1 Background to Break Fee

- (a) Each party acknowledges that, if they enter into this agreement and the Scheme is subsequently not implemented, Sigma will incur significant costs, including those set out in clause 16.4.
- (b) In these circumstances, the parties have agreed that provision be made for the payment outlined in clause 16.2, without which Sigma would not have entered into this agreement or otherwise agreed to implement the Scheme.
- (c) Chemist Warehouse confirms that the Chemist Warehouse Board believes, having taken advice from its external legal adviser, that the implementation of the Scheme will provide benefits to Chemist Warehouse Shareholders, and that it is appropriate and reasonable that Chemist Warehouse agrees to the payments referred to in clause 16.2 in order to secure Sigma's participation in the Scheme.

### 16.2 Break Fee triggers

Subject to clauses 16.5, 16.6 and 16.8, Chemist Warehouse must pay the Break Fee to Sigma, if:

- (a) before the end of the Exclusivity Period, Chemist Warehouse has terminated the agreement in accordance with clause 21.1(c)(1);
- (b) before the end of the Exclusivity Period, Sigma has terminated the agreement in accordance with clause 21.1(b)(2), unless the Chemist Warehouse Independent Expert concludes in the Independent Expert's Report (or any update, revision, amendment or supplement to that report) that the Scheme is not in the best interests of Chemist Warehouse Shareholders (except where the sole or dominant reason for that conclusion is due to the existence, announcement or publication of a Chemist Warehouse Competing Proposal);
- (c) a Chemist Warehouse Competing Proposal of any kind is announced during the Exclusivity Period (whether or not such proposal is stated to be subject to any pre-conditions) and, within 9 months of the date of such announcement, a Third Party completes a Chemist Warehouse Competing Proposal of the kind referred to in bullets 2, 3, 4 or 5 of paragraph 2 of the definition of Chemist Warehouse Competing Proposal;



- (d) this agreement is terminated and, within 6 months of the date of termination, a Chemist Warehouse IPO completes, unless the agreement is terminated by Sigma under clause 21.1(b)(1) (Sigma Superior Proposal) or by Chemist Warehouse under:
- (1) clause 21.1(a)(1) (Termination for material breach);
  - (2) clause 21.2(b) (Termination for breach of representations and warranties);
  - (3) clause 21.1(a)(2) (Termination on failure of Condition Precedent) due to a failure of any Condition Precedent other than the Condition Precedent in:
    - (A) clause 1.4 of Schedule 3 (Shareholder approval);
    - (B) clause 1.11 of Schedule 3 (Chemist Warehouse Prescribed Occurrence); or
    - (C) clause 1.12 of Schedule 3 (Chemist Warehouse Material Adverse Change); or
  - (4) clause 21.1(c)(2) (Change of Sigma Director recommendation); or
- (e) Sigma has terminated this agreement pursuant to clauses 21.1(a)(1) or 21.2(a).

### 16.3 Payment of Break Fee

- (a) A demand by Sigma for payment of the Break Fee under clause 16.2 must:
- (1) be in writing;
  - (2) be made after the occurrence of the event in that clause giving rise to the right to payment of the Break Fee;
  - (3) state the circumstances which give rise to the demand; and
  - (4) nominate an account into which Chemist Warehouse is to pay the Break Fee.
- (b) Chemist Warehouse must pay the Break Fee into the account nominated by Sigma, without set-off or withholding, within 15 Business Days after receiving a demand for payment under clause 16.3(a) where Sigma is entitled under clause 16.2 to the Break Fee.

### 16.4 Basis of Break Fee

Chemist Warehouse and Sigma acknowledge and agree that the amount of the Break Fee has been calculated to reimburse Sigma 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 acquisitions or strategic initiatives;
- (c) costs of management and directors' time in planning and implementing the Transaction;
- (d) out of pocket expenses incurred by Sigma and Sigma's employees, Advisers and agents in planning and implementing the Transaction; and
- (e) any damage to Sigma's reputation associated with a failed transaction and the implications of that damage to the Sigma business,



in each case, incurred by Sigma directly or indirectly as a result of having entered into this agreement and pursuing the Transaction, and the parties agree that:

- (f) the costs actually incurred by Sigma will be of such a nature that they cannot all be accurately ascertained; and
- (g) the Break Fee is a genuine and reasonable pre-estimate of those costs.

## 16.5 Compliance with law

- (a) This clause 16 does not impose an obligation on Chemist Warehouse to pay the Break Fee to the extent (and only to the extent) that the obligation to pay the Break Fee:
  - (1) is declared by the Takeovers Panel to constitute 'unacceptable circumstances'; or
  - (2) is determined to be unenforceable or unlawful by a court,and Sigma will refund to Chemist Warehouse within 5 Business Days any amount in excess of its obligation under this clause that Chemist Warehouse has already paid to Sigma when that declaration or determination is made (unless otherwise required by the Takeovers Panel or a court).
- (b) For the avoidance of doubt, any part of the Break Fee that would not constitute unacceptable circumstances or that is not unenforceable or unlawful (as applicable) must be paid by Chemist Warehouse.
- (c) The parties must not make or cause to be made, any application to the Takeovers Panel or a court for or in relation to a declaration or determination referred to in clause 16.5(a).

## 16.6 Break Fee only payable once

Where the Break Fee becomes payable to Sigma under clause 16.2 and is actually paid to Sigma, Sigma cannot make any claim against Chemist Warehouse for payment of any subsequent Break Fee.

## 16.7 Other Claims

- (a) Notwithstanding any other provision under this agreement (except clause 25.11), the maximum aggregate liability of Chemist Warehouse for any Claims under this agreement is the Break Fee and in no event will the aggregate liability of Chemist Warehouse for Claims under this agreement and in connection with the Transaction or the Scheme exceed the Break Fee, other than in the event of Chemist Warehouse's fraud or wilful default.
- (b) Nothing in this clause 16 limits Sigma's right to seek and obtain, without limitation, injunctive relief or specific performance if Chemist Warehouse breaches or threatens to breach this agreement.

## 16.8 No Break Fee if Scheme Effective

Despite anything to the contrary in this agreement, the Break Fee will not be payable to Sigma if the Scheme becomes Effective, notwithstanding the occurrence of any event in clause 16.2 and, if this clause 16.8 applies, any amount or part of the Break Fee that has already been paid to Sigma must be refunded by Sigma prior to the Implementation Date.

## 17 Reverse Break Fee

### 17.1 Background to Reverse Break Fee

- (a) Each party acknowledges that, if they enter into this agreement and the Scheme is subsequently not implemented, Chemist Warehouse will incur significant costs, including those set out in clause 17.4.
- (b) In these circumstances, the parties have agreed that provision be made for the payment outlined in clause 17.2, without which Chemist Warehouse would not have entered into this agreement or otherwise agreed to implement the Scheme.
- (c) Sigma confirms that the Sigma Board believes, having taken advice from its external legal adviser, that the implementation of the Scheme will provide benefits to Sigma Shareholders, and that it is appropriate and reasonable that Sigma agrees to the payments referred to in clause 17.2 in order to secure Chemist Warehouse's participation in the Scheme.
- (d) Chemist Warehouse and Sigma must not make or cause or permit to be made any application to a court for or in relation to a determination that the Reverse Break Fee is invalid or unenforceable.

### 17.2 Reverse Break Fee triggers

Subject to clauses 17.5, 17.6 and 17.8, Sigma must pay the Reverse Break Fee to Chemist Warehouse, if:

- (a) before the end of the Exclusivity Period, Sigma has terminated the agreement in accordance with clause 21.1(b)(1);
- (b) before the end of the Exclusivity Period, Chemist Warehouse has terminated the agreement in accordance with clause 21.1(c)(2), unless the Sigma Independent Expert concludes in the Sigma Independent Expert's Report (or any update, revision, amendment or supplement to that report) that the Related Party Arrangements are both not fair and not reasonable (except where the sole or dominant reason for that conclusion is due to the existence, announcement or publication of a Sigma Competing Proposal);
- (c) a Sigma Competing Proposal of any kind is announced during the Exclusivity Period (whether or not such proposal is stated to be subject to any pre-conditions) and, within 9 months of the date of such announcement, a Third Party completes a Sigma Competing Proposal of the kind referred to in paragraphs 2, 3, 4 or 5 of the definition of Sigma Competing Proposal;
- (d) Chemist Warehouse has terminated this agreement pursuant to clauses 21.1(a)(1) or 21.2(b); or
- (e) either party has terminated this agreement pursuant to clause 8.7 as a result of the Condition Precedent in clause 1.9 of Schedule 3 (Underwriting Agreement) or clause 1.10 of Schedule 3 (Debt Commitment Letter) not being satisfied or waived (except where the non-satisfaction of the relevant Condition Precedent is directly caused by an act or omission of Chemist Warehouse or a Chemist Warehouse Material Adverse Change).

### 17.3 Payment of Reverse Break Fee

- (a) A demand by Chemist Warehouse for payment of the Reverse Break Fee under clause 17.2 must:



- (1) be in writing;
  - (2) be made after the occurrence of the event in that clause giving rise to the right to payment of the Reverse Break Fee;
  - (3) state the circumstances which give rise to the demand; and
  - (4) nominate an account into which Sigma is to pay the Reverse Break Fee.
- (b) Sigma must pay the Reverse Break Fee into the account nominated by Chemist Warehouse, without set-off or withholding, within 15 Business Days after receiving a demand for payment under clause 17.3(a) where Chemist Warehouse is entitled under clause 17.2 to the Reverse Break Fee.

#### 17.4 Basis of Reverse Break Fee

The Reverse Break Fee has been calculated to reimburse Chemist Warehouse 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 acquisitions or strategic initiatives;
- (c) costs of management and directors' time in planning and implementing the Transaction;
- (d) out of pocket expenses incurred by Chemist Warehouse and Chemist Warehouse's employees, Advisers and agents in planning and implementing the Transaction; and
- (e) damage to Chemist Warehouse's reputation associated with a failed transaction and the implications of that damage to the Chemist Warehouse business,

in each case, incurred by Chemist Warehouse directly or indirectly as a result of having entered into this agreement, and the parties agree that:

- (f) the costs actually incurred by Chemist Warehouse will be of such a nature that they cannot all be accurately ascertained; and
- (g) the genuine and reasonable pre-estimate of those costs would equal or exceed the Reverse Break Fee.

#### 17.5 Compliance with law

- (a) This clause 17 does not impose an obligation on Sigma to pay the Reverse Break Fee to the extent (and only to the extent) that the obligation to pay the Reverse Break Fee:
  - (1) is declared by the Takeovers Panel to constitute 'unacceptable circumstances'; or
  - (2) is determined to be unenforceable or unlawful by a court,and Chemist Warehouse will refund to Sigma within 5 Business Days any amount in excess of its obligation under this clause that Sigma has already paid to Chemist Warehouse when that declaration or determination is made (unless otherwise required by the Takeovers Panel or a court).
- (b) For the avoidance of doubt, any part of the Reverse Break Fee that would not constitute unacceptable circumstances or that is not unenforceable or unlawful (as applicable) must be paid by Sigma.

- (c) The parties must not make or cause to be made, any application to the Takeovers Panel or a court for or in relation to a declaration or determination referred to in clause 17.5(a).

### 17.6 Reverse Break Fee only payable once

Where the Reverse Break Fee becomes payable to Chemist Warehouse under clause 17.2 and is actually paid to Chemist Warehouse, Chemist Warehouse cannot make any claim against Sigma for payment of any subsequent Reverse Break Fee.

### 17.7 Other Claims

- (a) Notwithstanding any other provision under this agreement (except clause 25.11), the maximum aggregate liability of Sigma for any Claims under this agreement is the Reverse Break Fee and in no event will the aggregate liability of Sigma for Claims under this agreement and in connection with the Transaction or the Scheme exceed the Reverse Break Fee, other than in the event of Sigma's fraud or wilful default.
- (b) Nothing in this clause 17 limits Chemist Warehouse's right to seek and obtain, without limitation, injunctive relief or specific performance if Sigma breaches or threatens to breach this agreement.
- (c) Nothing in this clause 17 or otherwise in this agreement will limit Sigma's liability under the Deed Poll.

### 17.8 No Reverse Break Fee if Scheme Effective

Despite anything to the contrary in this agreement, the Reverse Break Fee will not be payable to Chemist Warehouse if the Scheme becomes Effective, notwithstanding the occurrence of any event in clause 17.4 and, if this clause 17.8 applies, any amount or part of the Reverse Break Fee that has already been paid to Chemist Warehouse must be refunded by Chemist Warehouse prior to the Implementation Date.

## 18 Treatment of Placement Agreement

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### 18.1 Deferment

The parties acknowledge and agree that:

- (a) unless and until this agreement is terminated:
- (1) the obligations to issue the Placement Shares under the Placement Agreement will have no force or effect; and
  - (2) each party agrees that it will not be entitled to make, will not make, and irrevocably and unconditionally waives any right it has or may have to make, any claim in respect of the Placement Shares under the Placement Agreement;
- (b) if this agreement terminates, clause 18.1(a) will cease to have any force or effect, and Placement Completion will occur on the later of:
- (1) 20 Business Days after the date this agreement terminates; and
  - (2) 1 July 2024; and





- (c) if the Scheme becomes Effective, the obligation to issue the Placement Shares under the Placement Agreement will automatically terminate and be of no further force or effect.
- (d) Chemist Warehouse must procure that CW Retail complies with this clause 18 and, on request by Sigma, enters into a separate agreement with Sigma under which each party agrees to comply with the terms of this clause 18.

## 18.2 Dividends

- (a) If:
  - (1) Placement Completion occurs after it has been deferred for a period of time under clause 18.1(a) (such period of time being the **deferral period**); and
  - (2) in that deferral period Sigma pays a dividend which would have been payable on the Placement Shares had they been on issue at that time (with the aggregate amount that would have been payable on all the Placement Shares being the **deferred dividend equivalent payment**),then Sigma must, within 20 Business Days of Placement Completion, pay Chemist Warehouse an amount equal to the deferred dividend equivalent payment (in aggregate).
- (b) For the avoidance of doubt, the deferred dividend equivalent payment will be determined by:
  - (1) ensuring that the dividend per share payable to Sigma Shareholders factors in the sum of the number of Sigma Shares on issue on the record date for that dividend plus the number of Placement Shares; and
  - (2) multiplying the dividend per share under clause 18.2(b)(1) by the number of Placement Shares.

## 19 Confidentiality

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Chemist Warehouse and Sigma acknowledge and agree that Chemist Warehouse and Sigma continue to be bound by the Confidentiality Agreement after the date of this agreement save that the terms of this agreement will prevail over the Confidentiality Agreement to the extent of any inconsistency.

## 20 Warranties

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### 20.1 Chemist Warehouse representations and warranties

Chemist Warehouse represents and warrants to Sigma (in its own right and separately as trustee or nominee for each of the other Sigma Indemnified Parties) each of the Chemist Warehouse Representations and Warranties.



## 20.2 Sigma representations and warranties

Sigma represents and warrants to Chemist Warehouse (in its own right and separately as trustee or nominee for each of the other Chemist Warehouse Indemnified Parties) each of the Sigma Representations and Warranties.

## 20.3 Qualifications on representations and warranties

- (a) The Chemist Warehouse Representations and Warranties in clause 20.1 are each subject to matters that:
- (1) are within the actual knowledge of a Sigma Group Member in relation to the Transaction or the Scheme as at the date of this agreement;
  - (2) have been Fairly Disclosed in the Chemist Warehouse Disclosure Materials;
  - (3) have been Fairly Disclosed by Chemist Warehouse in a document lodged with ASIC in the 24 months prior to the date of this agreement; or
  - (4) have been Fairly Disclosed in a publicly available document which would be disclosed in a search of the PPS Register 2 Business Days before the date of this agreement.
- (b) The Sigma Representations and Warranties in clause 20.2 are each subject to matters that:
- (1) are within the actual knowledge of a Chemist Warehouse Group Member in relation to the Transaction or the Scheme as at the date of this agreement;
  - (2) have been Fairly Disclosed in the Sigma Disclosure Materials;
  - (3) have been Fairly Disclosed by Sigma in an announcement made to ASX or in a document lodged with ASIC in the 24 months prior to the date of this agreement; or
  - (4) have been Fairly Disclosed in a publicly available document which would be disclosed in a search of the PPS Register 2 Business Days before the date of this agreement.

## 20.4 Survival of representations and warranties

Each representation and warranty in clauses 20.1 and 20.2:

- (a) is severable;
- (b) survives the termination of this agreement; and
- (c) is given with the intention that liability under it is not confined to breaches that are discovered before the date of termination of this agreement.

## 20.5 Timing of representations and warranties

Each representation and warranty made or given under clauses 20.1 or 20.2 is given at the date of this agreement and repeated continuously thereafter until the last day of the Exclusivity Period, unless that representation or warranty is expressed to be given at a particular time, in which case it is given at that time.

## 20.6 No representation or reliance

- (a) 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 agreement, except for representations or inducements expressly set out in this agreement 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 agreement, the circumstances surrounding the parties' entry into it and the transactions contemplated by it, are expressly excluded.
- (b) Each party acknowledges and confirms that it does not enter into this agreement in reliance on any representation or other inducement by or on behalf of any other party, except for any representation or inducement expressly set out in this agreement.

## 20.7 Notices relating to representations and warranties

Each party must promptly notify the other in writing if it becomes aware of any fact, matter, change, event or circumstance causing, or which, so far as reasonably be foreseen, would cause a representation or warranty provided in this agreement by the relevant party to be false or misleading in any material respect.

# 21 Termination

## 21.1 Termination for material breach

- (a) Either party may terminate this agreement by written notice to the other party if at any time before 8.00am on the Second Court Date:
  - (1) other than in respect of a breach of either a Chemist Warehouse Representation and Warranty or a Sigma Representation and Warranty (which are dealt with in clause 21.2), the other party has materially breached this agreement, the party entitled to terminate has given written notice to the party in breach of this agreement setting out the relevant circumstances and stating an intention to terminate this agreement, and the other party has failed to remedy the breach within 10 Business Days (or any shorter period ending at 8.00am on the Second Court Date) after the date on which the notice is given (in which case termination under this clause 21.1(a)(1) will take effect at the expiry of that period);
  - (2) the termination occurs in the circumstances set out in, and in accordance with, clause 8.7; or
  - (3) a court of competent jurisdiction or Government Agency has issued any temporary, preliminary or final order, decree, law, regulation, injunction, decision or ruling, or taken other action, that prevents, makes illegal or prohibits the Scheme.
- (b) Sigma may terminate this agreement by written notice to Chemist Warehouse at any time before 8.00am on the Second Court Date if:
  - (1) Sigma enters into a legally binding agreement with a Third Party to undertake or give effect to an actual Sigma Superior Proposal where expressly permitted by, and in accordance with, this agreement; or
  - (2) any Chemist Warehouse Director:

- (A) adversely changes, withdraws or adversely modifies their recommendation that Chemist Warehouse Shareholders vote in favour of the Scheme at the Scheme Meeting in the manner described in clause 3.1(a); or
- (B) makes a public statement that he or she no longer recommends the Scheme or recommends a Chemist Warehouse Competing Proposal (but excluding a statement that Chemist Warehouse Shareholders should take no action pending the assessment of the Chemist Warehouse Competing Proposal by the Chemist Warehouse Board).
- (c) Chemist Warehouse may terminate this agreement by written notice to Sigma at any time before 8.00am on the Second Court Date if:
- (1) Chemist Warehouse enters into a legally binding agreement with a Third Party to undertake or give effect to an actual Chemist Warehouse Superior Proposal where expressly permitted by, and in accordance with, this agreement; or
- (2) any Sigma Director:
- (A) adversely changes, withdraws or adversely modifies their recommendation of the Sigma Resolutions in the manner described in clause 3.2(a); or
- (B) makes a public statement that he or she no longer recommends the Sigma Resolutions or recommends a Sigma Competing Proposal (but excluding a statement that Sigma Shareholders should take no action pending the assessment of the Sigma Competing Proposal by the Sigma Board).
- (d) A failure to recommend or an adverse change, withdrawal or adverse modification of a recommendation due to a court, Government Agency, ASIC or Takeovers Panel requirement or request that a Chemist Warehouse Director or Sigma Director abstains from making a recommendation will be disregarded under clauses 21.1(b) and 21.1(c).

## 21.2 Termination for breach of representations and warranties

- (a) Sigma may, at any time before 8.00am on the Second Court Date, terminate this agreement for material breach of a Chemist Warehouse Representation and Warranty only if:
- (1) Sigma has given written notice to Chemist Warehouse setting out the relevant circumstances and stating an intention to terminate this agreement;
- (2) the relevant breach continues to exist 10 Business Days (or any shorter period ending at 8.00am on the Second Court Date) after the date on which the notice is given under clause 21.2(a)(1); and
- (3) the relevant breach is material in the context of the Scheme taken as a whole.
- (b) Chemist Warehouse may, at any time before 8.00am on the Second Court Date, terminate this agreement for material breach of a Sigma Representation and Warranty only if:

- (1) Chemist Warehouse has given written notice to Sigma setting out the relevant circumstances and stating an intention to terminate this agreement;
- (2) the relevant breach continues to exist 10 Business Days (or any shorter period ending at 8.00am on the Second Court Date) after the date on which the notice is given under clause 21.2(b)(1); and
- (3) the relevant breach is material in the context of the Scheme taken as a whole.

### 21.3 Effect of termination

If this agreement is terminated by a party under clauses 8.7, 21.1 or 21.2:

- (a) each party will be released from its obligations under this agreement, except that this clause 21.3, and clauses 13, 16, 17, 17.8, 20.3, 20.6, 23, 24, and 25 (except clause 25.7), will survive termination and remain in force;
- (b) each party will retain the rights it has or may have against the other party in respect of any past breach of this agreement; and
- (c) in all other respects, all future obligations of the parties under this agreement will immediately terminate and be of no further force or effect, including, without limitation, any further obligations in respect of the Scheme.

### 21.4 Termination

Where a party has a right to terminate this agreement, that right for all purposes will be validly exercised if the party delivers a notice in writing to the other party stating that it terminates this agreement and the provision under which it is terminating this agreement and otherwise complies with the requirements of the relevant clause of this agreement.

### 21.5 No other termination

Neither party may terminate or rescind this agreement, except as permitted under clauses 8.7, 21.1 or 21.2.

## 22 Duty, costs and expenses

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### 22.1 Stamp duty

- (a) Sigma:
  - (1) must pay all stamp duty and duty imposed in any jurisdiction and any interest, fines and penalties with respect to stamp duty or duty in respect of this agreement, the Scheme or the transactions contemplated by this agreement; and
  - (2) indemnifies Chemist Warehouse against any liability arising from its failure to comply with clause 22.1(a)(1).
- (b) Chemist Warehouse must cooperate with, and provide assistance to, Sigma as reasonably requested by Sigma to assist in fulfilment of clause 22.1(a)(1), including but not limited to providing any information in Chemist Warehouse's possession to assist with timely stamp duty lodgement and payment.

## 22.2 Costs and expenses

Except as otherwise provided in this agreement, each party must pay its own costs and expenses in connection with the negotiation, preparation, execution, delivery and performance of this agreement and the proposed, attempted or actual implementation of this agreement and the Scheme.

## 23 GST

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- (a) Any consideration or amount payable under this agreement, including any non-monetary consideration (as reduced in accordance with clause 23(e) if required) (**Consideration**) is exclusive of GST.
- (b) If GST is or becomes payable on a Supply made under or in connection with this agreement, an additional amount (**Additional Amount**) is payable by the party providing consideration for the Supply (**Recipient**) equal to the amount of GST payable on that Supply as calculated by the party making the Supply (**Supplier**) in accordance with the GST Law.
- (c) The Additional Amount payable under clause 23(b) is payable at the same time and in the same manner as the Consideration for the Supply, and the Supplier must provide the Recipient with a Tax Invoice. However, the Additional Amount is only payable on receipt of a valid Tax Invoice.
- (d) If for any reason (including the occurrence of an Adjustment Event) the amount of GST payable on a Supply (taking into account any Decreasing or Increasing Adjustments in relation to the Supply) varies from the Additional Amount payable by the Recipient under clause 23(b):
  - (1) the Supplier must provide a refund or credit to the Recipient, or the Recipient must pay a further amount to the Supplier, as appropriate;
  - (2) the refund, credit or further amount (as the case may be) will be calculated by the Supplier in accordance with the GST Law; and
  - (3) the Supplier must notify the Recipient of the refund, credit or further amount within 14 days after becoming aware of the variation to the amount of GST payable. Any refund or credit must accompany such notification or the Recipient must pay any further amount within 7 days after receiving such notification, as appropriate. If there is an Adjustment Event in relation to the Supply, the requirement for the Supplier to notify the Recipient will be satisfied by the Supplier issuing to the Recipient an Adjustment Note within 14 days after becoming aware of the occurrence of the Adjustment Event.
- (e) Despite any other provision in this agreement if an amount payable under or in connection with this agreement (whether by way of reimbursement, indemnity or otherwise) is calculated by reference to an amount incurred by a party, whether by way of cost, expense, outlay, disbursement or otherwise (**Amount Incurred**), the amount payable must be reduced by the amount of any Input Tax Credit to which that party is entitled in respect of that Amount Incurred.
- (f) Any reference in this clause to an Input Tax Credit to which a party is entitled includes an Input Tax Credit arising from a Creditable Acquisition by that party but to which the Representative Member of a GST Group of which the party is a member is entitled.



- (g) Any term starting with a capital letter that is not defined in this agreement has the same meaning as the term has in the *A New Tax System (Goods & Services Tax) Act 1999* (Cth).

## 24 Notices

### 24.1 Form of Notice

A notice or other communication to a party under this agreement (**Notice**) must be:

- (a) in writing and in English; and
- (b) addressed to that party in accordance with the details nominated in the table below (or any alternative details nominated to the sending party by Notice).

Party	Address	Addressee	Email
Sigma	Level 6, 2125 Dandenong Road, Clayton VIC 3168	Kara McGowan	<a href="mailto:Kara.McGowan@sigmahealthcare.com.au">Kara.McGowan@sigmahealthcare.com.au</a>
Chemist Warehouse	6 Albert Street, Preston VIC 3072	Joe Gottlieb	<a href="mailto:legal@bsapadmin.com.au">legal@bsapadmin.com.au</a>

### 24.2 How Notice must be given and when Notice is received

- (a) A Notice must be given by one of the methods set out in the table below.
- (b) A Notice is regarded as given and received at the time set out in the table below.

However, if this means the Notice would be regarded as given and received outside the period between 9.00am and 5.00pm (addressee's time) on a Business Day (**business hours period**), then the Notice will instead be regarded as given and received at the start of the following business hours period.

Method of giving Notice	When Notice is regarded as given and received
By hand to the nominated address	When delivered to the nominated address
By pre-paid post to the nominated address	At 9.00am (addressee's time) on the second Business Day after the date of posting
By email to the nominated email address	The earlier of:



Method of giving Notice	When Notice is regarded as given and received
	<ol style="list-style-type: none"><li>1 when the party sending the email receives notification that the email was successfully transmitted and read by the receiving party;</li><li>2 the time that the recipient confirms receipt of the email by reply email to the sender; and</li><li>3 four hours after the email was sent (as recorded on the device from which the sender sent the email), unless the party sending the email receives, within that four hour period, an automated message that the email was not successfully transmitted.</li></ol>

## 25 General

### 25.1 Governing law and jurisdiction

- (a) This agreement is governed by the law in force in Victoria.
- (b) Each party irrevocably submits to the non-exclusive jurisdiction of courts exercising jurisdiction in Victoria and courts of appeal from them in respect of any proceedings arising out of or in connection with this agreement. Each party irrevocably waives 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.

### 25.2 No merger

The rights and obligations of the parties do not merge on completion of the transaction contemplated by this agreement. They survive the execution and delivery of any assignment or other document entered into for the purpose of implementing the transaction contemplated by this agreement.

### 25.3 Invalidity and enforceability

- (a) If any provision of this agreement is invalid under the law of any jurisdiction the provision is enforceable in that jurisdiction to the extent that it is not invalid, whether it is in severable terms or not.
- (b) Clause 25.3(a) does not apply where enforcement of the provision of this agreement in accordance with clause 25.3(a) would materially affect the nature or effect of the parties' obligations under this agreement.

### 25.4 Waiver

No party to this agreement may rely on the words or conduct of any other party as a waiver of any right unless the waiver is in writing and signed by the party granting the waiver.

The meanings of the terms used in this clause 25.4 are set out below.





Term	Meaning
conduct	includes delay in the exercise of a right.
right	any right arising under or in connection with this agreement and includes the right to rely on this clause.
waiver	includes an election between rights and remedies, and conduct which might otherwise give rise to an estoppel.

## 25.5 Variation

A variation of any term of this agreement must be in writing and signed by the parties.

## 25.6 Assignment of rights

- (a) A party may not assign, novate, declare a trust over or otherwise transfer or deal with any of its rights or obligations under this agreement without the prior written consent of the other party or as expressly provided in this agreement.
- (b) A breach of clause 25.6(a) by a party shall be deemed to be a material breach for the purposes of clause 21.1(a)(1).
- (c) Clause 25.6(b) does not affect the construction of any other part of this agreement.

## 25.7 Further assurances

Each party must, at its own expense, do all things and execute all documents necessary to give full effect to this agreement and the transactions contemplated by it.

## 25.8 Entire agreement

This agreement, together with the Confidentiality Agreement and all other documents referred to in this agreement or initialled by or on behalf of the parties on or about the date of this agreement, states all the express terms agreed by the parties in respect of their subject matter. These supersede all prior discussions, negotiations, understandings and agreements in respect of its subject matter (other than the Confidentiality Agreement (excluding any inconsistent provisions)).

## 25.9 Counterparts

This agreement may be executed in any number of counterparts.

## 25.10 Relationship of the parties

- (a) Nothing in this agreement gives a party authority to bind any other party in any way.
- (b) Nothing in this agreement imposes any fiduciary duties on a party in relation to any other party.

### 25.11 Remedies cumulative

- (a) Except as provided in this agreement and permitted by law, the rights, powers and remedies provided in this agreement are cumulative with, and not exclusive of, the rights, powers and remedies provided by law independently of this agreement.
- (b) Each party acknowledges that the remedy of damages may be inadequate to protect the interests of the parties for a breach of this agreement and that either party is entitled to seek and obtain, without limitation, injunctive relief or specific performance if either party breaches, or threatens to breach this agreement, regardless of whether the Break Fee or Reverse Break Fee has been paid.

### 25.12 Exercise of rights

- (a) Unless expressly required by the terms of this agreement, a party is not required to act reasonably in giving or withholding any consent or approval or exercising any other right, power, authority, discretion or remedy, under or in connection with this agreement.
- (b) A party may (without any requirement to act reasonably) impose conditions on the grant by it of any consent or approval, or any waiver of any right, power, authority, discretion or remedy, under or in connection with this agreement. Any conditions must be complied with by the party relying on the consent, approval or waiver.
- (c) An obligation to act reasonably (or not unreasonably) under this agreement is taken to refer to an obligation to act reasonably (or not unreasonably) in the context of the parties' intentions to implement the Scheme on the terms of this agreement.

### 25.13 Attorneys

Each of the attorneys executing this agreement (if any) states that the attorney has no notice of the revocation of the power of attorney appointing that attorney.



## Schedules

### Table of contents

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<b>Chemist Warehouse Representations and Warranties</b>	<b>90</b>
<b>Sigma Representations and Warranties</b>	<b>93</b>
<b>Conditions Precedent</b>	<b>97</b>
<b>Chemist Warehouse's capital structure</b>	<b>101</b>
<b>Sigma's capital structure</b>	<b>102</b>



## Schedule 1

### Chemist Warehouse Representations and Warranties

---

Chemist Warehouse represents and warrants to Sigma (in its own right and separately as trustee or nominee for each of the other Sigma Indemnified Parties) that:

- (a) **Chemist Warehouse Information:** the Chemist Warehouse Information contained in the Disclosure Documents, as at the date the Disclosure Documents are dispatched, will not contain any statement which is materially misleading or deceptive (with any statement of belief or opinion having been honestly held and formed on a reasonable basis), including by way of omission from that statement;
- (b) **basis of Chemist Warehouse Information:** the Chemist Warehouse Information:
  - (1) will be prepared and included in the Disclosure Documents in good faith and on the understanding that Sigma and each other Sigma Indemnified Party will rely on that information for the purpose of determining to proceed with the Transaction; and
  - (2) will comply in all material respects with the requirements of the Corporations Act, the Corporations Regulations, RG 60 and applicable guidance from a Government Agency;
- (c) **provision of information to the independent experts:** all information provided by Chemist Warehouse to the Chemist Warehouse Independent Expert and the Sigma Independent Expert (as applicable) will be provided in good faith and on the understanding that the Chemist Warehouse Independent Expert and Sigma Independent Expert (as applicable) will rely on that information for the purpose of preparing the Chemist Warehouse Independent Expert's Report and Sigma Independent Expert's Report (as applicable);
- (d) **new information:** it will, as a continuing obligation (but in respect of the Sigma Information, only to the extent that Sigma provides Chemist Warehouse with updates to the Sigma Information), ensure that the Scheme Booklet is updated to include all further or new information which arises after dispatch until the date of the Scheme Meeting as is necessary to ensure that the Scheme Booklet is not misleading or deceptive (including by way of omission) in any material respect;
- (e) **validly existing:** it is a validly existing corporation registered under the laws of its place of incorporation;
- (f) **authority:** the execution and delivery of this agreement has been properly authorised by all necessary corporate action of Chemist Warehouse and Chemist Warehouse has taken or will take all necessary corporate action to authorise the performance by Chemist Warehouse of this agreement and the transactions contemplated by this agreement;
- (g) **power:** it has full capacity, corporate power and lawful authority to execute, deliver and perform this agreement;
- (h) **agreement binding:** this agreement constitutes legal, valid and binding obligations of Chemist Warehouse, enforceable in accordance with its terms, and does not result in a breach of or default under the constituent documents of



Chemist Warehouse or under any other agreement or deed, writ, order or injunction, rule or regulation to which Chemist Warehouse or another Chemist Warehouse Group Member is a party or to which they are bound;

- (i) **capital structure:** as at the date of this agreement, its capital structure, including all issued securities, is as set out in Schedule 4 and it has not issued or granted (or agreed to issue or grant) any other securities, options, warrants, performance rights or other instruments which are still outstanding and may convert into Chemist Warehouse Shares other than as set out in Schedule 4 and it is not under any obligation to issue or grant, and no person has any right to call for the issue or grant of, any Chemist Warehouse Shares, options, warrants, performance rights or other securities or instruments in Chemist Warehouse;
- (j) **Authorisations:** the Chemist Warehouse Group holds all material Authorisations necessary for it to conduct the business of the Chemist Warehouse Group as conducted as at the date of this agreement, and no member of the Chemist Warehouse Group:
- (1) is in material breach of, or default under, any such Authorisation as at the date of this agreement; or
  - (2) has received any notice in respect of the termination, revocation, variation or non-renewal of any such Authorisation;
- (k) **no regulatory approvals:** as at the date of this agreement, it does not require any approval, consent, clearance, waiver, ruling, relief, confirmation, exemption, declaration or notice from any Government Agency in order to execute and perform this agreement, other than, for the avoidance of doubt, any regulatory approvals contemplated by this agreement;
- (l) **material contracts:** with respect to each Chemist Warehouse Material Contract to which a Chemist Warehouse Group Member is a party, so far as Chemist Warehouse is aware:
- (1) no Chemist Warehouse Group Member is in default, or would be in default but for the requirements of notice or lapse of time, under a Chemist Warehouse Material Contract;
  - (2) no other party to any Chemist Warehouse Material Contract is in default, or would be in default but for the requirements of notice or lapse of time, under that contract; or
  - (3) no Chemist Warehouse Group Member has received, or given, any notice of termination of any Chemist Warehouse Material Contract;
- (m) **no Insolvency Event:** neither Chemist Warehouse nor any Chemist Warehouse Group Member is affected by an Insolvency Event, nor has any regulatory action of any nature of which it is aware been taken that would prevent or restrict performance of this agreement;
- (n) **no contravention:** as at the date of this agreement, so far as Chemist Warehouse is aware, Chemist Warehouse and each Chemist Warehouse Group Member has complied in all material respects with all laws or regulations applicable to them and neither it nor any Chemist Warehouse Group Member has received notice from any Government Agency of any material breach of Australian and foreign laws or regulations applicable to them or orders of Australian and foreign Government Agencies having jurisdiction over them;
- (o) **litigation:** as at the date of this agreement, there are no current Proceedings under which the amount in dispute, claimed or for which a Chemist Warehouse



Group Member may be liable exceeds \$5 million, and so far as Chemist Warehouse is aware:

- (1) there are no Proceedings pending or threatened against any Chemist Warehouse Group Member and Chemist Warehouse is not aware of any facts, matters or circumstances that may give rise to Proceedings under which the amount in dispute, claimed or for which a Chemist Warehouse Group Member may be liable is likely to exceed \$5 million;
  - (2) no Chemist Warehouse Group Member is subject to any outstanding or unsatisfied settlement, judgement, decree, award, order or other decisions of any court, quasi-judicial body or Government Agency; and
  - (3) no Chemist Warehouse Group Member has given any undertaking or assurance (whether legally binding or otherwise) to any court or Government Agency in the 3 years prior to the date of this agreement;
- (p) **financial information:** Chemist Warehouse's financial statements for the financial year ended 30 June 2023:
- (1) comply with applicable statutory requirements and were prepared in accordance with the Accounting Standards;
  - (2) give a true and fair view of the Chemist Warehouse Group's financial position as at 30 June 2023 and of its financial performance for the year then ended;
  - (3) are not misleading or deceptive or likely to mislead or deceive (in each case whether by omission or otherwise); and
  - (4) are not affected by any unusual, abnormal, extraordinary or non-recurring items, other than those items specifically disclosed in those financial statements; and
- (q) **Chemist Warehouse Disclosure Materials:** it has:
- (1) collated and made available all of the Chemist Warehouse Disclosure Materials in good faith for the purposes of a due diligence process and in this context, as far as Chemist Warehouse is aware, the Chemist Warehouse Disclosure Materials have been collated with all reasonable care and skill and are accurate in all material respects and not materially misleading (including by omission); and
  - (2) not knowingly withheld any information that could be material to Sigma's evaluation of Chemist Warehouse and the merits of the Transaction.

For the purpose of this clause (q), the Chemist Warehouse Disclosure Materials are deemed not to include any information, document, representation, statement, view or opinion to the extent that it contains or expresses a forecast, prediction or projection or is otherwise forward looking at the date of this agreement.



## Schedule 2

### Sigma Representations and Warranties

---

Sigma represents and warrants to Chemist Warehouse (in its own right and separately as trustee or nominee for each of the other Chemist Warehouse Indemnified Parties) that:

- (a) **Sigma Information:** the Sigma Information contained in the Disclosure Documents, as at the date the Disclosure Documents are dispatched, will not contain any statement which is materially misleading or deceptive (with any statement of belief or opinion having been honestly held and formed on a reasonable basis), including by way of omission from that statement;
- (b) **basis of Sigma Information:** the Sigma Information:
  - (1) will be prepared and included in the Disclosure Documents in good faith and on the understanding that Chemist Warehouse and each other Chemist Warehouse Indemnified Party will rely on that information; and
  - (2) will comply in all material respects with the requirements of the Corporations Act, the Corporations Regulations, RG 60 (for the Scheme Booklet) and applicable guidance from a Government Agency;
- (c) **provision of information to the independent experts:** all information provided by Sigma to the Chemist Warehouse Independent Expert and the Sigma Independent Expert (as applicable) will be provided in good faith and on the understanding that the Chemist Warehouse Independent Expert and Sigma Independent Expert (as applicable) will rely on that information for the purpose of preparing the Chemist Warehouse Independent Expert's Report and Sigma Independent Expert's Report (as applicable);
- (d) **new information:** it will, as a continuing obligation (but in respect of the Chemist Warehouse Information, only to the extent that Chemist Warehouse provides Sigma with updates to the Chemist Warehouse Information), ensure that the Disclosure Documents for which it is responsible are updated to include all further or new information which arises after dispatch until:
  - (1) in the case of the Notice of Meeting, the date of the Sigma Shareholder Meeting;
  - (2) in the case of the Entitlement Offer Disclosure Documents, the end of the Entitlement Offer; and
  - (3) in the case of the Re-listing Prospectus, the allotment of Sigma securities under that prospectus,as is necessary to ensure that the Disclosure Documents (as applicable) are not misleading or deceptive (including by way of omission) in any material respect;
- (e) **validly existing:** it is a validly existing corporation registered under the laws of its place of incorporation;
- (f) **authority:** the execution and delivery of this agreement has been properly authorised by all necessary corporate action of Sigma and Sigma has taken or will take all necessary corporate action to authorise the performance by Sigma





of this agreement, the Scheme, the Deed Poll and the transactions contemplated by this agreement;

- (g) **power:** it has full capacity, corporate power and lawful authority to execute, deliver and perform this agreement;
- (h) **agreement binding:** this agreement constitutes legal, valid and binding obligations of Sigma, enforceable in accordance with its terms, and does not result in a breach of or default under the constituent documents of Sigma or under any other agreement or deed, writ, order or injunction, rule or regulation to which Sigma or another Sigma Group Member is a party or to which they are bound;
- (i) **capital structure:** as at the date of this agreement, its capital structure, including all issued securities, is as set out in Schedule 5 and it has not issued or granted (or agreed to issue or grant) any other securities, options, warrants, performance rights or other instruments which are still outstanding and may convert into Sigma Shares other than as set out in Schedule 5 and it is not under any obligation to issue or grant, and no person has any right to call for the issue or grant of, any Sigma Shares, options, warrants, performance rights or other securities or instruments in Sigma;
- (j) **Authorisations:** the Sigma Group holds all material Authorisations necessary for it to conduct the business of the Sigma Group as conducted as at the date of this agreement, and no member of the Sigma Group:
- (1) is in material breach of, or default under, any such Authorisation as at the date of this agreement; or
  - (2) has received any notice in respect of the termination, revocation, variation or non-renewal of any such Authorisation;
- (k) **no regulatory approvals:** as at the date of this agreement, it does not require any approval, consent, clearance, waiver, ruling, relief, confirmation, exemption, declaration or notice from any Government Agency in order to execute and perform this agreement, other than, for the avoidance of doubt, any regulatory approvals contemplated by this agreement;
- (l) **material contracts:** with respect to each Sigma Material Contract to which a Sigma Group Member is a party, so far as Sigma is aware:
- (1) no Sigma Group Member is in default, or would be in default but for the requirements of notice or lapse of time, under a Sigma Material Contract;
  - (2) no other party to any Sigma Material Contract is in default, or would be in default but for the requirements of notice or lapse of time, under that contract; or
  - (3) no Sigma Group Member has received, or given, any notice of termination of any Sigma Material Contract;
- (m) **no Insolvency Event:** neither Sigma nor any Sigma Group Member is affected by an Insolvency Event, nor has any regulatory action of any nature of which it is aware been taken that would prevent or restrict performance of this agreement, the Scheme or the Deed Poll;
- (n) **financing commitments:** Sigma has given to Chemist Warehouse true, correct and complete copies of the Debt Commitment Letter and Underwriting Agreement;
- (o) **due execution and enforceability of financing commitments:** each of the Debt Commitment Letter and the Underwriting Agreement:



- (1) has been duly executed by each party to it;
- (2) constitute legal, valid and binding obligations of those parties;
- (3) are enforceable in accordance with its terms;
- (4) so far as Sigma is aware, is not the subject of a default by any party, or would be the subject of a default by any party but for the requirements of notice or lapse of time; and
- (5) has not been terminated;
- (p) **Debt Facility Agreement:** Sigma has a reasonable basis to expect that it will be able to agree the Debt Finance Documents on final terms that are acceptable having regard to the nature, scope and activities of the business of Chemist Warehouse and Sigma and is not aware of any matter which would reasonably lead it to expect that a condition precedent to drawdown under the proposed debt facility will not be fulfilled which will, or is reasonably likely to, prejudice Sigma's ability to pay the Scheme Cash Consideration in accordance with this agreement;
- (q) **no contravention:** as at the date of this agreement, so far as Sigma is aware, Sigma and each Sigma Group Member has complied in all material respects with all laws or regulations applicable to them and neither it nor any Sigma Group Member has received notice from any Government Agency of any material breach of Australian and foreign laws or regulations applicable to them or orders of Australian and foreign Government Agencies having jurisdiction over them;
- (r) **continuous disclosure:** Sigma has complied, and is in compliance, in all material respects with its continuous disclosure obligations under Listing Rule 3.1 and, as at the date of this agreement, other than for the Transaction, it is not relying on the carve-out in Listing Rule 3.1A to withhold any material information from public disclosure;
- (s) **litigation:** as at the date of this agreement, there are no current Proceedings under which the amount in dispute, claimed or for which a Sigma Group Member may be liable exceeds \$1 million, and so far as Sigma is aware:
- (1) there are no Proceedings pending or threatened against any Sigma Group Member and Sigma is not aware of any facts, matters or circumstances that may give rise to Proceedings under which the amount in dispute, claimed or for which a Sigma Group Member may be liable is likely to exceed \$1 million;
- (2) no Sigma Group Member is subject to any outstanding or unsatisfied settlement, judgement, decree, award, order or other decisions of any court, quasi-judicial body or Government Agency; and
- (3) no Sigma Group Member has given any undertaking or assurance (whether legally binding or otherwise) to any court or Government Agency in the 3 years prior to the date of this agreement;
- (t) **financial information:**
- (1) Sigma's financial statements for the financial year ended 31 January 2023:
- (A) comply with applicable statutory requirements and were prepared in accordance with the Accounting Standards;
- (B) give a true and fair view of the Sigma Group's financial position as at 31 January 2023 and of its financial performance for the year then ended;



- (C) are not misleading or deceptive or likely to mislead or deceive (in each case whether by omission or otherwise); and
- (D) are not affected by any unusual, abnormal, extraordinary or non-recurring items, other than those items specifically disclosed in those financial statements;
- (2) Sigma's financial statements for the half year ended 31 July 2023:
- (A) comply with applicable statutory requirements and were prepared in accordance with the Accounting Standards;
- (B) give a true and fair view of the Sigma Group's financial position as at 31 July 2023 and of its financial performance for the half year then ended;
- (C) are not misleading or deceptive or likely to mislead or deceive (in each case whether by omission or otherwise); and
- (D) are not affected by any unusual, abnormal, extraordinary or non-recurring items, other than those items specifically disclosed in those financial statements; and
- (u) **Sigma Disclosure Materials:** it has:
- (1) collated and made available all of the Sigma Disclosure Materials in good faith for the purposes of a due diligence process and in this context, as far as Sigma is aware, the Sigma Disclosure Materials have been collated with all reasonable care and skill and are accurate in all material respects and not materially misleading (including by omission); and
- (2) not knowingly withheld any information that could be material to Chemist Warehouse's evaluation of Sigma and the merits of the Transaction.

For the purpose of this clause (u), the Sigma Disclosure Materials are deemed not to include any information, document, representation, statement, view or opinion to the extent that it contains or expresses a forecast, prediction or projection or is otherwise forward looking at the date of this agreement.



## Schedule 3

### Conditions Precedent

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#### 1.1 Chemist Warehouse Independent Expert

The Chemist Warehouse Independent Expert:

- (a) issues the Chemist Warehouse Independent Expert's Report which concludes that the Scheme is in the best interests of Chemist Warehouse Shareholders before the time when the Scheme Booklet is registered by ASIC; and
- (b) does not change its conclusion in any written update to the Chemist Warehouse Independent Expert's Report or withdraw the Chemist Warehouse Independent Expert's Report before 8.00am on the Second Court Date.

#### 1.2 Sigma Independent Expert

The Sigma Independent Expert:

- (a) issues the Sigma Independent Expert's Report which concludes that the Related Party Arrangements are fair and reasonable or not fair but reasonable; and
- (b) does not change its conclusion in any written update to the Sigma Independent Expert's Report or withdraw the Sigma Independent Expert's Report before 8.00am on the Second Court Date.

#### 1.3 Court approval

The Court approves the Scheme in accordance with paragraph 411(4)(b) of the Corporations Act.

#### 1.4 Shareholder approval

Chemist Warehouse Shareholders approve the Scheme at the Scheme Meeting by the requisite majorities under subparagraph 411(4)(a)(ii) of the Corporations Act.

#### 1.5 Sigma Resolutions

Sigma Shareholders approve the Sigma Resolutions at the Sigma Shareholder Meeting by the requisite majority.

#### 1.6 ACCC Approval

Between the date of this agreement and 8.00am on the Second Court Date, one of the following has occurred:

- (a) the ACCC has notified Sigma in writing to the effect that the ACCC does not propose to intervene in the proposed acquisition by Sigma of the Chemist Warehouse Shares pursuant to this agreement;



- (b) the ACCC has made a final determination to authorise the proposed acquisition by Sigma of the Chemist Warehouse Shares pursuant to this agreement;
- (c) if there is a valid application to the Australian Competition Tribunal for a review of the ACCC's determination, the Australian Competition Tribunal has made a final determination to authorise the proposed acquisition by Sigma of the Chemist Warehouse Shares pursuant to this agreement and a valid application for review of that determination or notice of appeal has not been lodged or the time prescribed for any application or notice of appeal has expired; or
- (d) the Federal Court of Australia has made a declaration that the proposed acquisition by Sigma of the Chemist Warehouse Shares pursuant to this agreement would not result in a contravention of section 50 of the CCA and a valid application for review of the declaration or notice of appeal has not been lodged or the time prescribed for any application or notice of appeal has expired; or
- (e) the Federal Court of Australia has dismissed an application by the ACCC for an injunction to prevent the proposed acquisition by Sigma of the Chemist Warehouse Shares pursuant to this agreement on the basis that it would result in a contravention of section 50 of the CCA and a valid application for review of the decision or notice of appeal has not been lodged or the time prescribed for any application or notice of appeal has expired,

where clauses 1.6(a) to 1.6(d) are each subject to the relevant non-opposition of, or final determination to authorise, the proposed acquisition by Sigma of the Chemist Warehouse Shares that is unconditional or on conditions that are acceptable to Sigma and Chemist Warehouse, acting reasonably.

## 1.7 Regulatory approvals

Before 8.00am on the Second Court Date, all other approval waivers, consents, exemptions, or declarations of a Government Agency that Chemist Warehouse and Sigma agree are necessary or desirable to implement the Scheme are granted, given, made or obtained, in each case, either unconditionally or on terms that Chemist Warehouse and Sigma consider to be acceptable (acting reasonably) and those approvals or waivers have not been withdrawn, cancelled, varied or revoked.

## 1.8 OIO approval

Before 8.00am on the Second Court Date, Sigma has received all consents required under the *Overseas Investment Act 2005* (NZ) and the *Overseas Investment Regulations 2005* (NZ) for the implementation of the Scheme either unconditionally or subject only to conditions imposed by the OIO that are substantially the same as the conditions of a kind commonly imposed by the OIO on such a consent and referred to as the 'Standard Conditions' and such other conditions that are acceptable to Sigma and Chemist Warehouse (acting reasonably), and such consents have not been withdrawn, suspended or revoked before 8.00am on the Second Court Date.

## 1.9 Underwriting Agreement

Between the date of this agreement and completion of the retail component of the Entitlement Offer:

- (a) all conditions under the Underwriting Agreement have been fully satisfied or waived;



- (b) there is no breach, default or non-compliance by any party, which has not been remedied to the satisfaction of each other party, of the Underwriting Agreement; and
- (c) the Underwriting Agreement has not been terminated and no party has provided a notice or indicated an intention to terminate the Underwriting Agreement.

#### **1.10 Debt Commitment Letter**

Between the date of this agreement and 8.00am on the Second Court Date:

- (a) all conditions under the Debt Commitment Letter have been fully satisfied or waived;
- (b) there is no breach, default or non-compliance by any party, which has not been remedied to the satisfaction of each other party, of the Debt Commitment Letter;
- (c) the Debt Commitment Letter has not been terminated and no party has provided a notice or indicated an intention to terminate the Debt Commitment Letter;
- (d) the relevant parties have entered into the Debt Finance Documents; and
- (e) all conditions precedent to drawing under the Debt Finance Documents have been fully satisfied or waived.

#### **1.11 Chemist Warehouse Prescribed Occurrence**

Between the date of this agreement and 8.00am on the Second Court Date, no Chemist Warehouse Prescribed Occurrence occurs.

#### **1.12 Chemist Warehouse Material Adverse Change**

Between the date of this agreement and 8.00am on the Second Court Date, no Chemist Warehouse Material Adverse Change occurs.

#### **1.13 Sigma Prescribed Occurrence**

Between the date of this agreement and 8.00am on the Second Court Date, no Sigma Prescribed Occurrence occurs.

#### **1.14 Sigma Material Adverse Change**

Between the date of this agreement and 8.00am on the Second Court Date, no Sigma Material Adverse Change occurs.

#### **1.15 Restraints**

No temporary, preliminary or final order, decree, law, regulation, injunction, decision or ruling, or other action, that prevents, makes illegal or prohibits the Scheme, in each case issued by a court of competent jurisdiction or a Government Agency, is in effect at 8.00am on the Second Court Date.

#### **1.16 Rollover relief**

Between the date of this agreement and 8.00am on the Second Court Date, Chemist Warehouse has obtained a draft ruling from the Australian Tax Office confirming that



scrip-for-scrip rollover relief under subdivision 124-M of the Tax Act will be available for eligible Chemist Warehouse Shareholders in respect of the consideration payable under the Scheme comprising of New Sigma Shares.

### **1.17 Chemist Warehouse Equity Incentives**

Before 8.00am on the Second Court Date, arrangements have been put in place to deal with the Chemist Warehouse Equity Incentives in accordance with clause 5.9, such that no Chemist Warehouse Equity Incentives (or any other securities in Chemist Warehouse other than the Scheme Shares) are in existence on the Scheme Record Date.





## Schedule 4

### Chemist Warehouse's capital structure

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Security	Number on issue
Chemist Warehouse Shares	1,553,456,840
Chemist Warehouse Equity Incentives	446,765



## Schedule 5

### Sigma's capital structure

Security	Number on issue
Sigma Shares	1,059,276,416*
Sigma Equity Incentives	15,939,941

\* This number also includes Sigma Shares issued under loan-funded share plans. These Sigma Shares are also Sigma Equity Incentives for the purposes of this agreement as they are subject to certain restrictions, but they have not been included as Sigma Equity Incentives in the table above to avoid duplication.




Signing page

Executed as an agreement

Chemist Warehouse

Signed by  
**CW Group Holdings Limited**  
by

sign here ►   
B602E41E491F4D8...  
Company Secretary/Director  
Mario Verrocchi  
print name \_\_\_\_\_

sign here ►   
9FC555FF2DE94D3...  
Director  
Damien Gance  
print name \_\_\_\_\_



HERBERT  
SMITH  
FREEHILLS

## Sigma

Signed by  
**Sigma Healthcare Limited**  
by

sign here ►

Company Secretary/Director

print name

Kara McGowan

sign here ►

[Michael Sammells \(Dec 11, 2023 06:09 GMT+11\)](#)

Director

print name

Michael Sammells



## Attachment 1

### Scheme of arrangement

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HERBERT  
SMITH  
FREEHILLS

## Scheme of arrangement

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CW Group Holdings Limited

Scheme Shareholders



## Scheme of arrangement

This scheme of arrangement is made under section 411 of the *Corporations Act 2001* (Cth)

Between the parties

**CW Group Holdings Limited**

ACN 635 851 839 of 6 Albert Street, Preston VIC 3072

The **Scheme Shareholders**

## 1 Definitions, interpretation and scheme components

### 1.1 Definitions

The meanings of the terms used in this Scheme are set out below.

Term	Meaning
<b>ADI</b>	authorised deposit-taking institution (as defined in the <i>Banking Act 1959</i> (Cth)).
<b>ASIC</b>	the Australian Securities and Investments Commission.
<b>ASX</b>	ASX Limited (ACN 008 624 691) and, where the context requires, the financial market that it operates.
<b>Business Day</b>	a day on which banks are open for business in Melbourne, other than a Saturday, Sunday or public holiday.
<b>Chemist Warehouse</b>	CW Group Holdings Limited (ACN 635 851 839).
<b>Chemist Warehouse Leakage</b>	has the meaning given in the Merger Implementation Agreement.





Term	Meaning
<b>Chemist Warehouse Registry</b>	Computershare Limited (ACN 005 485 825).
<b>Chemist Warehouse Share</b>	a fully paid ordinary share in the capital of Chemist Warehouse.
<b>Chemist Warehouse Shareholder</b>	a person who is registered as the holder of a Chemist Warehouse Share in the Chemist Warehouse Share Register.
<b>Chemist Warehouse Share Register</b>	the register of members of Chemist Warehouse maintained by the Chemist Warehouse Registry in accordance with the Corporations Act.
<b>Corporations Act</b>	the <i>Corporations Act 2001</i> (Cth).
<b>Court</b>	the Federal Court of Australia or such other court of competent jurisdiction under the Corporations Act agreed to in writing by Chemist Warehouse and Sigma.
<b>Deed Poll</b>	the deed poll under which Sigma covenants in favour of the Scheme Shareholders to perform the obligations attributed to Sigma under this Scheme.
<b>Effective</b>	when used in relation to this Scheme, the coming into effect, under subsection 411(10) of the Corporations Act, of the order of the Court made under paragraph 411(4)(b) of the Corporations Act in relation to this Scheme.
<b>Effective Date</b>	the date on which this Scheme becomes Effective.
<b>End Date</b>	has the meaning given in the Merger Implementation Agreement.
<b>Government Agency</b>	has the meaning given in the Merger Implementation Agreement.
<b>Implementation Date</b>	the fifth Business Day after the Scheme Record Date, or such other date after the Scheme Record Date as agreed in writing by Chemist Warehouse and Sigma or is ordered by the Court or required by ASX.



Term	Meaning
<b>Ineligible Foreign Shareholder</b>	a Scheme Shareholder whose address shown in the Chemist Warehouse Share Register on the Scheme Record Date is a place outside Australia and its external territories or New Zealand, unless Sigma (acting reasonably, and after consultation with Chemist Warehouse) determines that it is lawful and not unduly onerous or impracticable to issue that Scheme Shareholder with New Sigma Shares when the Scheme becomes Effective.
<b>Leakage</b>	has the meaning given in the Merger Implementation Agreement.
<b>Merger Implementation Agreement</b>	the merger implementation agreement dated 11 December 2023 between Chemist Warehouse and Sigma relating to the implementation of this Scheme.
<b>New Sigma Share</b>	a Sigma Share to be issued to Scheme Shareholders under this Scheme.
<b>PPSA</b>	the <i>Personal Property Securities Act 2009</i> (Cth).
<b>Registered Address</b>	in relation to a Chemist Warehouse Shareholder, the address shown in the Chemist Warehouse Share Register as at the Scheme Record Date.
<b>Sale Agent</b>	the sale agent appointed under clause 5.5 of the Merger Implementation Agreement to sell the New Sigma Shares that are to be issued under clause 5.5(a)(1) of this Scheme.
<b>Scheme</b>	this scheme of arrangement under Part 5.1 of the Corporations Act between Chemist Warehouse and the Scheme Shareholders subject to any alterations or conditions made or required by the Court under subsection 411(6) of the Corporations Act and such other form as agreed to in writing between Chemist Warehouse and Sigma.
<b>Scheme Cash Consideration</b>	<p>a cash amount per Scheme Share held by a Scheme Shareholder calculated as follows:</p> $N = \frac{\$700 \text{ million} + A}{B}$ <p>where:</p> <p>N is the cash amount per Scheme Share held by a Scheme Shareholder;</p> <p>A is the net amount of any Leakage calculated in accordance with clause 11 of the Merger Implementation Agreement, provided that:</p>



Term	Meaning
	<ol style="list-style-type: none"><li>1 if any Sigma Leakage is greater than any Chemist Warehouse Leakage, A will be positive in accordance with clause 11(d)(1) of the Merger Implementation Agreement; and</li><li>2 if any Chemist Warehouse Leakage is greater than any Sigma Leakage, A will be negative in accordance with clause 11(d)(2) of the Merger Implementation Agreement; and</li></ol> <p>B is the total number of Scheme Shares.</p>
<b>Scheme Consideration</b>	<p>the consideration to be provided by Sigma to each Scheme Shareholder for the transfer to Sigma of each Scheme Share, being:</p> <ol style="list-style-type: none"><li>1 the Scheme Cash Consideration; and</li><li>2 the Scheme Share Consideration,</li></ol> <p>for each Chemist Warehouse Share held by a Scheme Shareholder as at the Scheme Record Date.</p>
<b>Scheme Meeting</b>	<p>the meeting of Chemist Warehouse Shareholders ordered by the Court to be convened under subsection 411(1) of the Corporations Act to consider and vote on the Scheme and includes any meeting convened following any adjournment or postponement of that meeting.</p>
<b>Scheme Record Date</b>	<p>7.00pm on the second Business Day after the Effective Date or such other time and date as agreed in writing by Chemist Warehouse and Sigma.</p>
<b>Scheme Share Consideration</b>	<p>for each Scheme Share held by a Scheme Shareholder, the number of New Sigma Shares calculated as follows:</p> $N = \frac{0.8575 \times (\frac{A}{0.1425})}{B}$ <p>where:</p> <p>N is the number of New Sigma Shares;</p> <p>A is the total number of Sigma Shares on issue on a fully diluted basis (assuming the full conversion of any options, rights or securities that are convertible into Sigma Shares) on the Scheme Record Date, which:</p> <ol style="list-style-type: none"><li>1 excludes any options, rights or securities existing as at the date of this agreement that are convertible into Sigma Shares in respect of which arrangements have been put in place by the Scheme Record Date for them to be cancelled or otherwise extinguished for nil consideration on or before the Implementation Date; and</li><li>2 includes any options, rights or securities existing as at the date of this agreement that are fully or partially convertible into Sigma Shares in respect of which arrangements have been put in place by the Scheme Record Date for them to be settled fully or partially for cash consideration; and</li></ol>



Term	Meaning
	B is the total number of Scheme Shares.
<b>Scheme Shareholder</b>	a Chemist Warehouse Shareholder as at the Scheme Record Date.
<b>Scheme Shares</b>	all Chemist Warehouse Shares held by the Scheme Shareholders as at the Scheme Record Date.
<b>Scheme Transfer</b>	a duly completed and executed proper instrument of transfer in respect of the Scheme Shares for the purposes of section 1071B of the Corporations Act, in favour of Sigma as transferee, which may be a master transfer of all or part of the Scheme Shares.
<b>Second Court Date</b>	the first day on which an application made to the Court for an order under paragraph 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, the day on which the adjourned application or appeal is heard.
<b>Sigma</b>	Sigma Healthcare Limited (ACN 088 417 403).
<b>Sigma Leakage</b>	has the meaning given in the Merger Implementation Agreement.
<b>Sigma Registry</b>	Link Market Services Limited (ACN 083 214 537).
<b>Sigma Share</b>	a fully paid ordinary share in the capital of Sigma.
<b>Sigma Share Register</b>	the register of members of Sigma maintained by the Sigma Registry in accordance with the Corporations Act.
<b>Unclaimed Money Act</b>	the <i>Unclaimed Money Act 2008</i> (Vic).

## 1.2 Interpretation

In this Scheme:

- (a) headings and bold type are for convenience only and do not affect the interpretation of this Scheme;
- (b) the singular includes the plural and the plural includes the singular;
- (c) words of any gender include all genders;



- (d) other parts of speech and grammatical forms of a word or phrase defined in this Scheme have a corresponding meaning;
- (e) a reference to a person includes any company, partnership, joint venture, association, corporation or other body corporate and any Government Agency as well as an individual;
- (f) a reference to a clause, party, schedule, attachment or exhibit is a reference to a clause of, and a party, schedule, attachment or exhibit to, this Scheme;
- (g) a reference to any legislation includes all delegated legislation made under it and amendments, consolidations, replacements or reenactments of any of them (whether passed by the same or another Government Agency with legal power to do so);
- (h) a reference to a document (including this Scheme) includes all amendments or supplements to, or replacements or novations of, that document;
- (i) a reference to '\$', 'A\$' or 'dollar' is to Australian currency;
- (j) a reference to any time is, unless otherwise indicated, a reference to that time in Melbourne, Victoria;
- (k) 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;
- (l) a reference to a party to a document includes that party's successors and permitted assignees;
- (m) no provision of this Scheme will be construed adversely to a party because that party was responsible for the preparation of this Scheme or that provision;
- (n) any agreement, representation, warranty or indemnity in favour of two or more parties (including where two or more persons are included in the same defined term) is for the benefit of them jointly and severally;
- (o) a reference to a body, other than a party to this Scheme (including an institute, association or authority), whether statutory or not:
- (1) which ceases to exist; or
  - (2) whose powers or functions are transferred to another body,
- is a reference to the body which replaces it or which substantially succeeds to its powers or functions;
- (p) if a period of time is specified and dates from a given day or the day of an act or event, it is to be calculated exclusive of that day;
- (q) a reference to a day is to be interpreted as the period of time commencing at midnight and ending 24 hours later; and
- (r) if an act prescribed under this Scheme to be done by a party on or by a given day is done after 5.00pm on that day, it is taken to be done on the next day.

### **1.3 Interpretation of inclusive expressions**

Specifying anything in this Scheme after the words 'include' or 'for example' or similar expressions does not limit what else is included.

### **1.4 Business Day**

Where the day on or by which any thing is to be done is not a Business Day, that thing must be done on or by the next Business Day.

## 2 Preliminary matters

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- (a) Chemist Warehouse is an unlisted public company limited by shares, incorporated in Australia and registered in Victoria, Australia.
- (b) Sigma is a public company limited by shares, incorporated in Australia and registered in New South Wales, Australia. The Sigma Shares are quoted for trading on the ASX.
- (c) Chemist Warehouse and Sigma have agreed, by executing the Merger Implementation Agreement, to implement this Scheme on the terms and conditions of the Merger Implementation Agreement.
- (d) If this Scheme becomes Effective, each of the following will occur:
  - (1) all of the Scheme Shares, and all the rights and entitlements attaching to them as at the Implementation Date, will be transferred to Sigma on the Implementation Date;
  - (2) in consideration of the transfer of the Scheme Shares to Sigma, Sigma will provide or procure the provision of the Scheme Consideration to the Scheme Shareholders in accordance with this Scheme and the Deed Poll; and
  - (3) Chemist Warehouse will enter Sigma's name in the Chemist Warehouse Share Register as the holder of all of the Scheme Shares.
- (e) This Scheme attributes actions to Sigma but does not itself impose an obligation on it to perform those actions. Sigma has agreed, by executing the Deed Poll, to perform the actions attributed to it under this Scheme, including the provision or procuring the provision of the Scheme Consideration to the Scheme Shareholders subject to this Scheme becoming Effective.

## 3 Conditions

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### 3.1 Conditions precedent

This Scheme is conditional on and will have no force or effect until, the satisfaction of each of the following conditions precedent:

- (a) all the conditions in Schedule 3 of the Merger Implementation Agreement (other than the condition in clause 1.3 of Schedule 3 of the Merger Implementation Agreement relating to Court approval of this Scheme) having been satisfied or waived in accordance with the terms of the Merger Implementation Agreement by 8.00am on the Second Court Date;
- (b) neither the Merger Implementation Agreement nor the Deed Poll having been terminated in accordance with their terms before 8.00am on the Second Court Date;
- (c) approval of this Scheme by the Court under paragraph 411(4)(b) of the Corporations Act, including with any alterations made or required by the Court under subsection 411(6) of the Corporations Act and agreed to by Sigma and Chemist Warehouse;
- (d) such other conditions made or required by the Court under subsection 411(6) of the Corporations Act in relation to this Scheme and agreed to by Sigma and Chemist Warehouse having been satisfied or waived; and



- (e) the orders of the Court made under paragraph 411(4)(b) (and, if applicable, subsection 411(6)) of the Corporations Act approving this Scheme coming into effect, pursuant to subsection 411(10) of the Corporations Act on or before the End Date (or any later date Chemist Warehouse and Sigma agree in writing).

### **3.2 Certificate**

- (a) Chemist Warehouse and Sigma will provide to the Court on the Second Court Date a certificate, or such other evidence as the Court requests, confirming (in respect of matters within their knowledge) whether or not all of the conditions precedent in clauses 3.1(a) and 3.1(b) have been satisfied or waived.
- (b) The certificate referred to in clause 3.2(a) constitutes conclusive evidence that such conditions precedent were satisfied, waived or taken to be waived.

### **3.3 End Date**

This Scheme will lapse and be of no further force or effect if:

- (a) the Effective Date does not occur on or before the End Date; or
- (b) the Merger Implementation Agreement or the Deed Poll is terminated in accordance with its terms,

unless Chemist Warehouse and Sigma otherwise agree in writing.

## **4 Implementation of this Scheme**

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### **4.1 Lodgement of Court orders with ASIC**

Chemist Warehouse must lodge with ASIC an office copy of the Court order in accordance with subsection 411(10) of the Corporations Act, approving this Scheme by no later than 5.00pm on the first Business Day after the date on which the Court order was made (or such other date as agreed in writing by Sigma).

### **4.2 Transfer of Scheme Shares**

On the Implementation Date:

- (a) subject to the provision of the Scheme Consideration in the manner contemplated by clauses 5.2(b), 5.2(c) and 5.3(a), the Scheme Shares, together with all rights and entitlements attaching to the Scheme Shares as at the Implementation Date, must be transferred to Sigma, without the need for any further act by any Scheme Shareholder (other than acts performed by Chemist Warehouse as attorney and agent for Scheme Shareholders under clause 7.5), by:
  - (1) Chemist Warehouse delivering to Sigma a duly completed Scheme Transfer, executed on behalf of the Scheme Shareholders by Chemist Warehouse, for registration; and
  - (2) Sigma duly executing the Scheme Transfer, attending to the stamping of the Scheme Transfer (if required) and delivering it to Chemist Warehouse for registration; and
- (b) immediately following receipt of the Scheme Transfer in accordance with clause 4.2(a)(2), but subject to the stamping of the Scheme Transfer (if required),





Chemist Warehouse must enter, or procure the entry of, the name of Sigma in the Chemist Warehouse Share Register as the registered holder of all the Scheme Shares transferred to Sigma in accordance with this Scheme.

## 5 Scheme Consideration

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### 5.1 Provision of Scheme Consideration

The Scheme Consideration in respect of each Scheme Share is:

- (a) the Scheme Cash Consideration; and
- (b) the Scheme Share Consideration.

### 5.2 Provision of Scheme Cash Consideration

- (a) Sigma must by no later than the Business Day before the Implementation Date, deposit, or procure the deposit, in cleared funds an amount equal to the aggregate Scheme Cash Consideration payable to all Scheme Shareholders under the Scheme, into an Australian dollar denominated trust account with an ADI operated by Chemist Warehouse as trustee for the Scheme Shareholders, (provided that any interest on the amounts deposited (less bank fees and other charges) will be credited to Sigma's account).
- (b) On the Implementation Date, subject to funds having been deposited in accordance with clause 5.2(a), Chemist Warehouse must pay or procure the payment of the Scheme Cash Consideration to each Scheme Shareholder in respect of all of that Scheme Shareholder's Scheme Shares from the trust account referred to in clause 5.2(a).
- (c) The obligations of Chemist Warehouse under clause 5.2(b) will be satisfied by Chemist Warehouse (in its absolute discretion, and despite any election referred to in clause 5.2(c)(1) or authority referred to in clause 5.2(c)(2) made or given by the Scheme Shareholder):
  - (1) if a Scheme Shareholder has, before the Scheme Record Date, made a valid election in accordance with the requirements of the Chemist Warehouse Registry to receive dividend payments from Chemist Warehouse by electronic funds transfer to a 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;
  - (2) paying, or procuring the payment of, the relevant amount in Australian currency by electronic means to a bank account nominated by the Scheme Shareholder by an appropriate authority from the Scheme Shareholder to Chemist Warehouse; or
  - (3) dispatching, or procuring the dispatch of, a cheque for the relevant amount in Australian currency to the Scheme Shareholder by prepaid post to their Registered Address (as at the Scheme Record Date), such cheque being drawn in the name of the Scheme Shareholder (or in the case of joint holders, in accordance with the procedures set out in clause 5.4).
- (d) To the extent that, following satisfaction of Chemist Warehouse's obligations under clause 5.2(b), there is a surplus in the amount held by Chemist



Warehouse as trustee for the Scheme Shareholders in the trust account referred to in that clause, that surplus must be paid by Chemist Warehouse to Sigma.

### 5.3 Provision of Scheme Share Consideration

Sigma must, subject to clauses 5.4, 5.5, 5.6 and 5.8:

- (a) on or before the Implementation Date, issue the Scheme Share Consideration to each Scheme Shareholder and procure that the name and address of each Scheme Shareholder is entered in the Sigma Share Register in respect of those New Sigma Shares; and
- (b) procure that on or before the date that is 10 Business Days after the Implementation Date, a share certificate or holding statement (or equivalent document) is sent to the Registered Address of each Scheme Shareholder representing the number of New Sigma Shares issued to the Scheme Shareholder pursuant to this Scheme.

### 5.4 Joint holders

In the case of Scheme Shares held in joint names:

- (a) subject to clause 5.2(c), the Scheme Cash 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 Chemist Warehouse, the holder whose name appears first in the Chemist Warehouse Share Register as at the Scheme Record Date or to the joint holders;
- (b) the New Sigma Shares to be issued under this Scheme must be issued to and registered in the names of the joint holders; and
- (c) any other document required to be sent under this Scheme, will be forwarded to either, at the sole discretion of Chemist Warehouse, the holder whose name appears first in the Chemist Warehouse Share Register as at the Scheme Record Date or to the joint holders.

### 5.5 Ineligible Foreign Shareholders

- (a) Sigma will be under no obligation to issue any New Sigma Shares under this Scheme to any Ineligible Foreign Shareholder and instead:
  - (1) subject to clauses 5.6 and 5.8, Sigma must, on or before the Implementation Date, issue the New Sigma Shares which would otherwise be required to be issued to the Ineligible Foreign Shareholders under this Scheme to the Sale Agent;
  - (2) Sigma must procure that as soon as reasonably practicable on or after the Implementation Date, the Sale Agent, in consultation with Sigma, sells or procures the sale of all the New Sigma Shares issued to the Sale Agent and remits to Chemist Warehouse the proceeds of the sale (after deduction of any applicable brokerage, stamp duty and other costs, taxes and charges) (**Proceeds**);
  - (3) promptly after receiving the Proceeds in respect of the sale of all of the New Sigma Shares referred to in clause 5.5(a)(1), Chemist Warehouse must pay, or procure the payment of, to each Ineligible Foreign Shareholder, the amount 'A' calculated in accordance with the following formula and rounded down to the nearest cent:



$$A = \left( \frac{B}{C} \right) \times D$$

where

B = the number of New Sigma Shares that would otherwise have been issued to that Ineligible Foreign Shareholder had it not been an Ineligible Foreign Shareholder and which were issued to the Sale Agent;

C = the total number of New Sigma Shares which would otherwise have been issued to all Ineligible Foreign Shareholders and which were issued to the Sale Agent; and

D = the Proceeds (as defined in clause 5.5(a)(2)).

- (b) The Ineligible Foreign Shareholders acknowledge that none of Sigma, Chemist Warehouse or the Sale Agent gives any assurance as to the price that will be achieved for the sale of New Sigma Shares described in clause 5.5(a).
- (c) Chemist Warehouse must make, or procure the making of, payments to Ineligible Foreign Shareholders under clause 5.5(a) by either (in the absolute discretion of Chemist Warehouse, and despite any election referred to in clause 5.5(c)(1) or authority referred to in clause 5.5(c)(2) made or given by the Scheme Shareholder):
  - (1) if an Ineligible Foreign Shareholder has, before the Scheme Record Date, made a valid election in accordance with the requirements of the Chemist Warehouse Registry to receive dividend payments from Chemist Warehouse by electronic funds transfer to a bank account nominated by the Ineligible Foreign Shareholder, paying, or procuring the payment of, the relevant amount in Australian currency by electronic means in accordance with that election;
  - (2) paying or procuring the payment of, the relevant amount in Australian currency by electronic means to a bank account nominated by the Ineligible Foreign Shareholder by an appropriate authority from the Ineligible Foreign Shareholder to Chemist Warehouse; or
  - (3) dispatching, or procuring the dispatch of, a cheque for the relevant amount in Australian currency to the Ineligible Foreign Shareholder by prepaid post to their Registered Address (as at the Scheme Record Date), such cheque being drawn in the name of the Ineligible Foreign Shareholder (or in the case of joint holders, in accordance with the procedures set out in clause 5.4).
- (d) If Chemist Warehouse receives professional advice that any withholding or other tax is required by law or by a Government Agency to be withheld from a payment to an Ineligible Foreign Shareholder, Chemist Warehouse is entitled to withhold the relevant amount before making the payment to the Ineligible Foreign Shareholder (and payment of the reduced amount shall be taken to be full payment of the relevant amount for the purposes of this Scheme, including clause 5.5(a)(3)). Chemist Warehouse must pay any amount so withheld to the relevant taxation authorities within the time permitted by law, and, if requested in writing by the relevant Ineligible Foreign Shareholder, provide a receipt or other appropriate evidence of such payment (or procure the provision of such receipt or other evidence) to the relevant Ineligible Foreign Shareholder.
- (e) Each Ineligible Foreign Shareholder appoints Chemist Warehouse as its agent to receive on its behalf any financial services guide (or similar or equivalent document) or other notices (including any updates of those documents) that the



Sale Agent is required to provide to Ineligible Foreign Shareholders under the Corporations Act or any other applicable law.

- (f) Payment of the amount 'A' calculated in accordance with clause 5.5(a) to an Ineligible Foreign Shareholder in accordance with this clause 5.4(c) satisfies in full the Ineligible Foreign Shareholder's right to Scheme Share Consideration.

## 5.6 Fractional entitlements and splitting

- (a) Where the calculation of the Scheme Cash Consideration or number of New Sigma Shares to be issued to a particular Scheme Shareholder would result in the Scheme Shareholder becoming entitled to a fraction of a cent or New Sigma Share, the fractional entitlement will be rounded down to the nearest whole cent or number of New Sigma Shares, as applicable.
- (b) If Sigma or Chemist Warehouse is of the opinion, formed reasonably, that several Scheme Shareholders, each of which holds a holding of Chemist Warehouse Shares which results in a fractional entitlement to the Scheme Cash Consideration or New Sigma Shares have, before the Scheme Record Date, been party to a shareholding splitting or division in an attempt to obtain an advantage by reference to the rounding provided for in the calculation of each Scheme Shareholder's entitlement to the Scheme Consideration, Sigma may direct Chemist Warehouse to, and Chemist Warehouse may, give notice to those Scheme Shareholders:

- (1) setting out the names and Registered Addresses of all of them;
- (2) stating that opinion; and
- (3) attributing to one of them specifically identified in the notice the Chemist Warehouse Shares held by all of them,

and, after the notice has been so given, the Scheme Shareholder specifically identified in the notice shall, for the purposes of this Scheme, be taken to hold all those Chemist Warehouse Shares and each of the other Scheme Shareholders whose names are set out in the notice shall, for the purposes of this Scheme, be taken to hold no Chemist Warehouse Shares.

## 5.7 Unclaimed money

- (a) Chemist Warehouse may cancel a cheque issued under this clause 5 if the cheque:
  - (1) is returned to Chemist Warehouse; or
  - (2) has not been presented for payment within six months after the date on which the cheque was sent.
- (b) During the period of 12 months commencing on the Implementation Date, on request in writing from a Scheme Shareholder to Chemist Warehouse (or the Chemist Warehouse Registry) (which request may not be made until the date which is 10 Business Days after the Implementation Date), Chemist Warehouse must reissue a cheque that was previously cancelled under this clause 5.7.
- (c) 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) but any interest or other benefit accrued from the unclaimed Scheme Consideration will be for the benefit of Sigma.



## 5.8 Orders of a court or Government Agency

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

- (a) requires consideration to be provided to a third party (either through payment of a sum or the issuance of a security) in respect of Scheme Shares held by a particular Scheme Shareholder, which would otherwise be payable or required to be issued to that Scheme Shareholder by Chemist Warehouse or Sigma in accordance with this clause 5, then Chemist Warehouse or Sigma (as applicable) shall be entitled to procure that provision of that consideration is made in accordance with that order or direction; or
- (b) prevents Chemist Warehouse or Sigma from providing consideration to any particular Scheme Shareholder in accordance with this clause 5, or the payment or issuance of such consideration is otherwise prohibited by applicable law, Chemist Warehouse or Sigma shall be entitled to (as applicable):
  - (1) retain an amount, in Australian dollars, equal to the number of Scheme Shares held by that Scheme Shareholder multiplied by the Scheme Consideration; and
  - (2) not to issue (or direct Sigma to issue), or to issue to a trustee or nominee, such number of New Sigma Shares as that Scheme Shareholder would otherwise be entitled under clause 5.3,until such time as provision of the Scheme Consideration in accordance with this clause 5 is permitted by that (or another) order or direction or otherwise by law.

## 5.9 Status of New Sigma Shares

Subject to this Scheme becoming Effective, Sigma must:

- (a) issue the New Sigma Shares required to be issued by it under this Scheme on terms such that each such New Sigma Share will:
  - (1) rank equally in all respects with all other Sigma Shares on issue; and
  - (2) be entitled to participate in and receive any dividends or distribution of capital paid and any other entitlements accruing in respect of Sigma Shares on and from the Implementation Date;
- (b) use its reasonable endeavours to ensure that the New Sigma Shares issued as Scheme Share Consideration will be listed for quotation on the official list of ASX with effect from the first Business Day after the Effective Date (or such later date as ASX may require), initially on a deferred settlement basis and, with effect from the first Business Day after the Implementation Date, on an ordinary (T+2) settlement basis; and
- (c) ensure that each such New Sigma Share is duly and validly issued in accordance with all applicable laws and the constitution of Sigma, fully paid and free from any mortgage, charge, lien, encumbrance, pledge or other security interest (including any 'security interest' within the meaning of section 12 of the PPSA).



## 6 Dealings in Chemist Warehouse Shares

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### 6.1 Determination of Scheme Shareholders

- (a) To establish the identity of the Scheme Shareholders, dealings in Chemist Warehouse Shares or other alterations to the Chemist Warehouse Share Register will only be recognised if registrable transfer or transmission applications in respect of those dealings, or valid requests in respect of other alterations, are received before the Scheme Record Date at the place where the Chemist Warehouse Share Register is kept.
- (b) Chemist Warehouse must not accept for registration, nor recognise for any purpose (except a transfer to Sigma pursuant to this Scheme and any subsequent transfer by Sigma or its successors in title), any transfer or transmission application or other request received after the Scheme Record Date, or received prior to such times but not in registrable or actionable form, as appropriate.

### 6.2 Register

- (a) If this Scheme becomes Effective, a holder of Scheme Shares (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 on or after the Scheme Record Date otherwise than pursuant to this Scheme, and any attempt to do so will have no effect and Chemist Warehouse shall be entitled to disregard any such disposal or other dealing.
- (b) For the purpose of determining entitlements to the Scheme Consideration, Chemist Warehouse must maintain the Chemist Warehouse Share Register in accordance with the provisions of this clause 6.2 until the Scheme Consideration has been provided to the Scheme Shareholders. The Chemist Warehouse Share Register in this form will solely determine entitlements to the Scheme Consideration.
- (c) All statements of holding for Chemist Warehouse Shares (other than statements of holding in favour of Sigma) will cease to have effect after the Scheme Record Date as documents of title in respect of those shares and, as from that date, each entry current at that date on the Chemist Warehouse Share Register (other than entries on the Chemist Warehouse Share Register in respect of Sigma) will cease to have effect except as evidence of entitlement to the Scheme Consideration in respect of the Chemist Warehouse Shares relating to that entry.
- (d) As soon as possible on or after the Scheme Record Date, and in any event by 5.00pm on the first Business Day after the Scheme Record Date, Chemist Warehouse will ensure that details of the names, Registered Addresses and holdings of Chemist Warehouse Shares for each Scheme Shareholder as shown in the Chemist Warehouse Share Register are available to Sigma in the form Sigma reasonably requires.
- (e) Without limiting Chemist Warehouse's obligations under clause 6.2(d), Chemist Warehouse must provide, or procure the provision, to Sigma, such other information as Sigma may reasonably require in connection with the provision of the Scheme Consideration to the Scheme Shareholders in accordance with this Scheme.





- (f) Each Scheme Shareholder agrees that the information referred to in clause 6.2(e) may be disclosed to Sigma, the Sigma Registry and Sigma's advisers and other service providers to the extent necessary to effect this Scheme.

## 7 General Scheme provisions

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### 7.1 Consent to amendments to this Scheme

If the Court proposes to approve this Scheme subject to any alterations or conditions:

- (a) Chemist Warehouse may by its counsel consent on behalf of all persons concerned to those alterations or conditions to which Sigma has consented in writing; and
- (b) each Scheme Shareholder agrees to any such alterations or conditions which Chemist Warehouse has consented to.

### 7.2 Scheme Shareholders' agreements and warranties

- (a) Each Scheme Shareholder:
  - (1) agrees to the transfer of their Chemist Warehouse Shares together with all rights and entitlements attaching to those Chemist Warehouse Shares in accordance with this Scheme;
  - (2) agrees to the variation, cancellation or modification of the rights attached to their Chemist Warehouse Shares constituted by or resulting from this Scheme;
  - (3) agrees to, on the direction of Sigma, destroy any share certificates or holding statements relating to their Chemist Warehouse Shares;
  - (4) that is issued New Sigma Shares agrees to become a member of Sigma and to be bound by the terms of the constitution of Sigma; and
  - (5) acknowledges and agrees that this Scheme binds Chemist Warehouse and all Scheme Shareholders (including those who do not attend the Scheme Meeting and those who do not vote, or vote against this Scheme, at the Scheme Meeting).
- (b) Each Scheme Shareholder is taken to have warranted to Chemist Warehouse and Sigma on the Implementation Date, and appointed and authorised Chemist Warehouse as its attorney and agent to warrant to Sigma on the Implementation Date, that:
  - (1) all their Chemist Warehouse Shares (including any rights and entitlements attaching to those shares) which are transferred under this Scheme will, at the date of transfer, be fully paid and free from all mortgages, charges, liens, encumbrances, pledges, security interests (including any 'security interests' within the meaning of section 12 of the PPSA) and interests of third parties of any kind, whether legal or otherwise, and restrictions on transfer of any kind; and
  - (2) they have full power and capacity to transfer their Chemist Warehouse Shares to Sigma together with any rights and entitlements attaching to those shares.
- (c) Chemist Warehouse undertakes that it will provide such warranty in clause 7.2(b) to Sigma as agent and attorney of each Scheme Shareholder.





### 7.3 Title to and rights in Scheme Shares

- (a) To the extent permitted by law, the Scheme Shares (including all rights and entitlements attaching to the Scheme Shares) transferred under this Scheme to Sigma will, at the time of transfer of them to Sigma vest in Sigma free from all mortgages, charges, liens, encumbrances, pledges, security interests (including any 'security interests' within the meaning of section 12 of the PPSA) and interests of third parties of any kind, whether legal or otherwise and free from any restrictions on transfer of any kind.
- (b) Immediately upon the provision of the Scheme Consideration to each Scheme Shareholder in the manner contemplated by clauses 5.2(b), 5.2(c) and 5.3(a) Sigma will be beneficially entitled to the Scheme Shares to be transferred to it under this Scheme pending registration by Chemist Warehouse of Sigma in the Chemist Warehouse Share Register as the holder of the Scheme Shares.

### 7.4 Appointment of sole proxy

Immediately upon the provision of the Scheme Consideration to each Scheme Shareholder in the manner contemplated by clauses 5.2(b), 5.2(c) and 5.3(a) and until Chemist Warehouse registers Sigma as the holder of all Scheme Shares in the Chemist Warehouse Share Register, each Scheme Shareholder:

- (a) is deemed to have irrevocably appointed Sigma as attorney and agent (and directed Sigma in each such capacity) to appoint any director, officer, secretary or agent nominated by Sigma 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 or document;
- (b) must not attend or vote at any of those meetings or sign any resolutions, whether in person, by proxy or by corporate representative (other than pursuant to clause 7.4(a));
- (c) must take all other actions in the capacity of a registered holder of Scheme Shares as Sigma reasonably directs; and
- (d) acknowledges and agrees that in exercising the powers referred to in clause 7.4(a), Sigma and any director, officer, secretary or agent nominated by Sigma under clause 7.4(a) may act in the best interests of Sigma as the intended registered holder of the Scheme Shares.

### 7.5 Authority given to Chemist Warehouse

Each Scheme Shareholder, without the need for any further act:

- (a) on the Effective Date, irrevocably appoints Chemist Warehouse and each of its directors, officers and secretaries (jointly and each of them severally) as its attorney and agent for the purpose of enforcing the Deed Poll against Sigma, and Chemist Warehouse undertakes in favour of each Scheme Shareholder that it will enforce the Deed Poll against Sigma on behalf of and as agent and attorney for each Scheme Shareholder; and
- (b) on the Implementation Date, irrevocably appoints Chemist Warehouse and each of its directors, officers and secretaries (jointly and each of them severally) as its attorney and agent for the purpose of executing any document or doing or taking any other act necessary, desirable or expedient to give effect to this Scheme and the transactions contemplated by it, including (without limitation):



- (1) executing the Scheme Transfer; and
- (2) executing and delivering any deed or document required by Sigma, that causes each Scheme Shareholder to become a shareholder of Sigma and to be bound by the constitution of Sigma,

and Chemist Warehouse accepts each such appointment. Chemist Warehouse as attorney and agent of each Scheme Shareholder, may sub-delegate its functions, authorities or powers under this clause 7.5 to all or any of its directors, officers, secretaries or employees (jointly, severally or jointly and severally).

## **7.6 Instructions and elections**

If not prohibited by law (and including where permitted or facilitated by relief granted by a Government Agency), all instructions, notifications or elections by a Scheme Shareholder to Chemist Warehouse that are binding or deemed binding between the Scheme Shareholder and Chemist Warehouse relating to Chemist Warehouse or Chemist Warehouse Shares, including instructions, notifications or elections relating to:

- (a) whether dividends are to be paid by cheque or into a specific bank account;
- (b) payments of dividends on Chemist Warehouse Shares; and
- (c) notices or other communications from Chemist Warehouse (including by email),

will be deemed from the Implementation Date (except to the extent determined otherwise by Sigma in its sole discretion), by reason of this Scheme, to be made by the Scheme Shareholder to Sigma and to be a binding instruction, notification or election to, and accepted by, Sigma in respect of the New Sigma Shares issued to that Scheme Shareholder until that instruction, notification or election is revoked or amended in writing addressed to Sigma at its registry.

## **7.7 Binding effect of Scheme**

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

# **8 General**

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## **8.1 Stamp duty**

Sigma:

- (a) must pay all duty, if applicable (including applicable stamp duties and any fines and penalties with respect to any such duty) in respect of this Scheme, the Deed Poll, the performance of the Deed Poll and each transaction effected by or made under or in connection with this Scheme and the Deed Poll; and
- (b) indemnifies each Scheme Shareholder against any liability arising from failure to comply with clause 8.1(a).

## **8.2 Consent**

Each of the Scheme Shareholders consents to Chemist Warehouse doing all things necessary or incidental to, or to give effect to, the implementation of this Scheme and the



transactions contemplated by it, whether on behalf of the Scheme Shareholders, Chemist Warehouse or otherwise.

### **8.3 Notices**

- (a) If a notice, transfer, transmission application, direction or other communication referred to in this Scheme is sent by post to Chemist Warehouse, 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 Chemist Warehouse's registered office or at the office of the Chemist Warehouse Registry.
- (b) The accidental omission to give notice of the Scheme Meeting or the non-receipt of such notice by a Chemist Warehouse Shareholder will not, unless so ordered by the Court, invalidate the Scheme Meeting or the proceedings of the Scheme Meeting.

### **8.4 Governing law**

- (a) This Scheme is governed by the laws in force in Victoria.
- (b) The parties irrevocably submit to the non-exclusive jurisdiction of courts exercising jurisdiction in Victoria and courts of appeal from them in respect of any proceedings arising out of or in connection with this Scheme. The parties irrevocably waive any objection to the venue of any legal process in these courts on the basis that the process has been brought in an inconvenient forum.

### **8.5 Further action**

Chemist Warehouse must do all things and execute all documents (whether on its own behalf or on behalf of each Scheme Shareholder) necessary to give full effect to this Scheme and the transactions contemplated by it.

### **8.6 No liability when acting in good faith**

Each Scheme Shareholder agrees that neither Chemist Warehouse nor Sigma, nor any of their respective directors, officers, secretaries or employees, shall be liable for anything done or omitted to be done in the performance of this Scheme or the Deed Poll in good faith.



## Attachment 2

Deed poll

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HERBERT  
SMITH  
FREEHILLS

Deed

## Deed poll

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Sigma Healthcare Limited



## Deed poll

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Date ►

This deed poll is made

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By **Sigma Healthcare Limited**  
ACN 088 417 403 of Level 6, 2125 Dandenong Road, Clayton VIC  
3168  
(Sigma)

in favour of each Scheme Shareholder

Recitals

- 1 Chemist Warehouse and Sigma entered into the Merger Implementation Agreement.
- 2 In the Merger Implementation Agreement, Sigma agreed to make this deed poll.
- 3 Sigma is making this deed poll for the purpose of covenanting in favour of the Scheme Shareholders to perform its obligations under the Scheme.

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This deed poll provides as follows:

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## 1 Definitions and interpretation

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### 1.1 Definitions

(a) The meanings of the terms used in this deed poll are set out below.

Term	Meaning
Chemist Warehouse	CW Group Holdings Limited (ACN 635 851 839).
First Court Date	the first day on which an application made to the Court for an order under subsection 411(1) of the Corporations Act convening the Scheme Meeting is heard or, if the application is adjourned or subject to appeal for any reason, the day on which the adjourned application is heard.

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Term	Meaning
<b>Merger Implementation Agreement</b>	the merger implementation agreement dated 11 December 2023 between Chemist Warehouse and Sigma relating to the implementation of the Scheme.
<b>Scheme</b>	the scheme of arrangement under Part 5.1 of the Corporations Act between Chemist Warehouse and the Scheme Shareholders, substantially in the form attached to the Merger Implementation Agreement, subject to any alterations or conditions made or required by the Court under subsection 411(6) of the Corporations Act and agreed to in writing by Chemist Warehouse and Sigma.
(b)	Unless the context otherwise requires, terms defined in the Scheme have the same meaning when used in this deed poll.

## 1.2 Interpretation

Clauses 1.2, 1.3 and 1.4 of the Scheme apply to the interpretation of this deed poll, except that references to 'this Scheme' are to be read as references to 'this deed poll'.

## 1.3 Nature of deed poll

Sigma acknowledges 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 Chemist Warehouse 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 Sigma.

# 2 Conditions to obligations

## 2.1 Conditions

This deed poll and the obligations of Sigma under this deed poll are subject to the Scheme becoming Effective.

## 2.2 Termination

The obligations of Sigma under this deed poll to the Scheme Shareholders will automatically terminate and the terms of this deed poll will be of no force or effect if:

- (a) the Merger Implementation Agreement is terminated in accordance with its terms; or
- (b) the Scheme has not become Effective on or before the End Date, unless Chemist Warehouse and Sigma otherwise agree in writing.



## 2.3 Consequences of termination

If this deed poll terminates under clause 2.2, in addition and without prejudice to any other rights, powers or remedies available to it:

- (a) Sigma is released from its obligations to further perform this deed poll except those obligations under clause 7.1; and
- (b) each Scheme Shareholder retains the rights they have against Sigma in respect of any breach of this deed poll which occurred before this deed poll was terminated.

## 3 Scheme obligations

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### 3.1 Undertaking to provide Scheme Consideration

Subject to clause 2, Sigma undertakes in favour of each Scheme Shareholder to:

- (a) provide, or procure the provision of, the Scheme Consideration to each Scheme Shareholder in accordance with the terms of the Scheme by:
  - (1) in relation to the Scheme Cash Consideration, by no later than the Business Day before the Implementation Date, depositing, or procuring the deposit of, in cleared funds, an amount equal to the aggregate Scheme Cash Consideration payable to all Scheme Shareholders under the Scheme into an Australian dollar denominated trust account with an ADI operated by Chemist Warehouse as trustee for the Scheme Shareholders (provided that any interest on the amounts deposited (less bank fees and other charges) will be credited to Sigma's account); and
  - (2) in relation to the Scheme Share Consideration, on or before the Implementation Date, issuing the Scheme Share Consideration to each Scheme Shareholder; 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.

### 3.2 Shares to rank equally

Sigma covenants in favour of each Scheme Shareholder that the New Sigma Shares which are issued to each Scheme Shareholder in accordance with the Scheme will:

- (a) rank equally with all other Sigma Shares on issue as set out in clause 5.9(a)(1) of the Scheme; and
- (b) be issued fully paid and free from any mortgage, charge, lien, encumbrance, pledge or other security interest (including any 'security interest' within the meaning of section 12 of the PPSA).



## 4 Warranties

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Sigma represents and warrants in favour of each Scheme Shareholder, in respect of itself, that:

- (a) it is a corporation validly existing under the laws of its place of registration;
- (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 of this deed poll and the transactions contemplated by this deed poll;
- (d) this deed poll is valid and binding on it and enforceable in accordance with its terms; and
- (e) this deed poll does not conflict with, or result in a 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.

## 5 Continuing obligations

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

- (a) Sigma having fully performed its obligations under this deed poll; and
- (b) the termination of this deed poll.

## 6 Notices

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### 6.1 Form of Notice

A notice or other communication in respect of this deed poll (**Notice**) must be:

- (a) in writing and in English; and
- (b) addressed to Sigma in accordance with the details set out below (or any alternative details nominated by Sigma by Notice).

**Attention** Kara McGowan

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**Address** Level 6, 2125 Dandenong Road, Clayton VIC 3168

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**Email address** [Kara.McGowan@sigmahealthcare.com.au](mailto:Kara.McGowan@sigmahealthcare.com.au)

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## 6.2 How Notice must be given and when Notice is received

- (a) A Notice must be given by one of the methods set out in the table below.
- (b) A Notice is regarded as given and received at the time set out in the table below.

However, if this means the Notice would be regarded as given and received outside the period between 9.00am and 5.00pm (addressee's time) on a Business Day (**business hours period**), then the Notice will instead be regarded as given and received at the start of the following business hours period.

Method of giving Notice	When Notice is regarded as given and received
By hand to the nominated address	When delivered to the nominated address
By pre-paid post to the nominated address	At 9.00am (addressee's time) on the second Business Day after the date of posting
By email to the nominated email address	<p>The earlier of:</p> <ol style="list-style-type: none"><li>1 when the party sending the email receives notification that the email was successfully transmitted and read by the receiving party;</li><li>2 the time that the recipient confirms receipt of the email by reply email to the sender; and</li><li>3 four hours after the email was sent (as recorded on the device from which the sender sent the email), unless the party sending the email receives, within that four hour period, an automated message that the email was not successfully transmitted.</li></ol>

## 6.3 Notice must not be given by electronic communication

A Notice must not be given by electronic means of communication (other than by email as permitted in clause 6.2).

## 7 General

### 7.1 Stamp duty

Sigma:

- (a) must pay all stamp duty and any related fines and penalties in respect of the Scheme, this deed poll, the performance of this deed poll and each transaction effected by or made under the Scheme and this deed poll; and
- (b) indemnifies each Scheme Shareholder against any liability arising from failure to comply with clause 7.1(a).



## 7.2 Governing law and jurisdiction

- (a) This deed poll is governed by the law in force in Victoria.
- (b) Sigma irrevocably submits to the non-exclusive jurisdiction of courts exercising jurisdiction in Victoria and courts of appeal from them in respect of any proceedings arising out of or in connection with this deed poll. Sigma irrevocably waives any objection to the venue of any legal process in these courts on the basis that the process has been brought in an inconvenient forum.

## 7.3 Waiver

- (a) Sigma may not rely on the words or conduct of any Scheme Shareholder as a waiver of any right unless the waiver is in writing and signed by the Scheme Shareholder granting the waiver.
- (b) No Scheme Shareholder may rely on words or conduct of Sigma as a waiver of any right unless the waiver is in writing and signed by Sigma.
- (c) The meanings of the terms used in this clause 7.3 are set out below.

Term	Meaning
<b>conduct</b>	includes delay in the exercise of a right.
<b>right</b>	any right arising under or in connection with this deed poll and includes the right to rely on this clause.
<b>waiver</b>	includes an election between rights and remedies, and conduct which might otherwise give rise to an estoppel.

## 7.4 Variation

A provision of this deed poll may not be varied unless:

- (a) if before the First Court Date, the variation is agreed to by Chemist Warehouse; or
- (b) if on or after the First Court Date, the variation is agreed to by Chemist Warehouse and the Court indicates that the variation would not of itself preclude approval of the Scheme,

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

## 7.5 Cumulative rights

The rights, powers and remedies of Sigma and the Scheme Shareholders under this deed poll are cumulative and do not exclude any other rights, powers or remedies provided by law independently of this deed poll.



## **7.6 Assignment**

- (a) The rights created by this deed poll are personal to Sigma and each Scheme Shareholder and must not be dealt with at law or in equity without the prior written consent of Sigma.
- (b) Any purported dealing in contravention of clause 7.6(a) is invalid.

## **7.7 Further action**

Sigma must, at its own expense, do all things and execute all documents necessary to give full effect to this deed poll and the transactions contemplated by it



## Signing page

Executed as a deed poll

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### Sigma

Signed sealed and delivered by  
**Sigma Healthcare Limited**  
by

*sign here* ► \_\_\_\_\_  
Company Secretary/Director

*sign here* ► \_\_\_\_\_  
Director

*print name* \_\_\_\_\_

*print name* \_\_\_\_\_