



1 September 2006

Tower Software Engineering Pty Ltd 02 - Application withdrawn

The Takeovers Panel advises that it has consented to withdrawal of the application dated 1 August 2006 ([TP 06-70](#)) by Tower Software Engineering Pty Ltd i.e. the Tower 02 proceedings.

Background

The Application concerned competing off-market takeover offers by Pendant Software Pty Ltd (on the one hand) at \$1.60 and Quadrant Private Equity No.1, L.P (on the other hand) at \$1.80, for Tower.

Tower submitted that Pendant Software had acquired shares from certain Tower shareholders (**Accepting Shareholders**), by way of acceptances under its takeover offer, at a time when, Tower submitted, non-public information existed that was material to Tower shareholders but which had not yet been disclosed to Tower shareholders or the market. Pendant Software rejected the submissions.

In the Panel's proceedings, all of the Accepting Shareholders indicated (either directly or through their agent) that they did not support the Application and did not wish for any opportunity to withdraw their acceptances of the Pendant Software takeover offer.

Increased offer for Tower shares

On 25 August 2006, Tower informed the Panel that several of the parties had reached an agreement under which Pendant Software (and its associates) would accept all of the Tower shares they held into the Quadrant bid (including the shares Pendant Software acquired from Equity Partners and the Accepting Shareholders), subject to clearing those shares through Tower's pre-emptive rights regime and Quadrant increasing the consideration offered under its bid to \$1.87. Quadrant has since advised Tower shareholders that it will increase its takeover offer consideration to \$1.87 if it acquires more than 50% of the shares in Tower.

Consent to withdraw

Tower requested the Panel's consent to withdraw its application, on the basis that no useful purpose would be served by continuing the Proceedings. Tower advised the Panel that the resolution agreed by the parties had provided it with some comfort that Quadrant had obtained control of Tower in a competitive, informed and efficient

market. Tower advised that it believed that by bringing the Application it had provided the Accepting Shareholders with an opportunity to air any grievance they might have had. Tower's application to withdraw its application was either supported, or not opposed, by all the parties to the proceedings.

The Panel considered that it would not be in the public interest to continue the proceedings given that the market for control of shares in Tower appeared to have operated efficiently in that the highest, unconditional offer had succeeded and the lack of any complaint on the part of Accepting Shareholders (being the persons who had been affected according to the submissions in the Application). Accordingly, the Panel consented to Tower withdrawing the Application.

The sitting Panel in these proceedings was John Keeves, Alastair Lucas (Deputy President) and Mark Paganin (Sitting President).

The Panel will publish its reasons for decision on its website in due course.

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