

20 May 2022

ASX and Media Release

WOOLWORTHS GROUP PROPOSES TO ACQUIRE 80% INTEREST IN MYDEAL IN A RECOMMENDED TRANSACTION

- MyDeal has entered into a binding Scheme Implementation Agreement with Woolworths Group Limited under which it is proposed that Woolworths Group will acquire a controlling interest in MyDeal, and MyDeal will be de-listed from the ASX.
- All-cash consideration of \$1.05 per share represents a significant premium of 62.8% to the last closing price of \$0.65 per share.
- Sean Senvirtne (CEO and founder of MyDeal) and certain other Key Management Personnel will retain a significant minority shareholding in MyDeal and will continue to lead the business.
- MyDeal's Board unanimously recommends that MyDeal shareholders vote in favour of the Transaction in the absence of a superior proposal and subject to the Independent Expert concluding that the Scheme is in the best interests of MyDeal shareholders.
- Each MyDeal Director intends to vote the MyDeal shares held or controlled by them in favour of the Transaction in the absence of a superior proposal and subject to the Independent Expert concluding that the Scheme is in the best interests of MyDeal shareholders¹.
- Sean Senvirtne has granted a conditional call option over 19.9% of his shares to Woolworths Group.
- The Transaction is subject to customary conditions, including ACCC approval of the acquisition and Court and shareholder approvals of the Transaction. The Transaction does not include any funding nor due diligence conditions.
- MyDeal shareholders do not need to take any action at the present time.

Melbourne, Australia – MyDeal.com.au Limited (ASX:MYD) ("MyDeal" or "the Company") is pleased to announce that it has entered into a binding Scheme Implementation Agreement ("SIA") with Woolworths Group Limited (ASX:WOW) ("Woolworths Group" or "WOW") under which it is proposed that Woolworths Group will acquire a controlling interest in MyDeal by way of a Scheme of Arrangement ("the Transaction" or "the Scheme").

Overview of the Transaction

Woolworths Group proposes to acquire all of the issued shares in the Company other than certain shares held by Sean Senvirtne and other key management personnel as set out below.

Under the Transaction, MyDeal shareholders will receive \$1.05 per share in cash.

The cash consideration of \$1.05 per share values MyDeal's equity at \$271.8 million and enterprise value ("EV") at \$242.6 million².

Upon completion of the Scheme:

- Woolworths Group will own 80.2% of the shares outstanding in MyDeal;

¹ Sean Senvirtne will be excluded from voting on the shareholder approval (if required) for the anticipated post-implementation put and call options noted below with respect to the retained shares.

² Implied equity value of \$271.8 million based on the Scheme consideration of \$1.05 per MyDeal share multiplied by current shares on issue of 258,827,306 shares. Enterprise value based on implied equity value excluding MyDeal net cash of \$29.2 million as at 31 March 2022.

- Entities associated with key management of MyDeal will retain an aggregate of 19.8% of the shares outstanding in MyDeal ("Retained Shares") as follows:
 - o Sean Senvirtne - 18.9%;
 - o Kate Dockery - 0.5%; and
 - o Dean Ramler (together "Key Management Personnel") - 0.4%

In order to achieve this capital structure, Sean Senvirtne will sell 60% of his current MyDeal shareholding into the Scheme and Kate Dockery and Dean Ramler will each sell 70% of their respective current MyDeal shareholdings into the Scheme.

Sean Senvirtne will continue as CEO of MyDeal and in conjunction with the other Key Management Personnel and MyDeal's broader existing management team, will lead the business through its next phase of growth in partnership with Woolworths Group.

The Transaction is conditional on WOW and the Key Management Personnel entering into agreements which will regulate the shareholding and management of MyDeal following implementation of the Scheme, which is anticipated will include put and call arrangements over the Retained Shares. The Transaction may be subject to a separate shareholder approval with respect to these put and call options.

MyDeal Directors unanimously recommend the Transaction

Each member of the MyDeal Board recommends that MyDeal shareholders vote in favour of the Transaction at the shareholder meetings in the absence of a superior proposal and subject to the Independent Expert concluding that the Scheme is in the best interests of MyDeal shareholders.

Subject to the same qualifications:

- each MyDeal Director (other than Sean Senvirtne) intends to vote the MyDeal shares held or controlled by them in favour of the Transaction; and
- Sean Senvirtne intends to vote all the MyDeal shares controlled by him (other than where excluded from voting) in favour of the Transaction.

MyDeal Directors believe this is a compelling offer for MyDeal shareholders for the following reasons:

- **Attractive premium:** The cash consideration of \$1.05 per share represents:
 - o 62.8% premium to the closing price of MyDeal shares on the ASX of \$0.65 on 19 May 2022³
 - o 5.0% premium to the IPO offer price of MyDeal shares on the ASX of \$1.00 on 22 October 2020
- **Attractive transaction multiple:** the cash consideration of \$1.05 per share represents an EV / GTV⁴ multiple of approximately 0.9x
- **Certainty of value:** the cash consideration provides MyDeal shareholders with certainty of value and the opportunity to realise their investment for cash

MyDeal Chairman, Paul Greenberg, said: *"The Scheme is an attractive transaction which provides an all-cash option for MyDeal shareholders. The MyDeal Board has unanimously concluded that the Scheme represents a compelling outcome for our shareholders, customers, suppliers, and staff. The cash consideration of \$1.05 per share represents a highly attractive premium to current trading levels and a premium to the IPO price."*

"The price is a very tangible measure of the value and quality of MyDeal's industry-leading online marketplace platform. At a significant premium to the current trading price, Woolworths Group's offer provides MyDeal shareholders with certainty of value and the opportunity to realise their investment in full for cash."

³ 19 May 2022 being the last day of trading prior to this announcement.

⁴ Based on FY22 Gross Sales guidance of \$270m, reaffirmed in MyDeal's Q3 FY22 update.

MyDeal CEO, Sean Senvirtne, said: *"The transaction is a highly attractive proposition for MyDeal shareholders and represents a significant premium to MyDeal's share price. I am excited to retain a significant and continued interest in MyDeal and to lead the business through its next stage of growth to become Australia's leading marketplace."*

"The entire MyDeal team is looking forward to partnering with Woolworths Group, which will deliver a step change in the growth of our retail platform by accessing sector leading capabilities across ecommerce, supply chain, retail, loyalty and more."

MyDeal shareholders should read the Scheme Booklet which the Company is targeting sending to MyDeal shareholders in July 2022 and seek professional advice before deciding whether to vote in favour of the Transaction.

Substantial Shareholders' Voting Intentions

MyDeal's other substantial shareholders, Aavasani Pty Ltd ("Gandel Invest") and Silver Globe Investments Pty Ltd, which hold 15.31% and 13.33% of the shares outstanding in MyDeal respectively, have each advised MyDeal that they intend to vote in favour of the Transaction in the absence of a superior proposal.

Call Option

Woolworths Group has entered into a conditional call option agreement with an entity controlled by Sean Senvirtne under which Woolworths Group may purchase MyDeal shares representing 19.9% of the issued share capital of the Company ("Call Option"). The terms of the Call Option will be disclosed to the ASX under a substantial shareholding notice to be lodged by Woolworths Group.

Key terms of the Scheme Implementation Agreement

The SIA entered into between Woolworths Group and MyDeal contains customary terms and conditions on which MyDeal and Woolworths Group will implement the Transaction.

The implementation of the Transaction is subject to MyDeal shareholders approving the Transaction by the required majorities. MyDeal shareholders will have the opportunity to vote on the Transaction at meetings ("Shareholder Meetings") expected to be held in Q3 2022.

The implementation of the Transaction remains subject to certain other customary conditions including Court approval, ACCC approval, no material adverse change impacting MyDeal prior to implementation, no prescribed events occurring prior to implementation and Woolworths Group and the Key Management Personnel agreeing the terms of agreements with respect to the ownership and management of MyDeal following implementation of the Transaction. The Transaction does not include any funding nor due diligence conditions.

The SIA includes customary provisions providing for exclusivity, "no shop" and "no talk" restrictions as well as matching rights for Woolworths Group in the event of a competing offer.

A break fee of 1% of the aggregate Scheme Consideration will be payable to WOW by MyDeal in certain circumstances.

A full copy of the SIA, including all applicable conditions, is attached to this announcement.

Indicative timetable and next steps

MyDeal Shareholders do not need to take any action at the present time.

An Independent Expert will be appointed to prepare a report on whether, in the Independent Expert's opinion, the Scheme is in the best interests of MyDeal shareholders. The Independent Expert's report will be included in the Scheme Booklet, along with information relating to the Transaction, the reasons for the Directors' recommendation and details of the Shareholder Meetings. The Scheme Booklet is expected to be sent to MyDeal shareholders in July 2022.

Shareholders will then have the opportunity to vote on the Transaction at the Shareholder Meetings, anticipated to be held in Q3 calendar 2022. Subject to the conditions of the Transaction being satisfied, the Transaction is

expected to be implemented in Q4 2022. As the Transaction is subject to regulatory approvals, including approval by the ACCC, the timing of the satisfaction of the conditions is uncertain but an indicative timetable of key dates is set out below:

Event	Expected Date
First court hearing	July 2022
Dispatch of Scheme booklet to MyDeal shareholders	July 2022
Shareholder Meetings	Q3 2022
Second court hearing	Q3/Q4 2022
Effective date	Q3/Q4 2022
Record date	Q3/Q4 2022
Implementation date	Q3/Q4 2022

These dates are indicative and subject to change

Advisers

RBC Capital Markets (Australia) is acting as financial adviser and Maddocks is acting as legal adviser to MyDeal.

Authorised for release by the Board of MyDeal.com.au Limited.

-- ENDS --

For further information, please contact:

Media Enquiries	Investor Relations
https://investors.mydeal.com.au +61 401 496 334 ir@mydeal.com.au	https://investors.mydeal.com.au +61 3 9999 1091 ir@mydeal.com.au

About MyDeal

MyDeal is an online retail marketplace focused on home and lifestyle goods. MyDeal currently has more than 1,911 sellers (of which 1,345 are considered Active Sellers⁵ as at 31 December 2021) on its platform with over 6 million product SKUs listed across over 2,000 categories (with the number of SKUs available for sale at any time determined by sellers).

<https://investors.mydeal.com.au/site/content/>

About Woolworths Group

Woolworths Group is a food and everyday needs retailer united by the shared purpose of creating a better tomorrow. With more than 1,400 stores across its Woolworths Supermarkets, Countdown Supermarkets (New Zealand) and BIG W brands, B2B business serving wholesale and export markets, and a fast-growing eCommerce business. Woolworths Group is Australia and New Zealand's largest retailer. Woolworths Group employs more than 180,000 team members and serves more than 20 million customers a week.

⁵ Active Sellers" are sellers that have sold products through the platform within the last three months.



Scheme Implementation Agreement

MyDeal.com.au Limited

ACN 640 108 130

Woolworths Group Limited

ACN 000 014 675

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THIS AGREEMENT is made on 20 May 2022

BETWEEN:

- (1) **MyDeal.com.au Limited** ACN 640 108 130 of Level 1, 446 Collins Street, Melbourne VIC 3000 (**Target**); and
- (2) **Woolworths Group Limited** ACN 000 014 675 of 1 Woolworths Way, Bella Vista NSW 2153 (**Bidder**).

RECITALS:

- (1) Bidder and Target have agreed that Bidder will acquire all of the Scheme Shares by way of a scheme of arrangement between Target and the holders of its ordinary shares under Part 5.1 of the Corporations Act.
- (2) Target intends to propose the Scheme and (if required) the EGM Resolution and issue the Scheme Booklet.
- (3) Bidder and Target have agreed to implement the Scheme, and to undertake other associated matters, on the terms and conditions of this document.

THE PARTIES AGREE AS FOLLOWS:

1. **INTERPRETATION**

1.1 **Definitions**

The following definitions apply in this document.

ACCC means the Australian Competition and Consumer Commission.

Agreed Form means, in relation to any document, such document in the form agreed between the parties, such agreement not to be unreasonably withheld or delayed.

Announcement means a press release, announcement or other public statement (other than a draft explanatory statement, an explanatory statement or supplementary explanatory statement as required under Part 5.1 of the Corporations Act).

Approach Notice means a notice setting out all material details of a Competing Proposal or Potential Competing Proposal including, without limitation, the consideration offered or proposed, conditions, proposed timetable and break or reimbursement fee (if any).

ASIC means the Australian Securities and Investments Commission.

Associate has the meaning given in section 12(2) of the Corporations Act, as if section 12(1) of the Corporations Act included a reference to this document.

ASX means the Australian Securities Exchange or ASX Limited ABN 98 008 624 691, as the context requires.

ASX Listing Rules means the listing rules of ASX as amended or waived from time to time.

Authorisation means:

- (a) an approval, authorisation, consent, declaration, exemption, licence, notarisation, permit or waiver, however it is described, including any renewal or amendment and any condition attaching to it from or by a Government Agency; and

- (b) in relation to anything that could be prohibited or restricted by law, if a Government Agency acts in any way within a specified period, the expiry of that period without that action being taken.

Bidder Board means the board of directors of Bidder as at the Implementation Date.

Bidder Group means Bidder and its subsidiaries.

Bidder Indemnified Party means Bidder, its officers and directors, its related bodies corporate and the officers and directors of each of its related bodies corporate.

Bidder Material means the information regarding the Bidder Group that is provided by or on behalf of Bidder to Target for inclusion in the Scheme Booklet as is required under the Corporations Act, Corporations Regulations and ASIC regulatory guide 60.

Bidder Nominee has the meaning given in clause 2.2.

Bidder Representation and Warranty means a representation and warranty set out in clause 12.2.

Business Day:

- (a) when used in relation to the Implementation Date and the Record Date, has the meaning given in the ASX Listing Rules; and
- (b) in all other cases, means a day (other than a Saturday, Sunday or public holiday) on which banks are open for general banking business in Sydney, New South Wales.

CCA means the *Competition and Consumer Act 2010* (Cth).

Change of Control Provision has the meaning given in clause 5.5(a).

Claim, in relation to a person, means any claim, allegation, cause of action, proceeding, liability, suit or demand made against the person concerned however it arises and whether it is present or future, fixed or unascertained, actual or contingent.

Competing Proposal means any proposal, offer, transaction, agreement or arrangement which, if ultimately entered into or completed substantially in accordance with its terms, would result in:

- (a) a person other than any member of the Bidder Group (whether alone or together with its Associates), directly or indirectly:
- (i) acquiring control (within the meaning given in section 50AA of the Corporations Act) of Target or any member of the Target Group which holds all or a substantial part of the business or assets of the Target Group;
 - (ii) acquiring an interest (including an economic interest by way of an equity swap, contract for difference or similar transaction or arrangement) or a Relevant Interest in more than 20% of the Target Shares;
 - (iii) acquiring, becoming the holder of, or having a right to acquire an economic interest in all or a substantial part of the business or assets of the Target Group; or
 - (iv) otherwise acquiring control (within the meaning given in section 50AA of the Corporations Act) of, or merging with, the Target or any other member of the

Target Group holding all or a substantial part of the business or assets of the Target Group,

whether by way of takeover bid, members' or creditors' scheme of arrangement, shareholder approved acquisition, capital reduction, buy-back, sale or purchase of shares, other securities or assets, assignment of assets and liabilities, incorporated or unincorporated joint venture, dual-listed company (or other synthetic merger), deed of company arrangement, any debt for equity arrangement or other transaction or arrangement; or

(b) the Scheme not being able to be implemented on the basis set out in this document.

Condition means a condition precedent set out in clause 3.2 and **Conditions** means all of them.

Confidentiality Deed means the confidentiality deed between Target and Bidder in respect of the proposed Scheme dated 2 February 2022, as may be amended from time to time.

Consents has the meaning given in clause 5.5(b)(iii).

Corporations Act means the *Corporations Act 2001* (Cth).

Corporations Regulations means the *Corporations Regulations 2001* (Cth).

Counter Proposal has the meaning given in clause 9.2(b)(vi).

Court means the Supreme Court of New South Wales or such other court of competent jurisdiction under the Corporations Act agreed to in writing by the parties.

DD Cut-off Date means the date that is two Business Days before the date of this document, or such later date as Target and Bidder agree in writing.

Deed Poll means a document in the form or substantially in the form of Schedule 4, or in such other form as is agreed in writing between the parties.

Defaulting Party has the meaning given in clause 11.1(c).

Disclosed means fairly disclosed, with sufficient detail and context as to enable a sophisticated bidder entering into a transaction of the nature contemplated by this document to understand the nature and scope of the relevant matter, event or circumstance in the Target Disclosure Material.

EBITDA means earnings before interest taxes, depreciation and amortisation.

Effective means the coming into effect, under section 411(10) of the Corporations Act, of the order of the Court made under section 411(4)(b) of the Corporations Act in relation to the Scheme.

Effective Date means the date on which the Scheme becomes Effective.

EGM means the extraordinary general meeting to be convened by Target at which Target Shareholders will vote on the EGM Resolution.

EGM Resolution means the resolution to be put to Target Shareholders to approve under section 611 item 7 of the Corporations Act, any acquisition by Bidder Group of a Relevant Interest in Target Shares that may arise pursuant to the Post-implementation Agreements.

Encumbrance means:

- (a) a Security Interest; or
- (b) an easement, restrictive covenant, caveat or similar restriction over property.

End Date means the date that is 12 months after the date of this document.

Excluded Shares mean:

- (a) 48,997,216 Target Shares held by one or more entities controlled by Sean Senvirtne;
- (b) 1,316,942 Target Shares held by one or more entities controlled by Kate Dockery;
- (c) 1,043,377 Target Shares held by one or more entities controlled by Dean Ramler; or
- (d) any Target Shares held by a member of the Bidder Group or any person who holds any Target Shares on behalf of, or for the benefit of, any member of the Bidder Group and does not hold Target Shares on behalf of, or for the benefit of, any other person,

which will not be transferred to Bidder (or if applicable Bidder Nominee) under the Scheme.

Exclusivity Period means the period commencing on the date of this document and ending on the earlier of:

- (a) termination of this document in accordance with its terms;
- (b) the Implementation Date; and
- (c) the End Date.

First Court Date means the first day of the hearing of the Court of an application for an order under section 411(1) of the Corporations Act convening of the Scheme Meeting.

Government Agency means a government, government department or a governmental, semi-governmental, administrative, statutory or judicial entity, agency, authority, commission, department, tribunal, or person charged with the administration of a law or agency, whether in Australia or elsewhere, including the ACCC, ASIC, ATO, ASX, the Takeovers Panel, and any self-regulatory organisation established under statute or by ASX.

GST Act means *A New Tax System (Goods and Services Tax) Act 1999* (Cth).

GST Law means the same as "GST Law" in the GST Act.

Headcount Test means the requirement under section 411(4)(a)(ii)(A) of the Corporations Act that the resolution to approve the Scheme is passed by a majority in number of Target Shareholders present and voting, either in person or by proxy at the Scheme Meeting.

IBC means the independent board committee of the Target comprising all the directors of the Target other than Sean Senvirtne.

Identifying Details means a person's name and other details which would otherwise be reasonably expected to identify that person.

Implementation Date means the fifth Business Day following the Record Date, or such other date as ordered by the Court or agreed in writing between the parties.

Impugned Amount means all or any part of the payment required to be made under clause 10.2 that is found by the Takeovers Panel or a Court to:

- (a) be unlawful;
- (b) involve a breach of directors' duties; or
- (c) constitute Unacceptable Circumstances.

Independent Expert means the independent expert appointed by Target in respect of the Scheme.

Independent Expert's Report means a report prepared by the Independent Expert in accordance with ASIC Regulatory Guide 111 *Content of expert reports* in connection with the Scheme and (if applicable) the EGM Resolution.

Insolvency Event means, in respect of a person:

- (a) an administrator being appointed to the person;
- (b) a controller or analogous person being appointed to the person or any of the person's property;
- (c) an application being made to a court for an order to appoint a controller, provisional liquidator, trustee for creditors or in bankruptcy or analogous person to the person or any of the person's property; or
- (d) an appointment of the kind referred to in paragraph (c) being made (whether or not following a resolution or application);
- (e) the person being taken under section 459F(1) of the Corporations Act to have failed to comply with a statutory demand;
- (f) an application being made to a court for an order for its winding up;
- (g) an order being made, or the person passing a resolution, for its winding up;
- (h) the person:
 - (i) suspending payment of its debts, ceasing (or threatening to cease) to carry on all or a material part of its business, stating that it is unable to pay its debts or being or becoming otherwise insolvent; or
 - (ii) being unable to pay its debts or otherwise insolvent;
- (i) the person taking any step toward entering into a compromise or arrangement with, or assignment for the benefit of, any of its members or creditors;
- (j) a court or other authority enforcing any judgment or order against the person for the payment of money or the recovery of any property; or
- (k) any analogous event to paragraphs (a) to (j) above occurring in connection with that person under the laws of any applicable jurisdiction.

Key Management Person means a person identified as such and as agreed in writing between the parties prior to the date of this document.

Loss includes any loss, damage, liability, obligation, compensation, fine, penalty, charge, payment, cost or expense (including any legal cost and expense) however it arises and whether it is present or future, fixed or unascertained, actual or contingent but excluding any consequential or indirect loss, economic loss or loss of profits.

Matching Period has the meaning given in clause 9.2.

Matching Right Notice means a notice given in accordance with clause 9.2(a) setting out all material details of a Competing Proposal or Potential Competing Proposal, including, without limitation, the consideration, conditions, proposed timetable and break or reimbursement fee (if any) that the Target Board has determined is a Superior Proposal.

Material Contract means any agreement, contract, deed or other arrangement, right or instrument which:

- (a) the parties agree in writing on or before the date of this document is a Material Contract; and
- (b) to the extent has not been Disclosed in the Target Due Diligence Information, is otherwise material to the Target Group in the context of the business of the Target Group taken as a whole.

Notifications has the meaning given in clause 5.5.

Order has the meaning given in clause 3.10.

Permitted Event means an event, occurrence or matter:

- (a) required to be done or procured by the Target under this document or the Scheme;
- (b) in relation to which the Bidder has expressly consented in writing;
- (c) required by law or an order of a Court or Government Agency; or
- (d) being payments made in relation to any of the following matters:
 - (i) the Short-Term Bonus Entitlement; or
 - (ii) any payment made by the Target pursuant to clause 2.8, subject to an aggregate cap of \$4,070,628.

Post-implementation Agreements mean each document agreed in writing between the parties as such.

Potential Competing Proposal means any offer, proposal or expression of interest (whether or not conditional, complete, written or binding) which is not, but could reasonably be expected to become, a Competing Proposal.

PPS Security Interest means a security interest that is subject to the PPSA.

PPSA means the *Personal Property Securities Act 2009* (Cth).

Public Register Information means the following information:

- (a) the records made available for public inspection by ASIC and which are revealed on an electronic search under a Target Group member's name, ACN or ABN as at the date that is one Business Day before the date of this document;
- (b) an announcement made by the Target to ASX prior to the date that is one Business Day before the date of this document;
- (c) the records made available for public inspection on a register maintained by the Supreme Court of New South Wales as at 21 April 2022, and the Federal Court of

Australia and the High Court of Australia as at 19 April 2022, in each case in respect of the Target Group members;

- (d) the records which are revealed on an electronic search of the register maintained under the PPSA as at 2 May 2022; and
- (e) the records made available for public inspection by IP Australia as at 20 April 2022.

Record Date means 5.00 pm on the day which is two Business Days after the Effective Date, or any other date (after the Effective Date) agreed by the parties to be the record date to determine entitlements to receive Scheme Consideration under the Scheme.

Register means the register of members of Target.

Regulatory Approvals means:

- (a) any approval, consent, waiver, exemption, ruling or declaration from a Government Agency that is necessary, required by law, or which Bidder and Target agree (acting reasonably) is desirable, to implement the Scheme, including (without limitation) any relief, waiver, confirmation, exemption or consent granted by ASX or ASIC required to implement the Scheme substantially on the terms of this document and the Scheme; or
- (b) in relation to anything that would be fully or partly prohibited or restricted by law if a Government Agency intervened or acting in any way within a specified period after lodgement, filing, registration or notification, the expiry of that period without intervention or action.

Regulatory Authority means:

- (a) ASX, ASIC or ACCC;
- (b) a government or governmental, semi-governmental or judicial entity or authority;
- (c) a minister, department, office, commission, delegate, instrumentality, agency, board, authority or organisation of any government; or
- (d) any regulatory organisation established under statute.

Relevant Interest has the meaning given in sections 608 and 609 of the Corporations Act.

Relevant Period has the meaning given in clause 5.1.

Representatives means, in relation to a party:

- (a) each of the party's subsidiaries; and
- (b) each of the directors, officers, employees, agents, representatives and advisers of the party or any of its subsidiaries.

Scheme means a scheme of arrangement under Part 5.1 of the Corporations Act between Target and the Target Shareholders in the form, or substantially in the form, of Schedule 3 or in such other form as is agreed in writing between the parties, subject to any alterations or conditions made or required by the Court under section 411(6) of the Corporations Act and approved by each party (acting reasonably).

Scheme Booklet means the information memorandum in respect of the Scheme and (if applicable) the EGM Resolution to be prepared by Target (other than the Bidder Material,

which is to be prepared by Bidder) in accordance with the terms of this document, approved by the Court and dispatched to Target Shareholders, and that includes the Scheme, a copy of the Deed Poll executed by Bidder, an explanatory statement (as that term is defined in section 412 of the Corporations Act), the Independent Expert's Report, and a notice of meeting and proxy form.

Scheme Consideration means \$1.05 cash per Scheme Share.

Scheme Meeting means the meeting of Target Shareholders to be convened as ordered by the Court under section 411(1) of the Corporations Act, to consider and vote on the Scheme and includes any meeting convened following any adjustment or postponement of that meeting.

Scheme Order means the order of the Court made for the purposes of section 411(4)(b) of the Corporations Act in relation to the Scheme.

Scheme Share means a Target Share on issue as at the Record Date other than an Excluded Share.

Scheme Shareholder means a person who holds one or more Scheme Shares.

Second Court Date means the first day on which the Court hears the application for an order under section 411(4)(b) of the Corporations Act approving the Scheme or, if the application is adjourned or subject to appeal for any reason, the first day on which the adjourned or appealed application is heard.

Security Interest means any security interest, including:

- (a) a PPS Security Interest;
- (b) any other mortgage, charge, pledge or lien; or
- (c) any other interest or arrangement of any kind that in substance secures the payment of money or the performance of an obligation, or that gives a creditor priority over unsecured creditors in relation to any property.

Share Splitting means the splitting by a holder of Target Shares into two or more parcels of Target Shares whether or not it results in any change in beneficial ownership of the Target Shares.

Short-Term Bonus Entitlement means the short-term bonus entitlement that will be paid out to certain eligible employees of the Target Group (excluding Sean Senvirtne) as approved by the Target Board, up to a maximum aggregate amount of \$1 million upon the implementation of the Scheme. For the avoidance of doubt, the Short-Term Bonus Entitlement is different from any management incentive plan or management equity plan being proposed by the Bidder.

Superior Proposal means a bona fide Competing Proposal which the Target Board, acting in good faith and after taking written advice from Target's financial and legal advisers determines:

- (a) is reasonably capable of being implemented in accordance with its terms; and
- (b) would, if so implemented, result in a more favourable outcome for Target Shareholders than would result from the implementation of the Scheme, taking into account all terms and conditions of the Competing Proposal.

Takeovers Panel means the Takeovers Panel constituted under the *Australian Securities and Investments Commission Act 2001* (Cth).

Target Board means the board of directors of Target as constituted from time to time.

Target Break Fee means \$2,850,000 (exclusive of GST).

Target Consolidated Tax Group means the consolidated group of which Target is the head company. In this definition, "consolidated group" and "head company" have the respective meanings given by the *Income Tax Assessment Act 1997* (Cth).

Target Data Room means the online data room established by Target in connection with the Scheme.

Target Disclosure Material means:

- (a) the Target Due Diligence Information; and
- (b) the Public Register Information.

Target Due Diligence Information means all written information relating to the business, assets, liabilities, operations, profits and losses, financial position and performance and prospects of the Target Group provided or made available in the Target Data Room by or on behalf of the Target Group to Bidder on or before the DD Cut-off Date, the index for which materials has been agreed in writing between the Target and the Bidder prior to the date of this document.

Target Group means Target and its subsidiaries.

Target Indemnified Party means:

- (a) each member of the Target Group; and
- (b) any person who was a director, officer or employee of a member of the Target Group at any time prior to the Implementation Date.

Target Material means all information contained in the Scheme Booklet other than the Bidder Material and the Independent Expert's Report.

Target Material Adverse Effect means an event, matter or circumstance that occurs, is announced or becomes known to Bidder after the date of this document which, either individually or when aggregated with all such events or circumstances that have occurred, has had or would be reasonably likely to have the effect of reducing:

- (a) the revenue of the Target Group (calculated in accordance with the accounting policies and practices applied by Target as at the date of this document and calculated over a 12 month period starting on the date of the relevant event, matter or circumstance) when compared to the revenue of the Target Group for the financial year ended 30 June 2021 (as set out in the Target's audited FY2021 financial statements on the ASX) by 10% or more;
- (b) the EBITDA of the Target Group, taken as a whole (calculated in accordance with the accounting policies and practices applied by Target as at the date of this document and calculated over a 12 month period starting on the date of the relevant event, matter or circumstance) when compared to the EBITDA of the Target Group for the financial year ended 30 June 2021 (as set out in the Target's audited FY2021 financial statements on the ASX) by an amount of at least \$10 million; or

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- (c) the net assets of the Target Group, taken as a whole (calculated in accordance with the accounting policies and practices applied by Target as at the date of this document and calculated on the date of the relevant event, matter or circumstance) when compared to the forecast net assets of the Target Group for the corresponding month and financial year as Disclosed in the Target Data Room document 8.8.1 by an amount of at least \$5 million,

other than any event, matter or circumstance:

- (d) required or expressly permitted by this document, the Scheme or the transactions contemplated by either;
- (e) that is Disclosed by the Target;
- (f) consented to in writing by the Bidder (in its absolute discretion);
- (g) within the actual knowledge, as at the date of this document, of Brad Banducci, Stephen Harrison, Miwah Van or Chris Mills, each of the Bidder Group;
- (h) which is the consequence of losses constituted by an insurable event covered by the Target Group's insurances where the insurers have paid or agreed to pay the full amount of the relevant claim, or the agreed settlement amount, within 60 days of the event, matter or circumstance;
- (i) which is the payment of, or incurring by, the Target Group of costs and expenses relating to the Scheme;
- (j) arising as a result of a change to legislation or regulation, any judicial or administrative interpretation of the law or any practice or policy of a Government Agency (whether or not retrospective in effect), including in relation to Tax; or
- (k) that arises as a result of general changes in economic, political or business conditions (including interest rates, commodity prices and exchange rates), or in securities, credit or financial markets including material adverse changes or major disruptions to, or fluctuations in, domestic or international financial markets, or acts of terrorism, outbreak or escalation of war (whether or not declared), natural disaster or the like, including any epidemic or pandemic including those associated with COVID-19,

except, in the case of the foregoing paragraph (k), if the effects of such events, matters or circumstances are disproportionately adverse to the Target Group as compared to the effects on other companies in the industry in which the Target Group operates, and then solely to the extent of such disproportionate effect.

Target Option means an option to subscribe for a Target Share issued under the Target's equity incentive plan, as listed in Schedule 2.

Target Prescribed Event means any of the following events:

- (a) **(conversion)** the Target converts all or any of its shares into a larger or smaller number of shares;
- (b) **(capital reduction)** any member of the Target Group resolves to reduce its share capital in any way or reclassifying, combining, splitting or redeeming or repurchasing directly or indirectly any of its shares;
- (c) **(buy-back)** any member of the Target Group:

- (i) enters into a buy-back agreement; or
- (ii) resolves to approve the terms of a buy-back agreement under the Corporations Act;
- (d) **(distribution)** any member of the Target Group declares, pays or distributes any dividend, bonus or other share of its profits or assets or returns or agrees to return any capital to its members;
- (e) **(issue of securities)** any member of the Target Group issues shares or securities convertible into shares, or grants an option over its shares, or agrees to make such an issue or grant such an option, other than pursuant to the exercise or vesting of any options or employee share rights (including the Target Options) in the ordinary course in accordance with their terms as at the date of this document or the exercise of any convertible securities existing as at, and the issue of which has been notified to the ASX before, the date of this document;
- (f) **(change to constitution)** any member of the Target Group adopts a new constitution or modifies or repeals its constitution or a provision of it;
- (g) **(deregistration)** any member of the Target Group is deregistered as a company or otherwise dissolved except in the case of the voluntary deregistration or dissolution of a solvent subsidiary with less than \$500 in net assets as at the date of this document;
- (h) **(delisting)** Target ceases to be listed on the ASX;
- (i) **(acquisitions or disposals)** any member of the Target Group acquires or disposes of, offers to acquire or dispose of or agrees to acquire or dispose of any business, entity or undertaking or assets comprising a business (x) in the case of disposals, the value of which exceeds \$2.5 million (individually or in aggregate) or (y) in the case of acquisitions, the value of which exceeds \$2.5 million (individually or in aggregate);
- (j) **(Security Interests)** any member of the Target Group grants, or agrees to grant, any Security Interest over the whole, or a substantial part, of its business or property other than any Security Interests over the Target Group's inventory that are granted in the ordinary course of business or Security Interests granted over leased assets in the ordinary course of business; or
- (k) **(Insolvency Event)** an Insolvency Event occurring in relation to any member of the Target Group; and
- (l) **(analogous event)** any member of the Target Group directly or indirectly authorises, commits or agrees to take or announces any of the actions referred to in paragraphs (a) to (k) above,

other than any Permitted Event.

Target Regulated Event means the occurrence of any of the following:

- (a) **(new business line)** a member of the Target Group enters into any material new line of business or new type of material activity in which the Target Group was not engaged in as of the date of this document;
- (b) **(joint ventures, partnerships etc)** a member of the Target Group enters into, or offers to enter into, any joint venture, asset or profit sharing arrangement,

partnership or merger of businesses or of corporate entities (including through a multiple listed companies structure) in respect of any one or more assets (including any one or more shares in any company) or undertakings having a market value that in aggregate is, or involving a commitment or liability that in aggregate is, \$2.5 million or more;

- (c) **(contracts and commitments)** any member of the Target Group:
- (i) enters into any contract or commitment involving revenue or expenditure of more than \$1 million over the term of the contract or commitment, excluding any agreements entered into in the ordinary course of business and/or consistent with transactions previously entered into; or
 - (ii) terminates, allows to lapse or expire or amends in a material manner any Material Contract which involves revenue or expenditure of more than \$1 million over the term of the contract; or
- (d) **(Encumbrances)** a member of the Target Group creating, granting or agreeing to any Encumbrance over the whole, or a substantial part, of its business or assets, other than a lien that arises by operation of law, legislation or in the usual and ordinary course of business;
- (e) **(decrease in cash)** a decrease in the amount of cash in the Target Group of \$2 million or more (in aggregate) during the period commencing from the date of this document and ending on the Implementation Date, when compared to the cash balance of the Target Group for the quarter ended 31 March 2022 (as set out in the Target's unaudited Q3 FY22 activities report and Appendix 4C on the ASX), other than:
- (i) as used in the ordinary course of business; or
 - (ii) as a result of costs incurred directly in relation to the transactions contemplated by the Scheme subject to a limit that is agreed by the parties;
- (f) **(distributions)** a member of the Target Group announces, declares or pays any dividend, bonus or other share of profits or assets or agrees to return any capital to its members;
- (g) **(advisers)** a member of the Target Group amends any arrangement with its advisers, or appoints any new adviser, resulting in an increase in aggregate fees payable by the Target Group to all advisers (existing or new) of \$1 million or more, in respect of the Scheme or a Competing Proposal;
- (h) **(competition)** a member of the Target Group enters into a contract or commitment restraining a member of the Target Group from competing with any person or conducting activities in any market;
- (i) **(finance)** a member of the Target Group:
- (i) other than in the usual and ordinary course of business and consistent with past practice, enters into any new financing arrangement, agreement or otherwise provides financial accommodation in excess of \$1 million other than with a member of the Bidder Group or a member of the Target Group, or amends the terms of any existing financial arrangement, agreement or instrument in any material respect;
 - (ii) incurs capital expenditure in excess of \$5 million per annum;

- (iii) waives any material third party default where the financial impact on the Target Group will be in excess of \$100,000 (individually or in aggregate in a financial year); or
- (iv) accepts as a compromise of a matter less than the full compensation due to a member of the Target Group where the financial impact of the compromise on the Target Group is more than \$100,000 (individually or in aggregate in a financial year);
- (j) **(related party transactions)** other than in relation to the Short-Term Bonus Entitlement, a member of the Target Group enters into, or resolves to enter into, a transaction with any related party of Target (other than a related party which is a member of the Bidder Group), as defined in section 228 of the Corporations Act;
- (k) **(new employment agreements)** a member of the Target Group employs or agrees to employ any person, the value of whose total remuneration is or is to be \$250,000 or more;
- (l) **(varying employment arrangements)** a member of the Target Group materially alters, varies or amends any employment, consulting, severance or similar agreement or arrangement with one or more of its officers, directors, other executives or employees whose annual remuneration, as at the date of this document, is \$115,000 or more, or accelerates or otherwise materially increases compensation or benefits for any of the above, in each case other than pursuant to:
- (i) an increase of base salary in the ordinary course as part of annual remuneration reviews consistent with past practices;
 - (ii) genuine special exertion fees paid to directors in accordance with the Target's constitution in connection with their work on the Scheme;
 - (iii) contractual arrangements in effect on the date of this document and which are contained in the Target Due Diligence Information;
 - (iv) Target's policies and guidelines in effect on the date of this document and which are contained in the Target Due Diligence Information; or
 - (v) the Short-Term Bonus Entitlement,
- provided that the aggregate of all increases in compensation or benefits pursuant to sub-paragraphs (i), (iii) and (iv) above is no greater than \$500,000;
- (m) **(employee share schemes)** a member of the Target Group amends the terms of an employee share scheme or any other plan or scheme operated for the benefit of directors or employees of any one or more members of the Target Group other than to give effect to clause 2.8 for the vesting and exercise of the Target Options;
- (n) **(bonuses and other payments)** a member of the Target Group pays any of its officers, directors, other executives or employees a bonus, termination or retention payment, other than in accordance with contractual arrangements in effect on the date of this document and which are contained in the Target Due Diligence Information or in the ordinary course of business consistent with past practice and excluding any Short-Term Bonus Entitlement ;
- (o) **(acceleration of employee rights)** a member of the Target Group accelerates the rights of any employee of any member of the Target Group to compensation or benefits of any kind (including under any option, performance right, incentive or

share plan) other than to give effect to clause 2.8 for the vesting and exercise of the Target Options;

- (p) **(enterprise bargaining agreements)** a member of the Target Group enters into any enterprise bargaining agreement other than in the ordinary course of business or pursuant to contractual arrangements in effect on the date of this document and which are contained in the Target Due Diligence Information;
- (q) **(settle legal proceedings)** a member of the Target Group settles any legal proceeding, disputed claim, investigation, arbitration or other like proceedings where the settlement amount payable exceeds \$100,000;
- (r) **(fail to defend or pursue Claims etc)** a member of the Target Group fails to defend against any Claims adverse to the interests of the Target Group or, in relation to any appeals against judgements or orders that are adverse to the interests of the Target Group (apart from a costs order involving an amount less than \$1,000,000), fails to consult with Bidder and take into account in good faith Bidder's views concerning whether to pursue an appeal where the Claim or appeal involves an amount that exceeds \$1,000,000;
- (s) **(information technology)** a member of the Target Group takes any action in respect of its information technology systems which would have a material adverse impact on those systems or involve or require costs or liabilities to be incurred by Target which exceed \$3,000,000 in aggregate, over the life of the relevant technology or system, but excluding any capitalised salaries;
- (t) **(accounting policy)** a member of the Target Group changes any accounting policy applied by them to report their financial position other than any change in policy required by a change in accounting standards or law;
- (u) **(tax)** a member of the Target Group does anything that would result in a change to the Target Consolidated Tax Group, settles or compromises any Tax liability (other than a Tax liability incurred in the ordinary course of business) or makes, changes or revokes any Tax election or method of reporting in respect of Tax that could have a material impact on the Tax position of the Target Group; or
- (v) **(agreement)** a member of the Target Group agrees to do any of the matters set out above,

excluding any Permitted Event.

Target Representation and Warranty means a representation and warranty set out in clause 12.1.

Target Share means each fully paid ordinary share in Target.

Target Shareholder means each person entered in the Register as a holder of Target Shares.

Target Shareholder Approval means a resolution in favour of the Scheme being passed by the required majorities of Target Shareholders under section 411(4)(a)(ii) of the Corporations Act.

Tax means any tax, levy, charge, impost, fee, deduction, goods and services tax, compulsory loan or withholding, stamp, transaction or registration duty or similar charge that is assessed, levied, imposed or collected by any Government Agency and includes any

interest, fine, penalty, charge, fee or any other amount imposed on, or in respect of any of the above.

Tax Act means the *Income Tax Assessment Act 1936* (Cth) and the *Income Tax Assessment Act 1997* (Cth), jointly, as applicable.

Terminating Party has the meaning given in clause 11.1.

Third Party means a person other than the Bidder, a member of the Bidder Group, the Target or a member of the Target Group, and that person's related bodies corporate and Associates.

Timetable means the timetable for the implementation of the Scheme as set out in Schedule 1, subject to any modifications as the parties may agree in writing.

Trading Day has the meaning given to that term in the ASX Listing Rules.

Transaction Document means each of:

- (a) this document;
- (b) the Scheme;
- (c) the Deed Poll;
- (d) the Confidentiality Deed; and
- (e) the Post-implementation Agreements.

Unacceptable Circumstances has the meaning given to that term in section 657A of the Corporations Act.

1.2 Rules for interpreting this document

Headings and catchwords are for convenience only, and do not affect interpretation. The following rules also apply in interpreting this document, except where the context makes it clear that a rule is not intended to apply.

- (a) A reference to:
 - (i) a legislative provision or legislation (including subordinate legislation) is to that provision or legislation as amended, re-enacted or replaced, and includes any subordinate legislation issued under it;
 - (ii) a document (including this document) or agreement, or a provision of a document (including this document) or agreement, is to that document, agreement or provision as amended, supplemented, replaced or novated;
 - (iii) a party to this document or to any other document or agreement includes a permitted substitute or a permitted assign of that party;
 - (iv) a person includes any type of entity or body of persons, whether or not it is incorporated or has a separate legal identity, and any executor, administrator or successor in law of the person; and
 - (v) anything (including a right, obligation or concept) includes each part of it.
- (b) A singular word includes the plural, and vice versa.

- (c) A word which suggests one gender includes the other genders.
- (d) If a word or phrase is defined, any other grammatical form of that word or phrase has a corresponding meaning.
- (e) If an example is given of anything (including a right, obligation or concept), such as by saying it includes something else, the example does not limit the scope of that thing.
- (f) The words **controller, entity, officer, related body corporate, security interest** and **subsidiary** have the same meanings as given by the Corporations Act.
- (g) A reference to **\$** or **dollar** is to Australian currency.
- (h) The expression **this document** includes the agreement, arrangement, understanding or transaction recorded in this document.
- (i) Terms defined in the GST Law have the same meaning in this document unless the context otherwise requires.
- (j) A reference to time in this document is a reference to time in Sydney, New South Wales.

1.3 **Non-Business Days**

If the day on or by which a person must do something under this document is not a Business Day the person must do it on or by the next Business Day.

2. **SCHEME STRUCTURE**

2.1 **Agreement to propose and implement Scheme**

- (a) Target agrees to propose the Scheme to Target Shareholders and implement the Scheme in accordance with Part 5.1 of the Corporations Act and subject to the terms and conditions of this document, and must use all reasonable endeavours to do so in accordance with the Timetable.
- (b) Bidder agrees to assist Target to propose and implement the Scheme in accordance with Part 5.1 of the Corporations Act and subject to the terms and conditions of this document, and must use all reasonable endeavours to do so in accordance with the Timetable.

2.2 **Nomination of Bidder subsidiary**

Bidder may nominate any wholly-owned subsidiary of Bidder (**Bidder Nominee**) to acquire the Scheme Shares under the Scheme by providing a written notice which sets out the details of Bidder Nominee to Target on or before the date that is five Business Days before the First Court Date. If Bidder decides to nominate Bidder Nominee to acquire the Scheme Shares:

- (a) the parties must procure that the Scheme Shares transferred under the Scheme are transferred to Bidder Nominee rather than Bidder;
- (b) Bidder must procure that Bidder Nominee complies with all of the relevant obligations of Bidder under this document and the Scheme;
- (c) Bidder and Bidder Nominee will both enter into the Deed Poll; and

- (d) any such nomination will not relieve Bidder of its obligations under this document, including the obligation to provide (or procure the provision of) the Scheme Consideration in accordance with the terms of the Scheme provided that Bidder will not be in breach of this document for failing to perform an obligation of Bidder if that obligation is fully discharged by Bidder Nominee.

2.3 **Outline of Scheme**

Subject to the terms and conditions of this document (including the Conditions) and the Scheme, on the Implementation Date:

- (a) all of the Scheme Shares held by Scheme Shareholders will be transferred to Bidder or Bidder Nominee (as applicable); and
- (b) each Scheme Shareholder will be entitled to receive the Scheme Consideration for each Scheme Share.

2.4 **No amendments to Scheme without consent**

Target must not consent to:

- (a) any modification of;
- (b) any amendment to; or
- (c) the making or imposition by the Court of any condition in respect of,

the Scheme, without the prior written consent of Bidder (not to be unreasonably withheld or delayed).

2.5 **Scheme Consideration**

If the Scheme becomes Effective, each Scheme Shareholder is entitled to receive the Scheme Consideration in respect of each Scheme Share held by that Scheme Shareholder, subject to and in accordance with the terms and conditions of this document and the Scheme.

2.6 **Payment of Scheme Consideration**

Subject to the Scheme becoming Effective and clause 2.7, Bidder undertakes and warrants to Target (in its own right and separately as trustee or nominee for each Scheme Shareholder) that, in consideration of the transfer to Bidder or Bidder Nominee (as applicable) of each Scheme Share held by a Scheme Shareholder under the terms of the Scheme, Bidder or Bidder Nominee (as applicable) will on the Implementation Date, in accordance with the terms of this document, the Deed Poll and the Scheme:

- (a) accept that transfer; and
- (b) provide (or procure the provision) to each Scheme Shareholder the Scheme Consideration for each Scheme Share.

2.7 **Fractional entitlements and share splitting**

- (a) Any fractional entitlement of a Scheme Shareholder to a fraction of a cent will be rounded down (as applicable) to the nearest cent in accordance with the Scheme.
- (b) The Scheme will contain standard provisions under which Bidder will have the discretion to deem the holdings of two or more Scheme Shareholders to be held by

one Scheme Shareholder to prevent any Share Splitting designed to obtain an unfair advantage by reference to such rounding.

2.8 **Employee incentives**

- (a) Target must ensure that, by no later than the Effective Date, there are no outstanding Target Options.
- (b) In order to comply with its obligation under clause 2.8(a), Target must cause each outstanding Target Option to either:
 - (i) vest, and following such vesting, if:
 - (A) exercised before the date that is two Business Days before the Record Date, cause the relevant number of Target Shares to be issued to the former holder in sufficient time to allow the former holder to participate in the Scheme; or
 - (B) not exercised before the date that is two Business Days before the Record Date, be cancelled and terminated immediately following the date that is two Business Days before the Record Date; or
 - (ii) be cancelled and terminated by no later than the Record Date on the terms described in Schedule 2.

3. **CONDITIONS**

3.1 **Obligations not binding until Conditions satisfied**

The Scheme will not become effective and the obligations of the parties with respect to implementation of the Scheme (including the obligations of Bidder under clauses 2.5 and 4.3(l)) do not become binding unless and until each Condition is satisfied or waived under clause 3.3.

3.2 **Conditions**

The Conditions are as follows:

CONDITION	PARTY ENTITLED TO BENEFIT	PARTY RESPONSIBLE
<i>For the benefit of both parties</i>		
1. ACCC approval Bidder has received notice in writing from the ACCC stating, or stating to the effect (either unconditionally or on conditions that are acceptable to Bidder in its absolute discretion), that the ACCC does not propose to intervene or seek to prevent the acquisition of Target Shares by Bidder, or of any direct or indirect investment by any of Bidder's related bodies corporate, and that notice remains in full force and effect in all respects and has not been withdrawn, revoked, suspended, restricted or adversely amended before 8.00 am on the Second Court Date.	Target and Bidder	Bidder and Target

CONDITION	PARTY ENTITLED TO BENEFIT	PARTY RESPONSIBLE
2. Target Shareholder approval Before 8.00 am on the Second Court Date, Target Shareholder Approval is obtained at the Scheme Meeting (or any adjournment or postponement of it) convened in accordance with the orders made under section 411(1) of the Corporations Act.	Target and Bidder, but cannot be waived	Target
3. EGM Resolution Target Shareholders approve the EGM Resolution by the requisite majority in accordance with the Corporations Act.	Target and Bidder	Target
4. Court approval of Scheme The Court makes orders under section 411(4)(b) of the Corporations Act approving the Scheme, either unconditionally and without modification or with modifications or conditions consented to by the Target, and consented to by the Bidder, each in accordance with clause 2.4.	Target and Bidder, but cannot be waived	Target
5. No regulatory actions As at 8.00 am on the Second Court Date, there is not in effect: (a) any temporary, preliminary or final decision, order, injunction or decree issued by a court of competent jurisdiction or other Government Agency; or (b) any action or investigation by any Government Agency, in consequence of or in connection with the Scheme which restrains, prohibits or impedes the implementation of the Scheme (including the acquisition of any or all of the Scheme Shares by the Bidder) or any part of it.	Target and Bidder	Target and Bidder
For the benefit of Bidder		
6. No Target Material Adverse Effect No Target Material Adverse Effect occurs between the date of this document and 8.00 am on the Second Court Date.	Bidder	Target
7. No Target Prescribed Event No Target Prescribed Event occurs between the date of this document and 8.00 am on the Second Court Date.	Bidder	Target

CONDITION	PARTY ENTITLED TO BENEFIT	PARTY RESPONSIBLE
8. Post-implementation Agreements Each Post-implementation Agreement is agreed between the parties to each such document and remains in Agreed Form as at 8.00am on the Second Court Date.	Bidder	Target and Bidder
9. Target representations and warranties Each of the representations and warranties given or made by Target under clause 12.1 is true and correct in all material respects as at the time it is given or made.	Bidder	Target
<i>For the benefit of Target</i>		
10. Independent Expert's Report The Independent Expert issues the Independent Expert's Report, which concludes that the Scheme is in the best interests of Target Shareholders and the Independent Expert does not withdraw or qualify its conclusion in any written update to its Independent Expert's Report or withdraw the Independent Expert's Report prior to 8.00 am on the Second Court Date.	Target	Target
11. Bidder representations and warranties Each of the representations and warranties given or made by Bidder under clause 12.2 is true and correct in all material respects as at the time it is given or made.	Target	Bidder

3.3

Waiver of Conditions

- (a) To avoid any doubt, the Conditions that the table in clause 3.2 specifies "cannot be waived", cannot be waived.
- (b) In respect of the Condition in item 3 (EGM Resolution) of clause 3.2, if approval from Target Shareholders of the EGM Resolution is not required because the terms of the Post-Implementation Agreements, when agreed, will not give rise to an acquisition by Bidder Group of a Relevant Interest in Target Shares, then on and from the date of the relevant Post-implementation Agreement:
 - (i) that Condition will be deemed to be waived; and
 - (ii) the relevant provisions concerning the EGM and EGM Resolution in this document will not apply and have no further effect.
- (c) Subject to clause 3.3(a), if a Condition has been included for the benefit of:
 - (i) one party only, only that party may (in its sole and absolute discretion), waive the breach or non-fulfilment of the Condition; or

- (ii) more than one party, the breach or non-fulfilment of the Condition may be waived only by the consent of all those parties (in their sole and absolute discretion).
- (d) The breach or non-fulfilment of a Condition may only be waived in writing.
- (e) If a party waives the breach or non-fulfilment of a Condition, that waiver precludes that party from suing the other party for any breach of this document arising as a result of the breach or non-fulfilment of that Condition or arising from the same event which gave rise to the breach or non-fulfilment of that Condition.
- (f) Waiver of a breach or non-fulfilment in respect of one Condition does not constitute:
- (i) a waiver of breach or non-fulfilment of any other Condition resulting from the same event; or
- (ii) a waiver of breach or non-fulfilment of that Condition resulting from any other event.

3.4 **Satisfaction of Conditions**

- (a) Each party must:
- (i) use reasonable endeavours (other than waiver) to ensure and procure that each Condition for which that party is responsible (according to the table in clause 3.2, and whether solely or jointly):
- (A) is satisfied as soon as practicable after the date of this document; and
- (B) continues to be satisfied at all times until the last time it is to be satisfied (as the case may require);
- (ii) where it is reasonable and lawful for it to do so, provide any information or assistance reasonably requested by the other party to satisfy a Condition for which the other party is solely responsible for satisfying; and
- (iii) not take any action or refrain from taking any action (except as required by law) designed to prevent the Conditions being satisfied, without the prior consent of the other party.
- (b) Without limiting clause 3.4(a), each party must:
- (i) promptly apply for all relevant Regulatory Approvals and provide the other party with a copy of all applications for Regulatory Approvals made by it;
- (ii) take all the steps which it is responsible for, or which are otherwise reasonably necessary on its part in order to obtain the Regulatory Approvals;
- (iii) (as far as practicable and permissible) consult with the other party in advance in relation to all communications (whether written or oral, and whether direct or through an adviser) with any Government Agency relating to any Regulatory Approval and, without limitation:
- (A) provide the other party with drafts of any material written communications to be sent to a Government Agency (it being acknowledged that competitively sensitive information in any such drafts may be redacted) and consider such amendments as the other party requests; and

(B) provide copies of any written communications sent to or received from a Government Agency to the other party promptly upon dispatch or receipt (as the case may be) (it being acknowledged that competitively sensitive information in any such written communications may be redacted);

- (iv) respond to all requests for information in respect of the applications for Regulatory Approvals at the earliest practicable time, to the extent such information is within its possession or control;
- (v) provide the other with all information and assistance reasonably requested by such other party in connection with the applications for Regulatory Approvals;
- (vi) to the extent that it is within its control, use its best endeavours to procure that there is no occurrence that would prevent the Regulatory Approvals from being obtained by the applicable time referred to in item 1 (ACCC approval) of clause 3.2 and not take any action that will or is likely to hinder or prevent the satisfaction of the Condition in item 1 (ACCC approval) of clause 3.2 except to the extent that such action is required by law; and
- (vii) so far as it is able, allow the other party and its authorised Representatives the opportunity to be present and make submissions at any meetings with any Government Agency relating to the Regulatory Approvals.

3.5 **Notifications**

Each party must:

- (a) keep the other party promptly and reasonably informed of the steps it has taken and of its progress towards satisfaction of the Conditions;
- (b) promptly notify the other party in writing if it becomes aware that any Condition has been satisfied, in which case the notifying party must also provide reasonable evidence to the other party that the Condition has been satisfied;
- (c) promptly notify the other party in writing of any circumstances of which it becomes aware which may result in any of the Conditions not being satisfied or becoming incapable of satisfaction in accordance with its terms; and
- (d) upon receipt of a notice given under clause 3.5(c) promptly and without delay and in any event not later than 5.00 pm the day before the Second Court Date, give notice to the other party stating whether or not the breach or non-fulfilment of any specified Condition is waived.

3.6 **Parties to provide certificate to Court**

- (a) Before 8.00 am on the Second Court Date, each party must provide:
 - (i) to the other party and to the Court a certificate signed by a duly authorised representative (or such other evidence as the Court requests), confirming whether or not the Conditions set out in clause 3.2 included for its benefit (whether solely or jointly), other than the Condition in item 4 (Court approval of Scheme) of clause 3.2, have been satisfied or waived in accordance with this document; and
 - (ii) to the other party a certificate signed by a duly authorised representative stating whether or not:

- (A) it has materially breached any of its obligations under this document;
and
- (B) each of the representations and warranties given by it under clause 12 is true and accurate in all material respects as at the time(s) it is given or made under clause 12.

- (b) A certificate provided under clause 3.6(a) constitutes conclusive evidence that the relevant Conditions have been fulfilled, waived or taken to be waived.

3.7 **If a Condition is not fulfilled or waived**

If:

- (a) **(Condition not satisfied or waived)** any Condition is not satisfied or (where capable of waiver) waived by the time or date specified in this document for its satisfaction; or
- (b) **(Condition not capable of being satisfied)** for any reason, a Condition is not capable of being satisfied, or a circumstance occurs which is reasonably likely to result in a Condition not being capable of being satisfied, and the Condition has not been waived in accordance with clause 3.3 or cannot be waived; or
- (c) **(Scheme not Effective)** the Scheme does not become Effective by 11.59 pm on the End Date,

then the parties must consult in good faith to determine whether to:

- (d) proceed by way of alternative means or method so as to achieve a commercial outcome that is substantially the same as the Scheme;
- (e) extend the relevant time or date for satisfaction of a particular Condition or Conditions;
- (f) change the date of the application to be made to the Court for orders under section 411(4)(b) of the Corporations Act approving the Scheme or adjourning that application (as applicable) to another date agreed by the parties;
- (g) extend the End Date; or
- (h) do any combination of the matters listed in clauses 3.7(d) to 3.7(g) (inclusive).

3.8 **Failure to agree**

If the parties are unable to reach agreement under clause 3.7 within five Business Days (or any shorter period ending at 5.00 pm on the day before the Second Court Date):

- (a) subject to clause 3.8(b), either party may terminate this document (and that termination will be in accordance with clause 11.1(b)); or
- (b) if a Condition may be waived and exists for the benefit of one party only, that party only may waive that Condition or terminate this document (and that termination will be in accordance with clause 11.1(b)),

in each case before 8.00am on the Second Court Date. A party will not be entitled to terminate this document under this clause if the relevant Condition has not been satisfied or agreement cannot be reached as a result of a breach of this document by that party or a deliberate act or omission of that party.

3.9 **Court approval**

If the Court's approval of the Scheme in accordance with section 411(4) of the Corporations Act would impose any terms or conditions other than those set out in the Scheme, then each such term or condition must be approved in writing by Target and Bidder (both acting reasonably) prior to the Court granting the final orders and, if not so agreed, the Condition in item 4 (Court approval of Scheme) of clause 3.2 will not be satisfied.

3.10 **Scheme voted down**

If Target Shareholder Approval is not obtained at the Scheme Meeting by reason only of the non-satisfaction of the Headcount Test and it appears to either party (acting reasonably) that there are reasonable grounds on which an application could be made to the Court to exercise its discretion under section 411(4)(a)(ii)(A) of the Corporations Act to disregard the Headcount Test (**Order**), that party may give notice to the other within three Business Days after the Scheme Meeting setting out those grounds and if such notice is given:

- (a) Target must promptly after such notice is given apply to Court for the Order by making such submissions to the Court and filing such evidence as counsel engaged by Target to represent it in Court proceedings related to the Scheme, in consultation with Bidder, considers is reasonably required to persuade the Court to exercise its discretion; and
- (b) the cost of the application for the Order is to be borne equally between the parties.

4. **IMPLEMENTATION OBLIGATIONS**

4.1 **Timetable**

- (a) Subject to clause 4.1(b), without limiting the parties' obligations under clauses 4.2 to 4.4 (inclusive), the parties must each use all reasonable endeavours to commit necessary resources (including management and the resources of external advisers) and ensure that their respective officers and advisers work in good faith and in a timely and cooperative fashion with the other parties (including by attending meetings and providing information), to produce the Scheme Booklet and implement the Scheme as soon as reasonably practicable and in accordance with the Timetable, subject to the terms and conditions of this document.
- (b) Failure by a party to meet any timeframe or deadline set out in the Timetable will not constitute a breach of clause 4.1(a) to the extent that such failure is due to circumstances and matters outside the party's control.
- (c) Each party must keep the other informed about their progress against the Timetable and notify each other if it believes that any of the dates in the Timetable are unachievable.
- (d) To the extent that any of the dates or timeframes set out in the Timetable become unachievable due to matters outside of a party's control, the parties will consult in good faith to agree any necessary extension to ensure such matters are completed within the shortest practicable timeframe.

4.2 **Target obligations**

Target must take all necessary steps to propose and implement the Scheme as expeditiously as practicable and use all reasonable endeavours to do so in accordance with the Timetable, including taking each of the following steps:

- (a) **(Target Board recommendation and voting intentions)** make an Announcement, in a form agreed between Bidder and Target (on the basis of written statements made to the Target by each of its directors) that:
- (i) the Target Board unanimously recommends that Target Shareholders vote in favour of the Scheme and EGM Resolution; and
 - (ii) each director of Target who holds or controls Scheme Shares intends to vote Scheme Shares that he or she directly or indirectly owns or controls in favour of the Scheme at the Scheme Meeting and the EGM Resolution at the EGM (excluding Sean Senvirtne to the extent he is excluded from voting on the EGM Resolution),
- in each case:
- (iii) in the absence of a Superior Proposal; and
 - (iv) subject to the Independent Expert concluding (and continuing to conclude at all times prior to the Second Court Date) that the Scheme is in the best interests of Target Shareholders;
- (b) **(directors' change to recommendation or voting intentions)** use reasonable endeavours to procure that Target's directors maintain the recommendation referred to in clause 4.2(a)(i) and the intention referred to in clause 4.2(a)(ii) until the Implementation Date, unless:
- (i) the Target Board, acting in good faith and after receiving written advice from Target's legal advisers, determines that maintaining the recommendation referred to in clause 4.2(a)(i) would be likely to breach the directors' fiduciary or statutory obligations;
 - (ii) the Target receives, other than as a result of a breach of clause 8, a Competing Proposal which the IBC unanimously determines to be a Superior Proposal; or
 - (iii) the Independent Expert concludes (either in its initial Independent Expert's Report or in any written update, revision, amendment, addendum or supplementary reports to it) that the Scheme is not in the best interests of Target Shareholders, or the Independent Expert withdraws its Independent Expert's Report prior to 5.00 pm on the day before the Second Court Date,
- and provided that, in each case, Target has complied with its obligations under clause 8;
- (c) **(Scheme Booklet):**
- (i) as soon as practicable after the date of this document, prepare the Scheme Booklet in accordance with clause 4.4;
 - (ii) provide Bidder with successive drafts of the Scheme Booklet;
 - (iii) provide Bidder with an advanced draft of the Scheme Booklet within a reasonable time before providing it to ASIC for its review and approval for the purposes of section 411(2) of the Corporations Act;
 - (iv) take into account all reasonable comments made by the Bidder for the purpose of amending those drafts;

- (v) as soon as practicable after receiving a draft of the Bidder Material, review and provide comments on the form and content of the Bidder Material to the Bidder and liaise with the Bidder to finalise the Bidder Material for inclusion in the Scheme Booklet; and
- (vi) seek approval from Bidder as to the form and content of the Bidder Material included in the Scheme Booklet (including the form and context in which the Bidder Material appears in the Scheme Booklet), which approval Bidder must not unreasonably withhold or delay;
- (d) **(Independent Expert's Report)**: promptly appoint the Independent Expert and commission the preparation of the Independent Expert's Report, and provide all assistance and information reasonably requested by the Independent Expert to enable it to prepare the Independent Expert's Report;
- (e) **(lodgement of Scheme Booklet with ASIC)** as soon as practicable, and no later than 14 days before the First Court Date, provide an advanced draft of the Scheme Booklet to ASIC for its review and approval for the purposes of section 411(2) of the Corporations Act (except that the Target must not lodge a copy of the Scheme Booklet with ASIC that includes any Bidder Material unless the Bidder has provided its consent, such consent not to be unreasonably withheld or delayed), and provide to the Bidder a copy of the Scheme Booklet provided to ASIC as soon as practicable thereafter;
- (f) **(ASIC and ASX review of Scheme Booklet)** keep the Bidder reasonably informed of any matters raised by ASIC or ASX in relation to the Scheme Booklet or the Scheme, and consult with, and consider in good faith any reasonable comments made by, the Bidder in relation to such matters raised by ASIC or ASX (provided that, where such issues relate to the Bidder Material, the Target must not take any steps to address them without the Bidder's prior written consent, which must not be unreasonably withheld or delayed);
- (g) **(ASIC no objection)** apply to ASIC for the production of a statement under section 411(17)(b) of the Corporations Act that ASIC has no objection to the Scheme;
- (h) **(approve the Scheme Booklet)** as soon as reasonably practicable after ASIC has confirmed that it has no objection to the Scheme Booklet, or if ASIC raises any objection to the Scheme Booklet, after that objection has been resolved, procure that a meeting of the Target Board is convened to approve the Scheme Booklet for dispatch to Target Shareholders;
- (i) **(Court documents)** prepare all documents necessary for the Court proceedings (including any appeals) relating to the Scheme (including originating process, affidavits, submissions and draft minutes of Court orders), and provide Bidder with successive drafts of those documents for the purpose of enabling Bidder and its Representatives to review and comment on those drafts, and acting reasonably and in good faith take into account comments from Bidder on those drafts;
- (j) **(representation at Court proceedings)** procure that it is represented by counsel at all Court proceedings affecting the Scheme;
- (k) **(first Court hearing)** apply to the Court under section 411(1) of the Corporations Act for an order directing Target to convene the Scheme Meeting, and lodge all relevant documents with the Court and take all other reasonable steps necessary to ensure that such application is heard by the Court at the First Court Date;

- (l) **(register Scheme Booklet)** if the Court directs the Target to convene the Scheme Meeting, take all reasonable measures necessary to cause ASIC to register the Scheme Booklet under section 412(6) of the Corporations Act;
- (m) **(dispatch Scheme Booklet)** as expeditiously as practicable following an order made by the Court under section 411(1) of the Corporations Act, dispatch the Scheme Booklet to Target Shareholders and all other persons entitled to receive notice of the Scheme Meeting and the EGM;
- (n) **(convene Scheme Meeting)** convene the Scheme Meeting in accordance with any order made by the Court under section 411(1) of the Corporations Act;
- (o) **(convene EGM)** if the Court directs Target to convene the Scheme Meeting, convene the EGM to be held concurrently with the Scheme Meeting and put the EGM Resolution to Target Shareholders at the EGM;
- (p) **(supplementary disclosure)** if, after the dispatch of the Scheme Booklet, Target becomes aware:
- (i) that information included in the Scheme Booklet is or has become misleading or deceptive in any material respect (whether by omission or otherwise); or
 - (ii) of information that is required to be disclosed to Target Shareholders under any applicable law but was not included in the Scheme Booklet,
- promptly consult with Bidder in good faith as to the form of any supplementary disclosure to Scheme Shareholders, following which:
- (iii) provide Bidder with drafts of any documents that it proposes to issue to Target Shareholders under this clause 4.2(p) and (acting reasonably and in good faith) take into account, for the purpose of amending those drafts, any comments received in a timely manner from Bidder or its Representatives on those drafts; and
 - (iv) make any disclosure that Target considers necessary to ensure that the Scheme Booklet is not misleading or deceptive in any material respect (including because of any material omission) and otherwise complies with all applicable laws;
- (q) **(proxy information)** cause its share registry to report to Target and Bidder:
- (i) on the day that is 15 Business Days before the Scheme Meeting and the EGM; and
 - (ii) on each Business Day following the day that is 15 Business Days before the Scheme Meeting and the EGM, up to the deadline for receipt of proxy forms; and
 - (iii) immediately following such deadline,
- on the status of proxy forms received by its share registry for the Scheme Meeting and the EGM, meaning the total number of proxy votes in respect of which the appointment for the Scheme Meeting and the EGM specified that:
- (iv) the proxy is to vote in favour of the Scheme and the EGM Resolution;
 - (v) the proxy is to vote against the Scheme and the EGM Resolution;
 - (vi) the proxy is to abstain on the Scheme and the EGM Resolution; and

- (vii) the proxy may vote at the proxy's discretion;
- (r) **(second Court hearing)** if Target Shareholder Approval is obtained under section 411(4)(a)(ii) of the Corporations Act (or, where clause 3.10 applies, the majority required under section 411(4)(a)(ii)(B) of the Corporations Act) and all the Conditions other than the Condition in item 4 (Court approval of Scheme) of clause 3.2 are satisfied or waived in accordance with clause 3, apply (and, to the extent necessary, re-apply) to the Court for orders approving the Scheme;
- (s) **(certificates)** at the Second Court Date, provide the Court and Bidder with certificates in accordance with clause 3.6;
- (t) **(appeal process)** if the Court refuses to make any orders directing Target to dispatch the Scheme Booklet and convene the Scheme Meeting or approving the Scheme, Target must:
 - (i) consult with Bidder in good faith as to whether to appeal the Court's decision; and
 - (ii) appeal the Court decision, unless Target and Bidder agree otherwise or an independent Senior Counsel (appointed by both Target and Bidder) opines that, in his or her view, an appeal would have no reasonable prospect of success, with the costs of any such appeal to be borne equally by Target and Bidder;
- (u) **(listing)** subject to clause 4.2(v)(iv), not do anything to cause Target Shares to cease being quoted on ASX or to become suspended from quotation prior to the Implementation Date unless Bidder has agreed in writing;
- (v) **(implementation of Scheme)** if the Scheme is approved by the Court:
 - (i) as soon as possible after the Court makes those orders, and in any event by no later than 4.00 pm on the Business Day after those orders are made, lodge with ASIC an office copy of the orders approving the Scheme in accordance with section 411(10) of the Corporations Act;
 - (ii) close the Register as at the Record Date to determine the identity of the Scheme Shareholders and their entitlements to the Scheme Consideration, in accordance with the Scheme, and provide such information to Bidder;
 - (iii) subject to the Bidder having provided the Scheme Consideration in accordance with the Scheme and Deed Poll, execute proper instruments of transfer and effect and register the transfer of the Scheme Shares to Bidder or Bidder Nominee (as applicable) on the Implementation Date;
 - (iv) apply to ASX to suspend trading in Target Shares with effect from the close of trading on the Effective Date;
 - (v) apply to ASX to have Target removed from the official list of ASX, and quotation of Target Shares on the ASX terminated, with effect on and from the close of trading on the Trading Day immediately following the Implementation Date (unless otherwise directed by the Bidder in writing); and
 - (vi) do all other things contemplated by, or necessary or desirable to lawfully give effect to, the Scheme and the orders of the Court approving the Scheme.

4.3 Bidder's obligations

Bidder must take all necessary steps to assist Target to implement the Scheme as expeditiously as practicable and use all reasonable endeavours to do so in accordance with the Timetable, including taking each of the following steps:

- (a) **(Bidder Material)** prepare and provide to Target the Bidder Material for inclusion in the Scheme Booklet in accordance with all applicable laws, relevant ASIC regulatory guides (including regulatory guide 60), Takeovers Panel policy and guidance notes and the ASX Listing Rules, and clause 4.4;
- (b) **(keep Target informed regarding Bidder Material):**
 - (i) promptly inform Target in writing if it becomes aware that the Bidder Material (or any part of it) is or has become misleading or deceptive in any material respect (including because of any material omission) or otherwise does not comply with all applicable laws, relevant ASIC regulatory guides (including regulatory guide 60), Takeovers Panel policy and guidance notes and the ASX Listing Rules; and
 - (ii) promptly give to Target any further information reasonably required by Target before the date of the Scheme Meeting to ensure that the Scheme Booklet is not, having regard to applicable disclosure requirements, false, misleading or deceptive in any material respect (including because of any material omission) and complies with all applicable laws, relevant ASIC regulatory guides (including regulatory guide 60), Takeovers Panel policy and guidance notes and the ASX Listing Rules;
- (c) **(Independent Expert's Report)** provide all assistance and information reasonably requested by the Independent Expert in connection with the preparation of the Independent Expert's Report;
- (d) **(review of Scheme Booklet)** as soon as reasonably practicable after receiving them, review the drafts of the Scheme Booklet prepared by Target and provide comments on those drafts (acting reasonably and in good faith);
- (e) **(approval of draft for ASIC)** as soon as reasonably practicable after receipt from Target of an advanced draft of the Scheme Booklet suitable for review by ASIC, procure that a meeting of the Bidder Board is held to consider approving the Bidder Material contained in that draft as being in a form appropriate for provision to ASIC for review;
- (f) **(liaison with ASIC)** provide reasonable assistance to Target to assist Target to resolve any matter raised by ASIC regarding the Scheme Booklet or the Scheme during its review of the Scheme Booklet;
- (g) **(approval of Scheme Booklet)** as soon as reasonably practicable after the conclusion of the review by ASIC of the Scheme Booklet, procure that a meeting of the Bidder Board is held to consider approving the Bidder Material contained in the Scheme Booklet as being in a form appropriate for dispatch to Target Shareholders, subject to approval of the Court;
- (h) **(Court documents)** as soon as reasonably practicable after receiving them, review the draft Court documents prepared by Target and provide comments on those drafts (acting reasonably and in good faith);
- (i) **(representation at Court proceedings)** procure that it is represented by counsel at all Court proceedings affecting the Scheme;

- (j) **(Deed Poll)** by no later than the Business Day prior to the First Court Date, duly execute and deliver to Target the Deed Poll and, if Bidder decides to nominate Bidder Nominee to acquire the Scheme Shares, procure that Bidder Nominee duly executes and delivers to Target the Deed Poll;
- (k) **(certificates)** at the Second Court Date, provide the Court and Target with certificates in accordance with clause 3.6;
- (l) **(Scheme Consideration)** if the Scheme becomes Effective, provide or procure the provision of the Scheme Consideration on the Implementation Date, in accordance with the Scheme and the Deed Poll;
- (m) **(share transfer)** if the Scheme becomes Effective:
- (i) accept a transfer of the Scheme Shares as contemplated by clause 2.6(a); and
 - (ii) execute instruments of transfer in respect of the Scheme Shares;
- (n) **(compliance with laws)** do everything reasonably within its power to ensure that all transactions contemplated by this document are effected in accordance with all applicable laws and regulations; and
- (o) **(other things)** do all things within its power that are reasonably necessary or desirable to lawfully give effect to the Scheme and the orders of the Court approving the Scheme.

4.4 **Scheme Booklet content and responsibility statements**

- (a) As soon as reasonably practicable after the date of this document and otherwise in accordance with the Timetable, Target must prepare the Scheme Booklet (excluding the Bidder Material and the Independent Expert's Report) and use all reasonable endeavours to ensure that the Scheme Booklet complies with:
- (i) the requirements of all applicable laws, relevant ASIC regulatory guides (including regulatory guide 60), Takeovers Panel policy and guidance notes and the ASX Listing Rules; and
 - (ii) this clause 4.4,
- except that the obligation to do so in respect of the Bidder Material is subject to Bidder complying with its obligations under clauses 4.3(a), 4.3(b) and this clause 4.4.
- (b) The Scheme Booklet will include or be accompanied by:
- (i) the Scheme;
 - (ii) the Deed Poll;
 - (iii) the Target Material (which, to avoid any doubt, must include the recommendation and intention referred to in clause 4.2(a));
 - (iv) the Bidder Material;
 - (v) the notice convening the Scheme Meeting, and any other notice of meeting in respect of any resolution that is necessary, expedient or incidental to give effect to the Scheme, together with a proxy form for the Scheme Meeting;

- (vi) the notice convening the EGM, and any other notice of meeting in respect of any resolution that is necessary, expedient or incidental to give effect to the EGM Resolution, together with a proxy form for the EGM;
- (vii) a copy of this document (without the schedules and attachments) or a summary of the terms of this document; and
- (viii) a copy of the Independent Expert's Report.
- (c) Target must undertake appropriate verification processes in relation to the Target Material included in the Scheme Booklet.
- (d) Bidder must undertake appropriate verification processes in relation to the Bidder Material included in the Scheme Booklet.
- (e) Bidder and Target agree the Scheme Booklet must include a responsibility statement in a form to be agreed by the parties which will contain words to the effect that:
- (i) Target has provided, and is responsible for, the Target Material, and that to the extent permitted by law, Bidder does not assume any responsibility or liability for the accuracy or completeness of that information, but Target does take responsibility and liability for that information; and
- (ii) Bidder has provided, and is responsible for, the Bidder Material, and that to the extent permitted by law, Target does not assume any responsibility or liability for the accuracy or completeness of that information, but Bidder does take responsibility and liability for that information.
- (f) If Bidder and Target are unable to agree on the form and content of the Scheme Booklet, the Bidder and Target shall consult on the relevant form or content the subject of Bidder's disapproval and if, after a reasonable period of consultation and compliance by Target with its obligations under this clause 4, Bidder and Target, acting reasonably and in good faith, are unable to agree on the form or content of the Scheme Booklet, then:
- (i) where the determination relates to the form or content of the Bidder Material (or any information solely derived from, or prepared solely in reliance on, the Bidder Material or otherwise relating to the Bidder's intentions regarding the Target or arrangements that will operate after implementation of the Scheme), Target will, acting reasonably and in good faith, make such amendments to that information in the Scheme Booklet as Bidder may reasonably require; and
- (ii) in any other case, Target will, acting reasonably and in good faith, decide the final form of that information in the Scheme Booklet.
- (g) Target and Bidder each agree that the efficient preparation of the Scheme Booklet and the implementation of the Scheme are in the interests of Target Shareholders and Bidder and that they will use all reasonable endeavours and utilise all necessary resources (including management resources and the resources of external advisers) to comply with their respective obligations under this clause 4 and to implement the Scheme as soon as reasonably practicable and otherwise substantially in accordance with the Timetable.

5. PRE-IMPLEMENTATION OBLIGATIONS

5.1 Conduct of business – Target specific obligations

Subject to clause 5.2, during the period commencing on the date of this document and ending on the earlier of the Implementation Date and the date this document is terminated in accordance with its terms (**Relevant Period**), subject to the prohibitions contained in the CCA, the Target must (and must procure that each member of the Target Group):

- (a) conduct its business and operations in the ordinary course and in substantially the same manner (subject to any applicable law) as have been conducted in the 12 months before the date of this document;
- (b) use reasonable endeavours to:
 - (i) preserve its relationship with its existing financiers, suppliers, Government Agencies and others having business dealings with it;
 - (ii) retain the services of its key officers and employees;
 - (iii) comply in all material respects with all Material Contracts, and with laws and Authorisations applicable to it;
 - (iv) maintain and preserve the value of its business and assets consistent with past practices, including maintaining at least its current level of insurance;
 - (v) ensure that no Target Prescribed Event or Target Regulated Event occurs and there is no occurrence within any member of the Target Group's reasonable control that would have a Target Material Adverse Effect; and
- (c) promptly provide to Bidder:
 - (i) monthly management accounts in the same form and having the same level of detail as Disclosed in the Target Due Diligence Information;
 - (ii) a written summary of key or material developments that relate to the operations of the Target Group or the performance of the Target Group's business on a monthly basis; and
 - (iii) Target Board reports prepared for Target Board meetings as and when required;
- (d) promptly notify Bidder of any material Claims (including, without limitation, before a court of Government Agency) which may be threatened, brought, asserted or commenced against any member of the Target Group or their directors or officers and consult with Bidder in relation to such matter to the extent reasonably required; and
- (e) promptly notify Bidder or anything of which it becomes aware that makes any of the Target Representations and Warranties false, inaccurate, misleading or deceptive in any material respect.

5.2 Conduct of business – Exceptions

Nothing in clause 5.1 restricts the ability of Target or any member of the Target Group to take or not take any action which:

- (a) has been consented to in writing by Bidder (such consent not to be unreasonably withheld or delayed);

- (b) is expressly required or permitted by the Transaction Documents or applicable law;
- (c) which arises as a result of court or Regulatory Authority order, injunction or undertaking or is otherwise required in order to comply with any applicable law or regulation; or
- (d) is reasonably and prudently required to respond to any epidemic, pandemic, hurricane, earthquake, flood, weather conditions, calamity or other natural disaster, act of God or other force majeure event (or any worsening of or recovery from any of the foregoing), provided that, to the extent reasonably practicable, Target has consulted with Bidder in good faith in respect of the proposal to take such action or not take such action (as applicable) and considers any reasonable comments or requests of Bidder in relation to such proposal in good faith.

5.3 **Transition Team**

- (a) As soon as practicable after the date of this document, Target and Bidder will form a Transition Team which will comprise senior management representatives from each of Target and Bidder, and such other persons as Target and Bidder may agree from time to time (**Transition Team**).
- (b) Subject to clause 5.3(c), the Transition Team will work together in good faith to consider and plan matters relevant to the implementation of the Scheme and the integration of the Target and Bidder businesses.
- (c) Target and Bidder acknowledge and agree that:
 - (i) the requirements in this clause 5.3 are subject to the prohibitions contained in the CCA and all other applicable laws;
 - (ii) the Transition Team is a consultative body only that will make recommendations to Target and Bidder, and the members of the Transition Team have no power to bind, or to give any consent, approval or waiver on behalf of, the party of which they are a representative;
 - (iii) the respective businesses of Target and Bidder are to continue to operate independently until (and subject to) the Implementation Date; and
 - (iv) nothing in this clause 5.3 or elsewhere in this document:
 - (A) requires either to act at the direction of the other;
 - (B) gives a party any rights as to the decision making of the other party; or
 - (C) is intended to constitute or create the relationship of partnership, joint venture or similar between Target and Bidder.

5.4 **Access to information**

- (a) Subject to clause 5.4(b), during the Relevant Period, Target Group will make available to the Bidder Group, its officers and advisers, premises and documents, records and other information, as reasonably requested by the Bidder Group and afford the Bidder Group reasonable co-operation for the purposes of:
 - (i) Regulatory Approvals;
 - (ii) Bidder developing and implementing plans for transition of the business of the Target Group to Bidder following implementation of the Scheme;

- For personal use only
- (iii) keeping Bidder informed of any material developments relating to the Target Group's business, including matters raised by any Regulatory Authority and the matters referred to in clause 5.1(c); and
 - (iv) any other purpose which is agreed in writing between the parties.
- (b) Target and Bidder acknowledge and agree that:
- (i) nothing in this clause 5.4 or elsewhere in this document:
 - (A) requires Target to act at the direction of Bidder;
 - (B) gives Bidder any rights as to the decision making of Target;
 - (C) gives Bidder any rights to undertake further due diligence; or
 - (D) requires Target to provide information concerning its directors' and management's consideration of the Scheme or, except as required under clause 9, any actual, proposed or potential Competing Proposal;
 - (ii) information or access need not be provided if:
 - (A) it would result in unreasonable disruptions to, or interference with, or burden on, the Target Group's business,
 - (B) in the reasonable opinion of the Target, it is:
 - (aa) commercially sensitive;
 - (bb) subject to an existing confidentiality obligation to a third party;
 - (cc) would require a party to make further disclosures to any other entity or to a Government Agency;
 - (dd) would result in the Target breaching any law or regulation; or
 - (ee) require a party to make any disclosure that would compromise legal privilege; and
 - (iii) information provided shall be subject to the Confidentiality Deed, the CCA and all applicable laws or requirements of any Government Agency.

5.5 Change of Control Provisions

- (a) As soon as practicable after the date of this document, the parties must seek to identify any change of control or similar provisions in favour of any counterparty in any Material Contracts to which a member of the Target Group is a party which would, or would reasonably be likely to, be triggered by the implementation of the Scheme (**Change of Control Provision**).
- (b) In respect of each Material Contract that is identified as having a Change of Control Provision in accordance with clause 5.5(a), Target must use reasonable endeavours, in respect of each such Material Contract only, to:
 - (i) initiate contact with the relevant counterparties or Government Agency;
 - (ii) procure that any notifications required to be given to such counterparties or Government Agency in relation to the transaction contemplated by the Scheme (**Notifications**) are given;

- (iii) procure that such counterparties or Government Agency provide any consents required in relation to the transaction contemplated by the Scheme, in all cases subject to the Scheme becoming Effective (**Consents**), including by promptly providing any information reasonably required by the relevant counterparties or Government Agency (but nothing in this clause requires Target to incur material external expense); and
 - (iv) consult with Bidder in good faith in relation to the matters referred to in clauses 5.5(b)(i) to 5.5(b)(iii) (including the form and content of any Notifications and Consents) and, to the extent practicable and desirable, invite Representatives of Bidder to be involved in material discussions in respect of any material Notifications or Consents.
- (c) The parties acknowledge that provided that Target has complied with its obligations under clause 5.5(a), failure to obtain any Consent will not prevent, delay or otherwise affect implementation of the Scheme, and in no circumstances will it give rise to any liability under this document or otherwise in respect of the Scheme on the part of any member of the Target Group to any member of the Bidder Group (or any other person).

6. **POST-IMPLEMENTATION**

6.1 **Board composition**

Target must, as soon as practicable on the Implementation Date, take all actions necessary, in accordance with the constitution of Target, the Corporations Act and the ASX Listing Rules, to:

- (a) effect the appointment of each of the persons nominated by Bidder as new directors of the Target Board; and
- (b) procure that all directors of the Target Board, other than the Chief Executive Officer and other than the directors appointed under clause 6.1(a) or as otherwise directed by Bidder in writing:
 - (i) resign; and
 - (ii) unconditionally and irrevocably release Target from any claims they may have against Target in connection with their office as director,

subject to:

- (iii) the Scheme Consideration being issued; and
- (iv) receipt by Target of duly signed consents to act from each nominated director before the Record Date.

6.2 **Deeds of insurance and indemnity**

- (a) Subject to the Scheme becoming Effective, Bidder undertakes in favour of Target and each other person who is a Target Indemnified Party that it will:
 - (i) for a period of seven years after the Implementation Date, ensure that the constituent documents of Target and each other member of the Target Group continue to contain such rules as are contained in those constituent documents at the date of this document that provide for each company to indemnify each of its directors and officers against any liability incurred by that person in his or her capacity as a director or officer of the company to any person other than a member of the Target Group; and

- For personal use only
- (ii) use its best endeavours to procure that Target and each other member of the Target Group complies with any deeds of indemnity, access and insurance made by them in favour of their respective directors and officers from time to time.
 - (b) Subject to the Scheme becoming Effective, and subject to the approval by Bidder of the premium payable (such approval not to be unreasonably withheld), the Target may, prior to the Implementation Date, enter into arrangements for up to such seven year period, at a reasonable cost, to secure directors' and officers' runoff insurance (**D&O Run-off Policy**) with the same or substantially the same scope and terms as existing insurance policies in place for its directors or officers at the date of this document and any actions to facilitate that insurance or in connection with such insurance will not have a Target Material Adverse Effect, or be a Target Prescribed Event or Target Regulated Event or a breach of any provision of this document, provided that:
 - (i) Target must use all reasonable endeavours to ensure that the costs associated with the D&O Run-off Policy are reasonable having regard to current market conditions;
 - (ii) Target keeps Bidder informed of progress in relation to the D&O Run-off Policy and provides Bidder with all information reasonably requested by Bidder in connection with the placing, or progress, of the D&O Run-off Policy and take into account any reasonable comments of the Bidder made in relation to such information;
 - (iii) before entering into the D&O Run-off Policy, Target must first present to Bidder at least three quotations for the D&O Run-off Policy from reputable insurers selected in consultation with the Bidder (such policies being on the same or substantially the same scope and terms as existing insurance policies in place for Target's directors or officers at the date of this document) and take into account any reasonable comments received from Bidder on the quotations within 10 Business Days of being provided the quotations; and
 - (iv) such policy shall include a term that the policy cannot be cancelled unless the insured persons each consent in writing to the cancellation.
 - (c) The undertakings contained in clause 6.2(a) are subject to restrictions in the Corporations Act and in any other applicable law, and will be read down accordingly.
 - (d) The undertakings contained in clause 6.2(a) are given until the earlier of the end of the relevant period specified in that clause, or the relevant Target Group member ceases to be part of the Bidder Group.

6.3 Releases

- (a) Subject to clause 6.3(b), each party releases all rights against, and agrees that it will not make any claim (including any Claim), against the respective past or present directors, officers and employees of each of the other party and the other party's subsidiaries as at the date of this document and from time to time in relation to:
 - (i) any information provided in relation to the Scheme;
 - (ii) any failure to provide information in relation to the Scheme; or
 - (iii) the Scheme and any provision of this document, including any breach of any representations, covenants and warranties of the other party in this document,

whether current or future, known or unknown, arising at common law, in equity, under statute or otherwise, except to the extent that the relevant director, officer or employee has not acted in good faith or has engaged in wilful misconduct or fraud.

- (b) This clause is subject to restrictions in the Corporations Act (including section 199A of the Corporations Act) and in any other applicable law, and will be read down accordingly.
- (c) This clause operates as a deed poll in favour of and for the benefit of each director, officer and employee of each party and may be relied on and enforced by each such director, officer and employee in accordance with its terms even though the director, officer or employee is not named as a party to this document.

7. CONFIDENTIALITY AND ANNOUNCEMENT

7.1 Information provided subject to confidentiality obligation

All information provided under or in connection with this document is subject to the terms of the Confidentiality Deed which continues to have full force and effect subject to this document.

7.2 Announcement of execution

Immediately following execution of this document (or as otherwise agreed by Target and Bidder), each of Target and Bidder must make separate Announcements in Agreed Form on the applicable party's ASX announcement platform in respect of the execution of this document and any other documents relating to the Scheme, and the Announcement will attach a copy of this document (save for the redaction of any commercially sensitive material in this document, as agreed by the parties).

7.3 No Announcement

Neither the Target nor the Bidder may make an Announcement relating to the Scheme or otherwise relating to the subject matter of this document or the Scheme unless the Announcement or publication:

- (a) is required by this document;
- (b) has the prior approval of the other party; or
- (c) is required to be made by any applicable law or the ASX Listing Rules.

7.4 Consultation on Announcements

- (a) If Target or Bidder is permitted to make an Announcement under clause 7.3, it may do so only after:
 - (i) giving the other party such written notice as is reasonably practicable in the circumstances of its intention to make the Announcement;
 - (ii) consulting with the other party as to the form and content of that Announcement (and after having taken all reasonable steps to restrict disclosure of information to which confidentiality obligations apply, to the greatest extent possible); and
 - (iii) providing the other party with a draft of the Announcement and an opportunity to comment on the contents of the draft Announcement and taking into account any reasonable comments made by the other party.

- (b) For the avoidance of doubt, nothing in this clause 7.4 requires the giving of prior notice or the taking of any action if doing so would lead to a party breaching an applicable law or the ASX Listing Rules.

7.5 **Excluded Announcements**

Clauses 7.3 and 7.4 do not apply to any Announcement relating to:

- (a) a Competing Proposal; or
- (b) the termination of this document in accordance with its terms.

8. **EXCLUSIVITY**

8.1 **Existing discussions**

Target:

- (a) on and from the date of this document:
 - (i) must terminate any existing discussions or negotiations in relation to, or which may reasonably be expected to lead to, a Competing Proposal; and
 - (ii) subject to clause 8.2(c), must not waive the provisions of any confidentiality or standstill agreement, deed of undertaking (or similar document) entered into with a person other than Bidder in the 24 months prior to the date of this document in relation to any Competing Proposal; and
- (b) represents and warrants to Bidder that as at the date of this document:
 - (i) it is not a party to any agreement or arrangement with any Third Party entered into for the purposes of facilitating a Competing Proposal or Potential Competing Proposal;
 - (ii) it is not, directly or indirectly, participating in any discussions or negotiations with a Third Party that concern, or that could be reasonably expected to lead to, a Competing Proposal or Potential Competing Proposal;
 - (iii) any due diligence access granted to any Third Party for the purposes of such Third Party making, formulating, developing or finalising, or assisting in the making, formulation, development or finalisation of, a Competing Proposal or Potential Competing Proposal, has been terminated; and
 - (iv) any Third Party to whom non-public information in relation to the Target Group has been provided or made available for the purposes of such Third Party making, formulating, developing or finalising, or assisting in the making, formulation, development or finalisation of, a Competing Proposal or Potential Competing Proposal, has been requested to immediately return or destroy that non-public information in accordance with the provisions of any confidentiality agreement with such Third Party.

8.2 **No-shop, no-talk and no-due diligence**

During the Exclusivity Period, Target must not (and must ensure that none of its related bodies corporate or Representatives, nor any other person on its behalf) directly or indirectly:

- (a) **(no-shop)** solicit, encourage, initiate or invite any offer, enquiries, expressions of interest, discussions or proposals from any Third Party in relation to, or that may

reasonably be expected to encourage or lead to, a Competing Proposal or Potential Competing Proposal, or announce or communicate to any person any intention to do any of these things;

- (b) **(no-talk)** subject to clause 8.3, negotiate or enter into, participate in or continue any discussions or negotiations with a Third Party in relation to, or that may reasonably be expected to encourage or lead to, a Competing Proposal or Potential Competing Proposal, or otherwise facilitate a Competing Proposal or Potential Competing Proposal, or announce or communicate to any person any intention to do any of these things; or
- (c) **(no-due diligence)** without limiting clause 8.2(b), and subject to clause 8.3, make available to any Third Party, or cause or permit any Third Party to receive, any non-public information relating to Target or any of its related bodies corporate that may reasonably be expected to assist such Third Party in formulating, developing or finalising a Competing Proposal or Potential Competing Proposal.

8.3 **Fiduciary exception**

The restrictions in clauses 8.2(b) and 8.2(c) do not:

- (a) apply in respect of a Competing Proposal or Potential Competing Proposal where:
 - (i) there has not been any breach of clause 8.2(a) in respect of that Competing Proposal or Potential Competing Proposal; and
 - (ii) the Target Board, acting in good faith and after receiving written advice from Target's financial and legal advisers, determines that such Competing Proposal or Potential Competing Proposal is, or may reasonably be expected to constitute, a Superior Proposal if it were proposed and that failing to respond to such Competing Proposal or Potential Competing Proposal would be reasonably likely to constitute a breach of the fiduciary duties or statutory obligations of the Target Board; and
 - (iii) in respect of the restriction in clause 8.2(c) only:
 - (A) the Third Party has first entered into a written confidentiality agreement in favour of Target restricting the use and disclosure by the Third Party and its Representatives of the information made available to the Third Party; and
 - (B) to the extent that any information made available to the Third Party has not previously been provided to Bidder, Target provides that information to Bidder at the same time it is provided to the Third Party; and
- (b) prevent Target disclosing non-public information to its auditors or advisers, or a Government Agency or regulatory body in the ordinary course of its business or as required under Target's existing contractual obligations provided it is not done in a manner which is intended to circumvent the intent of clause 8.

8.4 **Standstill**

The Bidder and Target acknowledge and agree that the standstill provisions in the Confidentiality Deed shall continue to apply in full force and effect and will not be affected by this document.

9. NOTIFICATION AND MATCHING RIGHTS

9.1 Initial notification

If, during the Exclusivity Period:

- (a) Target or any of its related bodies corporate or Representatives receives a Competing Proposal or is approached by a person in relation to a Competing Proposal or Potential Competing Proposal; or
- (b) Target proposes to take or takes any action in reliance on the exception in clause 8.3 (other than clause 8.3(b)),

Target must as soon as reasonably practicable (and in any event within 48 hours after the occurrence of the events specified in clause 9.1(a)) give Bidder an Approach Notice and the Identifying Details of the person(s) who has made the Competing Proposal or Potential Competing Proposal.

9.2 Matching right

- (a) If, during the Exclusivity Period, the Target Board determines that a Competing Proposal is a Superior Proposal, Target must as soon practicable (and in any event within 48 hours of making that determination) give Bidder the Matching Right Notice and the Identifying Details of the person(s) who has made the Competing Proposal.

- (b) During the Exclusivity Period, Target:

- (i) must not enter into, or agree to enter into, any binding documentation to give effect or implement the Competing Proposal or Potential Competing Proposal;
- (ii) must use its best endeavours to ensure that no director of Target withdraws, adversely changes, adversely modifies or adversely qualifies their recommendation of the Scheme;
- (iii) must use its best endeavours to ensure that no director of Target makes any public statement recommending the Competing Proposal or Potential Competing Proposal to its shareholders,

unless:

- (iv) the Target Board, acting in good faith and after receiving written advice from Target's financial and legal advisers, determines that such Competing Proposal or Potential Competing Proposal is, or may reasonably be expected to constitute, a Superior Proposal if it were proposed and that failing to respond to such Competing Proposal or Potential Competing Proposal would be reasonably likely to constitute a breach of the fiduciary duties or statutory obligations of the Target Board;
- (v) Target has provided Bidder with a Matching Right Notice and the Identifying Details of the person(s) who has made the Competing Proposal or Potential Competing Proposal;
- (vi) Target has given Bidder at least five clear Business Days after the date that Target gives Bidder the Matching Right Notice (**Matching Period**) to announce or otherwise propose or provide to Target an alternative proposal with a view to providing an equivalent or a superior outcome for the Target Shareholders than those offered under the relevant Competing Proposal (**Counter Proposal**); and

- (vii) Bidder has not announced or otherwise proposed or provided to Target such Counter Proposal by the expiry of the Matching Period.
- (c) If, during the Matching Period, Bidder makes a Counter Proposal:
- (i) Target must use its best endeavours to procure that the Target Board promptly considers the Counter Proposal in good faith before entering into, or agreeing to enter into, any binding documentation to give effect to or implement the Competing Proposal or Potential Competing Proposal; and
 - (ii) if the Target Board acting in good faith determines that the terms and conditions of the Counter Proposal taken as a whole would provide an equivalent or superior outcome to shareholders of Target than those in the relevant Competing Proposal or Potential Competing Proposal, then:
 - (A) Target must promptly, and in any event within 48 hours, notify Bidder of the determination in writing;
 - (B) the parties must use their reasonable endeavours to agree any amendments to this document and enter into such documentation as is necessary to give effect to and implement the Counter Proposal as soon as reasonably practicable; and
 - (C) Target must use its best endeavours to procure that each director of Target makes a public statement recommending the Counter Proposal to its shareholders.
- (d) If the Target Board acting in good faith determines that the terms and conditions of the Counter Proposal taken as a whole would not provide an equivalent or superior outcome to shareholders of Target than those in the relevant Competing Proposal or Potential Competing Proposal, then Target must promptly, and in any event within 48 hours, notify Bidder of the determination in writing, stating reasons for that determination.
- (e) Each new Competing Proposal or any material change to the terms of a Competing Proposal or Potential Competing Proposal including any incomplete or non-binding proposal or expression of interest becoming complete, capable of acceptance or binding on the third party bidder, will be taken to constitute a new Competing Proposal or Potential Competing Proposal (as applicable) in respect of which Target must separately comply with its obligations under clauses 9.2(a) to 9.2(c) (inclusive).

9.3 **Time of essence**

Time is of the essence in this clause 9.

10. **BREAK FEE**

10.1 **Background**

- (a) Each of Target and Bidder confirms its belief that the Scheme will provide significant benefits to Target, Bidder and their respective shareholders.
- (b) Target and Bidder acknowledge that Bidder has requested that provision be made in this document for the payment set out in clause 10.2 in the absence of which Bidder would not have entered into this document or otherwise agreed to assist Target with implementing the Scheme.

- (c) Target confirms its belief that it is appropriate to agree to the payment which it agrees to make under clause 10.2 in order to secure Bidder's participation in the Scheme.
- (d) Target and Bidder acknowledge that, if they enter into this document and the Scheme is not implemented, Bidder will incur significant costs and expenses in connection with performing its obligations under this document and the Scheme, which will include significant opportunity costs.
- (e) Target acknowledges that it has received external legal and financial advice in relation to this clause 10 and that the amount it has agreed to pay under this clause 10 is an amount which is appropriate to compensate Bidder for its reasonable external and internal costs and opportunity costs in connection with the Scheme (and is a genuine and reasonable pre-estimate thereof), including for:
- (i) reasonable advisory costs relating to the Scheme;
 - (ii) costs of management and directors' time;
 - (iii) reasonable out-of-pocket expenses relating to the Scheme; and
 - (iv) reasonable opportunity costs incurred by Bidder in pursuing the Scheme or in not pursuing other alternative acquisitions or strategic initiatives which Bidder could have developed to further its business and objectives.

10.2 **Payment by Target to Bidder**

Target undertakes to pay Bidder the Target Break Fee without withholding (unless required by law, in which case the amount of the payment due by Target is increased to an amount which (after making any such withholding) is equivalent to an amount that would have been due to Bidder if not withholding had been required by law) or set off if:

- (a) **(change of recommendation or voting intention statement)** prior to the End Date, any Target director:
- (i) does not recommend the Scheme or the EGM Resolution or withdraws or adversely modifies (including by attaching any qualifications to) an earlier recommendation, or approves, recommends or makes an announcement in support of a Competing Proposal, or announces an intention to do any of these acts; or
 - (ii) does not state that he or she intends to vote any Scheme Shares that he or she directly or indirectly owns or controls in favour of the Scheme at the Scheme Meeting and the EGM Resolution at the EGM (excluding Sean Senvirtne to the extent he is excluded from voting on the EGM Resolution) or withdraws or adversely modifies (including by attaching any qualifications to) an earlier statement that they intend to vote in favour of the Scheme at the Scheme Meeting and the EGM Resolution at the EGM,
- except where:
- (iii) Target has terminated this document under clause 11.1(c); or
 - (iv) the Independent Expert:
 - (A) concludes (either in its initial Independent Expert's Report or in any written update, revision, amendment, addendum or supplementary reports to it) that the Scheme is not in the best interests of Target Shareholders; or

- (B) withdraws its Independent Expert's Report prior to 5.00 pm on the day before the Second Court Date,

in either case, other than where the conclusion or withdrawal is due (whether in whole or part) to the existence, announcement or publication of a Competing Proposal or is otherwise based on reasons that include reference to a Competing Proposal.

- (b) **(Competing Proposal)** either:
 - (i) during the Exclusivity Period, Target accepts or enters into, any agreement, arrangement or understanding to give effect to or implement a Competing Proposal; or
 - (ii) prior to the End Date, a Competing Proposal is announced, made or becomes open for acceptance and within nine months after the End Date (regardless of whether this document is terminated before or after the End Date) under that Competing Proposal the relevant bidder (or any of its Associates):
 - (A) acquires voting power of (or an economic interest in) 50% or more of all Target Shares and that Competing Proposal is (or becomes) free from any defeating conditions; or
 - (B) completes the Competing Proposal; or
- (c) **(termination by Bidder)** this document is terminated by Bidder in accordance with:
 - (i) clause 11.1(c); or
 - (ii) clause 11.2(a), other than in circumstances where 10.2(a)(iv) applies.

10.3 **Demand by Bidder for payment of Target Break Fee**

- (a) A demand by Bidder for payment of the Target Break Fee under clause 10.2 must:
 - (i) be in writing;
 - (ii) be made after the occurrence of the event in that clause giving rise to the right to the payment of the Target Break Fee;
 - (iii) state the circumstances which give rise to the demand; and
 - (iv) nominate an account in the name of Bidder into which Target is to pay the Target Break Fee.
- (b) Target must pay the Target Break Fee into the account nominated by Bidder within 20 Business Days after receiving a demand for payment under clause 10.3(a).

10.4 **No payment if Scheme becomes Effective**

- (a) No amount is payable by Target under this clause 10 if the Scheme becomes Effective, notwithstanding the occurrence of an event in clause 10.2, and any amount paid under this clause 10 in circumstances where the Scheme becomes Effective is immediately repayable by the payee.
- (b) Notwithstanding anything else in this document an amount payable by Target under this clause 10 is payable only once.

10.5 Other Claims

- (a) Subject to clause 10.5(c), the maximum aggregate amount that Target is required to pay in relation to this document (including any breach of this document) is the Target Break Fee and in no event will the aggregate liability of Target in connection with this document exceed the Target Break Fee.
- (b) Notwithstanding any clause in this document other than clause 10.5(c), if an amount is paid by Target under clause 10.2, that amount is received by Bidder in complete settlement of any and all Claims that Bidder may have against Target in respect of the Scheme or in connection with this document.
- (c) This clause 10 does not limit any rights or obligations under the Deed Poll.

10.6 Compliance with law

- (a) If the Takeovers Panel or a court of competent jurisdiction determines that an amount paid or payable under clause 10.2 is an Impugned Amount and:
 - (i) the period for lodging an application for review or a notice of appeal of that decision has expired without such application or notice having been lodged; or
 - (ii) an application for review or a notice of appeal has been lodged with the Takeovers Panel or a court within the prescribed period and the relevant review panel or court also determines that the amount is an Impugned Amount,then:
 - (iii) the undertaking under clause 10.2 does not apply to the extent of the Impugned Amount; and
 - (iv) if Bidder has been paid an Impugned Amount under this document, it must refund that Impugned Amount to Target within 20 Business Days of the expiry of the period referred to in 10.6(a)(i) or the determination referred to in 10.6(a)(ii) (as applicable).
- (b) The parties must not make or cause to be made, any application to the Takeovers Panel or a court of competent jurisdiction for or in relation to a declaration or other order that an amount paid or payable under clause 10.2 is an Impugned Amount.

11. TERMINATION

11.1 Termination by either party

Bidder or Target (the **Terminating Party**) may terminate this document by notice in writing to the other party:

- (a) if the Scheme has not become Effective on or before the End Date;
- (b) in accordance with clause 3.8;
- (c) if at any time before 8.00 am on the Second Court Date, the other party (the **Defaulting Party**) commits a breach of this document and:
 - (i) the breach is material taken in the context of the Scheme as a whole;

- (ii) the Terminating Party has given the Defaulting Party written notice setting out the relevant circumstances giving rise to the breach, and stating an intention to terminate this document unless the breach is remedied; and
- (iii) the relevant circumstances giving rise to the breach are not remedied to the Terminating Party's reasonable satisfaction by the earlier of:
 - (A) 10 Business Days after the date of the notice given by the Terminating Party under clause 11.1(c)(ii); or
 - (B) 5.00 pm on the Business Day before the Second Court Date; or
- (d) if agreed to in writing by Target and Bidder.

11.2 Termination by Bidder

Bidder may terminate this document by giving notice in writing to Target at any time before 8.00 am on the Second Court Date if:

- (a) any Target director:
 - (i) does not recommend the Scheme or the EGM Resolution or withdraws or adversely modifies (including by attaching any qualifications to) an earlier recommendation, or approves, recommends or makes an announcement in support of a Competing Proposal, or announces an intention to do any of these acts; or
 - (ii) does not state that he or she intends to vote any Scheme Shares that he or she directly or indirectly owns or controls in favour of the Scheme at the Scheme Meeting and the EGM Resolution at the EGM (excluding Sean Senvirtne to the extent he is excluded from voting on the EGM Resolution) or withdraws or adversely modifies (including by attaching any qualifications to) an earlier statement that they intend to vote in favour of the Scheme at the Scheme Meeting and the EGM Resolution at the EGM; or
- (b) Target or a member of the Target Group enters into a definitive agreement in relation to the implementation of a Competing Proposal.

11.3 Termination by Target

Target may terminate this document by giving notice in writing to Bidder at any time before 8.00 am on the Second Court Date if:

- (a) the IBC unanimously and publicly withdraws its support for the Scheme, including if the IBC unanimously:
 - (i) changes, withdraws, adversely modifies, adversely qualifies, or takes an action inconsistent with its statement in support of the Scheme or recommendation to vote in favour of the Scheme;
 - (ii) makes any public statement to the effect that the Scheme is not, or is no longer, supported or recommended or supported by it; or
 - (iii) makes any public statement to the effect that it recommends a Competing Proposal,

in each case other than as a breach of this document; or

- (b) the Target Board publicly recommends a Superior Proposal, having followed the processes set out in clause 9.

11.4 **Effect of termination**

If a party terminates this document in accordance with this clause 11, this document will cease to have force and effect without any liability or obligation on the part of any party, except that:

- (a) this clause 11, and clauses 6.3 (Releases), 7 (Confidentiality and Announcement), 10 (Break Fee), 12 (Representations and warranties), 13 (Indemnities), 15 (Notices) and 16 (General) will survive termination and remain in force; and
- (b) each party will retain any rights it has or may have against the other party in respect of any past breach of this document, including in respect of the breach giving rise to termination.

11.5 **Notice of termination**

Where a party has a right to terminate this document, that right for all purposes will be validly exercised if the party delivers a notice in writing to the other party stating that it terminates this document and the provision under which it terminates this document.

11.6 **Remedies**

- (a) The parties acknowledge and agree that damages may not be a sufficient remedy for breach of this document. Specific performance, injunctive relief or any other remedies which would otherwise be available in equity or law are available as a remedy for a breach or threatened breach of this document by any party, notwithstanding the ability of any party to terminate this document or seek damages for such a breach or threatened breach.
- (b) To avoid doubt, clause 11.6(a) is subject to clause 10.5.

12. **REPRESENTATIONS AND WARRANTIES**

12.1 **Target Representations and Warranties**

Target represents and warrants to Bidder that:

- (a) **(status)** it is a validly existing corporation registered under the laws of the place of its incorporation;
- (b) **(power)** it has full legal capacity and power to:
- (i) own its property and to carry on its business; and
- (ii) enter into this document and carry out the transactions that this document contemplates in accordance with its terms;
- (c) **(corporate authority)** it has taken all corporate action that is necessary or desirable to authorise it entering into this document and carrying out the transactions that this document contemplates in accordance with its terms;

- (d) **(Authorisations)** subject to obtaining any Authorisations to implement the Scheme as provided in this document, it holds each Authorisation that is necessary or desirable to:
- (i) enable it to properly execute this document and to carry out the transactions that this document contemplates in accordance with its terms;
 - (ii) ensure that this document is legal, valid, binding and admissible in evidence; and
 - (iii) enable it to properly carry on its business,
- and it is complying with any conditions to which any such Authorisation is subject;
- (e) **(document effective)** this document constitutes its legal, valid and binding obligations, enforceable against it in accordance with its terms;
- (f) **(no contravention)** neither its execution of this document nor the carrying out by it of the transactions that this document contemplates in accordance with its terms, does or will contravene:
- (i) any law to which it or any of its property is subject or any order of any Government Agency that is binding on it or any of its property;
 - (ii) any Authorisation held by it;
 - (iii) any undertaking or instrument binding on it or any of its property; or
 - (iv) its constituent documents;
- (g) **(no Insolvency Event)** neither it nor any of its subsidiaries is affected by an Insolvency Event;
- (h) **(not representative capacity)** it is not entering into this document as trustee of any trust or settlement or otherwise in a representative capacity;
- (i) **(information provided to the Independent Expert)** all information provided by it to the Independent Expert will be provided in good faith and on the understanding that the Independent Expert will rely on that information for the purpose of preparing the Independent Expert's Report for inclusion in the Scheme Booklet;
- (j) **(Target Due Diligence Information not false or misleading)** Target has not knowingly or recklessly:
- (i) omitted to disclose information to Bidder, the disclosure of which might reasonably be expected to have resulted in Bidder not entering into this document, or entering into it on materially different terms;
 - (ii) omitted anything from the Target Due Diligence Information that would make any part of that information false or misleading in any material respect; or
 - (iii) included anything false or misleading in any material respect in the Target Due Diligence Information;
- (k) **(Target Due Diligence Information)** it has collated and made available to Bidder and its Representatives the Target Due Diligence Information in good faith for the purposes of Bidder and its Representatives undertaking due diligence in Target Group and:

- (i) the Target Due Diligence Information has been collated with all reasonable care and skill; and
- (ii) Target has not withheld from the Target Due Diligence Information any information in its possession of which Target is aware which, if disclosed, would reasonably be expected to be material to a reasonable and sophisticated buyer's evaluation of the Target Group.
- (l) **(Scheme Booklet not false or misleading)** as at the date of the Scheme Booklet and on the Second Court Date, the Scheme Booklet (other than the Bidder Material and the Independent Expert's Report):
- (i) does not contain any material statement which is false or misleading in any material respect (including because of any material omission) having regard to applicable disclosure requirements; and
- (ii) complies in all material respects with all applicable laws, relevant ASIC regulatory guides (including regulatory guide 60), Takeovers Panel policy and guidance notes and the ASX Listing Rules;
- (m) **(continuous disclosure)** Target is not in breach in any material respect of its continuous disclosure obligation under ASX Listing Rule 3.1 and, except for information contained in the Announcement to be made in accordance with clause 7.2, Target is not withholding disclosure of any information in reliance on ASX Listing Rule 3.1A;
- (n) **(compliance)** Target and its wholly owned subsidiaries have complied in all material respects with all Australian and foreign laws and regulations applicable to them and orders of Australian and foreign Government Agencies having jurisdiction over them and have all material licenses, Authorisations and permits necessary for them to conduct the business of the Target Group as presently being conducted;
- (o) **(no default)** other than as Disclosed in the Target Due Diligence Information:
- (i) neither Target nor any of its wholly owned subsidiaries is in default in any material respect under any document or agreement binding on it or its assets; and
- (ii) so far as the Target Board, Joshua Mangan, Lachlan Freeman, Dean Ramler, Ryan Gracie or Kate Dockery is aware, nothing has occurred which is, or would with the giving of notice or lapse of time or both constitute, an event of default, prepayment event or similar event under any such document or agreement;
- (p) **(no litigation)** other than as Disclosed in the Target Due Diligence Information, no litigation, arbitration, mediation, conciliation or administrative proceedings are taking place, pending or so far as the Target is aware, threatened which, if adversely decided, could reasonably be expected to have a Target Material Adverse Effect;
- (q) **(Target capital structure)** Part A of Schedule 2 accurately records the total number and details of Target Shares, and Target Options issued by Target at the date of this document and, other than as Disclosed to Bidder, Target is not under any actual or contingent obligation to issue, convert or cancel any securities other than as listed in Schedule 2 and no person has any right to require, or call for, the issue or grant of, any Target Shares, Target Options, warrants, performance rights or other instruments which are still outstanding and may convert (or give the holder the right to be issued) into Target Shares;

- (r) **(no Encumbrances)** there are no material Encumbrances over all or any of the assets or revenues of the Target Group;
- (s) **(CGT withholding declaration)** none of the Scheme Shares are, and on the Implementation Date none of the Scheme Shares will be, an indirect Australian real property interest within the meaning of section 995-1 of the Tax Act; and
- (t) **(no other approvals necessary)** no consents, approvals or other acts by a Government Agency are necessary to effect implementation of the Scheme, other than the Regulatory Approvals.

12.2 Bidder Representations and Warranties

Bidder represents and warrants to Target that:

- (a) **(status)** it is a validly existing corporation registered under the laws of the place of its incorporation;
- (b) **(power)** it has full legal capacity and power to enter into this document and carry out the transactions that this document contemplates in accordance with its terms;
- (c) **(corporate authority)** it has taken all corporate action that is necessary or desirable to authorise it entering into this document and carrying out the transactions that this document contemplates in accordance with its terms;
- (d) **(Authorisations)** subject to obtaining any Authorisations to implement the Scheme as provided in this document, it holds each Authorisation that is necessary or desirable to:
 - (i) enable it to properly execute this document and to carry out the transactions that this document contemplates in accordance with its terms; and
 - (ii) ensure that this document is legal, valid, binding and admissible in evidence, and it is complying with any conditions to which any such Authorisation is subject;
- (e) **(document effective)** this document constitutes its legal, valid and binding obligations, enforceable against it in accordance with its terms;
- (f) **(no Insolvency Event)** no member of the Bidder Group is affected by an Insolvency Event;
- (g) **(not representative capacity)** it is not entering into this document as trustee of any trust or settlement or otherwise in a representative capacity; and
- (h) **(information provided to the Independent Expert)** all information provided by it to the Independent Expert will be provided in good faith and on the understanding that the Independent Expert will rely on that information for the purpose of preparing the Independent Expert's Report for inclusion in the Scheme Booklet.
- (i) **(Bidder Material not false or misleading)** as at the date of the Scheme Booklet, and on the Second Court Date, the Bidder Material:
 - (i) does not contain any material statement which is false or misleading (including because of any material omission) having regard to applicable disclosure requirements; and

- (ii) complies in all material respects with all applicable laws, relevant ASIC regulatory guides (including regulatory guide 60), Takeovers Panel policy and guidance notes and the ASX Listing Rules;
- (j) **(unconditional cash reserves)** by 8.00am on the Second Court Date and the Implementation Date, the Bidder Group will have available to it on an unconditional basis (other than, on the Second Court Date, conditions relating to the approval of the Court and other conditions within the sole control of the Bidder Group) sufficient cash reserves (whether from internal cash reserves or external funding arrangements, including equity and debt financing or a combination of both) to satisfy Bidder's obligations to pay the Scheme Consideration in accordance with its obligations under this document, the Scheme and the Deed Poll; and

12.3 **Qualifications on representations and warranties**

- (a) Each of the representations and warranties made or given by Target in clause 12.1 and the indemnity given in clause 13.1 are subject to matters that:
- (i) have been Disclosed by Target; or
 - (ii) are required or expressly permitted by this document or the Scheme.
- (b) Each of the representations and warranties made or given by Bidder in clause 12.2 and the indemnity given in clause 13.2 are subject to matters that:
- (i) have been disclosed by Bidder in any announcement made by Bidder on ASX or in any document lodged with ASIC prior to the date that is one Business Day before the date of this document; or
 - (ii) are required or expressly permitted by this document or the Scheme.

12.4 **No representations made on economic or future matters**

Each party acknowledges and agrees that:

- (a) each other party makes no representation or warranty other than as set out in this clause 12; and
- (b) at no time has each other party made or given any representation or warranty in relation to the achievability of:
- (i) any economic, fiscal or other interpretations or evaluations by it; or
 - (ii) future matters, including future or forecast costs, prices, revenues or profits.

12.5 **Reliance on Representations and Warranties**

- (a) Each party acknowledges that each other party has executed this document and agreed to take part in the transactions that this document contemplates in reliance on the representations and warranties that are made in clauses 12.1 and 12.2.
- (b) Each party acknowledges and confirms that no party (nor any person acting on its behalf) has made any representation or other inducement to it to enter into this document, other than the representations and warranties made by the parties in accordance with clauses 12.1 and 12.2, and (to the maximum extent permitted by law) all other representations, warranties and conditions implied by statute or otherwise in relation to any matter relating to this document, the circumstances surrounding the parties' entry into it and the transactions contemplated by it are expressly excluded.

12.6 **When Representations and Warranties are given**

Each representation and warranty given or made under clauses 12.1 and 12.2 is given:

- (a) as at the date of this document;
- (b) as at 5.00pm on the Business Day immediately prior to the Second Court Date;
- (c) in the case of representations and warranties in clauses 12.1(j), on the DD Cut-off Date; and
- (d) at any other date at which the representation or warranty is expressed to be given under this document.

12.7 **Information on representations and warranties**

From the date of this document and up to and including the Implementation Date, each party must promptly give to the other party details of any matter or occurrence which might reasonably make any representation and warranty given by the first mentioned party under this document inaccurate in any material respect.

12.8 **Survival or representations and warranties**

Each representation and warranty given or made under clauses 12.1 and 12.2:

- (a) is severable;
- (b) survives the termination of this document;
- (c) is given with the intent that liability thereunder will not be confined to breaches which are discovered prior to the date of termination of this document;
- (d) is to be construed independently of all other representations and warranties given or made under clauses 12.1 and 12.2 (as applicable); and
- (e) is not limited by any other representation or warranty given or made under clauses 12.1 and 12.2 (as applicable).

13. **INDEMNITIES**

13.1 **Indemnities by Target**

Subject to clause 10.5, Target indemnifies each Bidder Indemnified Party against, and must pay on demand, any Loss, Claim or damages (including any right to common law damages) arising from or incurred in connection with a breach of a Target Representation and Warranty to the fullest extent permitted by law.

13.2 **Indemnities by Bidder**

Bidder indemnifies each Target Indemnified Party against, and must pay on demand, any Loss, Claim or damages (including any right to common law damages) arising from or incurred in connection with a breach of a Bidder Representation and Warranty to the fullest extent permitted by law.

13.3 **Survival of indemnities**

Each indemnity given in clause 13.1 and 13.2:

- (a) is severable;

- (b) survives the termination of this document;
- (c) is a continuing obligation; and
- (d) constitutes a separate and independent obligation of the party giving the indemnity from any other obligations of that party under this document.

14. **GST**

14.1 **GST pass on**

If GST is or will be payable on a supply made under or in connection with this document, to the extent that the consideration otherwise provided for that supply under this document is not stated to include an amount for GST on the supply:

- (a) the consideration otherwise provided for that supply under this document is increased by the amount of that GST; and
- (b) the recipient must make payment of the increase as and when the consideration otherwise provided for, or relevant part of it, must be paid or provided or, if the consideration has already been paid or provided, within seven days of receiving a written demand from the supplier.

14.2 **Tax Invoice**

The right of the supplier to recover any amount in respect of GST under this document on a supply is subject to the issuing of the relevant tax invoice or adjustment note to the recipient.

14.3 **Consideration exclusive of GST**

Any consideration otherwise provided for a supply or payment obligation in connection with this document is exclusive of GST unless stated otherwise.

14.4 **Adjustments**

If there is an adjustment event in relation to a supply which results in the amount of GST on a supply being different from the amount in respect of GST already recovered by the supplier, as appropriate, the supplier within 14 days of becoming aware of the adjustment event:

- (a) may recover from the recipient the amount by which the amount of GST on the supply exceeds the amount already recovered by giving seven days written notice; or
- (b) must refund to the recipient the amount by which the amount already recovered exceeds the amount of GST on the supply; and
- (c) must issue an adjustment note or tax invoice reflecting the adjustment event in relation to the supply to the recipient within 28 days of the adjustment event.

14.5 **Reimbursements**

Costs actually or estimated to be incurred or revenue actually or estimated to be earned or lost by a party that is required to be reimbursed or indemnified by another party, or used as the basis for calculation of consideration for a supply, under this document must exclude the amount of GST referable to the cost to the extent to which an entitlement arises or would arise to claim an input tax credit and in relation to revenue must exclude any amount in respect of GST referable to the revenue.

15. **NOTICES**

15.1 **How to give a notice**

A notice, consent or other communication under this document is only effective if it is:

- (a) in writing, signed by or on behalf of the person giving it;
- (b) addressed to the person to whom it is to be given; and
- (c) either:
 - (i) delivered or sent by pre-paid mail to that person's address; or
 - (ii) sent in electronic form (such as email).

15.2 **When a notice is given**

A notice, consent or other communication that complies with this clause is regarded as given and received:

- (a) if it is delivered by hand:
 - (i) by 5.00 pm (local time in the place of receipt) on a Business Day – on that day; or
 - (ii) after 5.00 pm (local time in the place of receipt) on a Business Day, or on a day that is not a Business Day – on the next Business Day; and
- (b) if it is sent by mail:
 - (i) within Australia – three Business Days after posting; or
 - (ii) to or from a place outside Australia – seven Business Days after posting.
- (c) if it is sent in electronic form:
 - (i) if it is transmitted by 5.00 pm on a Business Day – when sent; or
 - (ii) if it is transmitted after 5.00 pm on a Business Day or on a day that is not a Business Day – on the next Business Day,

provided that no notice of failure of transmission or other error message is received by the sender.

15.3 **Address for notices**

A person's address and email address are those set out below, or as the person notifies the sender:

Target

Address: Level 1, 446 Collins Street, Melbourne VIC 3000
Email : sean@mydeal.com.au
Attention: Sean Senvirtne

Copy to (which shall not constitute notice):

Email : Catherine.Merity@maddock.com.au
Rosamond.Sayer@maddocks.com.au
Attention: Catherine Merity
Rosamond Sayer

Bidder

Address: 1 Woolworths Way, Bella Vista NSW 2153
Email : cjmills@woolworths.com.au
Attention: Chris Mills, Head of Mergers and Acquisitions

Copy to (which shall not constitute notice):

Email: legalnotices@woolworths.com.au
Attention: Jade Droguett, Group Counsel – Ecosystem & Strategic Partnerships

and

Ashurst Australia

Address: 5 Martin Place, Sydney, NSW 2000 Australia
Email : Phil.Breden@ashurst.com
Andrew.Kim@ashurst.com
Attention: Phil Breden
Andrew Kim

16. **GENERAL**

16.1 **Amendment**

This document can only be amended or replaced by another document executed by the parties.

16.2 **Assignment**

A party may only assign, encumber, declare a trust over or otherwise deal with its rights under this document with the prior written consent of the other party.

16.3 **Governing law**

- (a) This document and any dispute arising out of or in connection with the subject matter of this document is governed by the laws of the State of New South Wales, Australia.
- (b) Each party submits to the non-exclusive jurisdiction of the courts of that State, and courts of appeal from them, in respect of any proceedings arising out of or in connection with the subject matter of this document. Each party irrevocably waives any right it has to object to any legal process being brought in those courts including any claim that the process has been brought in an inconvenient forum or that those courts do not have jurisdiction.

16.4 **Liability for expenses**

- (a) Bidder must pay for all stamp duty payable on this document or any instrument or transaction contemplated in or necessary to give effect to this document.
- (b) Subject to clause 16.4(a), each party must pay its own expenses incurred in negotiating, preparing, executing and registering this document.

16.5 Giving effect to this document

Each party must promptly do and perform all further acts and execute and deliver all further documents (in form and content reasonably satisfactory to that party) required by law or reasonably requested by any other party to give effect to this document.

16.6 Variation of rights

The exercise of a right partially or on one occasion does not prevent any further exercise of that right in accordance with the terms of this document. Neither a forbearance to exercise a right nor a delay in the exercise of a right operates as an election between rights or a variation of the terms of this document.

16.7 No partnership or agency

Nothing in this document is to be treated as creating a partnership and, except as specifically provided in this document, no party may act as agent of or in any way bind another party to any obligation.

16.8 Operation of this document

- (a) This document, the Scheme, the Deed Poll and the Confidentiality Deed contain the entire agreement between the parties about its subject matter.
- (b) Any previous understanding, agreement, representation or warranty relating to that subject matter is replaced by this document, the Scheme, the Deed Poll and the Confidentiality Deed and has no further effect.
- (c) Any right that a person may have under this document is in addition to, and does not replace or limit, any other right that the person may have.
- (d) Any provision of this document which is unenforceable or partly unenforceable is, where possible, to be severed to the extent necessary to make this document enforceable, unless this would materially change the intended effect of this document.

16.9 Operation of indemnities

- (a) Each indemnity in this document survives the expiry or termination of this document.
- (b) A party may recover a payment under an indemnity in this document before it makes the payment in respect of which the indemnity is given.

16.10 Third party benefit

If a provision of this document is expressed to be for the benefit of (for example, by conferring an indemnity or an exclusion of liability upon) a person such as an officer, employee, agent or adviser of Target or Bidder that is not a party to this document (**third party**, for the purposes of this clause 16.10), the third party:

- (a) (**benefit, enforcement**) is entitled to the benefit of the provision and may enforce it but only in accordance with this clause;
- (b) (**variation, cancellation**) accepts that Target and Bidder may vary or cancel the provision as they see fit without the consent of and without having regard to the interests of or being responsible for any detriment to the third party;

- (c) **(indemnity acceptance)** may accept the benefit of an indemnity only when the third party has suffered a Loss or received a Claim to which the indemnity would apply;
- (d) **(time limit)** must accept the benefit of an indemnity and issue and serve any legal proceedings to enforce it within two years after suffering the Loss or receiving the Claim;
- (e) **(exclusion acceptance)** may accept the benefit of an exclusion from or limitation of liability only when the third party has received a Claim or a threat of a Claim to which the exclusion would apply; and
- (f) **(time limit)** must accept the benefit of an exclusion from or limitation of liability and issue and serve any legal proceedings to enforce it within two years after receiving the Claim or threat of a Claim.

16.11 **Consents**

Where this document contemplates that a party may agree or consent to something (however it is described), unless this document expressly contemplates otherwise, the party may:

- (a) agree or consent, or not agree or consent, in its sole and absolute discretion; and
- (b) agree or consent subject to conditions.

16.12 **No merger**

No provisions of this document merge on implementation of the Scheme.

16.13 **Inconsistency with other documents**

If this document is inconsistent with any other document or agreement between the parties, this document prevails to the extent of the inconsistency.

16.14 **Counterparts**

This document may be executed in counterparts.

SCHEDULE 1

Indicative Timetable

Step	Date	Action
1.	Q2 CY 2022	Sign this document and announce transaction
2.	Q2 CY 2022	Lodge draft Scheme Booklet with ASIC for review and comment
3.	Q3 CY 2022	First Court Date
4.	Q3 CY 2022	Scheme Booklet registered by ASIC and lodged with ASX
5.	Q3 CY 2022	Dispatch Scheme Booklet
6.	Q3 CY 2022	Hold Scheme Meeting and EGM and announce results to ASX
7.	Q3/Q4 CY 2022	Second Court Date and announce to ASX
8.	Q3/Q4 CY 2022	Effective Date Lodge Scheme Order with ASIC and announce to ASX Target securities cease trading at close of trading on ASX
9.	Q3/Q4 CY 2022	Record Date for entitlements to Scheme Consideration
10.	Q3/Q4 CY 2022	Implementation Date Scheme Consideration paid by Target to Scheme Shareholders Scheme Shares transferred to Bidder
11.	Q3/Q4 CY 2022	Trading Day immediately following the Implementation Date Target removed from the official list of ASX, and quotation of Target Shares on the ASX terminated, with effect on and from the close of trading on the Trading Day immediately following the Implementation Date.

SCHEDULE 2

Capital

Part A - Target's Capital

1. **TARGET SHARES**

Target has 258,827,306 fully paid ordinary shares on issue.

2. **TARGET OPTIONS⁽¹⁾**

Target has on issue the following options to subscribe for fully paid shares:

Option Class	Date Granted	Expiry Date	Exercise Price	Balance
1.	29/6/2021	20/10/2027	\$0.20	1,100,000
		29/6/2028		2,470,000
		29/6/2031		175,000
2.	29/6/2021	29/6/2026	\$1.00	5,895,000
		20/10/2027		350,000
		29/6/2031		1,290,000
3.	29/6/2021	20/10/2028	\$1.50	400,000
		20/10/2029		50,000
4.	23/12/2021	31/7/2029	\$0.64	1,195,696
Total				12,925,696

3. **TERMS OF CANCELLATION OF TARGET OPTIONS**

Target Options are to be cancelled on the Effective Date and on cancellation the Target will pay each Target Option holder an amount equal to the Scheme Consideration less the exercise price for each Target Option then held that has an exercise price lower than the Scheme Consideration. Otherwise, the Target Options will be cancelled for nil consideration on the Effective Date.

SCHEDULE 3

Scheme of Arrangement



Scheme of arrangement

MyDeal.com.au Limited

ACN 640 108 130

and

Scheme Shareholders

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BETWEEN:

- (1) **MyDeal.com.au Limited** ACN 640 108 130 of Level 1, 446 Collins Street, Melbourne VIC 3000 (**Target**); and
- (2) **Scheme Shareholders**, each person who is registered as the holder of Target Shares recorded in the Target Register as at the Scheme Record Date (**Scheme Shareholders**).

THE PARTIES AGREE AS FOLLOWS:

1. **DEFINITIONS, INTERPRETATION AND SCHEME COMPONENTS**

1.1 **Definitions**

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

ADI means authorised deposit-taking institution (as defined in the *Banking Act 1959* (Cth)).

ASIC means the Australian Securities and Investments Commission.

ASX means ASX Limited ABN 98 008 624 691 and, where the context requires, the financial market that it operates.

Bidder means Woolworths Group Limited ACN 000 014 675 of 1 Woolworths Way, Bella Vista NSW 2153.

Bidder Group means Bidder and its subsidiaries.

[Bidder Nominee] means a wholly-owned subsidiary of the Bidder as nominated in writing by the Bidder.]

Business Day means a business day as defined in the Listing Rules and which is not a Saturday, Sunday or a public holiday or bank holiday in Sydney, Australia.

CHESS means the Clearing House Electronic Subregister System operated by ASX Settlement Pty Ltd and ASX Clear Pty Limited.

Corporations Act means the *Corporations Act 2001* (Cth).

Court means the Supreme Court of New South Wales or such other court of competent jurisdiction under the Corporations Act agreed to in writing by Target and Bidder.

Deed Poll means the deed poll under which Bidder [and Bidder Nominee each] covenants in favour of the Scheme Shareholders to perform the obligations attributed to Bidder [and Bidder Nominee] under this Scheme.

Effective means when used in relation to this Scheme, the coming into effect, under subsection 411(10) of the Corporations Act, of the Court Order made under paragraph 411(4)(b) of the Corporations Act in relation to this Scheme.

Effective Date means the date on which this Scheme becomes Effective.

End Date has the meaning given to it in the Scheme Implementation Agreement, including any variation as permitted under that document.

Excluded Shares mean:

- (a) 48,997,216 Target Shares held by one or more entities controlled by Sean Senvirtne;

- (b) 1,316,942 Target Shares held by one or more entities controlled by Kate Dockery;
- (c) 1,043,377 Target Shares held by one or more entities controlled by Dean Ramler; or
- (d) any Target Shares held by a member of the Bidder Group or any person who holds any Target Shares on behalf of, or for the benefit of, any member of the Bidder Group and does not hold Target Shares on behalf of, or for the benefit of, any other person,

which will not be transferred to Bidder [(or if applicable Bidder Nominee)] under the Scheme.

Government Agency means any foreign or Australian government or governmental, semi-governmental, administrative, fiscal or judicial body, department, commission, authority, tribunal, agency or entity (including any stock or other securities exchange), or any minister of the Crown in right of the Commonwealth of Australia or any state, or any other federal, state, provincial, local or other government, whether foreign or Australian.

Implementation Date means the fifth Business Day after the Scheme Record Date, or such other date after the Scheme Record Date as agreed in writing by Target and Bidder.

Listing Rules means the official listing rules of ASX.

Operating Rules means the official operating rules of ASX.

Registered Address means in relation to a Target Shareholder, the address shown in the Target Register as at the Scheme Record Date.

Scheme means this scheme of arrangement under Part 5.1 of the Corporations Act between Target and the Scheme Shareholders subject to any alterations or conditions made or required by the Court under subsection 411(6) of the Corporations Act and agreed to in writing by Target and Bidder.

Scheme Consideration means A\$1.05 cash for each Scheme Share.

Scheme Implementation Agreement means the scheme implementation agreement dated [insert] 2022 between Target and Bidder relating to the implementation of this Scheme.

Scheme Meeting means the meeting of the Target Shareholders ordered by the Court to be convened under subsection 411(1) of the Corporations Act to consider and vote on this Scheme and includes any meeting convened following any adjournment or postponement of that meeting.

Scheme Record Date means 7.00 pm on the second Business Day after the Effective Date or such other time and date after the Effective Date as may be agreed to in writing by Target and Bidder.

Scheme Share means a Target Share on issue as at the Scheme Record Date, other than an Excluded Share.

Scheme Shareholder means a person who holds one or more Scheme Shares as at the Scheme Record Date.

Scheme Transfer means a duly completed and executed proper instrument of transfer in respect of the Scheme Shares for the purposes of section 1071B of the Corporations Act, in favour of Bidder as transferee, which may be a master transfer of all or part of the Scheme Shares.

Second Court Date means the first day on which an application made to the Court for an order under paragraph 411(4)(b) of the Corporations Act approving this Scheme is heard or, if the application is adjourned or subject to appeal for any reason, the day on which the adjourned application or appeal is heard.

Target means MyDeal.com.au Limited ACN 640 108 130.

Target Register means the register of members of the Target maintained in accordance with the Corporations Act.

Target Registry means Boardroom Pty Limited ACN 003 209 836.

Target Share means a fully paid ordinary share in the capital of the Target.

Target Shareholder means each person who is registered as the holder of a Target Share in the Target Register.

1.2 Interpretation

In this Scheme:

- (a) headings and bold type are for convenience only and do not affect the interpretation of this Scheme;
- (b) the singular includes the plural and the plural includes the singular;
- (c) words of any gender include all genders;
- (d) other parts of speech and grammatical forms of a word or phrase defined in this Scheme have a corresponding meaning;
- (e) a reference to a person includes any company, partnership, joint venture, association, corporation or other body corporate and any Government Agency as well as an individual;
- (f) a reference to a clause, party, schedule, attachment or exhibit is a reference to a clause of, and a party, schedule, attachment or exhibit to, this Scheme;
- (g) a reference to any legislation includes all delegated legislation made under it and amendments, consolidations, replacements or reenactments of any of them (whether passed by the same or another Government Agency with legal power to do so);
- (h) a reference to a document (including this Scheme) includes all amendments or supplements to, or replacements or novations of, that document;
- (i) a reference to **\$**, **A\$** or **dollar** is to Australian currency;
- (j) a reference to any time is, unless otherwise indicated, a reference to that time in Sydney;
- (k) a term defined in or for the purposes of the Corporations Act, and which is not defined in clause 1, has the same meaning when used in this Scheme;
- (l) a reference to a party to a document includes that party's successors and permitted assignees;
- (m) no provision of this Scheme will be construed adversely to a party because that party was responsible for the preparation of this Scheme or that provision;

- (n) any agreement, representation, warranty or indemnity in favour of two or more parties (including where two or more persons are included in the same defined term) is for the benefit of them jointly and severally;
- (o) a reference to a body, other than a party to this Scheme (including an institute, association or authority), whether statutory or not:
- (i) which ceases to exist; or
 - (ii) whose powers or functions are transferred to another body,
- is a reference to the body which replaces it or which substantially succeeds to its powers or functions;
- (p) if a period of time is specified and dates from a given day or the day of an act or event, it is to be calculated exclusive of that day;
- (q) a reference to a day is to be interpreted as the period of time commencing at midnight and ending 24 hours later;
- (r) if an act prescribed under this Scheme to be done by a party on or by a given day is done after 5.00 pm on that day, it is taken to be done on the next day; and
- (s) a reference to the Listing Rules and the Operating Rules includes any variation, consolidation or replacement of these rules and is to be taken to be subject to any waiver or exemption granted to the compliance of those rules by a party.

1.3 **Interpretation of inclusive expressions**

Specifying anything in this Scheme after the words include or for example or similar expressions does not limit what else is included.

1.4 **Business Day**

Where the day on or by which any thing is to be done is not a Business Day, that thing must be done on or by the next Business Day.

1.5 **Scheme components**

This Scheme includes any schedule to it.

2. **PRELIMINARY MATTERS**

- (a) Target is a public company limited by shares registered in Victoria, Australia, and has been admitted to the official list of the ASX. Target Shares are quoted for trading on the ASX.
- (b) As at the date of the Scheme Implementation Agreement, there were on issue:
- (i) 258,827,306 Target Shares, which are quoted for trading on the ASX; and
 - (ii) 12,925,696 options to subscribe for Target Shares, which are not quoted for trading on any stock exchange.
- (c) Bidder is a public company limited by shares registered in New South Wales, Australia, and has been admitted to the official list of the ASX. Bidder shares are quoted for trading on the ASX.

- (d) [Bidder Nominee is a wholly-owned subsidiary of Bidder and is a company limited by shares incorporated in Australia.]
- (e) If this Scheme becomes Effective:
 - (i) Bidder must provide or procure the provision of the Scheme Consideration to the Scheme Shareholders in accordance with their respective obligations under the terms of this Scheme and the Deed Poll;
 - (ii) all the Scheme Shares, and all the rights and entitlements attaching to them as at the Implementation Date, must be transferred to [Bidder]; and
 - (iii) Target will enter the name of Bidder in the Target Register in respect of the Scheme Shares.
- (f) Target and Bidder have agreed, by executing the Scheme Implementation Agreement, to implement this Scheme.
- (g) This Scheme attributes certain actions to Bidder but does not itself impose an obligation on Bidder to perform those actions. [Bidder] has agreed, by executing the Deed Poll, to perform the actions attributed to it under this Scheme, including the provision or procuring the provision of the Scheme Consideration to the Scheme Shareholders.

3. **CONDITIONS**

3.1 **Conditions precedent**

This Scheme is conditional on and will have no force or effect until, the satisfaction of each of the following conditions precedent:

- (a) all the conditions in clause 3.2 of the Scheme Implementation Agreement (other than the condition in the Scheme Implementation Agreement relating to Court approval of this Scheme) having been satisfied or waived in accordance with the terms of the Scheme Implementation Agreement by 8.00 am on the Second Court Date;
- (b) neither the Scheme Implementation Agreement nor the Deed Poll having been terminated in accordance with their terms before 8.00 am on the Second Court Date;
- (c) approval of this Scheme by the Court under paragraph 411(4)(b) of the Corporations Act, including with any alterations made or required by the Court under subsection 411(6) of the Corporations Act and agreed to by Target and Bidder;
- (d) such other conditions made or required by the Court under subsection 411(6) of the Corporations Act in relation to this Scheme and agreed to by Target and Bidder having been satisfied or waived; and
- (e) the orders of the Court made under paragraph 411(4)(b) (and, if applicable, subsection 411(6)) of the Corporations Act approving this Scheme coming into effect, pursuant to subsection 411(10) of the Corporations Act on or before the End Date (or any later date Target and Bidder agree in writing).

3.2 **Certificate**

- (a) Target and Bidder will each provide to the Court on the Second Court Date a certificate, or such other evidence as the Court requests, confirming (in respect of matters within their knowledge) whether or not all of the conditions precedent in clauses 3.1(a) and 3.1(b) have been satisfied or waived as at 8.00 am on the Second Court Date.

- (b) The certificate referred to in clause 3.2(a) constitutes conclusive evidence that such conditions precedent were satisfied, waived or taken to be waived as at 8.00 am on the Second Court Date.

3.3 **End Date**

This Scheme will lapse and be of no further force or effect if:

- (a) the Effective Date does not occur on or before the End Date; or
- (b) the Scheme Implementation Agreement or the Deed Poll is terminated in accordance with its terms,

unless Target and Bidder otherwise agree in writing.

4. **LODGEMENT OF COURT ORDERS WITH ASIC**

Target must lodge with ASIC, in accordance with subsection 411(10) of the Corporations Act an office copy of the Court order approving this Scheme (the **Court Orders**), as soon as possible after the Court approves this Scheme and in any event by 5.00 pm on the first Business Day after the day on which the Court approves this Scheme (or such later time or date as agreed in writing by Bidder).

5. **TRANSFER OF SCHEME SHARES**

On the Implementation Date:

- (a) subject to the provision of the Scheme Consideration in the manner contemplated by clause 6.1 and Bidder having provided Target with written confirmation of the provision of the Scheme Consideration, the Scheme Shares, together with all rights and entitlements attaching to the Scheme Shares as at the Implementation Date, must be transferred to **[Bidder]**, without the need for any further act by any Scheme Shareholder (other than acts performed by Target as attorney and agent for Scheme Shareholders under clause 9.5), by:
- (i) Target delivering to **[Bidder]** a duly completed Scheme Transfer, executed on behalf of the Scheme Shareholders by Target; and
- (ii) **[Bidder]** duly executing the Scheme Transfer, attending to the stamping of the Scheme Transfer (if required) and delivering it to Target for registration; and
- (b) immediately following receipt of the Scheme Transfer in accordance with clause 5(a)(ii), but subject to the stamping of the Scheme Transfer (if required), Target must enter the name of **[Bidder]** in the Target Register as the registered holder of all the Scheme Shares.

6. **SCHEME CONSIDERATION**

6.1 **Provision of Scheme Consideration**

- (a) Bidder must, by no later than the Business Day before the Implementation Date, deposit, or procure the deposit, in cleared funds an amount equal to the aggregate Scheme Consideration payable to all Scheme Shareholders into an Australian dollar denominated trust account with an ADI operated by Target as trustee for the Scheme Shareholders and notified to **[Bidder]** at least five Business Days prior to the Implementation Date. Any interest on the amounts deposited (less bank fees and other charges) will be credited to **[Bidder]**'s account).

- (b) On the Implementation Date, subject to funds having been deposited in accordance with clause 6.1(a), Target must pay the Scheme Consideration from the trust account referred to in clause 6.1(a) to each Scheme Shareholder in respect of all that Scheme Shareholder's Scheme Shares in accordance with clause 6.1.
- (c) The obligations of Target under clause 6.1(b) will be satisfied by Target (in its absolute discretion, and despite any election referred to in clause 6.1(c)(i) or authority referred to in clause 6.1(c)(ii) made or given by the Scheme Shareholder):
- (i) if a Scheme Shareholder has, before the Scheme Record Date, made a valid election in accordance with the requirements of the Target Registry to receive dividend payments from Target by electronic funds transfer to a bank account nominated by the Scheme Shareholder, paying, or procuring the payment of, the relevant amount in Australian currency by electronic means in accordance with that election;
 - (ii) paying, or procuring the payment of, the relevant amount in Australian currency by electronic means to a bank account nominated by the Scheme Shareholder by an appropriate authority from the Scheme Shareholder to Target; or
 - (iii) dispatching, or procuring the dispatch of, a cheque for the relevant amount in Australian currency to the Scheme Shareholder by prepaid post to their Registered Address, such cheque being drawn in the name of the Scheme Shareholder (or in the case of joint holders, in accordance with the procedures set out in clause 6.2).
- (d) To the extent that, following satisfaction of Target's obligations under clause 6.1(b), there is a surplus in the amount held by Target as trustee for the Scheme Shareholder in the trust account referred to in that clause, that surplus must be paid by Target to Bidder.

6.2 Joint holders

In the case of Scheme Shares held in joint names:

- (a) any cheque required to be sent under this Scheme will be made payable to the joint holders and sent to either, at the sole discretion of Target, the holder whose name appears first in the Target Register as at the Scheme Record Date or to the joint holders; and
- (b) any other document required to be sent under this Scheme, will be forwarded to either, at the sole discretion of Target, the holder whose name appears first in the Target Register as at the Scheme Record Date or to the joint holders.

6.3 Fractional entitlements and splitting

- (a) Where the calculation of the amount of Scheme Consideration to be paid, to a particular Scheme Shareholder would result in the Scheme Shareholder becoming entitled to a fraction of a cent, then the fractional entitlement will be rounded down to the nearest cent.
- (b) If Bidder is of the opinion, formed reasonably, that several Scheme Shareholders, each of which holds a holding of Target Shares which results in a fractional entitlement to the Scheme Consideration have, before the Scheme Record Date, been party to a shareholding splitting or division in an attempt to obtain an unfair advantage by reference to the rounding provided for in the calculation of each Scheme Shareholder's entitlement to the Scheme Consideration, Bidder may direct Target to give notice to those Scheme Shareholders:

- (i) setting out the names and Registered Addresses of all of them;
- (ii) stating that opinion; and
- (iii) attributing to one of them specifically identified in the notice the Target Shares held by all of them,

and, after the notice has been so given, the Scheme Shareholder specifically identified in the notice shall, for the purposes of this Scheme, be taken to hold all those Target Shares and each of the other Scheme Shareholders whose names are set out in the notice shall, for the purposes of this Scheme, be taken to hold no Target Shares.

6.4 Unclaimed monies

- (a) Target may cancel a cheque issued under this clause 6 if the cheque:
- (i) is returned to Target; or
- (ii) has not been presented for payment within six months after the Implementation Date.
- (b) During the period of 12 months commencing on the Implementation Date, on request in writing from a Scheme Shareholder to Target (or the Target Registry) (which request may not be made until the date which is 20 Business Days after the Implementation Date), Target must reissue a cheque that was previously cancelled under this clause 6.4.
- (c) The *Unclaimed Money Act 1995* (NSW) will apply in relation to any Scheme Consideration which becomes unclaimed money (as defined in sections 7 and 8 of the *Unclaimed Money Act 1995* (NSW)).

6.5 Orders of a court or Government Agency

If written notice is given to Target (or the Target Registry) of an order or direction made by a court of competent jurisdiction or by another Government Agency that:

- (a) requires payment of a sum to a third party in respect of Scheme Shares held by a particular Scheme Shareholder, which would otherwise be payable to that Scheme Shareholder by Target in accordance with this clause 6, then Target shall be entitled to procure that payment is made in accordance with that order or direction; or
- (b) prevents Target from dispatching payment to any particular Scheme Shareholder in accordance with this clause 6, or such payment is otherwise prohibited by applicable law, Target shall be entitled to retain an amount, in Australian dollars, equal to the number of Scheme Shares held by that Scheme Shareholder multiplied by the Scheme Consideration until such time as payment in accordance with this clause 6 is permitted by that (or another) order or direction or otherwise by law,

and the payment or retention by Target in accordance with this clause 6.5 will constitute full discharge of Bidder's obligations under clause 6.1 with respect to such payment or retention until, in the case of clause 6.5(b), it is no longer required to be retained.

7. DEALINGS IN TARGET SHARES

7.1 Determination of Scheme Shareholders

To establish the identity of the Scheme Shareholders, dealings in Target Shares or other alterations to the Target Register will only be recognised if:

- (a) in the case of dealings of the type to be effected using CHESS, the transferee is registered in the Target Register as the holder of the relevant Target Shares on or before the Scheme Record Date; and
- (b) in all other cases, registrable transfer or transmission applications in respect of those dealings, or valid requests in respect of other alterations, are received on or before the Scheme Record Date at the place where the Target Register is kept,

and Target must not accept for registration, nor recognise for any purpose (except a transfer to Bidder pursuant to this Scheme and any subsequent transfer by Bidder or their respective successors in title), any transfer or transmission application or other request received after such times, or received prior to such times but not in registrable or actionable form, as appropriate.

7.2 Register

- (a) Target must register, or cause to be registered registrable transmission applications or transfers of Target Shares that are received in accordance with clause 7.1(b) before the Scheme Record Date provided that, for the avoidance of doubt, nothing in this clause 7.2(a) requires Target to register a transfer that would result in a Scheme Shareholder holding a parcel of Scheme Shares that is less than a marketable parcel (as defined in the Operating Rules).
- (b) If this Scheme becomes Effective, a Scheme Shareholder (and any person claiming through that holder) must not dispose of, or purport or agree to dispose of, any Scheme Shares or any interest in them on or after the Scheme Record Date otherwise than pursuant to this Scheme, and any attempt to do so will have no effect and Target shall be entitled to disregard any such disposal.
- (c) For the purpose of determining entitlements to the Scheme Consideration, Target must maintain, or cause to be maintained, the Target Register in accordance with the provisions of this clause 7.2 until the Scheme Consideration has been paid to the Scheme Shareholders and Bidder has been entered in the Target Register as holder of all the Scheme Shares. The Target Register in this form will solely determine entitlements to the Scheme Consideration.
- (d) All statements of holding for the Target Shares (other than statements of holding in favour of Bidder or in respect of any Excluded Shares) will cease to have effect after the Scheme Record Date as documents of title in respect of those securities and, as from that date, each entry current at that date on the Target Register (other than entries on the Target Register in respect of Bidder or in respect of any Excluded Shares) will cease to have effect except as evidence of entitlement to the Scheme Consideration in respect of the Scheme Shares relating to that entry.
- (e) As soon as possible on or after the Scheme Record Date, and in any event by 5.00 p.m. on the second Business Day after the Scheme Record Date, Target will ensure that details of the names, Registered Addresses and holdings of Target Shares for each Scheme Shareholder as shown in the Target Register at the Scheme Record Date are available to Bidder in the form that Bidder reasonably requires.

8. QUOTATION OF TARGET SHARES

- (a) Target must apply to ASX to suspend trading of the Target Shares on the ASX with effect from the close of trading on the Effective Date.
- (b) On a date after the Implementation Date to be determined by Bidder, Target must apply:
 - (i) for termination of the official quotation of the Target Shares on the ASX; and

- (ii) to have itself removed from the official list of the ASX.

9. GENERAL SCHEME PROVISIONS

9.1 Consent to amendments to this Scheme

If the Court proposes to approve this Scheme subject to any alterations or conditions:

- (a) Target may by its counsel consent on behalf of all persons concerned to those alterations or conditions to which Bidder has consented; and
- (b) each Scheme Shareholder agrees to any such alterations or conditions which Target has consented to.

9.2 Scheme Shareholders' agreements and warranties

- (a) Each Scheme Shareholder irrevocably:
 - (i) agrees to the transfer of their Scheme Shares together with all rights and entitlements attaching to those Scheme Shares to Bidder in accordance with this Scheme;
 - (ii) agrees to the variation, cancellation or modification of the rights attached to their Scheme Shares constituted by or resulting from this Scheme;
 - (iii) acknowledges and agrees that this Scheme binds Target and all Scheme Shareholders (including those who do not attend the Scheme Meeting and those who do not vote, or vote against this Scheme, at the Scheme Meeting).
- (b) Each Scheme Shareholder is taken to have warranted to Target, Bidder on the Implementation Date, and appointed and authorised Target as its attorney and agent to warrant to Bidder on the Implementation Date, that:
 - (i) all of their Scheme Shares (including any rights and entitlements attaching to those shares) which are transferred under this Scheme will, at the date of transfer, be fully paid and free from all mortgages, charges, liens, encumbrances, pledges, security interests (including any security interests within the meaning of section 12 of the *Personal Property Securities Act 2009* (Cth)) and interests of third parties of any kind, whether legal or otherwise, and restrictions on transfer of any kind; and
 - (ii) they have full power and capacity to transfer their Scheme Shares to Bidder together with any rights and entitlements attaching to those shares; and
 - (iii) they have no existing right to be issued any Target Shares, options exercisable into Target Shares, performance rights, convertible notes or any other Target securities.
- (c) Target undertakes in favour of each Scheme Shareholder that it will provide the warranties in clause 9.2(b) to Bidder as agent and attorney of each Scheme Shareholder.

9.3 Title to and rights in Scheme Shares

- (a) To the extent permitted by law, the Scheme Shares (including all rights and entitlements attaching to the Scheme Shares) transferred under this Scheme to Bidder will, at the time of transfer of them to Bidder vest in Bidder free from all mortgages, charges, liens, encumbrances, pledges, security interests (including any security interests within the meaning of section 12 of the *Personal Property Securities*

Act 2009 (Cth)) and interests of third parties of any kind, whether legal or otherwise and free from any restrictions on transfer of any kind.

- (b) Immediately upon the provision of the Scheme Consideration to each Scheme Shareholder in the manner contemplated by clause 6.1, Bidder will be beneficially entitled to the Scheme Shares to be transferred to it under this Scheme pending registration by Target of Bidder in the Target Register as the holder of the Scheme Shares.

9.4 **Appointment of sole proxy**

Immediately upon the provision of the Scheme Consideration to each Scheme Shareholder in the manner contemplated by clause 6.1, and until Target registers Bidder as the holder of all Scheme Shares in the Target Register, each Scheme Shareholder:

- (a) is deemed to have appointed Bidder as attorney and agent (and directed Bidder in each such capacity) to appoint any director, officer, secretary or agent nominated by Bidder as its sole proxy and, where applicable or appropriate, corporate representative to attend securityholders' meetings, exercise the votes attaching to the Scheme Shares registered in their name and sign any securityholders' resolution or document;
- (b) must not attend or vote at any of those meetings or sign any resolutions, whether in person, by proxy or by corporate representative (other than pursuant to clause 9.4(a));
- (c) must take all other actions in the capacity of a registered holder of Scheme Shares as Bidder reasonably directs; and
- (d) acknowledges and agrees that in exercising the powers referred to in clause 9.4(a), Bidder and any director, officer, secretary or agent nominated by Bidder under clause 9.4(a) may act in the best interests of Bidder as the intended registered holder of the Scheme Shares.

9.5 **Authority given to Target**

Each Scheme Shareholder, without the need for any further act:

- (a) on the Effective Date, irrevocably appoints Target and each of its directors, officers and secretaries (jointly and each of them severally) as its attorney and agent for the purpose of enforcing the Deed Poll against Bidder [and Bidder Nominee], and Target undertakes in favour of each Scheme Shareholder that it will enforce the Deed Poll against Bidder [and Bidder Nominee] on behalf of and as agent and attorney for each Scheme Shareholder; and
- (b) on the Implementation Date, irrevocably appoints Target and each of its directors, officers and secretaries (jointly and each of them severally) as its attorney and agent for the purpose of executing any document or doing or taking any other act necessary, desirable or expedient to give effect to this Scheme and the transactions contemplated by it, including (without limitation) executing the Scheme Transfer and delivering share certificates for Scheme Shares,

and Target accepts each such appointment. Target as attorney and agent of each Scheme Shareholder, may sub-delegate its functions, authorities or powers under this clause 9.5 to all or any of its directors, officers, secretaries or employees (jointly, severally or jointly and severally).

9.6 **Binding effect of Scheme**

This Scheme binds Target and all of the Scheme Shareholders (including those who did not attend the Scheme Meeting to vote on this Scheme, did not vote at the Scheme Meeting, or voted against this Scheme at the Scheme Meeting) and, to the extent of any inconsistency, overrides the constitution of Target.

10. **GENERAL**

10.1 **Stamp duty**

Bidder will:

- (a) pay all stamp duty and any related fines and penalties in respect of this Scheme and the Deed Poll, the performance of the Deed Poll and each transaction effected by or made under or in connection with the Scheme and the Deed Poll; and
- (b) indemnify each Scheme Shareholder against any liability arising from failure to comply with clause 10.1(a).

10.2 **Consent**

Each of the Scheme Shareholders consents to Target doing all things necessary or incidental to, or to give effect to, the implementation of this Scheme, whether on behalf of the Scheme Shareholders, Target or otherwise.

10.3 **Notices**

- (a) If a notice, transfer, transmission application, direction or other communication referred to in this Scheme is sent by post to Target, it will not be taken to be received in the ordinary course of post or on a date and time other than the date and time (if any) on which it is actually received at Target's registered office or at the office of the Target Registry.
- (b) The accidental omission to give notice of the Scheme Meeting or the non-receipt of such notice by an Scheme Shareholder will not, unless so ordered by the Court, invalidate the Scheme Meeting or the proceedings of the Scheme Meeting.

10.4 **Further action**

Target must do all things and execute all documents necessary to give full effect to this Scheme and the transactions contemplated by it.

10.5 **No liability when acting in good faith**

Each Scheme Shareholder agrees that none of Target, Bidder, or any of their respective directors, officers, secretaries or employees shall be liable for anything done or omitted to be done in the performance of this Scheme or the Deed Poll in good faith.

10.6 **Governing law**

- (a) This Scheme is governed by the laws in force in New South Wales, Australia.
- (b) The parties irrevocably submit to the exclusive jurisdiction of courts exercising jurisdiction in New South Wales, Australia and courts of appeal from them in respect of any proceedings arising out of or in connection with this Scheme. The parties irrevocably waive any objection to the venue of any legal process in these courts on the basis that the process has been brought in an inconvenient forum.

SCHEDULE 1

Deed Poll

Attached.

SCHEDULE 4

Deed Poll



Deed Poll

Woolworths Group Limited

ACN 000 014 675

[Woolworths Nominee]

ACN [insert]

in favour of

Scheme Shareholders

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THIS DEED POLL is made on

2022

BY:

- (1) **Woolworths Group Limited** ACN 000 014 675 of 1 Woolworths Way, Bella Vista NSW 2153 (**Bidder**); and
- (2) [**Woolworths Nominee**] ACN [insert] of [insert address] (**Bidder Nominee**);
- in favour of
- (3) Each person registered as a holder of fully paid ordinary shares in **Mydeal.com.au Limited** ACN 640 108 130 (**Target**) in the Target Register as at the Scheme Record Date, other than an Excluded Shareholder (**Scheme Shareholder**).

RECITALS:

- (A) The directors of Target have resolved that Target should propose the Scheme.
- (B) The effect of the Scheme will be that all Scheme Shares will be transferred to Bidder.
- (C) Target and Bidder have entered into the Scheme Implementation Agreement.
- (D) In the Scheme Implementation Agreement, Bidder agreed (amongst other things) to:
- (1) provide, or procure the provision of the Scheme Consideration to Target on behalf of the Scheme Shareholders, subject to the satisfaction of certain conditions; and
 - (2) procure that Bidder Nominee complies with all of the relevant obligations of Bidder under the Scheme Implementation Agreement and the Scheme.
- (E) Bidder [and Bidder Nominee] [is / are] entering into this deed poll for the purpose of covenanting in favour of Scheme Shareholders to perform their obligations under the Scheme Implementation Agreement and the Scheme.

THE PARTIES AGREE AS FOLLOWS:

1. DEFINITIONS AND INTERPRETATION

1.1 Definitions

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

First Court Date means the first day on which an application made to the Court for an order under section 411(1) of the Corporations Act convening of the Scheme Meeting is heard or, if the application is adjourned or subject to appeal for any reason, the day on which the adjourned application is heard.

Scheme Implementation Agreement means the scheme implementation agreement dated [insert date] between Target and Bidder under which, amongst other things, Target has agreed to propose the Scheme to Target Shareholders, and each of Bidder and Target has agreed to take certain steps to give effect to the Scheme.

Scheme means the proposed scheme of arrangement under Part 5.1 of the Corporations Act between Target and Scheme Shareholders, the form of which is set out in Schedule 3 to the Scheme Implementation Agreement, subject to any alterations or conditions made or required by the Court under section 411(6) of the Corporations Act and agreed to in writing by Target and Bidder.

Unless the context otherwise requires, terms defined in the Scheme have the same meaning when used in this deed poll..

1.2 **General interpretation**

Clauses 1.2, 1.3, 1.4 and 1.5 of the Scheme apply to the interpretation of this deed poll, except that references to 'this Scheme' are to be read as references to 'this deed poll'.

1.3 **Nature of deed poll**

Each of Bidder and Bidder Nominee acknowledges that:

- (a) this deed poll may be relied on and enforced by any Scheme Shareholder in accordance with its terms even though the Scheme Shareholders are not a party to it; and
- (b) under the Scheme, each Scheme Shareholder irrevocably appoints Target and each of its directors, officers and secretaries (jointly and each of them severally) as its attorney and agent to enforce this deed poll against Bidder and Bidder Nominee.

2. **CONDITIONS PRECEDENT AND TERMINATION**

2.1 **Conditions precedent**

This deed poll and the obligations of Bidder [and Bidder Nominee] under this deed poll are subject to the Scheme becoming Effective.

2.2 **Termination**

The obligations of Bidder [and Bidder Nominee] under this deed poll to the Scheme Shareholders will automatically terminate and the terms of this deed poll will be of no further force or effect if:

- (a) the Scheme has not become Effective on or before the End Date; or
- (b) the Scheme Implementation Agreement is terminated in accordance with its terms, unless Bidder [, Bidder Nominee] and Target otherwise agree in writing.

2.3 **Consequences of termination**

If this deed poll is terminated under clause 2.2, then, in addition and without prejudice to any other rights, powers or remedies available to Scheme Shareholders:

- (a) Bidder [and Bidder Nominee] [is / are] released from [its / their] obligations to further perform this deed poll except those obligations contained in clause 7.1 and any other obligations which by their nature survive termination; and
- (b) each Scheme Shareholder retains the rights, powers or remedies they have against Bidder [and Bidder Nominee] in respect of any breach of this deed poll which occurs before it is terminated.

3. **SCHEME CONSIDERATION**

3.1 **Compliance with Scheme obligations generally**

Subject to clause 2, Bidder [and Bidder Nominee] undertakes in favour of each Scheme Shareholder to observe and perform the steps attributed to it under, and otherwise to comply with, the Scheme, subject to and in accordance with the terms of the Scheme.

3.2 **Provision of Scheme Consideration**

Subject to clause 2 and subject to and in accordance with the terms of the Scheme, [Bidder] undertakes to, by no later than the Business Day before the Implementation Date, deposit in cleared funds an amount equal to the aggregate Scheme Consideration payable to all Scheme Shareholders under the Scheme into an Australian dollar denominated trust account with an ADI operated by Target as trustee for the Scheme Shareholders, except that any interest on the amounts deposited (less bank fees and other charges) will be credited to Bidder's [or Bidder Nominee's] account.

4. **REPRESENTATIONS AND WARRANTIES**

Bidder [and Bidder Nominee] represents and warrants in favour of each Scheme Shareholder, in respect of itself, that:

- (a) **(status)** it is a validly existing corporation registered under the laws of its place of incorporation;
- (b) **(power)** it has full legal capacity and power to execute, deliver and enter into and perform its obligations under this deed poll and to carry out the transactions contemplated by this deed poll;
- (c) **(corporate authority)** it has taken all necessary corporate action to authorise its entry into this deed poll and has taken or will take all necessary corporate action to authorise the performance of this deed poll and to carry out the transactions contemplated by this deed poll;
- (d) **(validity of obligations)** its obligations under this deed poll are valid and binding and are enforceable against it in accordance with its terms; and
- (e) **(no contravention)** this deed poll does not conflict with, or result in the breach of or default under, any provision of its constitution, or any writ, order or injunction, judgment, law, rule or regulation to which it is a party or subject or by which it is bound.

5. **CONTINUING OBLIGATIONS**

This deed poll is irrevocable and, subject to clause 2, remains in full force and effect until:

- (a) Bidder [and Bidder Nominee] [has / have] fully performed their obligations under this deed poll; or
- (b) the earlier termination of this deed poll under clause 2.2.

6. **NOTICES**

6.1 **Form of notice and how notice must be given**

Any notice (including any other communication) given to Bidder [or Bidder Nominee] under or in connection with this deed poll must be:

- (a) in writing and in English;
- (b) addressed to Bidder [and Bidder Nominee] at the address or email address set out below:

Address: 1 Woolworths Way, Bella Vista NSW 2153

Email : cjmills@woolworths.com.au

Attention: Chris Mills, Head of Mergers and Acquisitions

Copy to (which shall not constitute notice):

Email: legalnotices@woolworths.com.au

Attention: Jade Droguett, Group Counsel – Ecosystem & Strategic Partnerships

and

Ashurst Australia

Address: 5 Martin Place, Sydney, NSW 2000 Australia

Email : Phil.Breden@ashurst.com

Andrew.Kim@ashurst.com

Attention: Phil Breden

Andrew Kim

- (c) signed by or on behalf of the person giving the notice. If the notice is sent by email and does not contain a signature, it is deemed to be signed by the person identified as the sender of the email;
- (d) sent to Bidder [and Bidder Nominee] by hand, prepaid post (airmail if from a place outside Australia) or email; and
- (e) if sent by email, in a form which:
 - (i) identifies the sender; and
 - (ii) clearly indicates the subject matter of the notice in the subject heading of the email.

6.2 When notice is received

Without limiting any other means by which a person may prove that a notice has been received by Bidder [or Bidder Nominee], a notice is deemed to be received:

- (a) if sent by hand, when left at the address of Bidder [and Bidder Nominee];
- (b) if sent by prepaid post, five Business Days (if posted within Australia to an address in Australia) or 10 Business Days (if posted from one country to another) after the date of posting; or
- (c) if sent by email:
 - (i) at the time the email was delivered to the recipient's email server or the recipient read the email, as stated in an automated message received by the sender; or
 - (ii) one hour after the email was sent (as recorded on the device from which it was sent), unless within 24 hours of sending the email the sender receives an automated message that it was not delivered,

whichever is earlier, but any notice or other communication that, pursuant to this clause 6.2, would be considered to have been received if a notice would otherwise be deemed to be received on a day that is not a Business Day, or after 5.00 pm

(recipient's local time) on a Business Day, the notice is deemed to be received at 9.00 am (recipient's local time) on the next Business Day.

7. GENERAL

7.1 Stamp duty and registration fees

Bidder and Bidder Nominee:

- (a) will pay all stamp duty, registration fees and similar taxes payable or assessed as being payable in connection with this deed poll or any other transaction contemplated by this deed poll (including any fees, fines, penalties and interest in connection with any of these amounts); and
- (b) indemnifies each Scheme Shareholder against any liability arising from failure to comply with clause 7.1(a).

7.2 Variation

A provision of this deed poll or any right created under it may not be varied, altered or otherwise amended unless:

- (a) if before the First Court Date, the variation is agreed to by Target in writing; and
- (b) if on or after the First Court Date, the variation is agreed to by Target in writing and the Court indicates that the variation, alteration or amendment would not of itself preclude approval of the Scheme,

in which event Bidder [and Bidder Nominee] must enter into a further deed poll in favour of the Scheme Shareholders giving effect to the variation, alteration or amendment.

7.3 Waiver

- (a) Failure to exercise or enforce, or a delay in exercising or enforcing, or the partial exercise or enforcement of, a right, power or remedy provided by law or under this deed poll by a party does not preclude, or operate as a waiver of, the exercise or enforcement, or further exercise or enforcement, of that or any other right, power or remedy provided by law or under this deed poll.
- (b) A waiver or consent given by a party under this deed poll is only effective and binding on that party if it is given or confirmed in writing by that party.
- (c) No waiver of a breach of a term of this deed poll operates as a waiver of another breach of that term or of a breach of any other term of this deed poll.

7.4 Remedies cumulative

The rights, powers and remedies of Bidder [, Bidder Nominee] and the Scheme Shareholders under this deed poll are cumulative and do not exclude any other rights, powers or remedies provided by law independently of this deed poll.

7.5 Assignment or other dealings

- (a) The rights created by this deed poll are personal to Bidder [, Bidder Nominee] and each Scheme Shareholder and must not be dealt with at law or in equity without the prior written consent of Bidder [or Bidder Nominee].
- (b) Any purported dealing in contravention of clause 7.5(a) is invalid.

7.6 **Joint and several obligations**

Bidder [and Bidder Nominee] are jointly and severally liable for each obligation imposed on both of them by the terms of this deed poll.

7.7 **Further action**

Bidder [and Bidder Nominee] must, at [its / their] own expense, do all things and execute all documents necessary to give full effect to this deed poll and the transactions contemplated by it.

7.8 **Governing law and jurisdiction**

- (a) This deed poll and any dispute arising out of or in connection with the subject matter of this deed poll is governed by the laws of the State of New South Wales, Australia.
- (b) Bidder [and Bidder Nominee]:
 - (i) submits to the non-exclusive jurisdiction of the courts of that State, and courts of appeal from them, in respect of any proceedings arising out of or in connection with the subject matter of this deed poll; and
 - (ii) waives any right it has to object to any legal process being brought in those courts including any claim that the process has been brought in an inconvenient forum or that those courts do not have jurisdiction.

EXECUTED as a deed poll.

EXECUTED by **WOOLWORTHS GROUP LIMITED** in accordance with section 127 of the *Corporations Act 2001* (Cth):

Signature of director

Name

Signature of director/secretary

Name

EXECUTED by **[WOOLWORTHS NOMINEE]** in accordance with section 127 of the *Corporations Act 2001* (Cth):

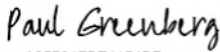
Signature of director

Name

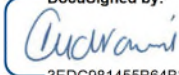
Signature of director/secretary

Name

EXECUTED by **MYDEAL.COM.AU LIMITED** in accordance with section 127(1) of the *Corporations Act 2001* (Cth):

DocuSigned by:

A35721FDE4454B7
Signature of director

Paul Greenberg
Name

DocuSigned by:

3FDC981455B64B3
Signature of director/secretary

Vanessa Chidrawi
Name

EXECUTED by **WOOLWORTHS GROUP LIMITED** in accordance with section 127(1) of the *Corporations Act 2001* (Cth):

Signature of director

Name

Signature of director/secretary

Name

EXECUTED by **MYDEAL.COM.AU LIMITED** in accordance with section 127(1) of the *Corporations Act 2001* (Cth):

Signature of director

Signature of director/secretary

Name

Name

EXECUTED by **WOOLWORTHS GROUP LIMITED** in accordance with section 127(1) of the *Corporations Act 2001* (Cth):



Signature of director



Signature of ~~director~~/secretary

Bradford Banducci

Name

Katrina Jane Eastoe

Name