

CBA SHAREHOLDER CLASS ACTION FUNDING AGREEMENT

Information on how to complete the Claimant Details Section

- Please use BLOCK LETTERS
- Complete Parts 1 to 6 below in their entirety
- Please ensure all share trading information is recorded correctly in Parts 4 and 5. Please also provide Omni Bridgeway with copies of your contract notes.
- It is important that the person(s) signing this Agreement has authority to do so on behalf of the Claimant (as set out in Part 2).
- Return this Agreement and any additional documents as requested in the information pack, including any attached pages or annexures, to Omni Bridgeway (*you should retain a copy for your records*) by:

Email:
cba@omnibridgeway.com

Post:
Omni Bridgeway Limited
PO Box 5106
PERTH WA 6831
AUSTRALIA

Part 1. Contact Information

To ensure you receive all important correspondence, please ensure you keep your contact details up to date with us throughout the duration of the matter. Our preferred method of correspondence is by email.

Title	<input type="text"/>	First Name	<input type="text"/>	Middle Name	<input type="text"/>	Last Name	<input type="text"/>
Company	<input type="text"/>			Position	<input type="text"/>		
Landline Phone	<input type="text"/>			Mobile Phone	<input type="text"/>		
Email Address	<input type="text"/>						
Mailing Address	<input type="text"/>						
Suburb	<input type="text"/>	State	<input type="text"/>	Postcode	<input type="text"/>	Country	<input type="text"/>

Part 2. Claimant Details

The Claimant must have acquired CBA shares as specified in Part 5.

If you are unsure who the owner of the shares is, please check your trade confirmations or holding statements.

If you are submitting a claim for more than one Claimant, you will be required to complete Parts 2, 3, 4 and 5 for each Claimant.

Please specify the capacity in which the Claimant owned the CBA shares (Only select one option)

- As an individual or joint shareholder**
The shares were held in person in the name of one individual or in the name of more than one individual, who is making the claim.

Full name(s) of individual or joint shareholders

- As a company**
The shares were held directly in the name of the Company that is making the claim.

Name of company

ABN / ACN / ARSN

(or Registration Number if it is a foreign company)

- As a trustee / Responsible Entity / Investment Manager / Custodian / Agent**
The shares were held on trust (e.g. for a superannuation fund or trust account) and the trustee is an individual, joint holder, company or other.

Name of Trustee / Responsible Entity / Investment Manager / Agent / Custodian

Select one: as trustee for as investment manager for
 as responsible entity for as agent for
 as custodian for

Name of beneficial owner:
(i.e. name of trust, account, superannuation fund or portfolio)

ABN / ACN / ARSN

(or Registration Number if it is a foreign company)

- Please tick this box if you are signing this Agreement on behalf of and with the authority of more than one beneficial owner. You can attach separate pages or a Microsoft Excel spreadsheet setting out the details required in Parts 2, 3, 4 and 5 for each beneficial owner

- Other, please specify:** _____
If the shares are held in another capacity, please specify and provide the full name of the Claimant below

Please provide the full name of the Claimant

Part 3. Claimant Address

Please provide the address of the Claimant described in this Part 2.

- If the address is the same as the contact address in Part 1, please tick this box (Note: If the contact address in Part 1 is a PO Box, the claimant address **must** be completed below.)

Claimant Street Address
(Not a PO Box)

Suburb

State

Postcode

Country

Part 4. Shareholder Details

4. a) Registered Owner

This is the name as it appears on the share register.

Select one option:

- The Registered Owner on the share register is the same as the name of the Claimant in Part 2 above.
- The Registered Owner on the share register is different to the name of the Claimant in Part 2 above (e.g. a custodian is listed on the share register) Provide details below:

Full name of Registered Owner:

4. b) HIN / SRN

This is the Holder Identification Number (HIN) or the Shareholder Reference Number (SRN) which identifies your registration on the CHESSE or Issuer Sponsored Sub-register and may be found on holding statements or trade confirmations.

HIN / SRN:

Part 5. Trade Details

Please provide, with this Agreement, any trade confirmations, contract notes or holding statements that demonstrate the transactions recorded below.

5. a) Opening Balance

Please provide the number of CBA shares held as at close of trade on **15 June 2014**. If you did not hold any shares please write "**NONE**"

Opening Balance:

(i.e. number of CBA shares held as at close of trade on 15 June 2014)

5. b) Trade Information

In the sections below, list all transactions / trades of CBA shares between 16 June 2014 and 3 August 2017 (inclusive) that affect the number of shares held.

*If the shares were acquired or disposed of, other than through a regular on-market transaction, please specify the nature of the transaction in the column "Type" below. (e.g. "Off-Market Transfer", "DRP", "Capital Raising", "Short selling")

PURCHASES

BETWEEN 16 JUNE 2014 AND 3 AUGUST 2017 INCLUSIVE

Trade Date (NOT Settlement Date)	Quantity (Number of shares traded)	Total Amount Paid (i.e. Quantity x Price per share + Fees & GST)	Type* (On-Market, DRP, IPO)

SALES

BETWEEN 16 JUNE 2014 AND 3 AUGUST 2017 INCLUSIVE

Trade Date (NOT Settlement Date)	Quantity (Number of shares traded)	Total Amount Received (i.e. Quantity x Price per share + Fees & GST)	Type* (On-Market, DRP, IPO)

Part 6. Signing by the Parties

This Agreement is subject to the cooling off period in clause 3 of the Agreement.

Claimant's Acceptance

1. Via Omni Bridgeway website

If the Claimant has agreed to the terms of this Agreement via the Omni Bridgeway website, the Claimant's details will appear below and the declarations made at the time of accepting the terms of the Agreement will apply. There is no need to return a signed Agreement.

2. By signing below

If the Claimant's details do not appear below, the Claimant has not agreed to the terms of this Agreement via the Omni Bridgeway website. Please completed the details below, sign where indicated and return the whole of this agreement and any additional attached pages or annexures to cba@omnibridgeway.com or post to:

Omni Bridgeway Limited
PO Box 5106
Perth WA 6831
AUSTRALIA

By signing below:

- the Claimant hereby agrees to the terms of this Agreement; or
- where this Agreement is signed by the Claimant(s) by its duly authorised representative, the signatory hereby represents and warrants to Omni Bridgeway Limited that he/she/it has due power and authority in respect of each Claimant specified in Part 2 above (and in any additional pages to that Part) to enter into and bind each Claimant to perform its obligations under this Agreement.

Signature	<input type="text"/>	Signature	<input type="text"/>
Print Name	<input type="text"/>	Print Name	<input type="text"/>
Position	<input type="text"/>	Position	<input type="text"/>
Date	<input type="text"/>		

Omni Bridgeway's signature

Signed by **Omni Bridgeway Limited**

ACN 067 298 088 in accordance with Section 127 of the Corporations Act 2001 (Cth)

Signature		Signature	
Name	Andrew Saker	Name	Jeremy Sambrook
Position	Managing Director	Position	Company Secretary
Date	27 October 2020		

If there is not sufficient space on these pages to include all of your relevant information, please copy and attach additional pages.

Please retain a copy of this Agreement for your records.

RECITALS

- A The Claimant has one or more Claims against at least one Respondent and other persons have claims which are the same or similar to the Claims.
- B A Class Action has commenced against the Respondent in respect of some or all of the Claims and the Other Claims in order to prosecute and resolve the Claims and the Other Claims.
- C The Claimant has requested Omni Bridgeway to provide the management and funding components of the Project. The Claimant consents to Omni Bridgeway conducting such investigations as Omni Bridgeway may consider appropriate.
- D Omni Bridgeway is prepared to conduct the Project Investigation and Project Management and to pay the Project Costs pursuant to the terms of this Agreement.
- E The Claimant has agreed, in return, to assign to Omni Bridgeway a share of the Resolution Sum (if any) on the terms of this Agreement.
- F Omni Bridgeway has entered into an agreement with the Lawyers in the same or similar terms as the Standard Lawyers Terms.
- G The Claimant is aware that Omni Bridgeway will also provide funding to Other Funded Persons which funding may be in different terms to this Agreement and may fund other actions against the Respondent unrelated to the Claims.
- H The Claimant is aware that where the Claimant has more than one Claim against more than one Respondent, it is possible that separate Proceedings will be instituted against different Respondents in relation to those Claims.
- I The Claimant is aware that his, her or its Claims may be pursued in common with some or all of the Other Claims and may be against one or more Respondent and that any Class Action may include (as members of the class) persons who have not entered into a funding agreement with Omni Bridgeway.
- J Omni Bridgeway discloses the following regarding its business relationship with the Lawyers:
- (i) Omni Bridgeway has previously provided, and is currently providing, funding to other clients for other proceedings conducted by the Lawyers; and
 - (ii) the Lawyers are not currently advising and have not previously advised Omni Bridgeway in relation to its business, but may do so in the future.
- K The Claimant and Omni Bridgeway each acknowledge that they have, by virtue of their respective contributions, obligations and entitlements set out in this Agreement, an interest in the Claims, the Proceedings and any Resolution Sum.

AGREED TERMS

1 DEFINITIONS AND INTERPRETATION

- 1.1 In this Agreement, in addition to the terms in bold which are defined elsewhere in this Agreement and unless the context requires otherwise, the following terms have the meanings set out below:

Acquisition	Has the same meaning given to that term in the GST Act.
Adverse Costs Order	Any Costs Order made in favour of any Respondent against the Claimant, the Representative and/or Omni Bridgeway in any Proceedings in respect of costs of that Respondent incurred during the term of this Agreement.

AEST	Australian Eastern Standard Time.
Agreement	This agreement between the Claimant and Omni Bridgeway, as amended from time to time in accordance with its terms.
Alternative Dispute Resolution Process	Any form of negotiation, discussions, mediation, conciliation, expert determination or other form of consensual dispute resolution process which seeks to Settle the Claims and/or the Proceedings.
Assignments	The assignments granted by the Claimant to Omni Bridgeway pursuant to clause 12.2.
Baron Proceeding	Federal Court of Australia proceeding no. NSD1158/2018 that was commenced against the Respondent and has been ordered to be conducted on a joint and cooperative basis with the Proceedings.
Ceased Claim	Has the meaning given to that term in clause 8.13.
Claims	The claim or claims the Claimant has or may have against any one or more Respondents for loss, damage and/or costs caused to or paid or payable by the Claimant by the conduct of one or more Respondent in relation to or arising out of the Claimant's acquisition of Shares purchased on the Australian Securities Exchange during the Relevant Period.
Claimant	The person whose details appear in Part 2 of the Claimant Information Section and, if applicable, each entity identified in the additional pages provided pursuant to that Part. Each such person shall be treated as a separate "Claimant" for the purposes of this Agreement.
Claimant Information Section	The section of this Agreement before the Recitals and any additional pages provided in accordance with that section.
Claimant's Share	The share borne by the Claimant calculated by reference to the proportion that the Resolution Sum bears to the total amount of the resolution sums in respect of the claims of all Funded Persons the subject of the Proceedings or the Settlement concerned. Where there are no other claims so subject, then the Claimant's Share is 100%. The amount of the Claims and the claims of all Funded Persons and the Claimant's Share will be determined by the Lawyers.
Class Action	Proceedings commenced, or to be commenced, against the Respondent pursuant to Part IVA of the <i>Federal Court of Australia Act 1976</i> (Cth) or any equivalent law in the jurisdiction in which such proceedings are commenced.
Co-Funder	Any person considering entering into (or who enters into) a co-funding, participation or similar arrangement with Omni Bridgeway in respect of the Project, whether before or after the date of this Agreement.
Common Fund Order	Means, where the Class Action is pursued on an "open class" basis, and in the course of those proceedings the Court makes orders requiring all group members (whether Funded Persons or not) to pay to Omni Bridgeway a percentage of a common fund comprising any

amounts they may receive in any settlement or judgment in the proceedings (including any Resolution Sum) or any other amount, as approved by the Court.

Condition Precedent	Omni Bridgeway writing to the Lawyers confirming that the Proceedings are commercially viable for Omni Bridgeway to fund.
Condition Precedent Date	The date of satisfaction of the Condition Precedent.
Conflicts Management Policy	Omni Bridgeway's policy, as amended from time to time, for managing conflicts.
Consideration	Has the same meaning given to that term in the GST Act.
Contract Date	The date this Agreement, signed by both Omni Bridgeway and the Claimant, is received by Omni Bridgeway.
Cooperative Proceedings	The joint and cooperative conduct of the Proceedings with the applicants in the Baron Proceeding in accordance with the orders of Justice Yates dated 10 July 2019 and the Cooperative Litigation Protocol date 18 March 2019 (including any amendments from time to time).
Corporations Act	<i>Corporations Act 2001</i> (Cth).
Costs Order	An order made by a Court requiring one or more parties to any of the Proceedings and/or Omni Bridgeway to pay the costs incurred by another party to the Proceedings.
Court	The court in which the Proceedings are conducted.
Delegate	A contractor, employee, agent, officer, director, auditor, insurer, prospective insurer, insurance broker or adviser.
External Controller	Means: <ul style="list-style-type: none"> (a) in relation to an individual, the Official Trustee in Bankruptcy, an Official Receiver in Bankruptcy, a trustee in bankruptcy and a controlling trustee; and (b) in relation to a body corporate, an administrator (including a voluntary administrator and an administrator under a deed of company arrangement, scheme of arrangement, compromise or other arrangement), a provisional liquidator and a liquidator.
Funded Person	The Claimant and any Other Funded Persons whose Other Funding Agreement has not been terminated.
GST	Has the same meaning given to that term in the GST Act.
GST Act	<i>A New Tax System (Goods and Services Tax) Act 1999</i> (Cth).
Input Tax Credit	Has the same meaning given to that term in the GST Act.
Investigation Product	All information, documentation, analyses, results and conclusions obtained, conducted or reached (as the case may be) by Omni Bridgeway in or as a result of the Project Investigation.

Judgment	Any judgment of a Court against any Respondent in respect of any Proceedings.
Lawyers	Maurice Blackburn Lawyers of Level 10, 456 Lonsdale Street, Melbourne, Victoria, 3000 or any other solicitors appointed in their place in accordance with the Standard Lawyers Terms and this Agreement, save that for the purposes of clause 9.4.2 the definition of “Remaining Costs” shall be taken to refer to all such solicitors.
Legal Work	Advice and any other legal services which the Lawyers consider reasonably necessary to prosecute the Proceedings.
Omni Bridgeway	Omni Bridgeway Limited (ACN 067 298 088) (previously known as IMF Bentham Limited).
Omni Bridgeway Entity	<p>Means:</p> <ul style="list-style-type: none">(a) a related body corporate of Omni Bridgeway; and(b) an entity or trust:<ul style="list-style-type: none">(i) that directly or indirectly is controlled or managed by Omni Bridgeway or a related body corporate of Omni Bridgeway; or(ii) that is directly or indirectly under the common control or management of Omni Bridgeway, or a related body corporate of Omni Bridgeway, and another person or persons, and <p>for the purposes of this definition, ‘control’ has the same meaning as in section 50AA of the Corporations Act and ‘related body corporate’ has the same meaning as in section 50 of the Corporations Act.</p>
Omni Bridgeway Permitted Person	<p>Means any of the following persons:</p> <ul style="list-style-type: none">(a) any Omni Bridgeway Entity;(b) Omni Bridgeway’s Delegates,(c) any Omni Bridgeway Entity’s Delegates;(d) any securityholder of an Omni Bridgeway Entity and their Delegates;(e) any debt capital provider or proposed provider to Omni Bridgeway or an Omni Bridgeway Entity together with their respective Delegates; and(f) a Co-Funder or its Delegates who give an appropriate confidentiality undertaking.
Opt Out Notice	A written notice from the Claimant to the Court stating the Claimant’s intention to opt out of the Class Action in accordance with section 33J of the <i>Federal Court of Australia Act 1976</i> (Cth) or any equivalent law in the jurisdiction in which Proceedings are commenced.
Other Claims	Any claims Other Funded Persons have or may have against one or more Respondent for loss and damage caused to those Other Funded Persons by the conduct of one or more Respondent which claims are the same or similar to the Claims.

Other Funding Agreement	Any agreement for the provision of funding by Omni Bridgeway to a person with Other Claims.
Other Funded Persons	All persons who enter into or have entered into Other Funding Agreements.
Overarching Purpose	To facilitate the just resolution of the Claims and the Proceedings according to law and as quickly, inexpensively and efficiently as possible with the aim of maximising Settlement or Judgment proceeds net of Project Costs and minimising all risks, including, in particular, the risk of the Proceedings being unsuccessful.
Overpayment Amount	Has the meaning given to that term in clause 10.3.
Privilege	Unless the context otherwise requires, means legal professional privilege and includes any joint interest privilege and common interest privilege.
Proceeds	Has the meaning given to that term in clause 9.9.3(d).
Proceedings	Means any and all Class Actions concerning all or some of the Claims and all or some of the Other Claims, proceedings brought in contemplation of a Class Action including, without limitation, proceedings for preliminary discovery, and any other proceedings or process (including any Alternative Dispute Resolution Process engaged to resolve the Claims and/or the Other Claims and the Cooperative Proceedings) as part of or consequent on a Class Action to prosecute and/or resolve all or some of the Claims and/or all or some of the Other Claims. If any Respondent (or any property, assets or liabilities of a Respondent) come under the control of an External Controller, the Proceedings will also include all relevant methods of pursuing some or all of the Claims in the external administration of that Respondent, including the lodgment of proofs of debt. This includes any appeals of any such proceedings which Omni Bridgeway agrees to fund pursuant to clause 11.
Project	The Project Investigation, the Project Management and the conduct of the Proceedings in order to achieve a resolution of the Claims and the Other Claims consistently with the Overarching Purpose.
Project Estimates	The set of cost estimates for the Project (inclusive of any GST payable), in the format of Schedule 2 , prepared by the Lawyers and agreed with Omni Bridgeway at the commencement of the Standard Lawyers Terms, as amended and replaced from time to time in accordance with the Standard Lawyers Terms.
Project Costs	Means: <ul style="list-style-type: none">(a) the costs and expenses associated with Omni Bridgeway undertaking the Project Investigation and Project Management;(b) the costs involved in the provision by Omni Bridgeway of any security for costs;(c) any Adverse Costs Order payable by Omni Bridgeway in accordance with the terms of this Agreement;

- (d) the costs associated with Omni Bridgeway quantifying any Adverse Costs Order;
- (e) 70% of the reasonable legal fees and 100% of the disbursements of the Lawyers incurred for the sole purpose of preparing for, prosecuting and resolving the Proceedings;
- (f) any other costs or expenses which are expressly stated to form part of the “Project Costs” payable by Omni Bridgeway under the terms of this Agreement;
- (g) all of Omni Bridgeway’s out of pocket costs and expenses paid or incurred in relation to the Project, including in relation to any consultants engaged by Omni Bridgeway (other than those costs and expenses already referred to in this definition); and
- (h) any GST payable on any Supply made by any entity as a result of the above costs or expenses being incurred,

and for the avoidance of doubt, and unless expressly stated otherwise, includes amounts described in paragraphs (a) to (h) above which have been incurred during, or are in respect of, a period beginning prior to the Contract Date and up to the conclusion of this Agreement.

Project Investigation	The investigation referred to in clause 4.
Project Information	Has the meaning given to that term in clause 14.3.
Project Management	The management described in clause 5.
Regulations	<p>The following provisions of the <i>Corporations Regulations 2001</i> (Cth), in their application to a “litigation funding scheme” or “litigation funding arrangement” (as defined in those provisions):</p> <ul style="list-style-type: none"> (a) regulation 5C.11.01; (b) regulations 7.6.01(1)(x) and 7.6.01(1)(y); and (c) regulation 7.6.01AB.
Relevant Period	<p>Means:</p> <ul style="list-style-type: none"> (a) subject to paragraph (b) below, the period commencing on 16 June 2014 and ending on 3 August 2017 (inclusive); or (b) such other period or periods as determined by the Lawyers and approved in writing by Omni Bridgeway, from time to time.
Relevant Shares	Has the meaning given to that term in clause 12.1.3.
Remaining Costs	Has the meaning given to that term in the Standard Lawyers Terms.
Representative	A Funded Person who is a representative applicant or plaintiff in the Class Action.
Resolution	When all or any part of the Resolution Sum is received and where the Resolution Sum is received in parts, or where there is more than

one Proceeding, a “Resolution” occurs each time a part is received and in respect of each Proceeding.

Resolution Sum	<p>Any money, services, benefits and/or, if Omni Bridgeway so accepts pursuant to clause 9.8, any Specified Property, for which any Claim and/or Proceeding is Settled, or for which Judgment is given, in favour, or otherwise for the benefit (directly or indirectly), of the Claimant or an External Controller of the Claimant, and includes:</p> <ul style="list-style-type: none">(a) any interest (including any interest earned on money while held in the Trust Account);(b) any costs pursuant to a Costs Order or by agreement;(c) any ex gratia payments or any compensation (whether statutory or otherwise) directly or indirectly in relation to the Claims; and(d) if a Respondent (or any property, assets or liabilities of any Respondent) is, or comes, under the control of an External Controller, any amounts or property distributed or paid by the External Controller of such Respondent in relation to the Claims or any Settlement or Judgment in respect thereof.
Respondent	<p>Means:</p> <ul style="list-style-type: none">(a) Commonwealth Bank of Australia (ACN 123 123 124); and(b) any other person who is deemed to be a “Respondent” pursuant to clause 8.6.1 or clause 8.7.2.
Security Interest	<p>Has the same meaning as that term is given in the <i>Personal Property Securities Act 2009</i> (Cth).</p>
Settlement	<p>Any agreement, compromise, discontinuance, waiver, payment, release, understanding or any other arrangement whatsoever whether or not in writing (and whether before or after any Proceedings have been commenced) where money and/or, if Omni Bridgeway so accepts, in accordance with the terms of this Agreement or otherwise in writing, any other benefit or property including Specified Property, passes or may pass from or on behalf of a Respondent to the Claimant in respect of some or all of the Claims irrespective of timing, in circumstances where the Proceedings do not commence or, if commenced, do not continue, as against that Respondent in respect of or arising out of those Claims as a result of, or in connection with, the passing of that money and/or that Specified Property and Settle, Settles and Settled have corresponding meanings.</p>
Shares	<p>Ordinary shares issued by Commonwealth Bank of Australia (ACN 123 123 124) and listed on the Australian Securities Exchange.</p>
Specified Property	<p>Has the meaning given to that term in clause 9.8.1.</p>
Standard Lawyers Terms	<p>The terms and conditions attached as Schedule 1.</p>
Supply	<p>Has the same meaning as in the GST Act.</p>
Taxable Supply	<p>Has the same meaning as in the GST Act.</p>

Termination	Means: <ul style="list-style-type: none">(a) a termination in accordance with clause 17 or 18; and(b) any completion, failure, avoidance, rescission, annulment or other cessation of effect of this Agreement.
Trust Account	The account referred to in clause 9.1.2.
Withdrawal Notice	A notice given by Omni Bridgeway in respect of certain Claims pursuant to clause 8.13.

1.2 Unless the context otherwise requires, the following rules of interpretation apply to this Agreement:

- 1.2.1 Headings and subheadings are inserted for guidance only and do not govern the meaning or construction of any provision of this Agreement.
- 1.2.2 The singular includes the plural in this Agreement and vice versa.
- 1.2.3 A reference to a **party** of this Agreement includes that party's successors and permitted assigns and, in the case of a natural person, also includes that person's personal representatives and administrators.
- 1.2.4 All references to **clauses** and **Schedules** are to the clauses and Schedules of this Agreement and references to **paragraphs** are to paragraphs of the relevant Schedule. The Schedules form part of this Agreement and shall have effect as if set out in full in the body of this Agreement.
- 1.2.5 A reference to this Agreement or to any other agreement or document referred to in this Agreement is a reference to this Agreement or such other agreement or document as validly varied or restated from time to time (in each case, other than in breach of the provisions of this Agreement).
- 1.2.6 A reference to any legislation or legislative provision includes any statutory modification, amendment or re-enactment of that legislation or legislative provision, and includes any subordinate legislation or regulations issued under that legislation or legislative provision.
- 1.2.7 A **person** includes a natural person, corporate or unincorporated body (whether or not having a separate legal personality) and that person's personal representatives, successors and permitted assigns.
- 1.2.8 A reference to **writing** or **written** includes fax and e-mail.
- 1.2.9 Any words following the terms **including, includes, in particular, for example** or any similar expression will be construed as illustrative and will not limit the sense of the words, description, definition, phrase or term preceding those terms.

2 GENERAL

- 2.1 The written terms of this Agreement constitute the entire agreement between the parties.
- 2.2 This Agreement does not create a partnership, agency, fiduciary or any other relationship, except the relationship of contracting parties, between the parties.
- 2.3 If the Claimant is a trustee of a trust then the Claimant warrants that the Claimant has power to enter into this Agreement and, in particular, to make the Assignments.
- 2.4 There will be no variation or amendment to the terms of this Agreement except:
 - 2.4.1 if a Common Fund Order is obtained in the Proceedings, pursuant to clause 6.1.3;

- 2.4.2 in writing signed by each of the Claimant and Omni Bridgeway; or
 - 2.4.3 where the variation or amendment is notified in writing to the Claimant by Omni Bridgeway and the Claimant does not notify Omni Bridgeway in writing, within 21 days of having received Omni Bridgeway's notification, that the Claimant objects to the variation or amendment.
- 2.5 This Agreement may be executed in any number of counterparts, each of which, when executed, constitutes an original, and together all counterparts constitute the one agreement. Transmission of an executed counterpart of this Agreement by fax or by email shall take effect as delivery of an executed counterpart of this Agreement. No counterpart will be effective until each party to this Agreement has executed at least one counterpart.
- 2.6 If:
- 2.6.1 a clause or part of a clause can be read in a way that makes it illegal, unenforceable or invalid, but can also be read in a way that makes it legal, enforceable and valid, it must be read in the latter way; and
 - 2.6.2 any clause or part of a clause is illegal, unenforceable or invalid, that clause or part is to be treated as removed from this Agreement, but the rest of this Agreement is not affected.
- 2.7 The Claimant and Omni Bridgeway will promptly sign all documents and do all things that either of them from time to time reasonably requires of the other to effect, perfect or complete the provisions of this Agreement and any transaction contemplated by it.
- 2.8 Each party must bear its own costs relating to the negotiation and execution of this Agreement.

3 COOLING-OFF PERIOD

- 3.1 The Claimant may, by written notice given to Omni Bridgeway within 21 days from the Contract Date, terminate this Agreement. Time is of the essence. The Claimant may waive its right to this cooling-off period by giving written notice of this to Omni Bridgeway.
- 3.2 If the Claimant gives notice of its intention to terminate this Agreement pursuant to clause 3.1, then on receipt of such notice by Omni Bridgeway this Agreement will come to an end and the following will apply:
- 3.2.1 the property which the Claimant has assigned to Omni Bridgeway under clause 12.2 will be immediately reassigned to the Claimant by Omni Bridgeway without the need for any further action on behalf of Omni Bridgeway; and
 - 3.2.2 neither party will have any continuing or further rights or obligations to the other party save for:
 - (a) any obligations of confidence arising in respect of the terms of this Agreement and any other information received by the Claimant from the Lawyers or Omni Bridgeway; and
 - (b) any obligations in relation to Privilege attaching to any information received by the Claimant or Omni Bridgeway pursuant to or in connection with this Agreement.

4 PROJECT INVESTIGATION

- 4.1 The Claimant acknowledges that by virtue of the terms of this Agreement, Omni Bridgeway has an interest in the outcome of the Proceedings and hereby consents to Omni Bridgeway, at Omni Bridgeway's discretion:
- 4.1.1 investigating the evidentiary basis for the Claims (documentary and oral);

- 4.1.2 collating the material documents;
 - 4.1.3 investigating the capacity of any Respondent to pay any judgment, award or order which may be made against that Respondent relating to the Claims;
 - 4.1.4 investigating the interest of the Respondent to resolve the Claims by any Alternative Dispute Resolution Process;
 - 4.1.5 investigating any other matter that Omni Bridgeway determines is relevant to the Claims, the Proceedings or its obligations under this Agreement; and
 - 4.1.6 designing and implementing any Alternative Dispute Resolution Process for the resolution of the Claims and the Other Claims, other than through legal proceedings.
- 4.2 Notwithstanding clause 14 and subject to clause 4.3, the Claimant will provide, or procure the provision of, all such information, documents and assistance as Omni Bridgeway may reasonably request for the Project Investigation on the basis that the information and documentation so provided to Omni Bridgeway by or on behalf of the Claimant is confidential in accordance with this Agreement, is provided for the purpose of resolving the Claims, remains the exclusive property of the Claimant and will be returned or destroyed by Omni Bridgeway at the conclusion of the Project upon the request of the Claimant.
- 4.3 The Claimant agrees that any information or documents provided to Omni Bridgeway may be used by Omni Bridgeway in the Project Investigation and may be disclosed by Omni Bridgeway in accordance with clauses 14.5 to 14.7 (inclusive).
- 4.4 The Claimant hereby authorises Omni Bridgeway to seek and obtain any information and documentation which Omni Bridgeway believes may be relevant to the Claims from any person.
- 4.5 The Claimant consents to Omni Bridgeway providing a copy of this Agreement to third parties who request evidence of the authority granted to Omni Bridgeway by clause 4.4.
- 4.6 The Claimant acknowledges that Omni Bridgeway may rely on the information provided to it by (or on behalf of) the Claimant or any Other Funded Persons including, but not limited to, the information in the applicable Claimant Information Section. The Claimant irrevocably waives any right to bring any claim against Omni Bridgeway should any information provided by (or on behalf of) the Claimant or any Other Funded Person ultimately be misleading or inaccurate.
- 4.7 Omni Bridgeway may, in its absolute discretion, communicate with the Claimant from time to time about the progress and results of the Project Investigation.
- 4.8 Without derogating from anything else in this clause 4, Omni Bridgeway may use the Investigation Product:
- 4.8.1 to assist Omni Bridgeway in the preparation or prosecution of any proceedings to which this Agreement or any Other Funding Agreements apply;
 - 4.8.2 to monitor its actual and potential obligations under this Agreement and Other Funding Agreements;
 - 4.8.3 to review whether it provides or continues to provide funding in respect of the Claims and the Other Claims or some of the Claims or the Other Claims and the Project;
 - 4.8.4 to obtain legal or financial advice, or financial services, in connection with or in support of its performance of this Agreement and any Other Funding Agreement; and
 - 4.8.5 in any Alternative Dispute Resolution Process.
- 4.9 Notwithstanding clauses 4.2 and 14 or any Termination or a termination pursuant to clause 3, Omni Bridgeway may, in accordance with any applicable document retention policy, retain and use the Investigation Product as set out in clause 4.8.
- 4.10 Omni Bridgeway may, in its absolute discretion, provide the Lawyers with some or all of the Investigation Product.

5 PROJECT MANAGEMENT

5.1 Omni Bridgeway will provide the following management services in respect of the Project during the term of this Agreement:

- 5.1.1 advising the Funded Persons on strategy;
- 5.1.2 negotiating and seeking compliance with the Project Estimates;
- 5.1.3 considering the advice of the Lawyers and providing day-to-day instructions to the Lawyers subject to clauses 6 and 13;
- 5.1.4 database and document management;
- 5.1.5 facilitating:
 - (a) periodic meetings between Project participants; and
 - (b) reports to the Funded Persons in respect of progress; and
- 5.1.6 facilitating any Alternative Dispute Resolution Process.

5.2 Subject to clauses 5.3 to 5.6 (inclusive) the Claimant hereby appoints Andrew Saker and Clive Bowman of Omni Bridgeway (**Omni Bridgeway Appointees**), and Omni Bridgeway warrants the Omni Bridgeway Appointees accept such appointment, jointly and severally, as:

- 5.2.1 if the Claimant is an individual, his or her attorneys; or
- 5.2.2 if the Claimant is a body corporate, its representatives pursuant to section 250D of the Corporations Act,

and in each case to do all or any of the acts and/or exercise all or any of the powers referred to in clause 5.3.

5.3 The Omni Bridgeway Appointees are authorised, to do all or any of the following in their absolute discretion:

- 5.3.1 prepare, complete, sign and lodge any claim and any formal proofs of debt or claim on the Claimant's behalf in respect of the Claims and any matters incidental to the Claims with any External Controller appointed by or to any Respondent or in respect of any property, assets or liabilities of any Respondent;
- 5.3.2 attend, speak and vote on behalf of the Claimant at any and all meetings of creditors of any Respondent in relation to any matter then before the meeting; and
- 5.3.3 generally exercise any of the rights and powers of the Claimant in respect of the matters referred to in clauses 5.3.1 and 5.3.2, including appointing a proxy to vote at any meeting,

and the Claimant acknowledges and agrees that in so doing Omni Bridgeway may benefit, directly or indirectly, in a manner that is contemplated by this Agreement.

5.4 The appointment in clause 5.2 is a standing appointment that ceases upon termination of this Agreement.

5.5 The Claimant undertakes, if requested by Omni Bridgeway, to ratify and confirm in writing the validity of any act or exercise of power by the Omni Bridgeway Appointees done in good faith purportedly pursuant to clauses 5.2 to 5.4 (inclusive).

5.6 Nothing in clauses 5.2 to 5.5 (inclusive) authorises or permits the Omni Bridgeway Appointees to do any act or exercise any power in a manner or with an effect which is contrary to or inconsistent with the terms of this Agreement.

6 PROCEEDINGS

6.1 The Claimant agrees that:

- 6.1.1 the Representative will determine, in consultation with the Lawyers and Omni Bridgeway, and subject to the prior written consent of Omni Bridgeway (which is not to be unreasonably withheld):
 - (a) what Claims and Other Claims should be pursued at any stage in the Proceedings brought by the Representative; and
 - (b) whether in such Proceedings an application will be made for a Common Fund Order and the terms and timing of any such an application;
- 6.1.2 subject to clause 13, Omni Bridgeway will give day-to-day instructions to the Lawyers on all matters concerning the Claims and the Proceedings and may give binding instructions to the Lawyers and make binding decisions on behalf of the Claimant in relation to the Claims and the Other Claims;
- 6.1.3 if a Common Fund Order is sought and obtained in the Proceedings on the terms agreed pursuant to clause 6.1.1, or on such other terms agreed to in writing by Omni Bridgeway, the terms of this Agreement shall be automatically amended (without the need for a variation agreement) in such manner as necessary to give effect to any terms of the Common Fund Order which conflict with the terms of this Agreement, including, without limitation, any necessary variations to give effect to the Assignments. Any such amendments shall take effect from the date the Court makes the Common Fund Order; and
- 6.1.4 the Lawyers shall determine the amount of the Claims and the Other Claims and the Claimant's Share of the amounts referred to in clauses 12.1.1 and 12.1.2.

7 THE CLAIMANT'S OBLIGATIONS

7.1 For the duration of this Agreement, the Claimant must:

- 7.1.1 act at all times in good faith in respect of the Claimant's obligations to Omni Bridgeway;
- 7.1.2 subject to this Agreement, follow all reasonable legal advice given by the Lawyers and by counsel retained by the Lawyers in relation to the Proceedings and the Claims and in the case of conflicting advice, will follow the advice of the most senior counsel retained;
- 7.1.3 promptly provide full, frank and honest instructions to the Lawyers and counsel and provide the Lawyers with all documents in the Claimant's possession, custody or power that are relevant to the Claims or the Proceedings;
- 7.1.4 if requested by the Lawyers to do so, provide a signed, written witness statement to the Lawyers for use in the Proceedings, attend the Court to give evidence in person and actively participate in any Alternative Dispute Resolution Process;
- 7.1.5 diligently prosecute the Proceedings and any appeals and do all things necessary to enable the Lawyers to ensure that the Proceedings and any appeals are conducted consistently with the Overarching Purpose;
- 7.1.6 opt out of or discontinue any other proceeding conducted against the Respondent, if the claims pursued in that proceeding overlap with the Claims in the Proceedings funded by Omni Bridgeway;
- 7.1.7 comply with all orders of the Court and all statutory provisions, regulations, rules and directions which apply to the Claimant in relation to the Claims and the Proceedings;

- 7.1.8 provide Omni Bridgeway and the Lawyers with full contact details, including an email address, and immediately inform the Lawyers and Omni Bridgeway of any change in contact details;
 - 7.1.9 immediately inform the Lawyers and Omni Bridgeway of any information, circumstance or change in circumstances likely to affect the Claims, any issue in any Proceedings or the recoverability of any Resolution Sum;
 - 7.1.10 promptly take all appropriate actions, at Omni Bridgeway's expense and with Omni Bridgeway's written agreement, to tax or assess any costs claimed by any Respondent in an Adverse Costs Order;
 - 7.1.11 take all appropriate action to diligently enforce any Settlement with, or any judgment obtained in the Proceedings against, any Respondent; and
 - 7.1.12 fully co-operate with Omni Bridgeway and the Lawyers and act with the care and diligence of a prudent business person, in all cases consistently with the Overarching Purpose, in carrying out the Claimant's obligations under this Agreement.
- 7.2 For the duration of this Agreement, the Claimant must not, without the prior written consent of Omni Bridgeway (which consent will not be unreasonably withheld):
- 7.2.1 commence the Proceedings (if the Proceedings have not been commenced prior to the Contract Date);
 - 7.2.2 discontinue, abandon, withdraw or Settle the Proceedings or any Claim against any Respondent or make any admission in relation to any Claims, unless such action is contemplated by and taken by the Claimant in accordance with this Agreement;
 - 7.2.3 reject any Settlement offer made by any Respondent, unless the Claimant does so in accordance with this Agreement;
 - 7.2.4 reject any offer made by any Respondent to engage in any form of Alternative Dispute Resolution Process;
 - 7.2.5 terminate the retainer of the Lawyers or retain any other solicitors in place of the Lawyers; and
 - 7.2.6 seek any order from any court which may detrimentally affect Omni Bridgeway's rights under this Agreement other than with the consent of Omni Bridgeway and other than as arises out of any material breach by Omni Bridgeway of its obligations under this Agreement.
- 7.3 For the duration of this Agreement, the Claimant irrevocably instructs the Lawyers to:
- 7.3.1 subject to clauses 13.3 and 13.4, comply with all instructions given by Omni Bridgeway or as is set out in this Agreement;
 - 7.3.2 comply with all orders of the Court and all statutory provisions, regulations, rules and directions which apply to the Claimant in relation to the Claims and the Proceedings;
 - 7.3.3 conduct the Proceedings efficiently and effectively, within the budget agreed and in accordance with the Overarching Obligation;
 - 7.3.4 keep Omni Bridgeway fully informed of all material developments in the Proceedings and in relation to the Claims, including immediately informing Omni Bridgeway if, in the Lawyers' opinion, the Claimant's prospects of achieving success in the Proceedings or a Respondent's capacity to pay any judgment is or is likely to be impaired;
 - 7.3.5 provide Omni Bridgeway with a copy of all advice given by the Lawyers or counsel to the Claimant in relation to the Proceedings and the Claims and, if requested to do so by Omni Bridgeway, a copy of all documents obtained from, or provided to, any Respondent in the Proceedings;

- 7.3.6 immediately inform Omni Bridgeway of all Settlement offers or offers to engage in an Alternative Dispute Resolution Process received from any Respondent and allow Omni Bridgeway the opportunity to attend any Alternative Dispute Resolution Process agreed with any Respondent;
 - 7.3.7 immediately inform Omni Bridgeway of any application for security for costs made by any Respondent;
 - 7.3.8 immediately inform Omni Bridgeway of any Adverse Costs Order or of any circumstances which might reasonably give rise to an Adverse Costs Order;
 - 7.3.9 on behalf of the Claimant, sign any document and take any step necessary to give full effect to and enforce any Settlement reached in accordance with the terms of this Agreement and approved by the Court (if applicable);
 - 7.3.10 obtain, at Omni Bridgeway's expense and with Omni Bridgeway's written agreement, a taxation or assessment of any Respondent's costs comprising any Adverse Costs Order and provide a copy of all documents relating to the taxation or assessment to Omni Bridgeway; and
 - 7.3.11 provide full assistance and co-operation to Omni Bridgeway in relation to opposing, taxing, assessing or resolving any application for security for costs or any Adverse Costs Order.
- 7.4 For the duration of this Agreement, Omni Bridgeway will:
- 7.4.1 by implementing the Conflicts Management Policy, comply with the requirements of the Regulations; and
 - 7.4.2 provide timely and clear disclosure to the Claimant of any material breach of the Regulations by Omni Bridgeway in relation to the subject matter of this Agreement.
- 7.5 The Claimant agrees to keep and preserve any documents relating to any Respondent, the Proceedings and/or the Claims and Other Claims that the Claimant has in his, her or its possession, custody or control and the Claimant:
- 7.5.1 will provide to the Lawyers all information and documents relevant to the Proceedings and the Claims and Other Claims if and when so requested by the Lawyers;
 - 7.5.2 authorises the Lawyers, without waiving privilege, to provide the information and documents referred to above to Omni Bridgeway; and
 - 7.5.3 if ordered to do so by a Court in any Proceedings relating to his, her or its Claims, authorise the Lawyers to provide the information and documents to any Respondent and to any third party the subject of a Court order.
- 7.6 The Claimant:
- 7.6.1 will immediately notify Omni Bridgeway if the Claimant is requested or required to disclose any information relating to the negotiation, existence, terms or performance of this Agreement and if so requested by Omni Bridgeway will take such steps as may reasonably be available to prevent disclosure of such parts of the information as Omni Bridgeway may nominate; and
 - 7.6.2 will not disclose to any person, other than the Lawyers or its legal and financial advisors for the purpose of obtaining confidential legal or financial advice, or Omni Bridgeway, any information:
 - (a) to which Privilege or obligations of confidence attach; or
 - (b) which is or may be protected from disclosure by reason that disclosure would or may provide any Respondent with a strategic or tactical advantage in any Proceedings,

unless the disclosure is in accordance with advice from the Lawyers and is necessary for the purposes of the prosecution of any Proceedings.

- 7.7 The obligations in clause 7.6 are continuing obligations and survive the Termination of this Agreement.
- 7.8 The Claimant will not, during the period of this Agreement, have any communication with any Respondent, or any officer, servant or agent of any Respondent relating to the Claims and/or the Other Claims, or any compromise of the Claims and/or the Other Claims, other than through the Lawyers or upon their reasonable advice.

8 PROJECT COSTS

- 8.1 Omni Bridgeway will pay the Project Costs on the terms of this Agreement from the date on which the Condition Precedent is satisfied.
- 8.2 Omni Bridgeway will not seek reimbursement from any Funded Person of any internal overheads incurred as part of the Project.
- 8.3 Omni Bridgeway will, as soon as practical after the later of:
- 8.3.1 the date Proceedings are commenced in accordance with this Agreement; and
 - 8.3.2 a request for security for costs from a Respondent,
- sign a Deed Poll substantially in the form set out in **Schedule 3** and deliver a copy of it to each Respondent.
- 8.4 If any Respondent makes any payment by way of costs during the course of any Proceedings, then the payment will be paid into the Trust Account on trust for Omni Bridgeway and may be utilised by Omni Bridgeway in paying or reimbursing any Project Costs. The Lawyers will pay such monies in accordance with this Agreement as directed by Omni Bridgeway from time to time.
- 8.5 Omni Bridgeway will pay any Adverse Costs Order in accordance with its obligations under this Agreement (including pursuant to a Deed Poll delivered by Omni Bridgeway in accordance with clause 8.3).
- 8.6 If after the date on which the Condition Precedent is satisfied, any person other than persons expressly identified in the definition of the term “Respondent” in clause 1.1 becomes a respondent in the Proceedings through an application by, at the initiative of, or with the consent of, the Claimant (**Additional Respondent**), then from the date on which Omni Bridgeway, in its absolute discretion, gives written notice to the Claimant (with a copy to the Lawyers) that it agrees to accept Adverse Costs Order exposure in respect of that Additional Respondent:
- 8.6.1 the Additional Respondent becomes a “Respondent” for the purposes of the definition of that term in clause 1.1; and
 - 8.6.2 an additional 2.5% for that Additional Respondent (or, where there is more than one Additional Respondent referred to in Omni Bridgeway’s notice, for each Additional Respondent who is represented by different lawyers) is added to the percentages referred to in clause 12.1.3.
- 8.7 If after the date on which the Condition Precedent is satisfied, any person becomes a party to any Proceedings, other than an Additional Respondent in accordance with clause 8.6, then, save to the extent agreed otherwise between Omni Bridgeway and the Representative, from the date that person becomes a party to the Proceeding:
- 8.7.1 an additional 2.5% for that person (or, where there is more than one person, for each person who is represented by different lawyers) is added to the percentages referred to in clause 12.1.3(a)(ii); and

- 8.7.2 if that additional party is a respondent to the Claimant's Claims in the Proceedings, the person becomes a "Respondent" for the purposes of the definition of that term in clause 1.1.
- 8.8 No more than 7.5% will be added in total under clauses 8.6 and 8.7 to the percentages in clause 12.1.3(a)(ii).
- 8.9 If there is any Resolution Sum that is money in the Trust Account at the time an Adverse Costs Order is payable, then that money will first be employed to pay the Adverse Costs Order and Omni Bridgeway will pay any balance outstanding after such payment. The Lawyers will pay that money from the Trust Account as directed by Omni Bridgeway.
- 8.10 If, in spite of any objection or appeal Omni Bridgeway, the Representative or any Other Funded Person may make, the Court orders the Claimant to provide any security for the costs of any Respondent then Omni Bridgeway will provide the security for costs in the Proceedings, in such form that Omni Bridgeway determines and the Respondents or the Court accept, relating to costs incurred by a Respondent during the term of this Agreement.
- 8.11 Omni Bridgeway's obligations in clauses 8.1 to 8.10 (inclusive) do not arise before the expiry of the 21 day period referred to in clause 3 or the date on which the Condition Precedent is satisfied, whichever is later. However, if this Agreement is not terminated under clause 3, Omni Bridgeway's obligations in clauses 8.1 to 8.10 (inclusive) will have effect from the Condition Precedent Date.
- 8.12 If the Proceedings are conducted as a Class Action, the Claimant acknowledges and agrees that Omni Bridgeway may pay the Representative for its reasonable expenses incurred for the benefit of the Funded Persons, provided that the Representative submits invoices for such expenses and the Lawyers approve them as complying with this clause and any amounts paid or incurred by Omni Bridgeway pursuant to this clause will form part of the Project Costs.
- 8.13 Omni Bridgeway may decide, in its sole discretion following consultation with the Lawyers and the Representative, to cease to fund any Claim, either completely or as against any particular Respondent (**Ceased Claim**), by giving 14 days' written notice to the Claimant. For the avoidance of doubt, any such decision by Omni Bridgeway does not by itself result in a termination of this Agreement.
- 8.14 If Omni Bridgeway decides to cease funding any Claim under clause 8.13, then on Omni Bridgeway's notice becoming effective the following will apply:
- 8.14.1 all of Omni Bridgeway's obligations in relation to that Ceased Claim, other than Omni Bridgeway's accrued obligations pursuant to clause 8.15 cease;
- 8.14.2 the Lawyers are hereby instructed to, as soon as is reasonably possible, discontinue the prosecution of the Ceased Claim, including by filing an amended pleading in the Proceedings or taking any other step necessary to discontinue the prosecution of the Ceased Claim;
- 8.14.3 to the extent it relates to the Ceased Claim only:
- (a) the property assigned to Omni Bridgeway pursuant to clause 12.2.2 is immediately reassigned to the Claimant; and
- (b) Omni Bridgeway will cease to have any entitlement to the amount described in clause 12.1.3 which relates to the Ceased Claim; and
- 8.14.4 Omni Bridgeway will continue to be entitled to the property:
- (a) assigned to it pursuant to clause 12.2.2, and to the amounts described in clause 12.1.3, to the extent that they relate to Claims other than the Ceased Claim; and

- (b) assigned to it pursuant to clause 12.2.1 and to the amounts described in clauses 12.1.1 and 12.1.2, each in their entirety.

8.15 The accrued obligations of Omni Bridgeway referred to in clause 8.14.1 comprise:

- 8.15.1 payment of any outstanding Project Costs incurred in relation to the Ceased Claim referred to in that clause up to the date Omni Bridgeway's notice of ceasing to fund takes effect; and
- 8.15.2 payment of any Adverse Costs Order in respect of the Ceased Claim made against the Claimant and/or Omni Bridgeway in any Proceedings in respect of costs which arise in, or are attributed to, the period beginning on the date the Condition Precedent is satisfied and ending on the date Omni Bridgeway's notice of ceasing to fund the Ceased Claim referred to in that clause takes effect.

9 RECEIPT OF THE RESOLUTION SUM

9.1 The Claimant and Omni Bridgeway agree and irrevocably instruct the Lawyers to:

- 9.1.1 receive any Resolution Sum and hold that part of the Resolution Sum assigned to Omni Bridgeway under the Assignments on trust for Omni Bridgeway and the part due to the Claimant on trust for the Claimant in accordance with their respective entitlements under this Agreement;
- 9.1.2 immediately pay any Resolution Sum comprising money into an interest-bearing trust account to be kept for that purpose (**Trust Account**);
- 9.1.3 deal with any Specified Property which forms part of the Resolution Sum in accordance with this Agreement;
- 9.1.4 maintain separate records for each Resolution Sum arising from the Proceedings; and
- 9.1.5 forthwith pay out of the Trust Account to Omni Bridgeway all payments due to Omni Bridgeway in accordance with this Agreement upon cleared funds becoming available and in accordance with clause 9.4.

9.2 The Claimant and Omni Bridgeway consent to any Resolution Sum comprising money being combined in the Trust Account with other resolution sums comprising money under Other Funding Agreements.

9.3 In accordance with the instructions provided in clause 9.1, the Lawyers will hold that part of the Resolution Sum assigned to Omni Bridgeway under this Agreement on trust for Omni Bridgeway and that part due to the Claimant on trust for the Claimant with, subject to clause 9.4, the former to be paid to Omni Bridgeway (if money) in accordance with clause 9.1.5 or (if Specified Property) distributed to Omni Bridgeway and the latter to be paid (if money) or (if Specified Property) distributed, in accordance with the Claimant's directions.

9.4 Without affecting clauses 8.4 and 8.9, the Claimant and Omni Bridgeway agree and irrevocably instruct the Lawyers to make the following payments upon Resolution out of the monetary component of any Resolution Sum in the strict order of priority set out below, with all payments within a priority level to be made *pari passu* and *pro rata*:

- 9.4.1 as a first priority, pay to Omni Bridgeway an amount equal to the sum of the amounts calculated pursuant to clause 12.1.1 (Project Costs) and clause 12.1.2 (GST);
- 9.4.2 as a second priority, pay to Omni Bridgeway an amount equal to the amount calculated pursuant to clause 12.1.3 and pay to the Lawyers the Claimant's Share of any Remaining Costs; and
- 9.4.3 as a third priority, pay the balance of the Resolution Sum to the Claimant at the Claimant's request and direction.

- 9.5 The Claimant acknowledges that:
- 9.5.1 the conduct of the Proceedings will or may encourage a Respondent to seek to compromise the Claims or the Other Claims; and
 - 9.5.2 the Proceedings may have the effect set out in clause 9.5.1 notwithstanding that the Claimant may have terminated this Agreement and terminated its involvement in the Proceedings.
- 9.6 If, despite clause 9, the Claimant directly or indirectly receives all or any part of the Resolution Sum, then the Claimant will immediately (if it is money) pay it to the Lawyers to be paid into the Trust Account or (if it is not money) give possession of it to the Lawyers, in each case to be dealt with on the terms of this Agreement.
- 9.7 The obligation in clause 9.6 is a continuing obligation and survives any Termination of this Agreement other than a Termination pursuant to clause 18.1.
- 9.8 The parties agree that their preference is for the Claims to be resolved for an amount of money and agree that Omni Bridgeway is, so far as possible, to receive its share of any Resolution Sum by way of cash payment out of any monetary component of any Resolution Sum. However:
- 9.8.1 Omni Bridgeway may decide, in consultation with the Claimant (or, if the Claims are to be Resolved as part of a Class Action, the Representative) and the Lawyers but in Omni Bridgeway's sole discretion, to accept that a Resolution Sum may consist, in whole or in part, of specified property other than money (**Specified Property**); and, if so,
 - 9.8.2 Omni Bridgeway must notify the Claimant (or the Representative, where applicable) and the Lawyers, in writing, of its decision and identify the Specified Property.
- 9.9 If clause 9.8 applies, then the parties agree:
- 9.9.1 that they irrevocably instruct the Lawyers to Settle the Claims on the basis that the Settlement and any resulting Resolution Sum may include the Specified Property;
 - 9.9.2 they both have an interest in any Specified Property for which the Claims may be Settled;
 - 9.9.3 that if a Settlement of the Claims is reached which includes any Specified Property then, unless they agree otherwise in writing, they irrevocably instruct the Lawyers to:
 - (a) take possession of the Specified Property on trust for them;
 - (b) determine the fair market value of the Specified Property;
 - (c) if it is feasible to do so, sell the Specified Property as soon as possible on an arms-length basis and at a fair market value to be determined solely by the Lawyers (the sale may be to a third party or to either party) with Omni Bridgeway to pay the Lawyers' reasonable costs and expenses under this clause 9.9 as part of the Project Costs; and
 - (d) if the Specified Property has been sold by the Lawyers under paragraph (c), above, pay the proceeds of the sale (**Proceeds**) into the Trust Account; and
 - 9.9.4 that the fair market value of the Specified Property or, where the Specified Property has been sold by the Lawyers, the Proceeds forming all or part of the Resolution Sum, are to be dealt with in accordance with the terms of this Agreement.
- 9.10 If there is a dispute about the monetary value of any Specified Property which has not been converted to Proceeds pursuant to clause 9.9, then the dispute shall be conclusively resolved in accordance with the opinion of the most senior counsel retained by the Lawyers in the Proceedings or, if no counsel has been retained, then the Lawyers with the agreement of the

Claimant and Omni Bridgeway will appoint senior counsel for that purpose. If Omni Bridgeway and the Claimant are unable to agree on the selection of senior counsel, then the senior counsel will be one appointed by the President of the New South Wales Bar Association for that purpose. Omni Bridgeway will pay the costs of counsel as part of the Project Costs.

- 9.11 In the event the monetary component of any Resolution Sum is insufficient to pay Omni Bridgeway its full entitlements under this Agreement despite the Lawyers selling as much of the Specified Property for cash as possible, Omni Bridgeway and the Claimant shall use their best endeavours to agree on the way in which the non-monetary component of the Resolution Sum is to be fairly valued and shared between them (and, if applicable, the Lawyers in relation to any Remaining Costs) so as to ensure that Omni Bridgeway receives, in total, from the Resolution Sum its full entitlements under this Agreement and, once having reached agreement, instruct the Lawyers to give effect to it accordingly. Omni Bridgeway will pay the Lawyers' reasonable costs and expenses incurred in assisting the parties under this clause 9.11 as part of the Project Costs. The dispute resolution procedure in clause 19 will apply in the event that the parties are unable to reach agreement under this clause 9.11.

10 PAYMENT OF THE RESOLUTION SUM BY THE LAWYERS

- 10.1 Subject to any Court order (including a Common Fund Order), if a lump sum amount is received in Settlement or by way of Judgment, in respect of the Claims and/or Other Claims or as an ex gratia payment, then after deducting all amounts required to be paid to Omni Bridgeway by this Agreement and any Other Funding Agreement and any amounts required to be paid pursuant to the Standard Lawyers Terms and any retainer agreement(s) entered into between the Lawyers and the Claimant and any Other Funded Persons, the balance will be distributed to the Claimant and Other Funded Persons (whose Other Claims are the subject of the Settlement, Judgment or payment) on a pro rata basis by reference to the amount of the Claims and the Other Claims the subject of the Settlement, Judgment or payment, such amount to be determined in each case by the Lawyers.
- 10.2 The Lawyers' obligations to make payments out of the Trust Account or to otherwise distribute any Resolution Sum to Omni Bridgeway pursuant to clause 9.1.5 are (save in respect of any Remaining Costs) to be met prior to the payment or distribution from the Resolution Sum of any other expenses, obligations or entitlements of the Claimant or the Lawyers, including any other fees or costs.
- 10.3 If for whatever reason (including due to change of circumstances, overpayment or an error) amounts paid or released to the Claimant under this Agreement by the Lawyers exceed the Claimant's entitlement under this Agreement, the Lawyers may demand the Claimant repay an amount equal to the difference between such amounts (**Overpayment Amount**). The Claimant must immediately on demand refund (or procure the refund of) the Overpayment Amount to the Lawyers. Any Overpayment Amount due from the Claimant under this clause may, alternatively, be set-off against future amounts payable to the Claimant pursuant to this Agreement.
- 10.4 The Claimant agrees not to bring any claim against Omni Bridgeway if the amount paid or released to the Claimant by the Lawyers is less than the Claimant's entitlement.

11 APPEALS

- 11.1 If there is a final Judgment in the Proceedings which is not in favour of the Claimant (or the Representative) and Omni Bridgeway has notified the Claimant (or the Representative) and the Lawyers in writing that it is prepared, in its discretion, to fund an appeal, then where the Claimant is a Representative in the Proceedings the Lawyers will lodge and prosecute the appeal in the name of the Claimant. Omni Bridgeway will pay, as part of the Project Costs, the reasonable legal costs and disbursements of the appeal and will pay any Adverse Costs Order if the appeal is unsuccessful.

- 11.2 If there is a final Judgment in the Proceedings in favour of the Claimant (or the Representative) and the Respondent appeals, then Omni Bridgeway may elect, in its discretion and in writing to the Claimant (or the Representative) and the Lawyers, to fund the reasonable legal costs and disbursements of the defence of the appeal. If Omni Bridgeway so elects, then where the Claimant is the Representative in the Proceedings, the Lawyers will defend the appeal in the name of the Claimant. Omni Bridgeway will pay, as part of the Project Costs, the reasonable legal costs and disbursements of the appeal and any Adverse Costs Order if the defence of the appeal is unsuccessful.
- 11.3 If Omni Bridgeway notifies the Claimant (or the Representative) and the Lawyers under clauses 11.1 or 11.2, then from the date of Omni Bridgeway's notice an additional 5% will be added to the percentages prescribed in clause 12.1.3(a)(ii) of this Agreement in consideration of the funding of each appeal by Omni Bridgeway and "Proceedings" will be read in this Agreement as including all such appeals.

12 OMNI BRIDGEWAY'S ENTITLEMENTS

- 12.1 Upon Resolution, Omni Bridgeway is entitled, as assignee under the Assignments, to be paid (if money) or to have distributed (if Specified Property) the following amounts from any Resolution Sum in accordance with this Agreement:
- 12.1.1 an amount equal to the Claimant's Share of the Project Costs (reduced by an amount equal to the sum of any Input Tax Credits received by Omni Bridgeway on Acquisitions made in incurring the Project Costs including pursuant to clause 12.4) paid or payable by Omni Bridgeway in relation to the Claims or Other Claims the subject of the Proceedings or Settlement to which the Resolution Sum relates;
- 12.1.2 an additional amount, on account of GST, being the amount obtained by multiplying the prevailing rate of GST (currently 10%) by an amount equal to the Consideration to be received by Omni Bridgeway for any Taxable Supply made to the Claimant by Omni Bridgeway under or in connection with this Agreement (apart from any Consideration to be provided pursuant to this clause 12.1.2); and
- 12.1.3 an amount being equal to:
- (a) in circumstances where the Court makes a Common Fund Order, the lesser of:
- (i) such percentage of that Resolution Sum determined by the Court as part of any Common Fund Order to comprise Omni Bridgeway's funding commission; or
- (ii) a percentage of that Resolution Sum (as that percentage may be increased in accordance with clauses 8.6, 8.7, 8.8 and 11.3 if applicable but gross of any deductions pursuant to the foregoing provisions of this clause 12) determined in accordance with the table below by reference to the number of Shares purchased on the Australian Securities Exchange during the Relevant Period in respect of which the Claimant acquired an interest and held until after 1pm AEST on the last day of the Relevant Period (with the treatment of any sales during the Relevant Period of Shares in respect of which the Claimant held an interest to be determined by Omni Bridgeway in good faith in its absolute discretion) (**Relevant Shares**), as follows:

Number of Relevant Shares	Resolution within one year of the Condition Precedent Date	Resolution before the commencement of a trial in relation to the Proceedings	Resolution after the commencement of a trial in relation to the Proceedings
Less than 500,000	25%	30%	35%
Greater than or equal to 500,000	20%	25%	32.5%

For the avoidance of doubt and in accordance with the definition of “Claimant” in clause 1.1, where a Claimant holds or held Relevant Shares in more than one capacity, each such holding will be treated as a separate holding and the number of Relevant Shares held by a Claimant in different capacities will not be aggregated for the purposes of determining the “Number of Relevant Shares” held by the Claimant for the above table; or

- (b) in circumstances where the Court does not make a Common Fund Order and clause 12.1.3(a)(i) is not applicable, the amount determined by applying clause 12.1.3(a)(ii); or
- (c) in circumstances where the Court makes a Common Fund Order and the amount determined by the Court pursuant to clause 12.1.3(a)(i) is equal to the amount which would apply by applying clause 12.1.3(a)(ii), the amount determined by the Court pursuant to clause 12.1.3(a)(i).

12.2 The Claimant assigns to Omni Bridgeway, as consideration for Omni Bridgeway’s obligations under this Agreement, the following parts of any Resolution Sum:

12.2.1 the total of the amounts referred to in clauses 12.1.1 and 12.1.2; and

12.2.2 the relevant amount referred to in clause 12.1.3, but where that amount is greater than the balance of the Resolution Sum after the assignment referred to in clause 12.2.1 then the assignment under this clause 12.2.2 will be limited to that balance.

12.3 The parties agree that:

12.3.1 Omni Bridgeway’s entitlement to be paid money or otherwise receive Specified Property under this Agreement arises upon each Resolution and by virtue of the Assignments;

12.3.2 Omni Bridgeway’s total entitlement under the Assignments cannot exceed the Resolution Sum;

12.3.3 apart from paying Omni Bridgeway any Input Tax Credits under clause 12.4, the Claimant has no obligation to pay Omni Bridgeway any fees, costs, expenses or commission other than as is necessary to give effect to the Assignments; and

12.3.4 the Assignments are, and are intended to be, absolute assignments to Omni Bridgeway and not by way of security.

12.4 The Claimant will, at Omni Bridgeway’s request, pay to Omni Bridgeway any Input Tax Credit to which the Claimant is entitled under the GST Act in respect of the incurrence of the Project Costs. If Omni Bridgeway makes a request, any such amount is payable at the earliest time the Claimant can claim the benefit of the Input Tax Credit from the Commissioner of Taxation.

If upon Resolution there is any Input Tax Credit not paid to Omni Bridgeway, that is payable or would be payable if Omni Bridgeway had made a request under this clause, then Omni Bridgeway will be entitled to receive payment under clause 12 of the GST (paid by Omni Bridgeway) to which that Input Tax Credit relates or would relate.

13 THE LAWYERS' RETAINER AND SETTLEMENT

- 13.1 The Claimant acknowledges and accepts that the Lawyers have entered, or will enter, into an agreement with Omni Bridgeway in the same or similar terms to the Standard Lawyers Terms.
- 13.2 The Claimant agrees that if there is any inconsistency between the terms of any retainer agreement between the Claimant and the Lawyers and this Agreement or the Standard Lawyers Terms, the terms of this Agreement or the Standard Lawyers Terms, as applicable, will prevail.
- 13.3 Omni Bridgeway will give day-to-day instructions to the Lawyers on all matters concerning the Claims and the Proceedings, however the Claimant may, in relation to the Claimant's Claims, override any instruction given by Omni Bridgeway by giving the Claimant's own instructions to the Lawyers.
- 13.4 Except in relation to Settlement, which is dealt with below, if the Lawyers notify Omni Bridgeway and the Claimant that the Lawyers believe that circumstances have arisen such that they may be in a position of conflict with respect to any obligations they owe to Omni Bridgeway and those they owe to the Claimant, the Claimant and Omni Bridgeway agree that, in order to resolve that conflict, the Lawyers may:
- 13.4.1 seek instructions from the Claimant, whose instructions will override those that may be given by Omni Bridgeway;
 - 13.4.2 give advice to the Claimant and take instructions from the Claimant, even though that advice is, and those instructions are, or may be, contrary to Omni Bridgeway's interests; and
 - 13.4.3 refrain from giving Omni Bridgeway advice and from acting on Omni Bridgeway's instructions, where that advice is, or those instructions are, or may be, contrary to the Claimant's interests.
- 13.5 Nothing in clauses 13.3 or 13.4 entitles the Claimant to breach or authorises the breach of any terms of this Agreement.
- 13.6 The Claimant acknowledges that he, she or it will be bound by an order of the Court made in any Class Action in which the Claimant is a Representative or is represented approving the Settlement of that Class Action (unless the Claimant has opted out of the Class Action).
- 13.7 In recognition of the fact that Omni Bridgeway has an interest in the Resolution Sum, if the Representative:
- 13.7.1 wants to Settle the Class Action for less than Omni Bridgeway considers appropriate; or
 - 13.7.2 does not want to Settle the Class Action when Omni Bridgeway considers it appropriate to do so,
- then the Claimant agrees that Omni Bridgeway and the Representative must seek to resolve their difference of opinion by referring it to counsel for advice on whether, in counsel's opinion, Settlement of the Class Action on the terms and in the circumstances identified by either Omni Bridgeway or the Representative or both, is fair and reasonable in all of the circumstances. For the avoidance of doubt, either Omni Bridgeway or the Representative or both may seek counsel's opinion.

- 13.8 For the purposes of clauses 13.7 and 13.12.2, counsel will be the most senior counsel of those retained by the Lawyers, in respect of the Class Action concerned. If no counsel has been retained then the Lawyers, in consultation with the Representative and Omni Bridgeway, will appoint counsel for that purpose. If Omni Bridgeway and the Representative are unable to agree on the selection of counsel, then counsel will be appointed by the President of the New South Wales Bar Association for that purpose.
- 13.9 If counsel's opinion is that the Settlement is fair and reasonable then the Claimant and Omni Bridgeway agree that the Lawyers are instructed to do all that is necessary to Settle the Class Action consistently with the terms of the Settlement advised by counsel, provided that the Court's approval of the Settlement is obtained.
- 13.10 Omni Bridgeway will pay the costs of counsel in providing the opinion referred to in clauses 13.7 and 13.12.2 as part of the Project Costs.
- 13.11 Subject to clause 13.12, the procedure set out in clauses 13.7 to 13.9 (inclusive) will also apply where the Claimant:
- 13.11.1 wants to Settle any Claim not yet the subject of Proceedings for less than Omni Bridgeway considers appropriate; or
- 13.11.2 does not want to Settle any Claim not yet the subject of Proceedings when Omni Bridgeway considers it appropriate to do so.
- 13.12 Where there is a proposed Settlement of any Claims not yet the subject of proceedings, which also involves the Settlement of Other Claims, the Claimant agrees to be bound by that proposed Settlement and that the Lawyers are instructed to do all that is necessary to settle the Claims as part of that proposed Settlement provided that:
- 13.12.1 more than 50% by value of Funded Persons whose claims are the subject of that proposed Settlement vote in favour of it; and
- 13.12.2 advice is received from the most senior counsel of those retained by the Lawyers (or if no counsel has been retained, counsel appointed in accordance with clause 13.8) that the proposed Settlement is fair and reasonable.
- The Lawyers will determine the value of each claim for the purposes of this clause.
- 13.13 Counsel may proceed as he or she sees fit to inform himself or herself before forming and delivering his or her opinion pursuant to clauses 13.7 or 13.12.2 and shall have regard to the factors set out in **Schedule 4** (to the extent that counsel considers them relevant). Counsel may give his or her opinion orally or in writing. If the opinion is given orally, counsel shall also provide it in writing at the earliest opportunity unless Omni Bridgeway and (in the case of a Class Action that has commenced) the Representative agree otherwise.
- 13.14 Omni Bridgeway may at its discretion require that the Lawyers submit any one or more of their invoices forming part of the Project Costs to taxation or assessment. If required to do so by Omni Bridgeway, the Claimant will take all steps necessary to achieve the commencement, processing and conclusion of that taxation or assessment. Any costs of taxation or assessment will be paid by Omni Bridgeway as part of the Project Costs.
- 13.15 Omni Bridgeway and the Claimant agree that, should any conflict arise as between the interests of Omni Bridgeway and the interests of the Claimant, then the Lawyers may continue to provide the Legal Work to the Claimant and Omni Bridgeway will raise no objection to them doing so.

14 CONFIDENTIALITY AND PROVISION OF DOCUMENTS

- 14.1 In providing to Omni Bridgeway any documents or information about the Claims and the Proceedings, the Claimant does not intend to waive any Privilege that may attach to such documents or information and they are being provided in furtherance of the common interest that the Claimant and Omni Bridgeway have in relation to the Claims.
- 14.2 Unless specifically prohibited by the terms of a court order or other professional obligation, the Lawyers will provide to Omni Bridgeway a copy of any document obtained in the Proceedings by way of discovery, subpoena or any other coercive power of the Court, on the basis that the information and documentation is confidential and, subject to this clause 14, provided for the purpose of resolving the Claims and, on request by the Lawyers, will be returned or destroyed by Omni Bridgeway at the conclusion of the Project, subject to compliance by Omni Bridgeway with any applicable document retention policy.
- 14.3 Omni Bridgeway and the Claimant agree that all information, communications and documents provided to or acquired, exchanged or generated by or between either of them or the Lawyers in relation to the Project (**Project Information**) are provided, acquired, exchanged or generated in circumstances where the Claimant is contemplating or conducting litigation against the Respondent. As a result, Omni Bridgeway and the Claimant acknowledge that:
- 14.3.1 all the Project Information is confidential;
- 14.3.2 the Project Information may be subject to a claim of Privilege by the Claimant; and
- 14.3.3 the communications are “confidential communications” and the documents are “confidential documents” within the meaning of Part 3.10 of the *Evidence Act 1995* (Cth),
- unless any part of the Project Information is already in the public domain through no breach of this Agreement.
- 14.4 Omni Bridgeway and the Claimant agree to maintain the confidentiality of, and any Privilege attaching to, the Project Information and the contents of this Agreement that is not in the public domain and shall not directly or indirectly divulge or release the Project Information or contents of this Agreement except as permitted by clause 14.5 to 14.7 (inclusive).
- 14.5 The Project Information and the contents of this Agreement may be disclosed by:
- 14.5.1 Omni Bridgeway to any Omni Bridgeway Permitted Person, provided that (other than in the case of disclosure to an Omni Bridgeway Entity) the applicable Omni Bridgeway Permitted Person has agreed with Omni Bridgeway to keep the information confidential or otherwise has a professional obligation of confidence;
- 14.5.2 either party, subject to clause 7.6:
- (a) pursuant to any written agreement between the Claimant and Omni Bridgeway;
- (b) as authorised by this Agreement;
- (c) to the Lawyers;
- (d) as required by law or by a court or regulatory authority of competent jurisdiction (including any relevant securities exchange); or
- (e) to enforce the party’s rights under this Agreement.
- 14.6 If a party must make a disclosure as described in clauses 14.5.2(d) or 14.5.2(e), it must do so only to the minimum extent required to meet its obligations or enforce its rights.
- 14.7 Omni Bridgeway may, in its absolute discretion, disclose the contents of this Agreement to any Respondent or its agents.

15 PROVISION OF INFORMATION TO OMNI BRIDGEWAY

- 15.1 The Claimant warrants as at the Contract Date that, to the best of the Claimant's knowledge, there is no information in the custody, possession or control of the Claimant materially relevant to the Claims or the outcome of the Proceedings or the potential for any Resolution Sum to be recovered in respect of the Claims, which has not been provided or disclosed to Omni Bridgeway.
- 15.2 If, after the Contract Date, the Claimant becomes aware of any information which has or may have a material impact on the Claims, the Proceedings or the potential for any judgment sum to be recovered, the Claimant must immediately inform Omni Bridgeway of that information.

16 DURATION OF THIS AGREEMENT

- 16.1 Subject to clauses 3, 17 and 18, this Agreement commences on the Contract Date and continues in operation until:
- 16.1.1 all Proceedings, and any appeals funded by Omni Bridgeway, have concluded;
- 16.1.2 Omni Bridgeway has complied with all of its obligations under to this Agreement and the Other Funding Agreements;
- 16.1.3 the Claimant has complied with all of his, her or its obligations under this Agreement; and
- 16.1.4 the total Resolution Sum (if any) and any resolution sums under any Other Funding Agreements have been disbursed in accordance with all of those agreements.

17 TERMINATION BY OMNI BRIDGEWAY

- 17.1 Omni Bridgeway has the right to terminate this Agreement by giving the Claimant not less than 14 days' written notice of termination.
- 17.2 If Omni Bridgeway terminates this Agreement pursuant to clause 17.1, then on the termination taking effect:
- 17.2.1 the property assigned to Omni Bridgeway pursuant to clause 12.2.2 is reassigned to the Claimant and Omni Bridgeway is not entitled to that property, but Omni Bridgeway will continue to be entitled to the property assigned to it pursuant to clause 12.2.1;
- 17.2.2 the Claimant remains obligated to immediately notify Omni Bridgeway upon receipt by the Claimant of any Resolution Sum; and
- 17.2.3 all other rights and obligations of the parties under this Agreement cease, save for any provisions of this Agreement expressed to survive termination and any obligations accrued prior to termination as contemplated pursuant to clause 17.3
- 17.3 The accrued obligations of Omni Bridgeway referred to in clause 17.2.3 comprise:
- 17.3.1 payment of any outstanding Project Costs incurred up to the date the termination takes effect; and
- 17.3.2 payment of any Adverse Costs Order against the Claimant in any Proceedings in respect of costs which arise in, or are attributed to, the period beginning on Contract Date and ending on the date Omni Bridgeway's termination becomes effective.
- 17.4 The parties agree that clauses 17.2 and 17.3 will survive and continue to bind the parties after Termination.

18 TERMINATION BY THE CLAIMANT AND TERMINATION OF THE STANDARD LAWYERS TERMS

- 18.1 If Omni Bridgeway commits a material breach of this Agreement or a material breach of the Regulations and does not remedy the breach within 30 days after receiving written notice from the Claimant, the Claimant may terminate this Agreement forthwith by written notice to Omni Bridgeway.
- 18.2 If this Agreement is terminated by the Claimant pursuant to clause 18.1 then:
- 18.2.1 Omni Bridgeway remains liable for the obligations referred to in clauses 17.3.1 and 17.3.2 and
- 18.2.2 Omni Bridgeway ceases to be entitled to any property the subject of the Assignments and the property assigned to Omni Bridgeway pursuant to clause 12.2 is, on the Termination taking effect, immediately reassigned to the Claimant.
- 18.3 If the Proceedings are conducted as a Class Action and the Claimant exercises a right to opt out of the Class Action pursuant to an Opt Out Notice, then upon the exercise of that right this Agreement will terminate (unless otherwise provided in this clause 18). If there is a Resolution of the Claims of the Claimant at the time of the termination or at any later time, clauses 9, 10 and 12 will continue to apply and the Claimant will be liable to pay to Omni Bridgeway, from the relevant Resolution Sum, the amounts set out in clause 12.1. The obligations in this clause are continuing obligations and survive any Termination of this Agreement. For the avoidance of doubt this clause does not provide Claimants with a right to opt-out of the Class Action in the absence of the Claimant receiving an Opt Out Notice and the Claimant complying with the requirements of the Opt Out Notice.
- 18.4 If the Standard Lawyers Terms are terminated, Omni Bridgeway will inform the Claimant as to whether Omni Bridgeway and the Representative have agreed to other solicitors becoming the Lawyers.
- 18.5 If clause 18.4 applies and Omni Bridgeway notifies the Claimant in writing that Omni Bridgeway and the Representative have agreed to other solicitors becoming the Lawyers, provided those solicitors agree with Omni Bridgeway to terms the same as or substantially the same as the Standard Lawyers Terms, those solicitors will become the Lawyers for the purposes of this Agreement in place of the existing Lawyers.
- 18.6 Replacement of the Lawyers in the circumstances of clause 18.5:
- 18.6.1 will not result in a Termination of this Agreement; and
- 18.6.2 will not result in the replacement solicitors assuming any obligations of the Lawyers accrued to the date the appointment of the previous Lawyers is terminated.
- 18.7 If clause 18.4 applies and Omni Bridgeway notifies the Claimant in writing that it is not proposed to replace the Lawyers, then this Agreement will terminate as at the date of such notice. If this occurs, then:
- 18.7.1 clauses 17.2.1 and 17.2.2 apply; and
- 18.7.2 clauses 9, 10 and 12 will continue to apply except that, where the Termination occurs before all Resolutions have occurred, the Claimant will continue to be liable to account to Omni Bridgeway from any Resolution Sum for the property assigned to Omni Bridgeway pursuant to clause 12.2.1 and the property referred to in clause 12.2.2 is, on the Termination taking effect, reassigned to the Claimant.

19 DISPUTE RESOLUTION

- 19.1 Any dispute, controversy or claim in relation to or arising out of this Agreement, including any question about its existence, validity, meaning, performance or termination or the rights, duties and liabilities of any party to it and which is not subject to clauses 9.10 or 13 (**Dispute**) must be resolved in accordance with this clause 19.
- 19.2 If any party wishes to raise a Dispute, then that party must promptly give a written notice of the Dispute to the other party (**Notice**). The Notice must briefly identify the Dispute, the main arguments of the party giving the notice, an assessment of the monetary value of the Dispute and the remedy sought by that party.
- 19.3 In the case of a Dispute raised by the Claimant, the Notice must be given to Omni Bridgeway within 21 days of the first occurrence of the event, circumstance, act, omission, fact, matter or thing which gave rise to the Dispute.
- 19.4 The parties agree to meet to discuss, and endeavour in good faith to resolve, the Dispute within 28 days of the Notice being received.
- 19.5 The parties may agree, within the time period referred to in clause 19.4, to submit the Dispute to mediation and, if they do, the mediation will be:
- 19.5.1 held in Sydney, New South Wales, Australia;
 - 19.5.2 administered by the Australian Centre for International Commercial Arbitration (**ACICA**); and
 - 19.5.3 conducted in accordance with the ACICA Mediation Rules.
- 19.6 The parties have 5 days from the date of agreeing to submit the Dispute to mediation to agree on the name of the mediator, failing which the mediator will be appointed by ACICA.
- 19.7 The parties will agree a timetable with the mediator, which is not to exceed 6 weeks from the date of appointment of the mediator, within which to hold the mediation and seek to resolve the Dispute.
- 19.8 The parties agree that any information, documents or communications, including any information, documents or communications from, to or by any third parties created, exchanged or used (**Information**) in relation to any discussions or mediation under this clause 19 (**Dispute Resolution Process**), and the facts of the Dispute and of the Dispute Resolution Process, shall be confidential to the parties, their legal advisers, and any mediator (as applicable) and shall not be disclosed without the prior agreement of all of the relevant parties unless:
- 19.8.1 disclosure is required by law;
 - 19.8.2 disclosure is for the purpose of either party applying to a court to enforce any award or settlement agreement in respect of the Dispute or, without waiving any party's rights under this clause 19, to seek any order reasonably required to facilitate the Dispute Resolution Process or to protect the party's rights on an interim basis pending the outcome of the Dispute Resolution Process; or
 - 19.8.3 the Information and facts are otherwise in the public domain through no breach of this Agreement.
- 19.9 If the Dispute is not resolved within 28 days of the Notice being received (or, if the parties have agreed in writing to mediate, within 70 days of the Notice being received), then either party may issue a notice referring the Dispute to arbitration. In any arbitration under this clause:
- 19.9.1 the arbitration will be conducted in accordance with the ACICA Arbitration Rules, which rules are deemed to be incorporated into this Agreement except where this Agreement expressly provides otherwise;
 - 19.9.2 the arbitration will be final and binding;

- 19.9.3 there must be three arbitrators unless otherwise agreed;
 - 19.9.4 the language of the arbitration must be English;
 - 19.9.5 the seat of the arbitration will be Sydney, New South Wales, Australia and all arbitration hearings must occur there;
 - 19.9.6 the proper law of the arbitration agreement embodied in this clause 19 is the governing law of this Agreement;
 - 19.9.7 the arbitration will be administered by ACICA;
 - 19.9.8 sections 23C, 23D, 23E, 23F, 23G and 24 of the *International Arbitration Act 1974* (Cth) will apply to any international arbitration held under this clause 19 which is subject to that Act; and
 - 19.9.9 sections 27E, 27F, 27G, 27H, 27I and 34A of the Commercial Arbitration Act 2010 (NSW) will apply to any domestic arbitration held under this clause 19 which is subject to that Act.
- 19.10 The parties agree that they will:
- 19.10.1 pay, in equal shares, all fees, charges, costs and other amounts; and
 - 19.10.2 provide, in equal shares, any security or deposit,
which may be required to be paid or provided by either party or by both parties:
 - 19.10.3 under the ACICA Mediation Rules or the ACICA Arbitration Rules (as is relevant); or
 - 19.10.4 by order or direction of any mediator or Arbitral Tribunal appointed under this clause 19,
at any time prior to the resolution of the Dispute (whether this occurs by agreement, a mediated settlement or an award of the Arbitral Tribunal) unless ACICA, the mediator or the Arbitral Tribunal require otherwise.
- 19.11 In the case of a Dispute raised by the Claimant, if the Claimant fails to comply with:
- 19.11.1 clause 19.3;
 - 19.11.2 the time limit for referring the Dispute to arbitration under clause 19.9 ; or
 - 19.11.3 an order by the Arbitral Tribunal under rule 42 of the ACICA Arbitration Rules for each party to pay a deposit as an advance for the costs of the arbitration,
then, to the extent permitted by law:
 - 19.11.4 Omni Bridgeway will not be liable upon any claim by the Claimant; and
 - 19.11.5 the Claimant will be absolutely barred from making any claim against Omni Bridgeway,
arising out of or in any way in connection with the event, circumstance, act, omission, fact, matter or thing (as the case may be) in respect of which the Dispute arose. Any dispute in relation to or arising out of clauses 19.10 and 19.11 must also be determined in accordance with this clause 19.
- 19.12 Nothing in clauses 19.1 to 19.11 inclusive affects any right the Claimant may have, if the Claimant is a “retail client” as defined in the Corporations Act, to lodge a complaint (in relation to any Dispute) with the Financial Ombudsman Service.
- 19.13 Unless and until this Agreement is validly Terminated under clauses 17 or 18, each party shall continue to perform its obligations under this Agreement notwithstanding the existence of the Dispute and without prejudice to any adjustment to each party’s rights, duties and liabilities as may be required on the resolution of the Dispute.
- 19.14 The parties agree that this clause 19 will survive Termination of this Agreement.

20 MISCELLANEOUS

- 20.1 The Claimant and Omni Bridgeway will not do or permit to be done, save as provided in this Agreement, anything likely to deprive any party of the benefit for which the party entered into this Agreement.
- 20.2 The Claimant will use his, her or its best endeavours to cause any Resolution Sum to be received or recovered as quickly as possible, particularly after any Settlement or judgment in respect of the Claims.
- 20.3 If this Agreement or any part of it is annulled, avoided or held to be unenforceable the Claimant will, without delay, do everything necessary, including without limitation signing any further or other agreement or instrument, to ensure that Omni Bridgeway receives any remuneration, entitlement or other benefit to which this Agreement refers or is contemplated by this Agreement. The Claimant irrevocably agrees that production of a copy of this Agreement shall be conclusive evidence of the Claimant's undertaking as set out in this clause.
- 20.4 The Claimant acknowledges and accepts that:
- 20.4.1 Omni Bridgeway has either entered into or will enter into Other Funding Agreements;
- 20.4.2 Omni Bridgeway may fund other claims and proceedings against the Respondents which are unrelated to the Claims; and
- 20.4.3 if any Respondent or any of the Respondent's property, assets or liabilities come under the control of an External Controller, Omni Bridgeway may fund claims of the Respondent and the External Controller for consideration additional to that Omni Bridgeway may receive from Funded Persons.
- 20.5 The Claimant accepts that it is possible that if the Proceedings are conducted as a Class Action there may be members of the class who have not entered into a funding agreement with Omni Bridgeway.
- 20.6 Termination of this Agreement will not affect Omni Bridgeway's right to do anything authorised or contemplated by any Other Funding Agreement.
- 20.7 This Agreement is personal to the Claimant and the Claimant must not assign, transfer or deal in any other manner with this Agreement or the Claimant's rights and benefits under it without Omni Bridgeway's written consent. Omni Bridgeway may enter in a co-funding agreement in relation to its obligations under this Agreement with a Co-Funder. Omni Bridgeway may also assign some or all of its rights and benefits pursuant to this Agreement to any Omni Bridgeway Entity or Co-Funder.
- 20.8 If a party fails, delays, relaxes or indulges the other party in exercising a power or right it has under this Agreement, the first party has not waived that power or right. A power or right may only be waived in writing signed by the party to be bound by the waiver.

21 NOTICES AND COMMUNICATIONS

- 21.1 All notices given under this Agreement must be in writing and have to be served personally, by post, by facsimile or by email.
- 21.2 The parties agree that the most efficient and least costly way for them to communicate with each other is by email and that, wherever possible, written communications between them will be by email and not by posted or faxed paper documents. By providing an email address to Omni Bridgeway, the Claimant consents to receiving communications (including copies of documents) from Omni Bridgeway by email. The Claimant may withdraw his, her or its consent (or reinstate it, if it has been withdrawn) at any time on giving 21 days' written notice of the Claimant's decision to Omni Bridgeway.

If the consent is withdrawn, all communications from Omni Bridgeway from the date the notice becomes effective will be by posted or faxed paper documents.

- 21.3 Omni Bridgeway will provide the Claimant with an email address for its Client Liaison Team. All notices and other communications the Claimant needs to serve on or have with Omni Bridgeway may be communicated to this email address or, if any email to that address is unsuccessful, to the email address specified in clause 21.5.
- 21.4 The Claimant will, at the Contract Date, provide Omni Bridgeway with an email address for the Claimant (if applicable) and will, consistently with clause 7.1.8, immediately notify Omni Bridgeway of any change to that email address. If the Claimant revokes his, her or its consent to receive communications from Omni Bridgeway by email, the Claimant shall inform Omni Bridgeway (in the notice referred to in clause 21.2) of the Claimant's postal address and/or facsimile number and shall ensure that Omni Bridgeway is promptly informed, in writing, of any changes to the Claimant's contact details.
- 21.5 The parties agree that, for the duration of this Agreement, they will take all reasonable steps to ensure that their respective email addresses remain fully operational, allow unimpeded access to each party's inbox for the emails of the other party, and are checked daily.

The address for service of Omni Bridgeway is:

Omni Bridgeway
Level 6, 37 St Georges Terrace
Perth WA 6000
Australia
Email: legal@omnibridgeway.com

- 21.6 The address for service of the Claimant is as set out in the "Contact Details" part of the Claimant Information Section, or as subsequently notified to Omni Bridgeway by the Claimant.
- 21.7 Notices shall be deemed to be received on the day after they are posted and on the day they are transmitted by facsimile or email (unless the sender receives notification that the transmission was unsuccessful). If either party receives notification that an email or facsimile transmission to the other party's notified address was unsuccessful, the party must make all reasonable efforts to contact the other party by telephone or mail. Neither party shall be responsible to the other for any loss or damage of any nature arising out of any failure to notify or communicate with the other party if the party attempting to make the notification or communication has fully complied with all of the provisions of this clause 21.

22 ACKNOWLEDGEMENT AND CONSENT

- 22.1 By signing this Agreement, the Claimant:
- 22.1.1 acknowledges that the Claimant has been given the opportunity to obtain, and has obtained, all independent legal, financial and other professional advice in respect of this Agreement that the Claimant considers necessary;
- 22.1.2 acknowledges that the Claimant has received and read Omni Bridgeway's Disclosure Statement; and
- 22.1.3 consents to Omni Bridgeway collecting, storing, using and disclosing personal information provided by the Claimant in accordance with and subject to this Agreement and Omni Bridgeway's Privacy Policy (which is available on Omni Bridgeway's website at <https://omnibridgeway.com/website-policies/privacy-policy>).

23 GOVERNING LAW

23.1 This Agreement and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes and claims) are governed by and construed in accordance with the law of the State of New South Wales. Subject to clause 19, the parties submit to the non-exclusive jurisdiction of the courts of that State and will not object to the exercise of jurisdiction by those courts on any basis.

Schedule 1 – Standard Lawyers Terms

This agreement is made the _____ day of _____ 2017

PARTIES

Omni Bridgeway **Omni Bridgeway Limited ACN 067 298 088** of Level 18, 68 Pitt Street, Sydney, New South Wales 2000 Australia.

Lawyers **Maurice Blackburn Pty Ltd (ACN 105 657 949)** of Level 456 Lonsdale Street, Melbourne Victoria 3000 Australia.

Email: awatson@mauriceblackburn.com.au

RECITALS

- A Omni Bridgeway has entered into, or proposes to enter into, the Funding Agreements.
- B The Funding Agreements are all in the same, or substantially the same, terms.
- C The Lawyers are aware of the terms of the Funding Agreements and have agreed to act consistently with, and in accordance with, the terms of the Funding Agreements and these Standard Lawyers Terms.

AGREED TERMS

1 DEFINITIONS

1.1 In these Terms, unless the contrary intention appears:

Approved Lawyer Fees	means, to the extent such amounts are approved as properly paid or payable to the Lawyers by order of the Court: <ul style="list-style-type: none">(a) the reasonable legal fees (including any GST) of the Lawyers incurred for the sole purpose of preparing for, prosecuting and resolving the Proceedings and which are to be reimbursed to Omni Bridgeway pursuant to clause 9.4.1 of the Funding Agreements; and(b) the amounts referred to in Terms 8.1.1(a) to 8.1.1(d) (inclusive).
Claims	has the meaning given in the Funding Agreements.
Funded Person	means a person who has entered into a Funding Agreement with Omni Bridgeway in respect of their Claims.
Funding Agreements	means all litigation funding agreements entered into by Omni Bridgeway in respect of the Commonwealth Bank of Australia class action.
Insolvency Event	means, in respect of a person, one of the following occurs: <ul style="list-style-type: none">(a) a controller (as defined in section 9 of the Corporations Act), receiver, receiver and manager, administrator or similar officer

- is appointed in respect of that person or any asset of that person;
- (b) a liquidator, provisional liquidator or administrator is appointed in respect of that person;
 - (c) except for the purpose of a solvent reconstruction or amalgamation, any application (not withdrawn or dismissed within 7 days) is made to a court for an order, an order is made, a meeting is convened or a resolution is passed, for the purpose of:
 - (i) appointing a person referred to in paragraph (a) or (b) of this definition;
 - (ii) winding up, dissolving or deregistering that person; or
 - (iii) proposing or implementing a company voluntary arrangement or a scheme of arrangement, other than with the prior approval by a Special Resolution of the Noteholders under a solvent scheme of arrangement pursuant to Part 5.1 of the Corporations Act;
 - (d) any application (not withdrawn or dismissed within 7 days) is made to a court for an order, a meeting is convened, a resolution is passed or any negotiations are commenced, for the purpose of implementing or agreeing:
 - (i) moratorium of any debts of that person;
 - (ii) any other assignment, composition or arrangement (formal or informal) with that person's creditors; or
 - (iii) any similar proceeding or arrangement by which the assets of that person are subjected conditionally or unconditionally to the control of that person's creditors or a trustee,or any agreement or other arrangement of the type referred to in this paragraph (d) is ordered, declared or agreed to;
 - (e) as a result of the operation of section 459F(1) of the Corporations Act, that person is taken to have failed to comply with a statutory demand (as defined in the Corporations Act);
 - (f) any writ of execution, garnishee order, mareva injunction or similar order, attachment or other process is made, levied or issued against or in relation to any asset of that person;
 - (g) anything analogous to anything referred to in paragraphs (a) to (f) inclusive of this definition, or which has a substantially similar effect, occurs with respect to that person under any law; or
 - (h) that person is, or admits in writing that his, her or it is, or is declared to be, or is presumed or taken under any applicable law to be (for any purpose), insolvent or unable to pay his, her or its debts as they fall due.

Key Personnel

means those partners, directors, special counsel or equivalent roles of seniority designated in accordance with Term 3.1.1, or such other

persons as may be agreed between the Lawyers and Omni Bridgeway from time to time.

Remaining Costs has the meaning given in Term 8, as applicable.

Terms means this agreement between Omni Bridgeway and the Lawyers and “**Term**” means a provision of these Standard Lawyers Terms.

Uplift Fee means an amount equal to 25% of the amount referred to in Term 8.1.1(a)

1.2 Unless the contrary intention appears or unless specifically defined above, the definitions of words in the Funding Agreements apply to define the meaning of words used in these Terms.

2 THE FUNDING AGREEMENTS

2.1 The Lawyers will:

2.1.1 act consistently with the terms of the Funding Agreements (including complying with all instructions set out in, or provided pursuant to, the Funding Agreements); and

2.1.2 do all things which the Funding Agreements contemplate the Lawyers will do.

2.2 The Lawyers agree that if there is any inconsistency between the Funding Agreements and/or these Terms and the terms of any retainer agreement (including any costs disclosure) between the Lawyers and any Funded Person, then the terms of the Funding Agreements and/or these Terms (as appropriate) will prevail.

2.3 The Lawyers shall enter into a retainer agreement with each Funded Person and shall disclose to each Funded Person the sources of all fees or other income they may receive in relation to this Project, including providing a budget for all estimated costs and expenses up to the conclusion of a trial in the proposed Proceedings which shall be consistent with the Project Estimates.

3 COMMENCEMENT OF THE PROJECT

3.1 The Lawyers will inform Omni Bridgeway in writing of:

3.1.1 the name and title of each lawyer who it is proposed will provide the Legal Work, for the purposes of Term 5.2;

3.1.2 the hourly rates of those lawyers (inclusive of GST) for the purposes of Term 5.1;

3.1.3 the hourly and daily rates of any barristers or experts retained or proposed to be retained (inclusive of GST); and

3.1.4 the Lawyers' estimate of fees and disbursements to prosecute the Claims and the Other Claims up to the conclusion of a trial in the proposed Proceedings (separately identifying the estimated fees of the Lawyers, the barristers and the experts, if any, by reference to each event in the Project Estimates).

3.2 The Lawyers will use their best endeavours to ensure that the total actual costs and disbursements set out in the Project Estimates are not exceeded. If at any time the Lawyers form a view that the Project Estimates are no longer their best estimate of the costs and disbursements for the Project, they will advise Omni Bridgeway in writing, setting out why they have come to that view, and identify their revised best estimate of the costs and disbursements.

4 REPORTING

- 4.1 The Lawyers will keep Omni Bridgeway fully informed of all matters concerning the Claims and the Proceedings, including any mediation and settlement discussions. The Lawyers will ensure that Omni Bridgeway is given all necessary information and advice in order for Omni Bridgeway to provide informed instructions and the Project Management.
- 4.2 The Lawyers will inform Omni Bridgeway, in writing and as soon as they become aware that:
- 4.2.1 the Lawyers or any director, partner or senior employee (or any spouse or child of any director, partner or senior employee) of the Lawyers beneficially owns at least 1% of Omni Bridgeway's issued share capital; and
 - 4.2.2 any barrister or expert witness retained or briefed by the Lawyers in relation to the Project (or any spouse or child of any such barrister or witness) beneficially owns at least 1% of Omni Bridgeway's issued share capital,
- and the Lawyers agree:
- 4.2.3 to make all reasonable enquiries, at the commencement of these Terms or when initially retaining all barristers and expert witnesses, in order to determine whether Terms 4.2.1 or 4.2.2 apply;
 - 4.2.4 to require, for the duration of the Proceedings, all persons referred to in this Term 4.2 to immediately inform the partner of the Lawyers with responsibility for this Project of any change in the circumstances referred to in Terms 4.2.1 and 4.2.2 which have been previously disclosed to Omni Bridgeway; and
 - 4.2.5 that the partner of the Lawyers with responsibility for this Project will immediately inform Omni Bridgeway of any information received pursuant to Term 4.2.4.
- 4.3 Without limiting Term 4.1, if, after the date of these Terms, the Lawyers become aware of any information which has or may have a material impact on the Claims, the Proceedings, or the potential for any judgment sum to be recovered, the Lawyers will immediately inform Omni Bridgeway of that information.
- 4.4 The Lawyers will inform the Funded Persons of significant developments in the Proceedings by means of update reports which Omni Bridgeway will email or post to each Funded Person and, unless otherwise agreed, will provide a quarterly report within 7 days of the end of March, June, September and December to any Representative and to Omni Bridgeway which:
- 4.4.1 identifies any change to the previous quarterly report and any significant developments since that report;
 - 4.4.2 reviews and updates the issues relevant to liability and quantum; and
 - 4.4.3 provides advice in respect of any proposed changes to the Claims' percentage chance of success and any proposed changes to the Project Estimates without derogating in any way from the continuing obligation in Term 3.2.

5 COSTS AND DISBURSEMENTS

- 5.1 The Lawyers will charge for the Legal Work performed by reference to the time reasonably and properly spent at the hourly rates notified to Omni Bridgeway pursuant to Term 3.1, subject to an annual revision in those rates which is acceptable to Omni Bridgeway, the Representative and the Lawyers. Detailed time records must be kept to facilitate time details being provided in accordance with Term 6.1.
- 5.2 No fee will be charged by the Lawyers for any fee earners, other than those notified to Omni Bridgeway pursuant to Term 3.1, without the prior written consent of Omni Bridgeway. Omni

Bridgeway will not be liable to pay the fees of any barristers or experts other than those notified to Omni Bridgeway pursuant to Term 3.1 or those briefed with Omni Bridgeway's written consent. Omni Bridgeway will not unreasonably refuse to provide its written consent.

- 5.3 The Lawyers will only seek reimbursement from Omni Bridgeway for expenditure reasonably incurred by the Lawyers in progressing the Proceedings being:
- 5.3.1 photocopying and scanning at the rates detailed in the current Omni Bridgeway/LitSupport Price List. If the Lawyers choose not to utilise LitSupport for these services, they will ensure that:
- (a) all photocopying and scanning services are provided at prices commensurate with LitSupport pricing; and
 - (b) the basis for their pricing policy is identified on their accounts; and
- 5.3.2 other reasonable expenditure, supported by invoices where \$500 or above.

6 INVOICES

- 6.1 The Lawyers will render monthly invoices to Omni Bridgeway (emailed to invoices@omnibridgeway.com), with a copy to any Representative, by the 20th day of each month, accompanied by:
- 6.1.1 the details contemplated by Term 6.5;
- 6.1.2 a summary of the time details by their total cost (in a single dollar figure) allocated to each relevant event in the Proceedings; and
- 6.1.3 invoices from barristers, experts (both also being allocated to each event as in Term 6.1.2) and for any other significant disbursements (\$500 or above).
- 6.2 The monetary details in the monthly invoices will include a charge for the time detailed at 70% of the hourly rates of the Lawyers and 100% of the hourly rates of the barristers notified to Omni Bridgeway pursuant to Term 3.1.
- 6.3 Subject to the Funding Agreements and these Terms, Omni Bridgeway will pay:
- 6.3.1 70% of the reasonable legal fees of the Lawyers incurred up to the termination of these Terms for the sole purpose of preparing for, prosecuting and resolving the Proceedings;
- 6.3.2 100% of Counsels' fees, any other reasonable fees of experts approved by Omni Bridgeway and any other reasonable disbursements as agreed with Omni Bridgeway up to the termination of these Terms, for the sole purpose of preparing for, prosecuting and resolving the Proceedings; and
- 6.3.3 any GST payable on the items in Terms 6.3.1 and 6.3.2,
- in so far as those costs and disbursements (and GST) form part of the Project Costs in accordance with the Funding Agreements.
- 6.4 Provided invoices from the Lawyers comply with these Terms, Omni Bridgeway will pay them in accordance with Term 6.3 within 30 days from the end of the month in which the Lawyers' invoice is received by Omni Bridgeway.
- 6.5 The time details for fees of the Lawyers must be in a separate document to each invoice and must include, for each time entry:
- 6.5.1 the date on which the time was spent;
- 6.5.2 the solicitor or paralegal who spent the time;
- 6.5.3 the time spent in six minute units; and

6.5.4 a brief explanation of the work performed.

6.6 Omni Bridgeway may at its discretion require the Lawyers to submit any one or more of their invoices to taxation.

7 PAYMENT OF LAWYERS' REMAINING COSTS

7.1 On Resolution, the Lawyers shall be entitled to payment or distribution out of any Resolution Sum of any fees which form part of the Remaining Costs pursuant to the Funding Agreements and these Terms.

8 REMAINING COSTS

8.1 “Remaining Costs” amount to the following:

8.1.1 where Term 8.1.2 does not apply:

- (a) 30% of the Lawyers' reasonable fees incurred up to the termination of these Terms for the sole purpose of preparing, prosecuting and resolving the Proceedings;
- (b) interest from the date of the issue of a monthly statement or invoice with respect to any of the fees referred to in Term 8.1.1(a) at the rate prescribed by the relevant legal profession regulations or rules and pursuant to those regulations or rules;
- (c) any amounts that are paid or incurred as an Uplift Fee in accordance with any retainer agreement entered into between the Lawyers and any Funded Person; and
- (d) any GST on Terms 8.1.1(a) to 8.1.1(c) (inclusive); or

8.1.2 in circumstances where the Court has made an order in respect of Approved Lawyer Fees:

- (a) subject to Term 8.1.2(b), the sum of the Approved Lawyer Fees less any reasonable legal fees of the Lawyers (including any GST) reimbursed to Omni Bridgeway pursuant to clause 9.4.1 of the Funding Agreements; or
- (b) zero where the amount referred to in Term 8.1.2(a) is a negative number.

8.2 For the avoidance of doubt, Remaining Costs do not form part of the Project Costs

9 PRIORITIES, LIEN AND INSURANCE

9.1 The Lawyers agree not to seek payment of any amounts outstanding to them in excess of that for which Omni Bridgeway is liable under these Terms or as Remaining Costs.

9.2 The Lawyers are not entitled to claim a lien in respect of documents in their possession relevant to the Proceedings if there are no fees payable pursuant to Term 6.3.

9.3 The Lawyers will maintain professional indemnity insurance of at least \$10 million for the duration of these Terms plus three years.

9.4 The Lawyers will provide evidence of the insurance to Omni Bridgeway on Omni Bridgeway's request.

10 TERMINATION OF THESE TERMS

10.1 The Lawyers may terminate these Terms on 7 days' written notice to Omni Bridgeway in the following circumstances:

- 10.1.1 if Omni Bridgeway fails to pay any costs in accordance with these Terms after Omni Bridgeway has been given 30 days' written notice to do so; or
 - 10.1.2 if the Lawyers terminate all retainers between the Lawyers and Funded Persons relating to the Proceedings in accordance with their right to do so.
- 10.2 Omni Bridgeway may terminate these Terms:
- 10.2.1 by giving written notice, upon an Insolvency Event occurring in relation to the Lawyers;
 - 10.2.2 by agreement with the Lawyers;
 - 10.2.3 upon 7 days' written notice to the Lawyers in the event of professional misconduct or negligence by the Lawyers that has caused or is reasonably likely to cause material loss to a Funded Person or to Omni Bridgeway; or
 - 10.2.4 upon 7 days' written notice if:
 - (a) any of the Key Personnel cease to be engaged in providing the Legal Work; and
 - (b) Omni Bridgeway does not consent to the Lawyers' proposed replacement of the relevant Key Personnel, such consent not to be withheld unreasonably.
- 10.3 If these Terms are terminated pursuant to either Term 10.1 or 10.2, the Lawyers remain liable for all obligations under these Terms accrued by them between the date of termination and the date of their appointment, but thereafter all obligations and entitlements of the Lawyers cease except:
- 10.3.1 the obligations to do those things set out in clauses 9 and 10 of the Funding Agreements, where the Lawyers are not replaced by other solicitors to provide the Legal Work;
 - 10.3.2 those entitlements under Term 6 (in respect of Legal Work up to the date of termination) unless the termination of the Lawyers is under Term 10.2.3; and
 - 10.3.3 the Lawyers shall continue to maintain any legal professional privilege attaching to, and the confidentiality of, the Project Information referred to in clause 14.3 of the Funding Agreements.
- 10.4 If these Terms are terminated pursuant to Term 10.2.3 the Lawyers will be entitled only to payment under Term 6 (in respect of Legal Work up to the date of termination) subject to a deduction for the amount of the loss caused by the Lawyers' professional misconduct or negligence.
- 10.5 These Terms will terminate when all of the Funding Agreements are terminated, such termination to take effect upon the last date on which the last of the Funding Agreements is terminated. If there is a termination pursuant to this Term each party will remain liable for its obligations accrued to the date of termination. Nothing in these Terms shall affect or limit Omni Bridgeway's rights to terminate all or any of the Funding Agreements.

11 CONFIDENTIALITY

- 11.1 The Lawyers agree to keep the contents of the Funding Agreements, these Terms and any original documents produced by Omni Bridgeway to which the Lawyers have access (including Omni Bridgeway's Conflicts Management Policy) confidential and not to use them for any purpose other than the Project unless disclosure of any of this information by the Lawyers is agreed in writing by Omni Bridgeway or is required by law. The obligations in this Term 11.1 will survive the termination of these Terms.

12 ADDRESS FOR SERVICE

- 12.1 Omni Bridgeway’s address for service is as set out in the Funding Agreements.
- 12.2 The Lawyers’ address for service is the address identified on the first page of these Terms or as otherwise notified to Omni Bridgeway in writing if that address changes.

13 VARIATION

- 13.1 These Terms may only be varied in writing signed by the Lawyers and Omni Bridgeway.

EXECUTION BY THE PARTIES

SIGNED by)
Omni Bridgeway Limited)
ACN 067 298 088)
in accordance with s 127 of)
the *Corporations Act 2001* (Cth))

Director
Print Name:
Date:

Director/Company Secretary
Print name:

SIGNED by)
Maurice Blackburn Pty Ltd)
ACN 105 657 949)
in accordance with s 127 of)
the *Corporations Act 2001* (Cth))

Director
Print Name:
Date:

Director/Company Secretary
Print name:

SCHEDULE 2 – PROJECT ESTIMATES

SCHEDULE 2

RATES AND CONTACT DETAILS - LAWYERS / BARRISTERS -[INSERT INVESTMENT NAME]
--

NAME OF LAWYER	TITLE	EMAIL ADDRESS	TELEPHONE NO.	HOURLY RATE

NAME OF BARRISTER	TITLE	EMAIL ADDRESS	TELEPHONE NO.	HOURLY RATE	DAILY RATE

PROJECT LINE / BUDGET					
Event	Solicitor's Fees (incl GST)	Jnr Barrister's Fees (incl GST)	Snr Barrister's Fees (incl GST)	Expert Fees (incl GST)	TOTAL (incl GST)
Post Funding / Pre-Drafting Claim					\$ -
Draft Claim & Filing					\$ -
Particulars, Defence & Closing Pleadings					\$ -
Discovery					\$ -
Statements					\$ -
Subpoena					\$ -
Mediation					\$ -
Preparation for Hearing					\$ -
Hearing					\$ -
Multi-Party Function					\$ -
Interlocutory Applications					\$ -
Miscellaneous					\$ -
	\$ -	LAWYERS FEES FOR THE TRIAL (INCL. GST) PAYABLE BY OMNI BRIDGEWAY			\$ -
TOTALS:	\$ -	\$ -	\$ -	\$ -	\$ -

Schedule 3 – Deed Poll

<u>PARTY</u>	NAME	OMNI BRIDGEWAY LIMITED (“Omni Bridgeway”)
	ACN	067 298 088
	ADDRESS	LEVEL 18, 68 PITT STREET SYDNEY NSW 2000
	ATTENTION	GENERAL COUNSEL
	E-MAIL	legal@omnibrigeway.com

DEFINITIONS

ADVERSE COST ORDER	Any costs order made made in favour of any Respondent against the Claimant and/or Omni Bridgeway in the Proceedings in respect of costs incurred during the term the LFA save in respect of costs incurred in respect of a claim following the expiry of the 14 days’ notice period from the date of issue of a Withdrawal Notice by Omni Bridgeway.
CLAIMANT	*[Insert name of Class Action Representative]
COURT	The Court where the Proceedings are conducted.
LFA	The litigation funding agreement which commenced on *[Insert] between Omni Bridgeway and the Claimant.
PROCEEDINGS	*[Insert]
RESPONDENT	*[Insert]
WITHDRAWAL NOTICE	A notice issued by Omni Bridgeway to the Claimant in accordance with the terms of the LFA stating that Omni Bridgeway has ceased funding of one or more of the claims [(against one or more of the Respondents)] which is the subject of the Proceedings.
GOVERNING LAW	The law of New South Wales.

BY THIS DEED POLL, Omni Bridgeway, for the benefit of the Court and each Respondent:

- (a) submits to the jurisdiction of the Court in relation to any order the Court may make directly against Omni Bridgeway in the Proceedings requiring Omni Bridgeway to pay any Adverse Costs Order;
- (b) agrees not to oppose any joinder application made by the Respondent in the Proceedings for the purpose of seeking an order that Omni Bridgeway pay any Adverse Cost Order, and agrees, in circumstances where the rules of the Court prevent that joinder, at the Respondent’s request, to itself apply to be joined to the Proceedings to enable such an order to be made against it;
- (c) agrees to pay to the Respondent the final, quantified amount of any Adverse Cost Order such that the Respondent may enforce payment of that amount as a debt due and owing by Omni Bridgeway to the Respondent;

- (d) agrees to notify the Respondent in writing of any termination of the LFA or issue of a Withdrawal Notice within 7 days of such event occurring; and
- (e) acknowledges having received valuable consideration for this Deed Poll.

DATED this _____ day of _____ 20____.

Executed as a deed poll by)
Omni Bridgeway Limited)
ACN 067 298 088)
in accordance with s127 of the)
Corporations Act 2001 (Cth))

Director
Print Name:

Director / Company Secretary
Print Name:

SCHEDULE 4 – Criteria to be Applied by Counsel in giving an Opinion on a Proposed Settlement

1. In reviewing a proposed Settlement pursuant to clauses 13.7, 13.11 or 13.13 of this Agreement, counsel must be satisfied that the Settlement will be fair and reasonable, taking into account the Claims and the Other Claims that will be the subject of the Settlement and any potential conflicts of interest between Omni Bridgeway, the Lawyers and the group members whose Claims and Other Claims are subject to the proposed Settlement.
2. In satisfying himself or herself that the proposed Settlement is fair and reasonable, counsel should take into account, among other things, the following factors:
 - (a) the amount offered to each group member;
 - (b) the prospects of success in the Proceedings (i.e. the weaknesses, substantive or procedural, in the case advanced by the Representative);
 - (c) the likelihood of the group members obtaining judgment for an amount significantly in excess of the proposed Settlement sum;
 - (d) whether the proposed Settlement sum falls within a realistic range of likely outcomes;
 - (e) the attitude of the group members to the proposed Settlement;
 - (f) the likely duration and cost of the Proceedings if continued to judgment;
 - (g) the terms of the Agreement about the procedure to be applied in reviewing and deciding whether to accept any Settlement offer, including any factors that will and will not be taken into account in deciding to Settle;
 - (h) whether Omni Bridgeway might refuse to continue to fund the Proceedings if the proposed Settlement does not take place; and
 - (i) whether the proposed Settlement involves any unfairness to any group member or any categories of group members for the benefit of others.
3. Counsel should also take into account the potential for conflicts of interest between group members in accordance with the test applied by Jessup J in *Trawalla Milling Co Pty Ltd v F Hoffman-La Roche Ltd (No 2)* (2006) 236 ALR 322 at [41] which relevantly states:

“I propose to turn then to the question whether the settlement, including the distribution scheme, involves any actual or potential unfairness to any group members, or categories of group members, having regard to all relevant matters, including whether the overall settlement sum, even if reasonable as such, involves unfair compromises by some members, or categories of members, for the benefit of others, and whether the distribution scheme fairly reflects the apparent or assumed relative losses suffered by particular members, or categories of members. Any consideration of the fairness and reasonableness of the settlement in the present case must take into account not only the overall settlement sum and its relationship with the amount that might be considered a best possible outcome after a successful trial, but also the structure and workings of the scheme by which that sum is proposed to be distributed amongst group members. The fairness and reasonableness of the settlement, from the point of view of any one group member, will necessarily depend on both of these factors.”