

ASX ANNOUNCEMENT

28 February 2022

VIRTUS HEALTH LIMITED (ASX: VRT)

BGH Capital Pty Ltd tables updated non-binding indication of interest

Virtus Health Limited ("Virtus", ASX: VRT) advises that, this morning, it received a revised non-binding conditional indication of interest from BGH Capital Pty Ltd ("BGH") to acquire all of Virtus' shares by way of scheme of arrangement at \$7.65 cash per share, less the value of any dividends or other distributions declared, proposed or paid after the date of this letter including the A\$0.12 per share dividend declared by Virtus on 22 February 2022 ("Revised Proposal").

BGH's Revised Proposal is conditional on Virtus and BGH entering into an Engagement Deed, which incorporates certain discrete provisions from the existing CapVest Process Deed which was released to ASX on 24 February 2022, in the same form but with select necessary modifications. A summary of the key terms BGH require in the Engagement Deed is set out in Annexure A to this announcement.

BGH has noted that major fertility specialist shareholders and certain other affiliated shareholders (the "Doctor Shareholders") may wish to continue their exposure to Virtus, and that they propose to provide a cash and scrip alternative to the Doctor Shareholders to enable them to do so.

BGH intends to fund the acquisition through a combination of equity and debt financing. Equity financing will come from BGH Fund I, and BGH advises that they have received highly confident debt financing letters from a number of institutions to support a binding proposal.

Implementation of the Revised Proposal is conditional upon entry into an agreed scheme implementation agreement with Virtus ("SIA"), which would include customary terms and conditions. BGH has advised that its entry into the SIA will be subject to the following:

- the satisfactory completion of due diligence (which BGH expects will take four weeks from the time at which the virtual data room is available to BGH);
- after today's date, Virtus does not sell or agree to sell any material assets or enter into or agree to enter into any joint venture or similar arrangements with respect to any of Virtus' domestic or international operations;
- no material change to Virtus' assets and prospects (including litigation or regulatory action arising), or financial markets;
- finalisation of debt commitments for a binding proposal;
- final approval to submit a binding proposal from the BGH Investment Committee; and

- unanimous recommendation by the Board of Directors of Virtus to vote in favour of the scheme in the absence of a superior proposal and subject to an independent expert concluding that the binding proposal is in the best interests of Virtus shareholders.

BGH has noted that it has already applied for a no objection notice from the Foreign Investment Review Board to acquire 100% of the shares in Virtus and expects to receive this soon and well in advance of any scheme meeting.

BGH has also requested Virtus to release the following authorised statement by BGH:

“BGH will vote all Virtus shares that it owns or controls at the relevant time against any CapVest proposal to acquire Virtus by way of scheme of arrangement, and BGH will not accept into any takeover offer from CapVest with respect to all Virtus shares that it owns or controls at the relevant time.”

The Board is yet to evaluate the Revised Proposal.

Virtus shareholders do not need to take any action in relation to the Revised Proposal from BGH or the previous proposal from CapVest, and the Board will continue to keep shareholders and the market informed of developments.

This announcement is authorised by the board of directors of the company.

-ENDS-

Further information:

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About Virtus Health Limited

Virtus Health Limited (ASX:VRT) brings together leading clinicians, scientists, researchers and support staff to provide exceptional fertility care and related specialised diagnostic and day hospital services. We have a successful medical collaboration, with 128 leading fertility specialists, supported by over 1,300 professional staff.

ANNEXURE A

Key terms of the Engagement Deed requested by BGH

BGH has requested that the following discrete provisions drawn from clause 4 of the CapVest Process Deed (as amended and released to ASX on 24 February 2022) are included in the Engagement Deed:

- Confirmation of no current competing discussions or proposals (other than with CapVest) (Clause 4.1)
- Enforcement of existing confidentiality agreements (Clause 4.2)
- No shop (Clause 4.3)
- No talk (subject to fiduciary out and other than with CapVest) (Clause 4.4)
- No due diligence (subject to fiduciary out and other than with CapVest) (Clause 4.5)
- Equal access to non-public information (Clause 4.7)
- Exceptions to the arrangements (Clause 4.10)
- Notification obligation (Clause 4.11) (including in the event that CapVest provides a counterproposal)

In addition, BGH requires that the Engagement Deed includes undertakings that Virtus will not enter into, for 20 Business Days after the date that Virtus grants BGH and its advisors access to the virtual data room:

- any further break fee or other cost reimbursement arrangements with any other party, including CapVest, in connection with any control proposal for Virtus (beyond those disclosed in Virtus' ASX announcement on 20 January 2022); or
- any agreement with CapVest to give effect to any control proposal from CapVest.