

ASX ANNOUNCEMENT

19 March 2024

Revised Non-Binding Indicative Proposal from Genesis Capital

Pacific Smiles Group Limited (ASX:PSQ) (**Pacific Smiles**) advises that on 19 March 2024 it received a revised non-binding proposal from Genesis Capital Manager I Pty Ltd (**Genesis Capital**) to acquire all of the shares of Pacific Smiles for \$1.75 in cash per share via a recommended scheme of arrangement (**Revised Indicative Proposal**). The Revised Indicative Proposal also states that Genesis Capital remains interested in allowing Pacific Smiles shareholders the opportunity to roll their shares into unlisted equity.

As previously disclosed on 24 January 2024, Genesis Capital has acquired an economic interest in 31.75 million Pacific Smiles shares, representing 19.90% of the issued capital.

The Revised Indicative Proposal follows the initial indicative proposal received from Genesis Capital for \$1.40 in cash per share as announced on 18 December 2023 (**Indicative Proposal**), which the Board rejected, considering it opportunistic and materially undervaluing Pacific Smiles. Following the Indicative Proposal, Genesis Capital was provided limited access to certain non-public information on a non-exclusive basis under an appropriate confidentiality and standstill agreement to determine if it was able to formulate a materially improved proposal.

The Board, considering factors relevant to Pacific Smiles' situation, has agreed to grant Genesis Capital the opportunity to conduct further due diligence, on a non-exclusive basis, to enable it to put forward a binding proposal, subject to a previously agreed confidentiality and standstill agreement. Pacific Smiles and Genesis Capital have entered into a process deed which provides a framework for the due diligence process (**Process Deed**). A copy of the Process Deed is attached to this announcement.

Subject to the parties negotiating and entering into a binding scheme implementation agreement for consideration of at least \$1.75 in cash per share, the current intention of the Pacific Smiles Board is to recommend that shareholders vote in favour of the proposed transaction on the basis of the cash offer price, in the absence of a superior proposal and subject to an independent expert concluding, and continuing to conclude, that the proposed transaction is in the best interests of Pacific

Smiles shareholders. The Board has also agreed limited cost re-imbusement provisions (refer to the Process Deed attached).

The Board intends to work with Genesis Capital to understand and develop the potential option for Pacific Smiles shareholders to elect to roll their shares into unlisted equity in parallel with Genesis Capital's due diligence. For completeness, the Board has not yet formed a view on this potential component of the offer.

There is no certainty that the Revised Indicative Proposal or the entry into the Process Deed will result in a transaction on the proposed terms or at all.

The Board will continue to keep shareholders and the market informed in accordance with its continuous disclosure obligations. Pacific Smiles shareholders do not need to take any action at this time in response to the Revised Indicative Proposal.

This announcement was authorised by the Pacific Smiles Board.

ENDS

For further information, please contact:

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**PACIFIC SMILES GROUP LIMITED
AND
GENESIS CAPITAL MANAGER I PTY LTD**

PROCESS DEED

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THIS PROCESS DEED is made on 19 March 2024

BETWEEN:

- (1) **PACIFIC SMILES GROUP LIMITED** of Level 1, 6 Molly Morgan Dr, Green Hills, NSW 2323 (**PSQ**); and
- (2) **GENESIS CAPITAL MANAGER I PTY LTD** of Level 9, 309 Kent Street Sydney NSW 2000 (**Genesis**).

BACKGROUND

- (A) Genesis has submitted a confidential, non-binding, incomplete and indicative proposal received by PSQ on 19 March 2024 (**NBIO**) for the acquisition by Genesis or another Relevant Person of 100% of the issued shares in PSQ by way of a scheme of arrangement (**Proposed Transaction**).
- (B) To assist Genesis to complete its due diligence investigations to finalise the terms for the Proposed Transaction, the parties propose to enter into the transaction process and other arrangements set out in this deed.

THE PARTIES AGREE:

1. **DEFINED TERMS AND INTERPRETATION**

1.1 **Definitions in the Dictionary**

A term or expression starting with a capital letter:

- (a) which is defined in the Dictionary in clause 1.2, has the meaning given to it in the Dictionary; and
- (b) which is defined in the *Corporations Act 2001* (Cth) (**Corporations Act**), but is not defined in the Dictionary, has the meaning given to it in the Corporations Act.

1.2 **Dictionary**

In this deed:

Associate has the meaning given in section 12 of the Corporations Act as if section 12(1) of that Act included a reference to this deed and Genesis was the designated body.

ASX means the Australian Securities Exchange.

Black Box Information means the Due Diligence Information identified as 'black box information' in the list provided to Genesis on 18 March 2024.

Business Day means a day on which banks are open for business excluding Saturdays, Sundays and public holidays in Sydney, Australia.

Competing Proposal means a transaction or arrangement, or any offer, proposal or expression of interest in relation to a transaction or arrangement, which, if entered into or completed substantially in accordance with its terms, would result in:

- (a) a person either alone or together with any Associate (other than Genesis and its Associates or related entities) directly or indirectly:
 - (i) acquiring, or having the right to acquire a Relevant Interest in more than 50% of the issued share capital of PSQ;
 - (ii) acquiring, obtaining a right to acquire, receiving or becoming the holder of, or otherwise obtain, a legal, beneficial or economic interest in:
 - (A) 50% or more of the issued share capital of PSQ; or
 - (B) all or a majority of the business or property of the PSQ Group (taken as a whole); or
 - (iii) acquiring control of PSQ or any material Related Body Corporate within the meaning of section 50AA of the Corporations Act, disregarding section 50AA(4) of that Act; or
 - (iv) otherwise acquiring or merging with PSQ; or
- (b) the Proposed Transaction not being implemented substantially in accordance with its terms or requiring Genesis to abandon the Proposed Transaction,

whether by takeover bid, scheme of arrangement, shareholder approved acquisition, capital reduction, share buy-back or repurchase or exchange, sale or purchase of assets or businesses, joint venture, reverse takeover, dual-listed company structure, recapitalisation, establishment of a new holding entity for PSQ, sale or issue of shares or other synthetic merger or any other transaction or arrangement.

Confidentiality Deed means the confidentiality deed between the parties dated 1 February 2024.

Confirmatory Due Diligence has the meaning given in clause 3.2(a).

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

Cut Off Date means the date that is six months after the date of this deed.

Due Diligence Information means any information:

- (a) contemplated in the Initial Due Diligence Request List; and

- (b) that PSQ would reasonably need to make available to Genesis and its Representatives for the purposes of due diligence investigations in respect of the PSQ Group.

Due Diligence Period means the period commencing from the date of this deed and ending on the End Date.

End Date means 5.00pm (AEST) on the date 6 weeks from the Virtual Data Room Confirmation Date.

Government Agency means any foreign or Australian government or governmental, semigovernmental, administrative, fiscal or judicial body, department, commission, authority, tribunal, agency or entity (including any stock or other securities exchange), or any minister of the Crown in right of the Commonwealth of Australia or any State, and any other federal, state, provincial, or local government, whether foreign or Australian.

Initial Due Diligence Request List has the meaning given to that term in the Confidentiality Deed.

NBIO has the meaning given in the Background to this deed.

Non-public Information means non-public information about the business or affairs of the PSQ Group.

Proposed Transaction has the meaning given in the Background to this deed.

PSQ Board means the board of directors of PSQ.

PSQ Group means PSQ and its Related Bodies Corporate.

PSQ Shareholders means the shareholders of PSQ.

Reimbursable Costs means an amount up to A\$500,000, being an amount towards actual third party costs incurred by Genesis and/or any Relevant Person (including costs of external advisers but excluding internal management time) in connection with the Proposed Transaction, which is supported by invoices provided to PSQ, including costs incurred in its (or their) preparation, planning, investigation and negotiation of the Proposed Transaction and the consideration, planning and preparation of applications to Government Agencies in connection with the Proposed Transaction.

Related Body Corporate has the meaning given to that term in the Corporations Act.

Relevant Interest has the meaning given to that term in the Corporations Act, but modified as if:

- (a) section 609(6) of the Corporations Act did not apply; and

- (b) the term specifically includes an economic interest equivalent or similar to ownership in securities including under a swap or a derivative instrument.

Relevant Person means:

- (a) a Related Body Corporate of Genesis; and
- (b) any fund (or any entities owned by any fund) advised by Genesis or any of its Related Bodies Corporate.

Representative of a party means:

- (a) a Related Body Corporate of the party;
- (b) officers, employees, agents and contractors of the party or a Related Body Corporate of the party;
- (c) a financier (or proposed financier) of the party or a Related Body Corporate of the party, including any legal adviser to the financier (or proposed financier);
- (d) financial, tax, accounting or legal adviser or other expert adviser (or any of their respective Related Bodies Corporate) to the party or a Related Body Corporate of the party; and
- (e) in the case of Genesis, any fund (or any entities owned by any fund) advised by Genesis or any of its Related Bodies Corporate.

Scheme Implementation Deed means a Scheme Implementation Deed between PSQ and Genesis (or a Relevant Person) to be executed by the parties to implement the Proposed Transaction.

Virtual Data Room means the virtual data room established by the Company for the purposes of providing information to Genesis for the purposes of the Confirmatory Due Diligence.

Virtual Data Room Confirmation Date means the date on which PSQ, acting reasonably and in good faith, gives Genesis a notice in writing to confirm that the Virtual Data Room has been substantially populated with information that a reasonable financial sponsor in the Australian market would require to undertake confirmatory legal, financial, accounting, commercial and tax due diligence investigations on a listed target company, excluding the Black Box Information.

1.3 Interpretation

In this deed the following rules of interpretation apply unless the contrary intention appears.

- (a) headings are for convenience only and do not affect the interpretation of this deed;
- (b) the singular includes the plural and vice versa;
- (c) where a word or phrase is given a particular meaning, other parts of speech and grammatical forms of that word or phrase have corresponding meanings;
- (d) the words 'such as', 'including', 'particularly' and similar expressions are not used as nor are intended to be interpreted as words of limitation;
- (e) a reference to:
 - (i) a person includes a natural person, partnership, joint venture, government agency, association, corporation or other body corporate;
 - (ii) a thing (including but not limited to a chose in action or other right) includes a part of that thing;
 - (iii) a party includes its successors and permitted assigns;
 - (iv) a document includes all amendments or supplements to that document;
 - (v) a clause, term, party, schedule or attachment is a reference to a clause or term of, or party, schedule or attachment to this deed;
 - (vi) this deed includes all schedules and attachments to it;
 - (vii) a law includes a constitutional provision, treaty, decree, convention, statute, regulation, ordinance, by-law, judgment, rule of common law or equity or a rule of an applicable stock market and is a reference to that law as amended, consolidated or replaced;
 - (viii) an agreement other than this deed includes an undertaking, or legally enforceable arrangement or understanding whether or not in writing; and
 - (ix) a monetary amount is to Australian dollars;
- (f) an agreement on the part of two or more persons binds them jointly and severally;
- (g) when the day on which something must be done is not a Business Day, that thing must be done on the following Business Day;
- (h) in determining the time of day where relevant to this deed, the relevant time of day is:

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- (i) for the purposes of giving or receiving notices, the time of day where a party receiving a notice is located; or
 - (ii) for any other purpose under this deed, the time of day in the place where the party required to perform an obligation is located; and
- (i) no rule of construction applies to the disadvantage of a party because that party was responsible for the preparation of this deed or any part of it.

2. **CONFIDENTIALITY DEED**

The parties acknowledge and agree that:

- (a) the Confidentiality Deed is amended per the marked up version of the Confidentiality Deed exchanged between Representatives of the parties on or around the time of execution of this deed; and
- (b) the Confidentiality Deed continues to have full force and effect and that it applies to any Confidential Information disclosed by either party under this deed, as amended by this deed.

3. **DUE DILIGENCE**

3.1 **Confirmatory due diligence**

The parties acknowledge that PSQ has agreed to permit Genesis to conduct due diligence investigations in accordance with this deed for the purposes of determining whether to proceed with the Proposed Transaction.

3.2 **Provision of due diligence materials**

- (a) During the Due Diligence Period, PSQ will promptly make available and/or continue to make available (as applicable) to Genesis and its Representatives all Due Diligence Information and other due diligence materials and information reasonably requested by Genesis for the purposes of discussing, assessing, negotiating and implementing the Proposed Transaction (**Confirmatory Due Diligence**).
- (b) Without limitation to clause 3.2(a), in order to enable Genesis to undertake Confirmatory Due Diligence, PSQ agrees (throughout the Due Diligence Period) to:
 - (i) continue to make the Virtual Data Room (with functionality enabled to allow printing and downloading of all documents and additionally for excel documents functionality enabled for copying) available to Genesis and its Representatives, populated with substantially all of the documents requested in the Initial Due Diligence Request List;

- (ii) provide a facility for Genesis and its Representatives to request further information from PSQ;
- (iii) promptly provide Genesis and its Representatives with access to any other information concerning PSQ and its business which is reasonably requested by Genesis for the purposes of conducting Confirmatory Due Diligence, including information requested via further due diligence request lists or a 'request for information' process;
- (iv) at the request of Genesis, arrange for such presentations by, and discussions with, PSQ's management team and, to the extent within its control, key vendors and suppliers as Genesis considers appropriate (acting reasonably) and on the basis that Representatives of PSQ will be entitled to attend and observe such presentations and discussions;
- (v) provide reasonable access to the Representatives of PSQ and instruct them to cooperate with Genesis in relation to Confirmatory Due Diligence; and
- (vi) make the Black Box Information available to Genesis in the Virtual Data Room by no later than the commencement of the fifth week after the Virtual Data Room Confirmation Date (**Black Box Release Date**), being no less than two weeks before the expiry of the Due Diligence Period, provided that:
 - (A) there is no Competing Proposal which is publicly recommended by the PSQ Board at that time; and
 - (B) Genesis has, on or within 3 Business Days prior to the Black Box Release Date, provided written confirmation to PSQ that Genesis:
 - (1) is continuing to pursue the Proposed Transaction on the basis of a cash offer price that is not less than the cash offer price specified in the NBIO; and
 - (2) continues to have a reasonable basis for considering it can fund the Proposed Transaction at the price in the NBIO.

3.3 No restrictions on other arrangements

- (a) Neither Genesis nor PSQ has any obligation to proceed with the Proposed Transaction, including (without limitation) following completion of the Confirmatory Due Diligence.
- (b) Nothing in this deed:

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- (i) is to be taken as constraining Genesis from requesting other arrangements, terms or conditions to implement the Proposed Transaction if Genesis determines to proceed with the Proposed Transaction and nothing in this deed is to be taken as any agreement by PSQ to agree to such request; and
 - (ii) constitutes an obligation or commitment on the part of either party to proceed with the Proposed Transaction, it being acknowledged and agreed that neither party will be obliged or committed to proceed with the Proposed Transaction until and unless a Scheme Implementation Deed is executed.

3.4 Due diligence by PSQ

As soon as possible, and before the signing of the Scheme Implementation Deed, Genesis will provide to PSQ (or its Representatives) drafts of the equity commitment letter and debt commitment letter that will be provided on execution of the Scheme Implementation Deed.

3.5 Limitations

- (a) PSQ has no obligation to provide Genesis with access to particular information or materials if access to that information or those materials would:
 - (i) breach any applicable law or requirement of a Government Agency; or
 - (ii) require the disclosing party to make a disclosure where that would compromise legal professional privilege,or to provide Genesis with access to particular information or materials to the extent they relate to consideration by the PSQ Board of the Proposed Transaction or any Competing Proposal.
- (b) To the extent any Due Diligence Information includes any advice or report prepared by a current or former adviser of PSQ, PSQ has no obligation to provide such advice or report to Genesis unless Genesis and each of its Representatives who will receive such advice or report signs a non-reliance letter or hold harmless letter on terms reasonably required by PSQ's relevant adviser.

4. NEGOTIATION OF PROPOSED TRANSACTION

4.1 Announcement

Each of PSQ and Genesis acknowledge and agree that upon the signing of this deed by each party, PSQ will make an announcement to the ASX in substantially the form contained in Annexure A.

4.2 Negotiation of Proposed Transaction

- (a) Genesis and PSQ agree that, during the Due Diligence Period and subject to Genesis' due diligence findings, they will negotiate in good faith a Scheme Implementation Deed on terms and conditions substantially consistent with those set out in the NBIO and any other transaction documents required to implement the Proposed Transaction.
- (b) Genesis acknowledges and agrees that it has obtained all necessary approvals required to make the NBIO, including (without limitation) all necessary investment committee and board approvals and warrants it has a reasonable basis for considering it can fund the Proposed Transaction at the price in the NBIO.
- (c) Genesis and PSQ each acknowledge and agree that:
 - (i) the Proposed Transaction remains indicative and incomplete and subject to the Confirmatory Due Diligence, investment committee and board approvals (as applicable) and negotiations between the parties;
 - (ii) the Proposed Transaction is expected to proceed by way of a scheme of arrangement, but may proceed by way of agreed takeover bid or other agreed transaction structure;
 - (iii) this deed is not intended to, and does not, impose any binding obligations on the parties to give effect to the Proposed Transaction; and
 - (iv) the Proposed Transaction will not become binding on the parties until such time as the Scheme Implementation Deed (and any other transaction documents required to implement the Proposed Transaction) are approved by the PSQ Board and the investment committee of Genesis and is duly executed.

4.3 Commitment of necessary resources

- (a) The parties agree during the Due Diligence Period to commit all reasonably necessary resources (including management, financial, legal and other professional advisory resources) at their own cost to enable:
 - (i) Genesis to complete the Confirmatory Due Diligence in relation to PSQ; and
 - (ii) the preparation, negotiation and finalisation of the Scheme Implementation Deed (and any other transaction documents required to implement the Proposed Transaction),

as expeditiously as possible.

- (b) PSQ will provide a first draft of the Scheme Implementation Deed as soon as practicable and in any event within 11 Business Days of the date of this deed.

4.4 **Intention to recommend**

PSQ represents and warrants that as at the date of this deed, each of its directors has confirmed that he or she intends, upon, and subject to, negotiation of and entry into the Scheme Implementation Deed which is on terms that are no less favourable to PSQ than those set out in the NBIO to:

- (a) recommend to Shareholders to vote; and
(b) vote or procure that any ordinary shares in PSQ which they control are voted,

in favour of any resolutions to implement the Proposed Transaction, based on the cash consideration, in the absence of a superior proposal and subject to an independent expert concluding (and continuing to conclude) that the Proposed Transaction is in the best interests of PSQ Shareholders.

5. **COST REIMBURSEMENT**

- (a) PSQ must, within 10 Business Days of receiving a written demand from Genesis, pay to Genesis an amount equal to the Reimbursable Costs in cleared funds (without withholding or set off) into a bank account notified in writing to PSQ by Genesis, if before the time at which this deed is terminated in accordance with clause 6:

- (i) a member of the PSQ Group has received a Competing Proposal and, on or before the Cut Off Date, a member of the PSQ Group has entered into any legally binding scheme implementation agreement or bid implementation agreement or similar document to give effect to a Competing Proposal; or
(ii) a person (either alone or with other persons) has made or has publicly announced their proposal or intention to make, a takeover bid under Chapter 6 of the Corporations Act for ordinary shares in PSQ and, on or before the Cut Off Date, such takeover bid has been recommended by a majority of the PSQ Board,

and at the time that (x) the Competing Proposal was received by a PSQ Group Member as referred to in clause 5(a)(i) or (y) the announcement of a proposal or intention to make a takeover bid was made as referred to in clause 5(a)(ii), Genesis has not ceased pursuing the Proposed Transaction or withdrawn the NBIO.

- (b) This clause 5 imposes obligations on PSQ only to the extent that the performance of all or part of those obligations:

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- (i) does not constitute "unacceptable circumstances" as declared by the Takeovers Panel (unless and until a "review Panel" reverses that declaration); and
 - (ii) is not determined to be unenforceable or unlawful (including by virtue of it being a breach of the fiduciary or statutory duties of any member of the PSQ Board) by a court of competent jurisdiction (unless and until a court of appeal (of competent jurisdiction) overturns that decision).
- (c) PSQ must not make, or cause to be made, any application to a court or the Takeovers Panel (to the extent applicable) for a declaration or determination of a kind referred to in clause 5(b)(i) or 5(b)(ii).
 - (d) Despite anything to the contrary in this deed, the Reimbursable Costs will not be payable to Genesis if the Scheme Implementation Deed is executed by the parties to it, or if this deed is terminated pursuant to clause 6(a).
 - (e) PSQ will only be liable to pay the Reimbursable Costs once in accordance with clause 5(a).
 - (f) Despite anything else in this deed, the maximum aggregate amount which PSQ or any of its Representatives is required to pay in relation to the matters giving rise to payment of the Reimbursable Costs is limited to the Reimbursable Costs, and in no event will the aggregate liability of PSQ and its Representatives under or in connection with such matters exceed the Reimbursable Costs.
 - (g) Notwithstanding the occurrence of any event described in clause 5(a), if PSQ has paid to Genesis the Reimbursable Costs and a binding implementation agreement in relation to the Proposed Transaction is subsequently entered into (including with any amendments to the terms from those set out in the NBIO), the Reimbursable Costs must immediately be refunded to PSQ by Genesis.

6. TERMINATION

This deed will automatically terminate upon the earliest of the following to occur:

- (a) with immediate effect following notice from Genesis to PSQ stating that it has determined not to pursue the Proposed Transaction;
- (b) with immediate effect following PSQ giving Genesis written notice of termination of this deed, which notice PSQ may give only if, acting reasonably and in good faith, PSQ has determined, on the basis of evidence that would satisfy a reasonable person, that Genesis is in material breach of its obligations under this deed or the Confidentiality Deed and, if capable of being remedied, such breach has not been remedied within 5 Business Days of PSQ giving Genesis written notice of such breach;

- (c) with immediate effect on the End Date; and
- (d) the entry by the parties into the Scheme Implementation Deed.

7. GENERAL

7.1 Assignment, novation and other dealings

A party must not assign or novate this deed or otherwise deal with the benefit of it or a right under it, or purport to do so, without the prior written consent of each other party which consent may be withheld at the absolute discretion of that party.

7.2 Consents and approvals

Except as expressly provided in this deed, a party may conditionally or unconditionally in its absolute discretion give or withhold any consent or approval under this deed.

7.3 Counterparts

- (a) This deed may be executed in any number of counterparts, each of which:
- (i) may be executed electronically or in handwriting; and
 - (ii) will be deemed an original whether kept in electronic or paper form, and all of which taken together will constitute one and the same document.
- (b) Without limiting the foregoing, if the signatures on behalf of one party are on more than one copy of this deed, this shall be taken to be the same as, and have the same effect as, if all of those signatures were on the same counterpart of this deed.

7.4 Cumulative rights

Except as expressly provided in this deed, the rights of a party under this deed are in addition to and do not exclude or limit any other rights or remedies provided by law.

7.5 Entire agreement

- (a) Subject to clause 2, this deed is the entire agreement between the parties about its subject matter and replaces all previous agreements, understandings, representations and warranties about that subject matter.
- (b) Subject to clause 2, each party represents and warrants that it has not relied on any representations or warranties about the subject matter of this deed except as expressly provided in this deed.

7.6 Governing law and jurisdiction

This deed is governed by the laws of New South Wales and each party irrevocably and unconditionally submits to the exclusive jurisdiction of the courts of New South Wales.

7.7 Relief

PSQ and Genesis each acknowledge that any breach of this deed will cause material damage to the other and that damages may not be a sufficient remedy for such breach. Accordingly, a party has the right to seek injunctive relief or specific performance as a remedy for any actual or threatened breach, in addition to any other remedies available at law or in equity under or independently to this deed.

7.8 No liability when acting in good faith

Genesis agrees that none of PSQ's directors, officers or employees will be liable for anything done or omitted to be done in the performance of this deed or the Confidentiality Deed when the relevant person has acted in good faith.

7.9 Notices

- (a) A notice, consent or other communication under this deed is only effective if it is:
 - (i) in writing and in legible English;
 - (ii) addressed to the party to whom it is to be given; and
 - (iii) sent by email to that party's email address as recorded in clause 7.9(d).
- (b) Subject to clause 7.9(c) a notice, consent or other communication under this deed is, in the absence of earlier receipt, regarded as given and received:
 - (i) when the sender receives an automated message confirming delivery; or
 - (ii) immediately (as recorded on the device from which the sender sent the email) unless the sender receives an automated message that the email has not been delivered.
- (c) If a notice, consent or other communication under this deed is given and received on a day that is not a Business Day or after 5.00 pm (Sydney time) on a Business Day, it is regarded as being given and received at 9.00 am (Sydney time) on the next Business Day.
- (d) For the purposes of this clause 7.8, a party's email is that set out below, unless the party has notified a changed email, then the notice, consent, approval or other communication must be to that email:

Genesis

Email mcaristo@genesiscapital.com

Attention Michael Caristo

With a copy to:

Email david.clee@cliffordchance.com

Attention David Clee

PSQ

Email Matthew.Cordingley@pacificsmiles.com.au

Attention Matthew Cordingley

With a copy to:

Email sturner@gtlaw.com.au

Attention Sarah Turner

7.10 Relationship of the parties

Except as expressly provided in this deed:

- (a) nothing in this deed is intended to constitute a fiduciary relationship or an agency, partnership or trust; and
- (b) no party has authority to bind any other party.

7.11 Survival and merger

- (a) No term of this deed merges on completion of any transaction contemplated by this deed.
- (b) Clauses 5 and 7 survive termination or expiry of this deed together with any other term which by its nature is intended to do so.

7.12 Severability

Any term of this deed which is wholly or partially void or unenforceable is severed to the extent that it is void or unenforceable, unless this would materially change the intended effect of this deed. The validity or enforceability of the remainder of this deed is not affected.

7.13 **No third party rights**

Except as expressly provided in this deed:

- (a) each person who executes this deed does so solely in its own legal capacity and not as agent or trustee for or a partner of any other person; and
- (b) only those persons who execute this deed have a right or benefit under it.

7.14 **Variation**

No variation of this deed is effective unless made in writing in the form of a deed and signed by each party.

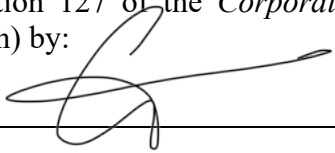
7.15 **Waiver**

- (a) No waiver of a right or remedy under this deed is effective unless it is in writing and signed by the party granting it. It is only effective in the specific instance and for the specific purpose for which it is granted.
- (b) A single or partial exercise of a right or remedy under this deed does not prevent a further exercise of that or of any other right or remedy.
- (c) Failure to exercise or delay in exercising a right or remedy under this deed does not operate as a waiver or prevent further exercise of that or of any other right or remedy.


EXECUTION PAGE

Executed as a deed

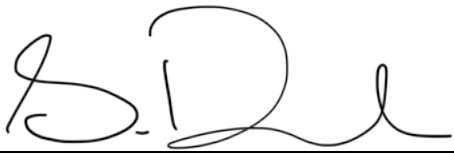
Signed, sealed and delivered by **Pacific Smiles Group Limited** in accordance with section 127 of the *Corporations Act 2001* (Cth) by:




Signature of director



Name of director (print)



Signature of director/secretary



Name of director/secretary (print)

Signed, sealed and delivered by **Genesis Capital Manager I Pty Ltd** in accordance with section 127 of the *Corporations Act 2001* (Cth) by:

Signature of director

Name of director (print)

Signature of director/secretary

Name of director/secretary (print)

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EXECUTION PAGE

Executed as a deed

Signed, sealed and delivered by **Pacific Smiles Group Limited** in accordance with section 127 of the *Corporations Act 2001* (Cth) by:

_____ Signature of director	_____ Signature of director/secretary
_____ Name of director (print)	_____ Name of director/secretary (print)

Signed, sealed and delivered by **Genesis Capital Manager I Pty Ltd** in accordance with section 127 of the *Corporations Act 2001* (Cth) by:

 _____ Signature of director	 _____ Signature of director/secretary
Michael Caristo _____ Name of director (print)	Christopher Yoo _____ Name of director/secretary (print)

Annexure A – Announcement

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