



# Investor Presentation

Trading update and capital raising  
March 2020



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This Presentation has been prepared by SomnoMed Limited ACN 003 255 221 (SomnoMed or Company) and is dated 25 March 2020. This Presentation has been prepared in relation to the Company's proposed fully underwritten pro rata non-renounceable accelerated entitlement offer of new fully paid ordinary shares (New Shares) in SomnoMed to certain eligible shareholders of the Company (Entitlement Offer or Offer). The Entitlement Offer is being made to:

- a) eligible institutional shareholders of the Company (Institutional Entitlement Offer); and
- b) eligible retail shareholders of the Company (Retail Entitlement Offer),

under section 708AA of the Corporations Act (as modified by the Australian Securities and Investments Commission Corporations (Non-Traditional Rights Issues) Instrument 2016/84). Wilsons Corporate Finance Limited (Wilsons or Underwriter) is acting as sole lead manager and underwriter of the Offer.

## Summary information

This Presentation contains summary information about the Company and its subsidiaries (Group) and their respective activities which are current as at the date of this Presentation. The information in this Presentation is of a general nature and does not purport to be complete nor does it contain all information which a prospective investor may require in evaluating a possible investment in the Company or that would be required in a prospectus or product disclosure statement prepared in accordance with the requirements of the Corporations Act. This presentation should be read in conjunction with the Company's other periodic and continuous disclosure information lodged with the ASX, which are available at [www.asx.com.au](http://www.asx.com.au). Certain market and industry data used in connection with this Presentation may have been obtained from research, surveys or studies conducted by third parties, including industry or general publications.

## Market and industry data

Certain market and industry data used in connection with this Presentation may have been obtained from research, surveys or studies conducted by third parties, including industry or general publications. None of the Company, its representatives or advisers have independently verified any such market or industry data provided by third parties or industry or general publications.

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This Presentation does not constitute financial product or investment advice or any recommendation to acquire New Shares or accounting, legal or tax advice. Each recipient of the Presentation should make its own enquiries and investigations regarding all information in this Presentation including but not limited to the assumptions, uncertainties and contingencies which may affect future operations of the Group and the impact that different future outcomes might have on the Group. Information in this Presentation is not intended to be relied upon as advice to investors or potential investors and has been prepared without taking account of any person's individual investment objectives, financial situation or particular needs. Before making an investment decision, prospective investors should consider the appropriateness of the information having regard to their own investment objectives, financial situation and needs and seek legal, accounting and taxation advice appropriate to their jurisdiction. The Company is not licensed to provide financial product advice in respect of the New Shares. Cooling off rights do not apply to the acquisition of New Shares under the Offer.

# DISCLAIMER & REGULATORY DISCLOSURE

## Investment risk

An investment in New Shares is subject to known and unknown risks, some of which are beyond the control of the Group, including possible delays in repayment and loss of principal and income invested. The Company does not guarantee any particular rate of return or the performance of the Group, nor does it guarantee the repayment of capital from the Company or any particular tax treatment. Persons should have regard to the risk factors outlined in this Presentation. An investment in New Shares should be considered speculative.

## Forward-looking statements and forecasts

This Presentation contains certain "forward-looking statements" that are based on management's beliefs, assumptions and expectations and on information currently available to management. Forward-looking statements can generally be identified by the use of forward-looking words such as, "expect", "anticipate", "likely", "intend", "should", "could", "may", "predict", "plan", "propose", "will", "believe", "forecast", "estimate", "target", "outlook", "guidance" and other similar expressions within the meaning of securities laws of applicable jurisdictions. Such forward-looking statements include, but are not limited to, statements regarding certain plans, strategies and objectives of management of the Company, the outcome and effects of the Offer and the use of proceeds. Indications of, and guidance or outlook on, future earnings or financial position or performance, future earnings and distributions are also forward-looking statements. You are cautioned not to place undue reliance on forward-looking statements. Any such statements, opinions and estimates in this Presentation, including the current trading outlook, speak only as of the date hereof and are based on assumptions and contingencies subject to change without notice, as are statements about market and industry trends, projections, guidance and estimates. Forward-looking statements are provided as a general guide only. The forward-looking statements contained in this Presentation are not indications, guarantees or predictions of future performance and involve known and unknown risks and uncertainties and other factors, many of which are beyond the control of the Group (including but not limited to the current Covid-19 Pandemic), and may involve significant elements of subjective judgement and assumptions as to future events which may or may not be correct. Refer to the "Key Risks" in Section 4 of this Presentation for a non-exhaustive summary of certain general and specific risk factors that may affect the Group. There can be no assurance that actual outcomes will not differ materially from these forward-looking statements. A number of important factors could cause actual results or performance to differ materially from the forward-looking statements, including the risk factors set out in this Presentation. Investors should consider the forward-looking statements contained in this Presentation in light of those risks and disclosures. The forward-looking statements are based on information available to the Company as at the date of this Presentation. The Presentation also includes a current trading outlook, which is based on a number of assumptions concerning future events, including, without limitation, the successful implementation of the Group's business operation strategies, as well as a number of assumptions and estimates relating to factors affecting the Group's business (including but not limited to the current Covid-19 Pandemic). Given the current uncertainties regarding the impact of the current Covid-19 Pandemic on the trading conditions impacting the Company, the financial markets and the health services world-wide investors are cautioned not to place undue reliance on the current trading outlook.

No representation, warranty or assurance (express or implied) is given or made in relation to any forward-looking statement by any person (including the Company or any of its advisers). In particular, no representation, warranty or assurance (express or implied) is given that the occurrence of the events expressed or implied in any forward-looking statements in this Presentation will actually occur. Actual operations, results, performance, production targets or achievement may vary materially from any projections and forward-looking statements and the assumptions on which those statements are based. Except as required by law or regulation (including the ASX Listing Rules), the Company disclaims any obligation or undertaking to update forward-looking statements in this Presentation to reflect any changes in expectations in relation to any forward-looking statement or change in events, circumstances or conditions on which any statement is based.

## Past performance

Past performance and pro forma financial information given in this Presentation is given for illustrative purposes only and should not be relied upon as (and is not) an indication of the Group's views on its future financial performance or condition. Investors should note that past performance, including past share price performance, of the Company cannot be relied upon as an indicator of (and provides no guidance as to) future performance of the Group including future share price performance. The historical financial information contained in this Presentation is, or is based on, information that has previously been released to the market.

The information in this Presentation has been obtained from or based on sources believed by the Company to be reliable

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## Institutional bookbuild

Shareholders should note that Wilsons (whether in that capacity, as nominee in accordance with section 615 of the Corporations Act (if applicable) or otherwise) is not acting as agent for securityholders (including shareholders who are ineligible to participate in the Offer (Ineligible Shareholders), manages the institutional bookbuild, and the sale process under section 615 of the Corporations Act in respect of the Offer (if applicable), for and at the request of the Company only; owes no duties (fiduciary or otherwise) to securityholders (including Ineligible Shareholders); is not obliged to return any entitlements to, or act at the direction, or consider the interests, or the requests, of any shareholders (including Ineligible Shareholders); may determine in its discretion to whom it allocates entitlements and New Shares in accordance with its arrangements with the Company and subject to pro-rata entitlements of eligible securityholders under the Entitlement Offer; and that it is not liable for failure to sell such entitlements or New Shares at any particular price or at all.

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# 1. Trading conditions update

# Trading conditions update

- ✓ SomnoMed's trading performance in January and February 2020 was on target and in accordance with guidance. Revenues were growing strongly with both months posting revenue growth of 17% over prior year
- ✓ Since early March 2020, the impacts of the Coronavirus (COVID-19) started to spread to all our markets. The board has decided to withdraw FY20 guidance given the size and duration of the negative impact of COVID-19 on the Company's operating and financial performance is currently unclear
- ✓ The assessment performed and analysis done during March on various assumptions and scenarios indicated that it is more than likely that there is a severe impact on revenues in Q4, necessitating the withdrawal of guidance
- ✓ In light of this, the board has made a decision to act quickly and decisively to protect and preserve the business, and for this reason, the Company is seeking to raise additional working capital

- ✓ SomnoMed has the following implemented significant cost saving measures to date:
  - > CEO salary reduced by 50% until further notice
  - > Salary costs reduced by at least 30% globally until further notice
  - > Directors will forgo all fees until further notice
  - > Ban all travel within the organisation
  - > Only operational essential costs to be incurred to match demand
  - > Establish work from home and work rotation programs
  - > Down size and right size manufacturing to meet demand
  - > Freeze all investments in CAPEX
  - > Freeze all current technology enhancing and innovation projects
  - > Optimise working capital management
- ✓ The Company's manufacturing site in Manila has been re-based to expected volumes and supply chain currently remains open
- ✓ Further measures have been drafted to be implemented should the effects of this virus continue for extended periods of time. SomnoMed has and will continue to take measures to reduce all non-essential spending and capital expenditure

# First-half ending 31 December 2019 summary

- ✓ SomnoMed's core revenue growth +15% over prior year
- ✓ EBITDA\* \$3m and +130% over prior year
- ✓ North America first-half revenue growth +26% and continuing to show positive trends with increasing volumes from returning customers
- ✓ Europe first-half revenue growth +10% with Holland now turned around and both Belgium and France significantly contributing to the improved revenue growth
- ✓ APAC first-half revenue growth +11% with new sales channels developed
- ✓ Successful launch of the digital SomnoDent® Avant
- ✓ Key strategic contract signed with App-Nea LLC
- ✓ Medical survey conducted in the US providing valuable insights and key future strategic pathways
- ✓ New executive leadership team appointed in both North America and Australia
- ✓ Cash on hand \$8.9m and ahead of forecast

# Prior to the impact of COVID-19, SomnoMed was performing to expectations

(Financials – January and February 2020\*)

## Total SomnoMed core revenue growth

Revenue growth (%)	Jan-20	Feb-20	Jan + Feb FY20
North America	33%	32%	32%
Europe	12%	12%	12%
APAC	(14%)	3%	(6%)
<b>SomnoMed Core</b>	<b>17%</b>	<b>17%</b>	<b>17%</b>

## Total SomnoMed core revenue

Total Revenue (A\$000's)	Jan-20	Feb-20	Jan + Feb FY20	YTD Feb FY20
North America	1,889	1,908	3,797	16,152
Europe	2,669	3,719	6,387	24,693
APAC	328	414	741	3,448
<b>SomnoMed Core</b>	<b>4,886</b>	<b>6,041</b>	<b>10,926</b>	<b>44,293</b>



## 2. Outlook

# Outlook for the rest of FY20

- ✓ Given the uncertain extent and duration of the impact of COVID-19 on the Company, current outlook is largely unknown
- ✓ Actions are in place to preserve cash and protect the business
- ✓ Further actions will be taken should necessity dictate
- ✓ The focus of the management team is to ensure that our staff are safe, the business is protected and that SomnoMed has a strengthened balance sheet to assist the Company to withstand the likely downturn in revenues and the inability for patients to see their practitioners and receive treatment
- ✓ Cost reduction programs are currently being developed in all our global entities and across all departments to be implemented immediately and over the next weeks
- ✓ Regular updates will be given to the market



## 3. Capital Raising

# Capital raising details

## Offer Size and Structure

- A\$15.5m offer comprising a 1 for 3.24 pro-rata accelerated non-renounceable entitlement offer (“Entitlement Offer”)
- Approximately 19.4 million new SomnoMed shares to be issued (“New Shares”), representing 30.9% of current SomnoMed shares on issue
- The Entitlement Offer will consist of an Institutional Entitlement Offer and a Retail Entitlement Offer

## Offer Price

- Offer price of \$0.80 per New Share under the Entitlement Offer, which represents:
- 53.4% discount to the TERP<sup>1</sup> of \$1.72, based on the closing price of SomnoMed shares on 17 March 2020
- 60.0% discount to the last close of \$2.00, based on the closing price of SomnoMed shares on 17 March 2020

## Ranking

- The New Shares issued under the Entitlement Offer will rank equally with existing SomnoMed shares

## Institutional Entitlement Offer

- The Institutional Entitlement Offer will be conducted on Wednesday, 25 March 2020 and be open to eligible institutional holders in Australia, New Zealand, Singapore and Hong Kong
- Institutional entitlements that eligible institutional shareholders do not take up by the close of the Institutional Entitlement Offer, and institutional entitlements that would otherwise have been offered to ineligible institutional shareholders, will be offered to eligible institutional shareholders who apply for new shares in excess of their Entitlement, as well as to certain other eligible institutional investors who bid into the institutional bookbuild being conducted concurrently with the Institutional Entitlement Offer

Note: 1. TERP is a theoretical price at which SomnoMed shares trade immediately after the ex-date for the Entitlement Offer. TERP is calculated by reference to SomnoMed closing price of \$2.00 on 17 March 2020. TERP is a theoretical calculation only and the actual price at which SomnoMed shares trade immediately after the ex-date for the Entitlement Offer will depend on many factors and may not be equal to TERP.

# Capital raising details

## Use of proceeds

- The Entitlement Offer proceeds will be used for working capital purposes

## Major shareholder intentions

- A nominee has been appointed, and approved by ASIC, for the purposed of section 615 of the Corporations Act, so as to deal with new Shares that would have otherwise been offered to ineligible foreign shareholders in the Entitlement Offer
- The Company's largest shareholder, TDM Growth Partners Pty Ltd has confirmed that it will take up its full entitlement under the Entitlement Offer and have also agreed to sub underwrite the Entitlement Offer
- TDM's shareholding (depending upon the take up of the Entitlement Offer by other shareholders) may increase from 19.8% to a maximum of 38.7% of shares on issue post completion of the Entitlement Offer

## Retail Entitlement Offer

- The Retail Entitlement Offer will be open to eligible retail shareholders in Australia and New Zealand
- The Retail Entitlement Offer opens Wednesday, 1 April 2020 and closes Wednesday, 15 April 2020

## Lead Manager and Underwriter

- Wilsons Corporate Finance Limited is Lead Manager and Underwriter of the Entitlement Offer
- The Entitlement Offer is fully underwritten by the Lead Manager

## Record Date

- 7:00pm (Sydney time) Friday, 27 March 2020

# Timetable

Procedure Step	Date
Announcement of Entitlement Offer	Wednesday, 25 March
Institutional Offer opens	Wednesday, 25 March
Institutional Offer closes (5pm Sydney time)	Wednesday, 25 March
Announce Results of Institutional Offer	Thursday, 26 March
Trading Halt Lifted – Trading is on ex-entitlement basis	Thursday, 26 March
Record date for holders (7pm Sydney time)	Friday, 27 March

Procedure Step	Date
Information Booklet and Entitlement and Acceptance Form sent to Retail Investors	Wednesday, 01 April
Retail Entitlement Offer opens	Wednesday, 01 April
Issue and Quotation of New Shares under Institutional Offer	Wednesday, 01 April
Retail Offer closes (5pm Sydney time)	Wednesday, 15 April
Announce Results of Retail Offer	Friday, 17 April
Issue New Shares under Retail Offer	Wednesday, 22 April
Quotation of New Shares under Retail Offer	Thursday, 23 April
Dispatch Holding Statements under Retail Offer	Friday, 24 April

Note:

1. Dates and times are indicative only and subject to change without notice. SomnoMed reserves the right to alter the dates in this presentation at its discretion and without notice, subject to the ASX Listing Rules and Corporations Act 2001 (Cth). All dates and times refer to Sydney time and 2020



## 4. Key risks

# Risks

SomnoMed is subject to a number of risks and other factors that may impact both on its future performance and the market price at which its Shares trade. Broadly, these risks can be classified as risks general to investing in the stock market and risks specific to an investment in SomnoMed.

The New Shares issued under this Entitlement Offer do not carry any guarantee of profitability, dividends or the price at which they trade on ASX. The Directors consider that the following summary, which is not exhaustive, represents some of the major risk factors of which investors need to be aware. However, before taking up any Entitlements or investing in SomnoMed, the Directors strongly recommend investors examine the contents of the entitlement offer Information Booklet in its entirety and consult their professional advisers before deciding whether to subscribe for New Shares pursuant to this Entitlement offer Information Booklet.

## General

As with all stock market investments, there are risks associated with an investment in SomnoMed. Share prices may rise or fall and the price of Shares might trade below or above the issue price for the New Shares under this entitlement offer.

General factors that may affect the market price of SomnoMed Shares include:

- economic conditions in both Australia and internationally;
- investor sentiment and local and international share market conditions;
- changes in interest rates and the rate of inflation;
- changes to government regulation, policy or legislation;
- changes in exchange rates;
- the nature of competition in the industry in which SomnoMed operates; and
- new government policies or initiatives to deal with COVID 19.

## Specific risks relating to SomnoMed

The Directors believe that risks associated with an investment in SomnoMed include, but may not be limited to, the following:

## Coronavirus (COVID 19) event

The specific risks associated with the Coronavirus (COVID 19) event are:

- Patients not being able to seek diagnosis and obtain treatment and people not wanting or able to visit dentists
- Inability to collect accounts receivable from customers whose practices have been temporarily closed
- Manufacturing risk such that there is an inability to have technicians physically able to come to work and perform their duties
- Third party supply disruption of necessary raw material
- Executive management contracting COVID 19 and remaining sick or no longer being able to fulfil their duties in any capacity
- Prolonged periods of lock down in SomnoMed's sales markets
- Ongoing support of current finance providers

## Growth management and additional capital requirements

Post the COVID-19 outbreak, the operations of SomnoMed may place a significant strain on the Company's managerial, operational and financial resources. Future success will also depend on the ability to attract and retain personnel. Inability to manage growth, or to attract and retain the necessary personnel, could have a material adverse effect on SomnoMed.

Additional funding may be required for SomnoMed's business in the future. There is no assurance that additional funding will be available to SomnoMed in the future at economically feasible terms.

Whilst the Directors are of the belief that the level of demand for the Company's products and the resultant revenues are expected to continue to grow in the future, there can be no guarantee that this growth will continue.

## Changes potentially affecting prices charged

There can be no guarantee that SomnoMed's products will continue to be successful in the market nor that SomnoMed will continue to receive significant revenues from the sale of its products or services. Unexpected expenses or downward pressure on the prices SomnoMed charges as a result of changes in regulations by national health authorities, emergence of alternative treatments for OSA delivering a higher level of efficacy and patient compliance as well as better health economics, competitive pressures, or levels of reimbursement provided health insurers in the places in which SomnoMed operates, may affect the profitability of that business.

## Product liability

SomnoMed could be exposed to product liability claims or other lawsuits resulting from maltreatment and/or serious side effects or harm being caused to a patient. SomnoMed had never been subject to such a law suit in its over fifteen year history, having treated almost 525,000 patients. SomnoMed has implemented controls and processes designed to mitigate these risks and maintains what it believes is adequate liability insurance whenever economic and prudent.

## Competition

There is a risk that the competitive landscape might change; new competitors might emerge or existing competitors might be taken over by larger and better resourced companies which may offer services that compete with the products and services provided by SomnoMed. There can be no assurance that a competitor of SomnoMed will not develop or achieve commercialisation of services that compete with, or supersede, SomnoMed services or products. The Directors believe that the potential market size for the services to be provided by SomnoMed is large enough to absorb a number of competitors.

## Foreign exchange risk

All of SomnoMed's production and over 92% of its sales and revenues take place outside Australia. As SomnoMed is based in Australia and its accounts are kept in the Australian Dollar currency, changes to currencies will affect SomnoMed's profit and loss accounts. Most of SomnoMed's business is carried out in US Dollars or in Euros. A strengthening of the Australian Dollar against the US Dollar and/or the Euro will affect SomnoMed's profits adversely, whereas a weakening of the Australian Dollar against these countries will enhance its profits reported in Australian Dollars.



## 5. Foreign selling jurisdictions

# Offer restrictions

This document does not constitute an offer of new ordinary shares ("New Shares") of the Company in any jurisdiction in which it would be unlawful. In particular, this document may not be distributed to any person, and the New Shares may not be offered or sold, in any country outside Australia except to the extent permitted below.

## Hong Kong

WARNING: This document has not been, and will not be, registered as a prospectus under the Companies (Winding Up and Miscellaneous Provisions) Ordinance (Cap. 32) of Hong Kong, nor has it been authorised by the Securities and Futures Commission in Hong Kong pursuant to the Securities and Futures Ordinance (Cap. 571) of the Laws of Hong Kong (the "SFO"). No action has been taken in Hong Kong to authorise or register this document or to permit the distribution of this document or any documents issued in connection with it. Accordingly, the New Shares have not been and will not be offered or sold in Hong Kong other than to "professional investors" (as defined in the SFO and any rules made under that ordinance).

No advertisement, invitation or document relating to the New Shares has been or will be issued, or has been or will be in the possession of any person for the purpose of issue, in Hong Kong or elsewhere that is directed at, or the contents of which are likely to be accessed or read by, the public of Hong Kong (except if permitted to do so under the securities laws of Hong Kong) other than with respect to New Shares that are or are intended to be disposed of only to persons outside Hong Kong or only to professional investors. No person allotted New Shares may sell, or offer to sell, such securities in circumstances that amount to an offer to the public in Hong Kong within six months following the date of issue of such securities.

The contents of this document have not been reviewed by any Hong Kong regulatory authority. You are advised to exercise caution in relation to the offer. If you are in doubt about any contents of this document, you should obtain independent professional advice.

## New Zealand

This document has not been registered, filed with or approved by any New Zealand regulatory authority under the Financial Markets Conduct Act 2013 (the "FMC Act").

The New Shares are not being offered to the public within New Zealand other than to existing shareholders of the Company with registered addresses in New Zealand to whom the offer of these securities is being made in reliance on the FMC Act and the Financial Markets Conduct (Incidental Offers) Exemption Notice 2016

Other than in the entitlement offer, the New Shares may only be offered or sold in New Zealand (or allotted with a view to being offered for sale in New Zealand) to a person who:

- is an investment business within the meaning of clause 37 of Schedule 1 of the FMC Act;
- meets the investment activity criteria specified in clause 38 of Schedule 1 of the FMC Act;
- is large within the meaning of clause 39 of Schedule 1 of the FMC Act;
- is a government agency within the meaning of clause 40 of Schedule 1 of the FMC Act; or
- is an eligible investor within the meaning of clause 41 of Schedule 1 of the FMC Act (and, if an eligible investor, have provided the necessary certification).

## Singapore

This document and any other materials relating to the New Shares have not been, and will not be, lodged or registered as a prospectus in Singapore with the Monetary Authority of Singapore. Accordingly, this document and any other document or materials in connection with the offer or sale, or invitation for subscription or purchase, of New Shares, may not be issued, circulated or distributed, nor may the New Shares be offered or sold, or be made the subject of an invitation for subscription or purchase, whether directly or indirectly, to persons in Singapore except pursuant to and in accordance with exemptions in Subdivision (4) Division 1, Part XIII of the Securities and Futures Act, Chapter 289 of Singapore (the "SFA"), or as otherwise pursuant to, and in accordance with the conditions of any other applicable provisions of the SFA.

This document has been given to you on the basis that you are (i) an existing holder of the Company's shares, (ii) an "institutional investor" (as defined in the SFA) or (iii) an "accredited investor" (as defined in the SFA). In the event that you are not an investor falling within any of the categories set out above, please return this document immediately. You may not forward or circulate this document to any other person in Singapore.

Any offer is not made to you with a view to the New Shares being subsequently offered for sale to any other party. There are on-sale restrictions in Singapore that may be applicable to investors who acquire New Shares. As such, investors are advised to acquaint themselves with the SFA provisions relating to resale restrictions in Singapore and comply accordingly.

# Contact

Chief Executive Officer: Mr Neil Verdal-Austin

Chief Financial Officer: Mr Hervé Fiévet

Address: 20 Clarke Street, Crows Nest, Sydney 2065

Telephone: 02 9467 0400

Website: [www.somnomed.com](http://www.somnomed.com)





**Appendix A:  
Underwriting Agreement  
Summary**

# SUMMARY OF UNDERWRITING ARRANGEMENTS

Wilson's Corporation Finance Limited (Wilson's) is acting as sole lead manager and underwriter of the Entitlement Offer. SomnoMed has entered into an underwriting agreement with Wilson's in respect of the Entitlement Offer (Agreement). The Agreement contains representations and warranties and indemnities in favour of Wilson's. Wilson's may also, in certain circumstances, terminate its obligations under the Agreement if any of the following events occur prior to 8.00am on the date for the issue of shares under the retail component of the Entitlement Offer by giving written notice to SomnoMed:

- a) (**Offer materials**) a statement contained in any of the materials released to ASX in connection with the Offer or used to market the Offer (Offer Materials) is or becomes false, misleading or deceptive (including by omission) or likely to mislead or deceive or the Offer Materials omit any information they are required to contain (having regard to section 708AA of the Corporations Act and any other applicable requirements).
- b) (**listing**) ASX announces that SomnoMed will be removed from the official list or that its Shares will be delisted or suspended from quotation by ASX for any reason or ASX makes any official statement to any person, or indicates to SomnoMed or Wilson's that official quotation on ASX of the Shares to be issued under the Entitlement Offer will not be granted.
- c) (**notifications**) ASIC (i) applies for an order under section 1324 or 1325 of the Corporations Act or an order under Part 9.5 of the Corporations Act, in relation to the Entitlement Offer or any Offer Materials; (ii) holds, or gives notice of intention to hold, a hearing or investigation in relation to the Entitlement Offer or any Offer Materials; (iii) prosecutes or gives notice of an intention to prosecute; or (iv) commences proceedings against, or gives notice of an intention to commence proceedings against, SomnoMed or any of its officers, employees or agents in relation to the Entitlement Offer or any Offer Material, and the matter has not been withdrawn within 3 business days of receipt, or by the date of settlement of the institutional component of the Entitlement Offer (Institutional Settlement Date) if arising within that period, or the date of settlement of the retail component of the Entitlement Offer if arising after the Institutional Settlement Date and within that period.
- d) (**suspension**) ASX suspends trading of the Shares for any period of time, other than in respect of the trading halt granted for the Entitlement Offer and any other trading halt or suspension made with the prior agreement of Wilson's.
- e) (**market fall**) at any time (i) before the Institutional Settlement Date, the S&P/ASX 300 Index falls to a level that is 88% or less of the level as at the close of trading on the business date before the date of the Agreement; and (ii) after the Institutional Settlement Date, the S&P/ASX 300 Index falls to a level that is 88% or less of the level as at the close of trading on the business day before the date of the agreement and stays at or below that level for more than two trading days.
- f) (**quotation**) unconditional approval (or conditional approval, provided that the conditions would not, in the reasonable opinion of Wilson's, have a material adverse effect on the success or settlement of the Entitlement Offer) by ASX for official quotation of (i) the shares to be issued under the institutional component of the Entitlement Offer is refused, or not granted by the Institutional Settlement Date or is withdrawn, qualified or withheld on or before the Institutional Settlement Date; or (ii) the shares to be issued under the retail component of the Entitlement is refused, or not granted by the retail shortfall settlement date or is withdrawn, qualified or withheld on or before the retail shortfall settlement date.
- g) (**capital structure**) SomnoMed alters its capital structure without the consent of Wilson's, other than by issuing securities required as a consequence of Entitlement Offer.
- h) (**timetable**) any event specified in the timetable for the Entitlement Offer is delayed by SomnoMed for more than one business days without the prior written consent of Wilson's.
- i) (**withdrawal**) SomnoMed withdraws any Offer Material or the Entitlement Offer or indicates that it does not intend to proceed with the Entitlement Offer.
- j) (**unable to issue**) SomnoMed is prevented from granting entitlements or issuing Shares under the Entitlement Offer in accordance with ASX Listing Rules, applicable laws, a government agency or an order of a court of competent jurisdiction.
- k) (**future matters**) any statement in an Offer Materials which relates to future matters or any forecast or forward looking statement is or becomes incapable of being met, or in the reasonable opinion of Wilson's, unlikely to be met.
- l) (**prosecution**) any of the following new circumstances occur following the execution of the Agreement (i) a director of SomnoMed is charged with an indictable offence; (ii) any government agency commences any public proceedings against SomnoMed or any of its directors in their capacity as a director of SomnoMed, or announces that it intends to take such action; or (iii) any director of SomnoMed is disqualified from managing a corporation under Part 2D.6 of the Corporations Act.
- m) (**change in CEO, CFO or Chair**) a change in CEO, CFO or Chair of SomnoMed occurs.
- n) (**ASX and ASIC**) ASX or ASIC withdraws or revokes any waivers, consents or approvals required for the Entitlement Offer which has granted to permit the Entitlement Offer to occur, or ASX or ASIC amends in a material respect such consents, waivers, approvals or modifications.
- o) (**certificate**) any certificate which is required to be furnished by SomnoMed under this Agreement is not furnished.
- p) (**insolvency event**) any insolvency event occurs in respect of SomnoMed or any of its subsidiaries (together, the Group).
- q) (**force majeure**) there is an event or occurrence, including an official directive or request (including one compliance with which is in accordance with the general practice of persons to whom the directive or request is addressed) of any government agency or a pandemic or an epidemic (such as novel coronavirus, a recurrence of Severe Acute Respiratory Syndrome or an outbreak of swine or avian influenza), which makes it illegal for Wilson's to satisfy an obligation under the Agreement, or to market, promote or settle the Entitlement Offer.
- r) (**conduct**) SomnoMed or any of its directors or officers (as that term is defined in the Corporations Act) engage in any fraudulent, misleading or deceptive conduct or activity in connection with the Entitlement Offer.
- s) (**refund**) any circumstance arising after the date of the Agreement that results in SomnoMed, without the prior written consent of Wilson's, offering one or more applicants an opportunity to withdraw their valid applications(s).
- t) (**ASIC determination**) ASIC makes a determination under section 708AA(3) of the Corporations Act.
- u) (**new information**) a new circumstance which is adverse to an investor arises (whether or not SomnoMed announces it) that would have been required to be included in the Offer Materials (or otherwise to have been previously disclosed) had it arisen before the relevant Offer Materials were given to ASX.

# SUMMARY OF UNDERWRITING ARRANGEMENTS (CONT'D)

- r) **(corrective statement)** in the opinion of Wilsons (acting reasonably) SomnoMed becomes required to give, or gives, in respect of a cleansing notice issued in connection with the Entitlement Offer which is defective, a notice given to ASX in accordance with section 708AA(12) of the Corporations Act to correct that cleansing notice.
- s) **(future matters)** any statement in an Offer Materials which relates to future matters or any forecast or forward looking statement is or becomes incapable of being met, or in the reasonable opinion of Wilsons, unlikely to be met.
- t) **(application)** there is an application to a government agency (including, without limitation, the Takeovers Panel) for an order, declaration (including, in relation to the Takeovers Panel, of unacceptable circumstances) or other remedy in connection with the Entitlement Offer (or any part of it), except where such application does not become public and is withdrawn or dismissed within two business days after it is commenced or where it is commenced less than two business days before the date for issue of Shares under the institutional component of the Entitlement Offer or completion of the Entitlement Offer it has not been withdrawn or dismissed by the date for issue of Shares under the institutional component of the Entitlement Offer or completion of the Entitlement Offer (as the case may be).\*(statement) a statement in a certificate furnished by SomnoMed under the Agreement is untrue or incorrect in a material respect.
- u) **\*(statement)** a statement in a certificate furnished by SomnoMed under the Agreement is untrue or incorrect in a material respect.
- v) **\*(changes to SomnoMed)** SomnoMed (i) varies any term of its Constitution, (ii) alters the issued capital or capital structure of SomnoMed other than in connection with the Entitlement Offer or (iii) disposes, attempts or agrees to dispose of a substantial part of the business or property of SomnoMed (including any material subsidiary of SomnoMed),without the prior written consent of Wilsons.
- w) **\*(hostilities)** there is an outbreak of hostilities (whether or not war has been declared) not presently existing, or a major escalation in existing hostilities occurs (whether or not war has been declared) involving any one or more of Australia, New Zealand, the United States of America, Canada, the United Kingdom, the People's Republic of China, Hong Kong, Singapore, the Democratic People's Republic of Korea, the Republic of Korea or Japan or any member state of the European Union or a national emergency is declared by any 1 of those countries
- x) **\*(pandemics)** in any of the countries listed paragraph AA above, there is an escalation of the existing COVID-19 pandemic or the declaration of a new pandemic by the World Health Organisation involving a disease other than COVID-19 or a recurrence of Severe Acute Respiratory Syndrome (SARS) or Middle East Respiratory Syndrome (MERS) or an outbreak of swine or avian influenza occurs in any 1 of those countries, the Australian federal government or any Australian state or territory government implements further unexpected wide ranging controls on the freedom of movement of personnel other than those which are in place as at the date of the Agreement.
- y) **\*(breach of obligations)** SomnoMed is in breach of any terms and conditions of the Agreement (other than with respect to compliance with the timetable for the Entitlement Offer).
- z) **\*(breach of other representations)** any of the warranties given by SomnoMed under the Agreement is or becomes incorrect, untrue or misleading.
- aa) **\*(information supplied to Wilsons)** the information supplied by or on behalf of SomnoMed to Wilsons for the purposes of the due diligence investigations under taken in connection with the Entitlement Offer taken as a whole is, or the Offer Materials are, false, misleading or deceptive (including by omission).
- bb) **\*(change in law)** there is introduced, or there is an official public announcement of a proposal to introduce, into the Parliament of Australia or any State of Australia a new law, or the Reserve Bank of Australia, or any Commonwealth or State authority, adopts or announces a proposal to adopt a new policy (other than a law or policy which has been announced prior to the date of this agreement), any of which does or is likely to prohibit, restrict or regulate the Offer, capital issues, the level or likely level of valid applications under the Entitlement Offer or stock markets.
- cc) **\*(contravention of law)** a contravention by SomnoMed of the Corporations Act, its Constitution, any of the ASX Listing Rules, any other applicable law or regulation (as amended or varied) or order or request made by or on behalf of ASIC, ASX or any government agency.
- dd) **\*(disruption in financial markets)** any of the following occurs (i) a general moratorium on commercial banking activities in Australia, the United States of America, Hong Kong, Canada, Japan or the United Kingdom is declared by the relevant central banking authority in those countries, or there is a material disruption in commercial banking or security settlement or clearance services in any of those countries; (ii) any adverse change in the political or economic conditions or adverse effect on the financial markets in Australia, the United States of America, Hong Kong, Canada, Japan or the United Kingdom, or in foreign exchange rates or any development involving a prospective change in political or economic conditions or financial markets in any of those countries or in foreign exchange rates; or (iii) trading in securities generally on ASX, the New York Stock Exchange, and/or the London Stock Exchange is suspended or limited in a material respect on three or more consecutive days.
- ee) **\*(adverse change)** other than as a direct result of the effect of the 2020 Corvid -19 Pandemic which has occurred as at the date of the Agreement, in the bona fide and reasonable opinion of Wilsons, there is a material adverse change, or any one or more matters, events or circumstances occurs, is announced or disclosed or becomes known to Wilsons (whether or not it becomes public) which individually or when aggregated with any other such matters, events or circumstances is likely to give rise to a material adverse change, in the financial position or performance, shareholders' equity, profits, losses, results, condition, operations or prospects of SomnoMed.

No event listed with an (\*) in this slide or the immediately preceding slide entitles Wilsons to exercise its termination rights unless, Wilsons has reasonable grounds to believe or actually believes that the event (a) has had, is having or is reasonably likely to have a material adverse effect on the financial position or performance, shareholder's equity, profits, losses, results, condition, operations or prospects of the Group either individually or taken as a whole or the success or outcome of the Entitlement Offer, the market price of Shares to be issued under the Offer or SomnoMed's Shares or the ability of Wilsons to market, promote or settle the Entitlement Offer (including matters likely to have an effect on a decision of an investor to invest in Shares of SomnoMed or Shares to be issued under the Entitlement Offer); (b) (other than in the case of BB above) leads (or is, in Wilsons' opinion, reasonably likely to lead) to Wilsons' obligations under the Agreement becoming materially more onerous than those which exist at the date of the Agreement was entered into; or (c) leads (or is, in Wilsons' opinion, reasonably likely to lead) to the contravention, or involvement in a contravention of, or a liability under the Corporations Act or any other applicable law.

If Wilsons terminates its obligations under the Agreement, Wilsons will not be obliged to perform any of its obligations that remain to be performed. Termination of the Agreement could have an adverse impact on the amount of proceeds raised under the Entitlement Offer.

In respect of the sub-underwriting agreement between Wilsons and TDM Growth Partners Pty Ltd, that agreement if the Agreement summarised above is terminated.