

# Takeover Bid Implementation Agreement

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Olam International Limited

Queensland Cotton Holdings Limited

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## The agreement

### Takeover Bid Implementation Agreement

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Date ▶ 6 March 2007

Between the parties

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<b>Olam</b>	<b>Olam International Limited</b> of #11-02 Suntec Tower Two 9 Temasek Blvd Suntec City Tower Two Singapore 038989
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<b>QCH</b>	<b>Queensland Cotton Holdings Limited</b> of 55 Wyandra Street Newstead Brisbane Queensland 4006 Australia
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<b>Background</b>	<ol style="list-style-type: none"><li>1 Olam is proposing to make a Takeover Bid to acquire all of the Shares and the Directors of QCH are proposing to recommend the bid in the absence of a superior proposal.</li><li>2 It is a pre-requisite to Olam making the Takeover Bid and the Directors making the recommendation that the parties enter into this agreement.</li></ol>
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<b>The parties agree</b>	as set out in the Operative part of this agreement, in consideration of, among other things, the mutual promises contained in this agreement.
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## 1 Definitions and interpretation

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### 1.1 Definitions

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

<b>Term</b>	<b>Meaning</b>
<b>associate</b>	the meaning given in Division 2 of Part 1.2 of the Corporations Act as if section 12(1) of that Act includes a reference to this document.
<b>ASIC</b>	Australian Securities and Investments Commission.
<b>Agreed Announcement</b>	the announcement agreed between the parties in the form initialled by the parties on or about the date of this agreement.
<b>Agreed Bid Terms</b>	the terms and conditions set out in schedule 1.
<b>Announcement Date</b>	date on which the Agreed Announcement is made.
<b>ASX</b>	Australian Stock Exchange Limited.
<b>Board</b>	the board of directors of QCH.
<b>Break Fee</b>	the amount of \$1.34 million.
<b>Business Day</b>	a day on which the banks are open for business in Brisbane and Singapore excluding a Saturday, Sunday or public holiday.
<b>Claim</b>	includes actions, suits, causes of action, debts, dues, costs, claims, liabilities, demands, damages, losses, costs and expenses of any description, decisions, judgments and orders either at law or in equity or arising under any statute.
<b>Competing Proposal</b>	any proposal or transaction, which, if completed, would mean a person (other than Olam or any associate of Olam) would: <ol style="list-style-type: none"><li>1 directly or indirectly acquire a legal or beneficial interest in, or control of, 10% or more of QCH's share capital or of the share capital of any of its subsidiaries;</li><li>2 acquire control of QCH, within the meaning of section 50AA of the Corporations Act, or a material part of QCH's business or assets; or</li><li>3 otherwise acquire or merge (including by a reverse takeover bid or dual listed QCH structure) with QCH.</li></ol>
<b>Corporations Act</b>	Corporations Act 2001 (Cth).
<b>Director</b>	a director of QCH.

<b>Government Agency</b>	any government or governmental, semi-governmental, administrative, monetary, fiscal or judicial body, department, commission, authority, tribunal, agency or entity in any part of the world.
<b>Offer</b>	each offer to acquire Shares made in connection with the Takeover Bid.
<b>Offer Period</b>	the period that the Offer is open for acceptance.
<b>Share</b>	an ordinary share in the capital of QCH, including all shares on issue as at the end of the Offer Period.
<b>Shareholder</b>	a holder of Shares.
<b>Takeover Bid</b>	a takeover bid made by Olam that satisfies the requirements in clause 2.1.
<b>Unacceptable Circumstances</b>	as set out in section 657A of the Corporations Act.
<b>A\$ or \$</b>	the lawful currency of the Commonwealth of Australia.

## 1.2 Interpretation

In this agreement, headings and bold text are for convenience only and do not affect the interpretation of this agreement and, unless the context otherwise requires:

- (a) words importing the singular include the plural and vice versa;
- (b) words importing a gender include any gender;
- (c) other parts of speech and grammatical forms of a word or phrase defined in this agreement have a corresponding meaning;
- (d) an expression importing a natural person includes any company, partnership, joint venture, association, corporation or other body corporate and any Government Agency;
- (e) a reference to any thing (including, but not limited to, any right) includes a part of that thing but nothing in this clause 1.2(e) implies that performance of part of an obligation constitutes performance of the obligation;
- (f) a reference to a clause, party or schedule is a reference to a clause of, and a party or schedule to, this agreement and a reference to this agreement includes any schedule;
- (g) a reference to a statute, regulation, proclamation, ordinance or by-law includes all statutes, regulations, proclamations, ordinances or by-laws amending, consolidating or replacing it, whether passed by the same or another Government Agency with legal power to do so, and a reference to a statute includes all regulations, proclamations, ordinances and by-laws issued under that statute;
- (h) a reference to a document includes all amendments or supplements to, or replacements or novations of, that document;
- (i) a reference to a party includes that party's successors and permitted assigns;
- (j) a reference to an agreement other than this agreement includes an undertaking, deed, agreement or legally enforceable arrangement or understanding whether or not in writing;
- (k) a reference to any time is a reference to that time in Brisbane; and
- (l) an expression defined in, or given a meaning for the purpose of, the Corporations Act in a context similar to that in which the expression is used in this agreement has the same meaning or definition.

## 2 The Takeover Bid

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### 2.1 Making of the Takeover Bid

Olam agrees to:

- (a) make offers pursuant to a takeover bid under Chapter 6 of the Corporations Act to acquire all the Shares on terms and conditions no less favourable than the Agreed Bid Terms; and
- (b) without limiting clause 2.1, publicly propose (by means of an announcement to the ASX which is in all respects in accordance with the form of the Agreed Announcement) to make offers under the Takeover Bid as soon as practicable after both parties have executed this agreement and, in any event, within 2 Business Days of the date of this agreement.

### 2.2 Olam may use subsidiary

- (a) Subject to clause 2.2(b), Olam may satisfy its obligations under clause 2.1 by causing a subsidiary to perform the obligations referred to in clauses 2.1(a) and 2.1(b), in which case references to:
  - (1) the Takeover Bid are references to the Takeover Bid by that subsidiary; and
  - (2) Olam making the Takeover Bid are references to Olam causing that subsidiary to make the Takeover Bid.
- (b) If clause 2.2(a) applies, Olam:
  - (1) must procure that its relevant subsidiary performs Olam's obligations under this agreement; and
  - (2) guarantees to QCH the performance of those obligations by that subsidiary.

### 2.3 QCH's assessment of the Takeover Bid

QCH represents and warrants that:

- (a) the Board has met and considered the possibility of Olam agreeing to make the Takeover Bid; and
- (b) the Directors have informed QCH that, if Olam complies with clause 2.1, they will announce to ASX that they unanimously recommend that Shareholders accept an offer under the Takeover Bid and will accept the Offer in respect of any Shares in QCH that they own or control, subject in each case only to there being no superior proposal; and
- (c) QCH will release an announcement in the form of the Agreed Announcement at the same time as, or immediately following, Olam making the announcement under clause 2.1(b).

## 3 Release of confidentiality obligations

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The confidentiality agreement between Olam and QCH dated 30 November 2006 (and in particular clauses 3.2 and 3.3 of that agreement) remains in force and is not affected by the operation of this agreement. For the avoidance of doubt, nothing in the confidentiality agreement restricts a party from making the Agreed Announcement.

## 4 Facilitation of Offer

### 4.1 Bidder's statement and target's statement

- (a) Olam will, to the extent practicable, give QCH a reasonable opportunity to review an advanced draft of Olam's bidder's statement, and will consult in good faith with QCH with respect to any comments QCH may have.
- (b) QCH will, to the extent practicable, give Olam a reasonable opportunity to review an advanced draft of the target's statement and will consult in good faith with Olam with respect to any comments Olam may have.

### 4.2 Dispatch of documents

- (a) Each party agrees to use its best endeavours to send the bidder's statement and target's statement to Shareholders as soon as practicable.
- (b) Each party agrees to use its best endeavours to comply with the following timetable:

7 March 2007	<ul style="list-style-type: none"> <li>Announcement of Takeover Bid.</li> </ul>
26 March 2007	<ul style="list-style-type: none"> <li>Olam lodges its bidder's statement with ASIC and ASX and serves it on QCH.</li> </ul>
28 March 2007	<ul style="list-style-type: none"> <li>Olam despatches its bidder's statement to shareholders.</li> </ul>
4 April 2007	<ul style="list-style-type: none"> <li>QCH lodges its target's statement with ASIC and ASX, serves it on Olam and despatches to shareholders.</li> </ul>

- (c) QCH agrees that the offers and accompanying documents to be sent by Olam under the Takeover Bid under Item 6 of section 633(1) of the Corporations Act may be sent on a date nominated by Olam that is earlier than the date for sending under Item 6 of section 633(1) of the Corporations Act.

### 4.3 Promote the Takeover Bid

During the Offer Period in the absence of a superior proposal, QCH will support the Takeover Bid and participate in efforts reasonably required by Olam to promote the merits of the Takeover Bid, including meeting with key Shareholders, analysts, management, customers, press and other parties mutually agreed if requested to do so by Olam.

### 4.4 Bid conditions

- (a) Subject to clause 4.4(b), QCH agrees not to do (or omit to do) anything which will, or is likely to, result in any of the conditions of the Takeover Bid being breached, or not being, or not being capable of being, satisfied.
- (b) Nothing in this clause prevents QCH or the Board from taking, or failing to take, action where to do otherwise would, in the reasonable opinion of the Board, constitute a breach of any of the duties of the Directors of QCH. The reasonable opinion of the Board must be based on specific written legal, and any other appropriate, advice.



- (c) If any event occurs or becomes apparent which would cause any of the conditions of the Takeover Bid to be breached or prevent them from being able to be satisfied, QCH must, to the extent QCH is actually aware of such information, immediately notify Olam of the event.

#### **4.5 Conduct of the business**

Until the end of the Offer Period, QCH must, and will procure that each subsidiary of QCH will:

- (a) conduct their business in the usual and ordinary course consistent with past practice or as may be required in order to satisfy a specific requirement of a Government Agency;
- (b) use its reasonable endeavours to preserve and maintain the value of its business and assets and the relationships with suppliers, customers and employees; and
- (c) not dispose of the whole or any part of its business for an amount in aggregate greater than \$500,000.

#### **4.6 Approvals**

Olam agrees that, as soon as practicable after announcing the Takeover Bid, it will apply for all relevant approvals (including FIRB approval) required from any Government Agency in relation to the Takeover Bid.

## **5 Break Fee**

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### **5.1 Background**

- (a) Olam and QCH acknowledge that, if they enter into this agreement and the Takeover Bid is subsequently not implemented, Olam will incur significant costs.
- (b) In these circumstances, Olam has requested that provision be made for the payments outlined in this clause 5, without which Olam would not have entered into this agreement or otherwise agreed to implement the Takeover Bid.
- (c) The Board believes that the Takeover Bid will provide significant benefits to QCH and the Shareholders and that it is appropriate for QCH to agree to the payments referred to in this clause 5 in order to secure Olam's participation in the Takeover Bid.

### **5.2 Payment of costs incurred by Olam**

QCH must pay the Break Fee to Olam, if at any time following Olam's announcement of the Takeover Bid:

- (a) any Director fails to recommend that Shareholders accept the Takeover Bid or, having made such a recommendation, makes a public statement which withdraws, revises, revokes or qualifies that recommendation (whether or not that failure, withdrawal, revocation, qualification or revision is otherwise in breach of this agreement); or
- (b) any Director recommends, promotes or otherwise endorses a Competing Proposal or any other proposal or offer which recommendation, promotion or endorsement would otherwise materially prejudice the prospects of success of the Takeover Bid; or
- (c) a person other than Olam or an associate of Olam, directly or indirectly acquires a legal or beneficial interest in, or control of, 50% or more of QCH's share capital or of the share capital of any of its subsidiaries or acquires an interest in all or a substantial part of the assets of QCH and its subsidiaries; or
- (d) QCH materially breaches clause 8.1 or any other material provision of this agreement.

### 5.3 Payment

- (a) Olam may demand payment of the Break Fee under clause 5.2 in writing stating the circumstances which give rise to payment.
- (b) QCH must pay the Break Fee to Olam within 5 Business Days of receipt by QCH of a demand for payment from Olam and Olam being entitled under clause 5.2 to the Break Fee.

### 5.4 Basis of Break Fee

The Break Fee has been calculated to reimburse Olam for the following:

- (a) fees for legal and financial advice in planning and implementing the Takeover Bid;
  - (b) reasonable opportunity costs incurred in engaging in the Takeover Bid or in not engaging in other alternative acquisitions or strategic initiatives;
  - (c) costs of management and directors' time in planning and implementing the Takeover Bid;
  - (d) out of pocket expenses incurred by Olam's employees, advisers and agents in planning and implementing the Takeover Bid;
  - (e) any damage to Olam's reputation associated with a failed transaction and the implications of those damages if Olam seeks to execute alternative acquisitions in the future; and
  - (f) losses associated with any damage to Olam's goodwill with its customers, suppliers or employees,
- in each case, incurred by Olam directly or indirectly as a result of pursuing the Takeover Bid.

### 5.5 Quantification

The parties acknowledge and agree that the loss actually incurred by Olam under clause 5.4 will be of such nature that it cannot accurately be ascertained. The amount of the Break Fee is a genuine and reasonable pre-estimate of those fees, costs and losses.

### 5.6 Compliance with law

If:

- (a) it is found by the Takeovers Panel or a Court that all or any part of the payment required to be made under clause 5.2 is unlawful, involves a breach of director's duties or constitutes Unacceptable Circumstances and the period for lodging an application for review or a notice of appeal (as applicable) has expired without such an application or notice having been lodged; or
  - (b) an application for review or a notice of appeal having been lodged with the Takeovers Panel or a Court within the prescribed period, it is found by the relevant review panel or appeal Court that all or any part of the payment required to be made under clause 5.2 is unlawful, involves a breach of director's duties or constitutes Unacceptable Circumstances,
- (Challenged Amount)** then:
- (c) the undertaking under clause 5.2 does not apply to the extent of the Challenged Amount; and
  - (d) Olam must immediately refund any Challenged Amount paid to Olam under this agreement.

## 5.7 Refund

If, notwithstanding the occurrence of any of the events referred to in clause 5.2, Olam ultimately declares the Offer to be unconditional and becomes the holder of not less than 50% of QCH's share capital as a result of the Takeover Bid, Olam must repay to QCH any amount received by it under this clause 5.

## 5.8 Other claims

This clause 5 does not limit the rights of QCH or Olam in respect of any other claims that may arise under this agreement.

# 6 Takeover Offer – Variation and Waiver

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## 6.1 Variation

Olam may vary the terms and conditions of the Takeover Bid in any manner which is permitted by the Corporations Act, provided the varied terms and conditions are not less favourable to Shareholders than the Agreed Bid Terms.

## 6.2 Waiver of conditions and extension

Subject to the Corporations Act and the last paragraph of clause 3 of schedule 1, Olam may declare the Takeover Bid to be free from any condition or extend the Takeover Bid at any time.

# 7 Warranties

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## 7.1 General

Each party represents and warrants to the other that, at the date of this agreement:

- (a) it is duly incorporated under the laws of the place of its incorporation;
- (b) it has the power and authority to sign this agreement and perform and observe all its terms;
- (c) this agreement has been duly executed and is a legal, valid and binding agreement, enforceable against it in accordance with its terms;
- (d) it is not bound by any contract which may restrict its right or ability to enter into or perform this agreement;
- (e) no resolutions have been passed and no other step has been taken or legal proceedings commenced or threatened against it for its winding up or deregistration or for the appointment of a liquidator, receiver, administrator or similar officer over any or all of its assets, and no regulatory action of any nature has been taken, which would prevent, inhibit or otherwise have a material adverse effect on its ability to fulfil its obligations under this agreement; and
- (f) it is not aware of any act, omission, event or fact that would result in one or more of the offer conditions set out in schedule 1 being triggered, except as disclosed by the party to the other party in writing prior to the date of this agreement.

## 7.2 No options

QCH represents and warrants to Olam as at the date of this agreement that there are no options, or rights to be issued with options, to acquire by way of issue an ordinary share (or any other securities) in QCH.

## 7.3 No warranties on information

Olam acknowledges that QCH does not make any representation or warranty as to the accuracy or completeness of the data room materials or other information provided by QCH (or its advisers) to Olam.

## 8 No solicitation

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### 8.1 Prohibition

Until the end of the Offer Period or the date which is 6 months after the date of this agreement (whichever is earlier), QCH must not and must ensure that each of its related bodies corporate, officers, employees, agents, consultants, investment bankers, lawyers or other advisers (each a **Relevant Person**) does not, directly or indirectly:

- (a) solicit or initiate (including, without limitation, by the provision of non-public information) any inquiries, expression of interest, offer, proposal or discussions by any person to make a Competing Proposal (whether from a person with whom QCH has previously been in discussions or not);
- (b) participate in any negotiations or discussions or provide any information to any person with respect to any inquiry, expression of interest, offer or proposal by any person to make a Competing Proposal;
- (c) accept or enter into, or offer to accept or enter into, any agreement, arrangement or understanding regarding a Competing Proposal; or
- (d) disclose any non-public information about the business or affairs of QCH to a third party (other than a Government Agency) with a view to obtaining or which may reasonably be expected to lead to receipt of a Competing Proposal, other than in the ordinary course of business or as required by law.

### 8.2 Fiduciary exception

Clauses 8.1(b), 8.1(c), 8.1(d) and 8.4 do not prohibit any action or inaction by QCH or any Relevant Person if compliance with the relevant clause would, in the opinion of the Board reasonably formed in good faith for a proper purpose (having received financial advice that the Competing Proposal is superior to the Takeover Bid), constitute a breach of any of the statutory or fiduciary duties of the directors of QCH (in reliance on specific written legal advice confirming this opinion on the basis that the Competing Proposal is superior) provided that the approach by the third party was not facilitated by or as a result of a breach of clause 8.1(a).

### 8.3 No existing negotiations or discussions

QCH represents and warrants to Olam that, at the date of this agreement, it is not engaged in any negotiations or discussions with any entity or person in relation to the possible making of a Competing Proposal, and has not received any communication indicating that QCH will be approached to commence such negotiations or discussions.

## 8.4 Notification

Until the end of the Offer Period or the date which is 6 months after the date of this agreement (whichever is earlier), QCH must immediately notify Olam of any approach or attempt to initiate discussions or negotiations regarding a Competing Proposal, such notification to include the detailed nature of the approach and the identity of the party making the approach.

## 9 Termination

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### 9.1 Termination rights

This agreement may be terminated by a party if:

- (a) the other party is in material breach of this agreement and, to the extent that the breach is capable of remedy, that breach is not remedied by that other party within 10 Business Days of it receiving notice from the first party of the details of the breach and the first party's intention to terminate; or
- (b) Olam withdraws the Takeover Bid or the Takeover Bid lapses for any reason including non-satisfaction of a condition of the Takeover Bid,  
by immediate notice to the other party.

### 9.2 Effect of termination

If this agreement is terminated by another party under this clause 9:

- (a) each party will be released from its obligations under this agreement except its obligations under clauses 3, 5, 10 and 11.6;
- (b) each party will retain the rights it has or may have against the other party in respect of any past breach of this agreement; and
- (c) in all other respects, all future obligations of the parties under this agreement will immediately terminate and be of no further force or effect, including without limitation any further obligations in respect of the Takeover Bid.

## 10 GST

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### 10.1 Interpretation

In this clause 10, a word or expression defined in the A New Tax System (Goods and Services Tax) Act 1999 (Cth) has the meaning given to it in that Act.

### 10.2 GST gross up

- (a) Subject to clause 10.2(b), if a party makes a supply under or in connection with this agreement in respect of which GST is payable, the consideration for the supply but for the application of this clause 10.2 (GST exclusive consideration) is increased by an amount equal to the GST exclusive consideration multiplied by the rate of GST prevailing at the time the supply is made.
- (b) Clause 10.2(a) does not apply to any consideration that is expressed in this agreement to be inclusive of GST.

### 10.3 Reimbursements and indemnifications

If a party must reimburse or indemnify another party for a loss, cost or expense, the amount to be reimbursed or indemnified is first reduced by any input tax credit the other party is entitled to for the loss, cost or expense, and then increased in accordance with clause 10.2.

### 10.4 Tax invoice

A party need not make a payment for a taxable supply made under or in connection with this agreement until it receives a tax invoice for the supply to which the payment relates.

## 11 General

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### 11.1 Notices

(a) Any notice, demand, request, consent, approval or other communication including, under this agreement

(1) must be in legible writing and in English addressed as shown below:

(A) to Olam:

Address	Olam International Limited #11-02 Suntec Tower Two 9 Temasek Blvd Suntec City Tower Two Singapore 038989
Attention	Krishnan Ravikumar
Phone	+65 6317 9508 / +65 6339 4100
Fax	+65 6339 9217
Email	ravi@olamnet.com

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with a copy to Freehills:

Address	Freehills Level 42 101 Collins Street Melbourne Victoria 3000 Australia
Attention	Neil Pathak
Phone	+61 3 9288 1630
Fax	+61 3 9288 1567
Email	neil.pathak@freehills.com

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(B) QCH  
**QCH Queensland Cotton Holdings Limited**  
Address 55 Wyandra Street  
Newstead  
Brisbane  
Queensland 4006  
  
Attention Denis Stark, Company Secretary  
Phone + 61 7 3250 3300  
  
Fax +61 7 3852 1600  
Email [dstark@qcotton.com.au](mailto:dstark@qcotton.com.au)

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with a copy to Clayton Utz:

Address Level 28  
Riparian Plaza  
71 Eagle Street  
Brisbane  
Queensland 4000  
Australia  
  
Attention Darryl McDonough  
Phone +61 7 3292 7029  
  
Fax +61 7 3221 9669  
Email [dmcdonough@claytonutz.com](mailto:dmcdonough@claytonutz.com)

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or as specified by the sender by any party by notice, and:

- (2) must be signed by the sender (if a natural person) or an officer or under the common seal of the sender (if a corporation);
  - (3) is regarded as being given by the sender and received by the addressee:
    - (A) if by delivery in person, when delivered to the addressee;
    - (B) if by facsimile transmission, whether or not legibly received, when transmitted to/received by the addressee,but if the delivery or receipt is on a day which is not a Business Day or is after 4.00pm (addressee's time) it is regarded as received at 9.00am on the following Business Day; and
  - (4) can be relied upon by the addressee and the addressee is not liable to any other person for any consequences of that reliance if the addressee believes it to be genuine, correct and authorised by the sender.
- (b) A facsimile transmission is regarded as legible unless the addressee telephones the sender within 2 hours after transmission is received or regarded as received under clause 11.1(a)(3) and informs the sender that it is not legible.

- (c) In this clause 11.1, a reference to an addressee includes a reference to an addressee's officers, agents or employees.

### **11.2 Governing law and jurisdiction**

- (a) This agreement is governed by the laws of Queensland.
- (b) QCH and Olam irrevocably submit to the non-exclusive jurisdiction of the courts of Queensland.

### **11.3 Prohibition and enforceability**

- (a) Any provision of, or the application of any provision of, this agreement or any power which is prohibited in any jurisdiction is, in that jurisdiction, ineffective only to the extent of that prohibition.
- (b) Any provision of, or the application of any provision of, this agreement which is void, illegal or unenforceable in any jurisdiction does not affect the validity, legality or enforceability of that provision in any other jurisdiction or of the remaining provisions in that or any other jurisdiction.
- (c) Where a clause is void, illegal or unenforceable, it may be severed without affecting the enforceability of the other provisions in this agreement.

### **11.4 Waivers**

- (a) Waiver of any right, power, authority, discretion or remedy arising from a breach of this agreement must be in writing and signed by the party granting the waiver.
- (b) A failure or delay in exercise, or partial exercise, of a right, power, authority, discretion or remedy arising from a breach of this agreement does not result in a waiver of that right, power, authority, discretion or remedy.

### **11.5 Variation**

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

### **11.6 Costs and expenses**

Subject to clause 5, each party must pay its own legal costs and expenses in respect of the negotiation, preparation, completion and stamping of this agreement.

### **11.7 Assignment**

Neither party may assign or otherwise transfer any of its rights arising under this agreement without the prior written consent of the other party.

### **11.8 Further assurances**

Each party must do all things and execute all further documents necessary to give full effect to this agreement.

### **11.9 Time of the essence**

Time is of the essence of this agreement.



**11.10 Counterparts**

This agreement may be executed in any number of counterparts.

**11.11 Attorneys**

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

Agreed bid terms

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1 Offer Price

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- (a) Subject to paragraph (b), \$4.75 (cash) per Share.
- (b) If during the Offer Period Olam becomes entitled to compulsorily acquire any outstanding Shares it must vary the Offer to increase the Offer Price to \$5.05 (cash) per Share.

For the avoidance of any doubt, where paragraph (b) applies, \$5.05 (cash) per Share must be paid to all shareholders who have accepted the Offer.

2 Offer Period

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- (a) One month from the date the Offer opens, subject to paragraph (b) and subject to Olam's right to extend the period.
- (b) Olam must extend its offer so that it remains open for at least 2 weeks after FIRB approval and Hart Scott Rodino conditions to the Offer being satisfied or after the end of the first offer period whichever comes later. If the major shareholder of QCH accepts the offer then Olam must, as soon as practicable, announce that it has received this acceptance and (if it is permitted to do so) Olam must extend the Offer to allow at least 2 weeks for other shareholders to accept the Offer.

3 Offer conditions

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The Offer is subject to the fulfilment of the following conditions.

- (a) **Minimum acceptance**

During, or at the end of, the Offer Period, Olam and its associates have a relevant interest in at least 50% (by number) of all of the Shares.
- (b) **Foreign Investment Review Board approval**

One of the following occurring:

  - (1) the Treasurer of the Commonwealth of Australia (**Treasurer**) advising Olam before the end of the Offer Period to the effect that there are no objections to the Takeover Bid constituted by the dispatch of the Offer in terms of the Federal Government's foreign investment policy; or
  - (2) no order being made in relation to the Takeover Bid constituted by the dispatch of the Offer under section 22 of the Foreign Acquisitions and Takeovers Act 1975 (Cth) within a period of 40 days after Olam has notified the Treasurer that it proposes to acquire Shares under that Takeover Bid, and no notice being given by the Treasurer to Olam during that period to the effect that there are any such objections; or
  - (3) where an order is made under section 22 of the Foreign Acquisitions and Takeovers Act 1975 (Cth), a period of 90 days having expired after the order

comes into operation and no notice having been given by the Treasurer to Olam during that period to the effect that there are any such objections.

(c) **Hart-Scott-Rodino**

If required, before the end of the Offer Period, all applicable waiting periods (including any extensions of those waiting periods) under the United States *Hart-Scott-Rodino Antitrust Improvements Act* of 1976 and the regulations made under it have expired, lapsed or been terminated in respect of the Offer without the US Department of Justice or the Federal Trade Commission challenging the acquisition of Shares by Olam or any subsidiary of Olam.

(d) **Regulatory approvals and actions by Government Agencies**

- (1) Before the end of the Offer Period, Olam receives all necessary regulatory approvals or consents in relation to the acquisition of 100% of QCH and its subsidiaries on an unconditional basis and/or all required regulatory waiting periods have expired; and
- (2) Before the end of the Offer Period:
  - (A) there is not in effect any preliminary or final decision, order or decree issued by a Government Agency;
  - (B) no action or investigation is instituted by any Government Agency; and
  - (C) no application is made to any Government Agency (other than by Olam) or commenced by a Government Agency,

in consequence of, or in connection with, the Offer, which restrains, prohibits or impedes or otherwise materially adversely impacts upon, the making of the Offer or the rights of Olam in respect of its capacity as a shareholder in respect of QCH and the Shares to be acquired under the Offer or otherwise, or seeks to require the divestiture by Olam of any Shares, or the divestiture of any assets of QCH or by any subsidiary of QCH.

- (3) Before the end of the Offer Period, no Government Agency:
  - (A) makes any finding, preliminary or final decision, order or decree against the Company or any of its subsidiaries or fines or otherwise penalises the Company or any of its subsidiaries; or
  - (B) institutes any action or investigation; or
  - (C) announces, commences or threatens any action or investigation,which has or may have a material adverse financial effect (as defined in 3(e)) on the business, assets, liabilities, financial or trading position, profitability or prospects of the Company or any of its subsidiaries.

(e) **No material adverse change**

None of the following occurs:

- (1) an event, change, condition, matter or thing occurs;
- (2) information is disclosed or announced by QCH or any of its subsidiaries concerning any event, change, condition, matter or thing; or
- (3) information concerning any event, change, condition, matter or thing becomes known to Olam (whether or not becoming public),

which (either alone or in combination with any other item falling within the above) will have, could reasonably be expected to have or which evidences that there has been a material adverse financial effect on the business, assets, liabilities, financial position and performance, material contracts (taken as a whole) or profitability of QCH or any of its subsidiaries from that existing prior to the Announcement Date.

For the purposes of this condition (e):

- (A) a 'material adverse financial effect' is a reduction in QCH's annual net profit after tax by more than \$600,000 but does not in any case include:
- any change in rates of corporate taxation, interest rates, commodity prices (including the price of any products traded by QCH) or general economic conditions;
  - any change of law or accounting policy;
  - any event, occurrence or matter which is required to be done or procured by QCH pursuant to this agreement; or
  - any event, occurrence or matter to the extent it is fairly disclosed in the data materials (being those materials contained in the electronic data room established for this transaction as at 5pm Brisbane time on 5 March 2007 as per the index initialled by the parties for this purpose) provided to Olam or has been otherwise fairly disclosed to Olam during site visits or in question and answer sessions with managers of QCH.
- (B) Olam shall not be taken to know of information concerning any event, change, condition, matter or thing involving or relating to QCH or any of its subsidiaries before the Announcement Date, unless Olam knows or ought reasonably to have known (having regard to the information actually known by Olam and the information disclosed by QCH in its public filings with the ASX and ASIC before the Announcement Date), of the extent or magnitude of the event, change, condition, matter or thing.
- (C) condition (e) does not apply in relation to particular information, if that information was previously disclosed by QCH in a public filing with the ASX or ASIC provided that the disclosure was full and fair (including, without limitation, in relation to the extent and magnitude of the event, change, condition, matter or thing, as the case may be) and was not, and is not likely to be, incomplete, incorrect, untrue or misleading.
- (D) condition (e) is deemed to be breached if:
- Olam becomes aware prior to the end of the Offer Period, that QCH has materially breached its continuous disclosure obligations under the ASX listing rules; and
  - had Olam known of the information giving rise to such breach prior to the Announcement Date it would have had a material adverse effect on the price at which Olam would have offered under the Takeover Bid.
- (f) **No material acquisitions, disposals or changes in the conduct of business**
- Neither QCH nor any subsidiary of QCH, other than in the ordinary course of business:
- (1) acquires, offers to acquire or agrees to acquire one or more companies or assets (or an interest in one or more companies or assets) for an amount in aggregate greater than \$500,000;
  - (2) disposes, offers to dispose or agrees to dispose of one or more companies or assets (or an interest in one or more companies or assets) for an amount in aggregate greater than \$500,000;
  - (3) enters into, offers to enter into or announces that it proposes to enter into any joint venture or partnership, involving a commitment of greater than \$500,000;
  - (4) incurs, commits to or brings forward the time for incurring or grants to another person a right the exercise of which would involve QCH or a subsidiary of QCH incurring or committing to any capital expenditure or liability in respect of one or more related items of greater than \$500,000; or

- (5) discloses (without having disclosed to ASX or to Olam prior to the date of this agreement) the existence of any matter described in sub-paragraphs (1) to (4) above, or announces an intention or proposal to do anything described in sub-paragraphs (1) to (4) above.

**(g) No material change of control rights**

Between the Announcement Date and the end of the Offer Period (each inclusive), there is no person having any rights or being entitled to have any rights as a result of any change of control event in respect of QCH (including Olam acquiring shares in QCH) or any of its subsidiaries or assets, to:

- (1) terminate or alter any contractual relations between any person and QCH or any of its subsidiaries (for this purpose an alteration includes without limitation an alteration of the operations of a contract, whether or not that altered operation is provided for under the existing terms of the contract);
- (2) require the termination, modification or disposal (or offer to dispose) of any interest or asset, corporate body, joint venture or other entity; or
- (3) accelerate or adversely modify the performance of any obligations of QCH or any of its subsidiaries under any agreements, contracts or other legal arrangement,

provided that this condition (g) will only be breached to the extent that the relevant right or entitlement in paragraphs (1), (2) or (3) if exercised or carried out would have a material adverse financial effect (as defined in 3(e)) on QCH or any of its subsidiaries.

**(h) No untrue statements to ASX or ASIC**

Olam does not become aware that any document filed by or on behalf of QCH, or by or on behalf of any person in relation to QCH, with ASX, ASIC or anywhere in the public domain contains a statement which is incorrect or misleading in a material particular or from which there is a material omission.

**(i) No dividends or distributions**

QCH does not recommend, declare, pay or make or announce an intention or propose to recommend, declare, pay or make any dividend, bonus or other distribution (except with the prior written consent of Olam).

**(j) No legal proceedings**

Between the Announcement Date and the end of the Offer Period (each inclusive), no litigation or arbitration proceedings or other legal proceedings against QCH or any of its subsidiaries which are commenced, instituted or threatened to be commenced, other than that which is in the public domain as at the Announcement Date, and which if successful would have a material adverse financial effect (as defined in 3(e)) on QCH or any of its subsidiaries.

**(k) No prescribed occurrences**

None of the following events happens before the end of the Offer Period:

- (1) QCH converts all or any of its shares into a larger or smaller number of shares;
- (2) QCH or a subsidiary of QCH resolves to reduce its share capital in any way;
- (3) QCH or a subsidiary of QCH:
  - enters into a buy-back agreement; or
  - resolves to approve the terms of a buy-back agreement under section 257C(1) or 257D(1) of the Corporations Act;
- (4) QCH or a subsidiary of QCH issues shares or grants an option over its shares, or agrees to make such an issue or grant such an option;
- (5) QCH or a subsidiary of QCH issues, or agrees to issue, convertible notes;

- (6) QCH or a subsidiary of QCH disposes, or agrees to dispose, of the whole, or a substantial part, of its business or property;
- (7) QCH or a subsidiary of QCH charges, or agrees to charge, the whole, or a substantial part, of its business or property;
- (8) QCH or a subsidiary of QCH resolves to be wound up;
- (9) a liquidator or provisional liquidator of QCH or a subsidiary of QCH is appointed;
- (10) a court makes an order for the winding up of QCH or a subsidiary of QCH;
- (11) an administrator of QCH, or a subsidiary of QCH, is appointed under section 436A, 436B or 436C of the Corporations Act;
- (12) QCH or a subsidiary of QCH executes a deed of company arrangement; or
- (13) a receiver, or a receiver and manager, is appointed in relation to the whole, or a substantial part, of the property of QCH or a subsidiary of QCH.

Within 5 Business Days of the minimum acceptance, FIRB approval and Hart Scott Rodino conditions to the Offer being satisfied, Olam must waive all other conditions to the Offer or announce that it will be relying on one of the other conditions to lapse the Offer.

#### 4 No arrangements with major shareholder

Olam will include in the bidder's statement an undertaking:

- (a) not to enter into any arrangement with the major shareholder of QCH in respect of QCH; and
- (b) not to make a subsequent takeover offer for QCH, for at least 6 months after the end of the Offer Period (except with the prior written consent of the independent directors of QCH).

Executed as an agreement

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**Olam**

Signed by  
**Olam International Limited**  
by

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

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


sign here ► \_\_\_\_\_  
Director

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

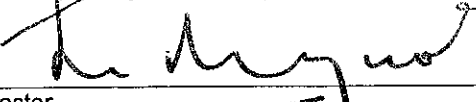
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**QCH**

Signed by  
**Queensland Cotton Holdings Limited**  
by

sign here ►   
Company Secretary/Director

print name RICHARD HAIRE

sign here ►   
Director

print name JOHN REYNOLDS

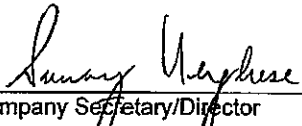
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Executed as an agreement

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**Olam**

Signed by  
**Olam International Limited**  
by

sign here ▶   
Company Secretary/Director

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

sign here ▶   
Director

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

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**QCH**

Signed by  
**Queensland Cotton Holdings Limited**  
by

sign here ▶ \_\_\_\_\_  
Company Secretary/Director

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

sign here ▶ \_\_\_\_\_  
Director

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

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