

KordaMentha

Restructuring

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11 September 2017

Dear Sir/Madam

Ten Network Holdings Ltd (Administrators Appointed) (Receivers and Managers Appointed) ACN 081 327 068 ('the Company') and Associated Entities (Collectively 'the Ten Group' – refer to Appendix 1)

**Supplemental Report to Creditors
ASX Code: TEN**

We refer to the announcement made on 8 September 2017 regarding the adjournment of the Second Meetings of Creditors to 19 September 2017 by order of the New South Wales Supreme Court. A copy of the Court order is attached to this announcement.

In response to the NSW Supreme Court proceedings brought by Birketu Pty Ltd, WIN Corporation Pty Ltd and Mr Andrew Lancaster (CEO of WIN Corporation Pty Ltd and Director of Ten Network Holdings Limited) seeking a delay to the Second Meetings of Creditors of the Ten Group and the specific requests for further information received from these parties and Twentieth Century Fox Film Corporation (Australia) Pty Limited, we have prepared a Supplemental Report to Creditors pursuant to Section 439A of the Corporations Act 2001 which is also attached to this announcement.

The decision by the Administrators to release a supplemental report was in the interest of efficiency and equal disclosure to all creditors, rather than on an individual creditor or selective basis.

The Administrators maintain that their Report to Creditors released on 4 September 2017 was compliant and provided the necessary and material information required by creditors to make an informed decision on the future of the Ten Group.

Subject to the outcome of the proceedings referred to above, the Second Meetings of Creditors of the Ten Group will now be held at the Sydney Harbour Marriott, 30 Pitt Street, Sydney NSW at 11:00am on Tuesday, 19 September 2017. Registration for creditors opens at 10:00am.

Ends.

Appendix 1

- 1 Ten Network Holdings Limited (Administrators Appointed) (Receivers and Managers Appointed) ACN 081 327 068
- 2 The Ten Group Pty Limited (Administrators Appointed) (Receivers and Managers Appointed) ACN 057 564 708
- 3 Network Ten Pty Limited (Administrators Appointed) (Receivers and Managers Appointed) ACN 052 515 250
- 4 Network Ten (Sydney) Pty Limited (Administrators Appointed) (Receivers and Managers Appointed) ACN 008 664 962
- 5 Network Ten (Brisbane) Pty Limited (Administrators Appointed) (Receivers and Managers Appointed) ACN 050 148 537
- 6 Network Ten (Melbourne) Pty Limited (Administrators Appointed) (Receivers and Managers Appointed) ACN 008 664 953
- 7 Network Ten (Perth) Pty Limited (Administrators Appointed) (Receivers and Managers Appointed) ACN 009 108 614
- 8 Network Ten (Adelaide) Pty Limited (Administrators Appointed) (Receivers and Managers Appointed) ACN 007 577 666
- 9 Caprice Pty Limited (Administrators Appointed) (Receivers and Managers Appointed) ACN 008 655 847
- 10 Chartreuse Pty Limited (Administrators Appointed) (Receivers and Managers Appointed) ACN 008 655 874
- 11 Television & Telecasters (Properties) Pty Limited (Administrators Appointed) ACN 050 690 161
- 12 Ten Online Pty Limited (Administrators Appointed) ACN 089 829 667
- 13 Ten Ventures Pty Limited (Administrators Appointed) ACN 089 830 759
- 14 Ten Employee Share Plans Pty Limited (Administrators Appointed) ACN 082 736 150



Ten Group

**Supplemental report to the Report to Creditors pursuant to
Section 439A of the Corporations Act 2001 dated
4 September 2017**

11 September 2017

Contents

Glossary	1
1 Executive Summary.....	3
1.1 Reason for this report.....	3
1.2 Estimated return to creditors	3
1.3 Second Meetings of Creditors	4
2 The Application	5
3 Voting at the Second Meetings of Creditors	8
4 Transaction Deed	10
4.1 Alternate structure.....	10
4.2 Warranties.....	10
5 Terms of the Refinance.....	11
6 Transaction Value.....	11
7 Proposed Creditors' Trust of the Purchaser.....	12
7.1 Purpose, risks and advantages of a creditors' trust	12
7.2 ASIC guidelines for creditors' trusts.....	12
7.3 Creditors' Trust pool structure	12
8 Comparison of outcomes between the CBS Transaction and the B&I Transaction	14
8.1 Financial comparison.....	14
8.2 Comparison of conditions precedent and other execution risk factors ...	15
9 Opinion.....	16
10 Further information	16
Appendix 1 – Ten Group Companies in Administration and Receivership	
Appendix 2 – Notice of Reconvening of Adjourned Second Meetings of Creditors	
Appendix 3 – Amended Originating Process	
Appendix 4 – Transaction Deed.....	
Appendix 5 – Creditors' Trust – Risks and disadvantages.....	
Appendix 6 – Creditors Trust – ASIC guidelines for creditors' trusts.....	
Appendix 7 – The B&I Transaction	



Glossary

Terms

439A Report	The report pursuant to section 439A of the Act issued to creditors of the Ten Group, dated 4 September 2017
ARITA	Australian Restructuring Insolvency and Turnaround Association
ACCC	Australian Consumer and Competition Commission
ACMA	Australian Communications and Media Authority
Act	Corporations Act 2001 (Cth)
Administrators	Mark Korda, Jarrod Villani and Jenny Nettleton of KordaMentha
Admitted Creditors	all Ten Group creditors not including excluded creditors
Application	The application made to the Supreme Court of New South Wales by Birketu Pty Limited, WIN Corporation Pty Limited and Andrew Lancaster on 6 September 2017, as described in section 2 of this report
APRA	Australian Performing Right Association
ASIC	Australian Securities and Investments Commission
ASX	Australian Securities Exchange
ATO	Australian Taxation Office
Birketu	Birketu Pty Limited
B&I Creditors' Trust	The Creditors' Trust which formed part of the B&I Offer
B&I DOCA	The deed of company arrangement proposal that formed part of the B&I Offer
B&I Transaction	The recapitalisation offer made in respect of the Ten Group made by Illyria and Birketu, as described in section 8 of this report
CBA	Commonwealth Bank of Australia
CBS	Collectively CBS International Television Australia Pty Limited, CBS Broadcasting Inc. and Showtime Distribution B.V.
CBS DOCA	The DOCA proposal submitted as part of the Transaction
CEO	Chief Executive Officer
Completion	Completion of the Transaction pursuant to the terms of the Transaction Deed, at which time the DOCA will terminate and the Creditors' Trust will become effective
Court	Federal Court of Australia or Supreme Court of New South Wales as applicable
CPH	Consolidated Press Holdings Limited
Creditors' Trust	The proposed Creditors' Trust as discussed in section 8 of the 439A Report and section 7 of this report
DOCA	Deed of Company Arrangement
Excluded Contracts	The contracts detailed in Appendix 15 of the 439A Report
Excluded Creditors	Creditors who are party to Excluded Contracts, but only in relation to the Excluded Contract and other creditors as defined in the proposed DOCA and discussed in section 7.2.3 of the 439A Report
FEG	Fair Entitlements Guarantee
FIRB	Foreign Investment Review Board
Fox	Twentieth Century Fox Film Corporation (Australia) Pty Limited
Foxtel	Foxtel Management Pty Limited
Holdings	Ten Network Holdings Limited
Illyria	Illyria Nominees Television Pty Limited
IPS	Insolvency Practice Schedule (Corporations)
McKinsey	McKinsey & Company
Moelis	Moelis Australia Advisory Pty Limited
Network Ten	Network Ten Pty Limited
New Secured Creditor	CBS International Television Australia Pty Limited

Pool A	As defined in the proposed DOCA and discussed in section 8.4.3 of the 439A Report
Pool B	As defined in the proposed DOCA and discussed in section 8.4.3 of the 439A Report
Pool C	As defined in the proposed DOCA and discussed in section 8.4.3 of the 439A Report
Pool D	As defined in the proposed DOCA and discussed in section 8.4.3 of the 439A Report
PPSR	Personal Property Securities Register
Purchaser	CBS International Television Australia Pty Limited
Receivers and or Receivers and Managers	Philip Carter, Christopher Hill and David McEvoy of PPB Advisory
Security Trustee	CBA Corporate Services (NSW) Pty Limited
Secured Creditors	Together, CBA and the Shareholder Guarantors
Second Meetings of Creditors	Meetings to of creditors of each company in the Ten Group convened pursuant to Section 439A of the Act
Shareholder Guarantors	Birketu Pty Limited, Illyria Nominees Television Pty Limited as trustee for Illyria Investment Trust and Consolidated Press Holdings Limited
Ten Group	The companies as listed in Appendix 1 (all administrators appointed)
Transaction	The transaction for the transfer of 100% of the shares in Holdings to CBS International Television Australia Pty Limited, which includes a DOCA for the Ten Group, and a Creditors' Trust
Transaction Deed	The Transaction Deed dated 27 August 2017
Trustee	The trustees of the Creditors' Trust, proposed to be the Administrators/Deed Administrators
Trust Fund	\$32.0 million paid into the Creditors' Trust by the Purchaser for the benefit of all Admitted Creditors
WIN Corporation	WIN Corporation Pty Ltd



1 Executive Summary

1.1 Reason for this report

On 4 September 2017, the Administrators issued their report to creditors in accordance with Section 439A(4) of the Act ('439A Report'), to provide information regarding the Ten Group's business, property, affairs and financial circumstances, and to provide the Administrators' opinion regarding the future of the each company in the Ten Group.

Subsequent to the 439A Report being issued:

- Requests for additional information have been received from Fox, WIN Corporation, Andrew Lancaster (CEO of WIN Corporation and Director of Ten Network Holdings Limited) in his capacity as creditor, and in the case of WIN Corporation and Mr Lancaster, pursuant to section 70-45 of the IPS.
- An application was made to the Supreme Court of New South Wales by Birketu Pty Limited, WIN Corporation and Andrew Lancaster on 6 September 2017 ('the Application'), as described in section 2 of this report.

In the interest of efficiency and equal disclosure to all creditors, the Administrators have decided to respond to the requests for further information via this report, rather than on an individual or selective basis.

Reference should be made to the 439A Report, a copy of which is available in the creditors section of the KordaMentha website at www.kordamentha.com/creditors/tengroup.

1.2 Estimated return to creditors

There has been no change to the estimated return to creditors which was set out in section 10.1 of the 439A Report, and is reproduced below with further clarification as to the creditors who will receive payment from the Trust Fund. As explained in section 3.6.3 of the 439A Report, the former secured creditors, being CBA and the Shareholder Guarantors, were fully repaid as a result of the refinancing. The new loan provided by the Purchaser will continue to be a liability of the Ten Group post Completion and, as a post appointment liability is not repaid, compromised or otherwise dealt with by the CBS DOCA or Creditors' Trust. Post Completion, the new loan will become an intra-group liability with the debt and equity in Holdings held by the Purchaser.

Creditor type	Estimated return
CBA and Shareholder Guarantors	Refinanced – 100 cents in the dollar This was paid on 1 September 2017 and these creditors will not be entitled to claim in the Creditors' Trust
PPSR creditors	All priority claims which exist are to be paid in full prior to the DOCA termination and these creditors will not, to the extent of their security, be entitled to claim in the Creditors' Trust
Employees	Continuing employment or 100 cents in the dollar Any claims are estimated to be paid between September 2017 and December 2017 from the Creditors' Trust
Key Content Providers	Estimated dividend of 100 cents in the dollar, estimated to be paid in December 2017 from the Creditors' Trust
General Trade Creditors	Estimated dividend of 100 cents in the dollar, estimated to be paid in December 2017 from the Creditors' Trust
Financial, statutory and other creditors	Estimated dividend of 34 cents in the dollar, estimated to be paid in December 2017 from the Creditors' Trust
Onerous and Terminated Contracts (excluding Fox)	Estimated dividend of 10 cents in the dollar, estimated to be paid in or prior to October 2018 from the Creditors' Trust



Creditor type	Estimated return
Fox (Pool D)	Contract to be renegotiated by CBS post Completion ¹ If not, fixed payment of up to \$3.4 million, estimated to be paid in or prior to October 2018 from the Creditors' Trust
CBS	Excluded creditor – CBS will not claim in the Creditors' Trust
Shareholders with subordinated claims	These claims will be released by the proposed DOCA (except to extent it is an "Insured Claim" under the DOCA and will not be entitled to claim in the Creditors' Trust)

1.3 Second Meetings of Creditors

On 7 September 2017, the Supreme Court of NSW ordered the Second Meetings of Creditors of the Ten Group companies be adjourned from Tuesday 12 September 2017 to Tuesday, 19 September 2017.

The Second Meetings of Creditors will now be held concurrently at 11.00am on 19 September 2017 at the Sydney Harbour Marriot, 30 Pitt Street Sydney, NSW 2000. Formal notice of the adjourned Second Meetings of Creditors is attached as Appendix 2. Registrations for the meetings will commence at 10.00am.

As detailed in our circular to creditors and employees dated 8 September 2017, the court ordered that proxies and proofs of debt must now be lodged with Link Market Services by 5pm on Friday 15 September 2017. The proxy and proof of debt forms provided on 4 September 2017 are valid for the adjourned meetings. **Creditors who have already lodged proxy forms do not have to re-lodge their forms, unless they wish to amend their proxy.**

¹ The structure of the DOCA permits Fox's contract to be renegotiated with CBS on behalf of the Ten Group, and as a result of that renegotiation, for Fox not to claim against the Creditors' Trust. In the event that it does not do so, or does not do so on terms which preclude it from recovery under the Creditors' Trust, the amount recoverable by Fox is capped at \$3.4 million.



2 The Application

On 6 September 2017, an application was filed in the Supreme Court of New South Wales by Birketu Pty Limited, WIN Corporation Pty Limited and Andrew Lancaster, seeking certain orders in relation to the Ten Group. A copy of the amended originating process for the application is attached as Appendix 3.

On 7 September 2017, at its request, CBS was joined to the Application. On 8 September 2017, Fox notified the Supreme Court of New South Wales that it would be seeking to intervene in the Application.

The Application will be heard by the Supreme Court of New South Wales on 12 and 13 September 2017 and it is expected that orders will either be made at the end of the hearing or shortly after. The Administrators will notify creditors of the outcome of the Application by way of a circular and will publish the orders on the creditors section of the KordaMentha website.

In summary, the Application seeks the orders set out in the following table. We have also noted the section reference where you will find information on these topics in the 439A Report and this report.

Order sought	Reference
Orders that shareholders in Holdings be provided notice of the Second Meeting of Creditors of Holdings, and that shareholders be able to vote at the Second Meeting of Creditors of Holdings.	See section 3 of this report
An order that CBS not be able to vote in respect of the DOCA proposal, or only be able to vote for \$1	See section 3 of this report
A declaration that the 439A Report does not satisfy the statutory requirements for the report as it does not provide adequate information on the following topics:	
<ul style="list-style-type: none"> An independent experts' report on the value of Ten Group on a liquidation and going concern basis 	See Note 1 below
<ul style="list-style-type: none"> The terms of the Birketu/Illyria proposal and DOCA that was submitted as part of the sale process 	See section 8 and Appendix 7 of this report
<ul style="list-style-type: none"> The Administrators' reasons for forming the opinion that the Purchasers' proposal was in the best interests of creditors 	See section 8 of this report and section 6.2.4 of the 439A Report
<ul style="list-style-type: none"> The full terms of the Transaction Deed, including the 'alternate structure' referred to in paragraph 6.1.1 of the 439A Report 	See section 4.1 and Appendix 4 of this report
<ul style="list-style-type: none"> The full terms of the documentation relating to the financing provided by the Purchaser to allow the refinance of the debt due to the Secured Creditors 	See section 5 of this report
<ul style="list-style-type: none"> The total value of transactions contemplated by the Transaction Deed 	See section 6 of this report and section 6.1 of the 439A Report
<ul style="list-style-type: none"> The likelihood of the conditions precedent to the Transaction not being met by the sunset date 	See Note 2 below
<ul style="list-style-type: none"> The expected value of the tax or other benefits to the Purchaser as a result of the Transaction having regard to the Ten Group tax losses 	See Note 3 below
<ul style="list-style-type: none"> An explanation of the reasons for, and advantages and disadvantages of the use of a creditors' trust 	See section 7 and Appendices 5 and 6 of this report and section 8 of the 439A Report
<ul style="list-style-type: none"> An explanation as to the significance of the warranties in the Transaction Deed and the impact on the Creditors' Trust 	See section 4.2 of this report and section 8.5 of the 439A Report
<ul style="list-style-type: none"> Why the receivers have been reappointed by the Purchaser/New Secured Creditor post the refinance of the debt due to the Secured Creditors 	See Note 4 below
<ul style="list-style-type: none"> Whether the costs of the initial receivership were met as part of the refinance 	See Note 4 below



Order sought	Reference
<ul style="list-style-type: none"> Whether the costs of the initial receivership and the new receivership will be met from the funds to be paid into the Creditors' Trust 	See Note 4 below
<ul style="list-style-type: none"> The total costs of the receiverships and the effect on the return to creditors 	See Note 4 below
<ul style="list-style-type: none"> The extent to which Ten Group will be capable of trading as a going concern if the DOCA is approved given the secured debt of \$172 million 	See Appendix 6 of this report
<ul style="list-style-type: none"> The entitlement of CBS to vote as a creditor at the Second Meeting of Creditors of Network Ten notwithstanding CBS it is an Excluded Creditor for the purpose of the DOCA 	See section 3 of this report
<ul style="list-style-type: none"> The extent to which the Administrators and/or the Purchaser has undertaken any renegotiation of the Fox contracts 	See Note 6 below
<ul style="list-style-type: none"> The reasons for the different treatment of creditors under the proposed DOCA 	See section 7.3 of this report
Alternatively, an order that the Administrators be required to include information on the topics listed above	
An order restraining the holding of the Second Meetings of Creditors until the information referred to above has been provided	See Note 7 below

Notes

- It is not usual practice for an independent expert's report to be obtained and included in a report to creditors issued pursuant to 439A of the Act nor is it a requirement of the Act. In relation to the administration of the Ten Group, as stated in section 7.1.4 of the 439A Report, the Receivers and Administrators have jointly commissioned an independent expert, KPMG Corporate Finance, to prepare a report valuing the shares in Holdings. This report will be made available to shareholders of Holdings for the purposes of the proposed section 444GA application to transfer the shares in Holdings to the Purchaser. This report is also required to be obtained as part of the application to ASIC for relief in relation to the operation of the takeovers provisions. The final report has not yet been provided by the independent expert.
- The conditions precedent are summarised in section 6.1.1 of the 439A Report. It is our view that each of the conditions precedent are capable of being met by the sunset date of 15 December 2017, on the basis that:
 - In respect of FIRB approval a related entity to the Purchaser has previously obtained FIRB approval for establishment of the ElevenCo Pty Ltd joint venture in August 2010; and several other foreign entities have relatively recently obtained FIRB approval in the Free-to-air broadcasting industry including:
 - Foxtel FIRB approval in relation to investment in Ten in 2015
 - Apollo/Oaktree FIRB approval in relation to Nine Entertainment in 2012
 - Canwest FIRB approval in relation to Ten in 2007
 - KKR FIRB approval in relation to Seven in 2006
 - CVC FIRB approval in relation to PBL Media in 2006/2007 (now known as Nine Entertainment)

The Purchaser has informed the Administrators that it lodged its FIRB approval application on 28 August 2017. The Administrators understand that an application for FIRB approval typically takes 28 days to be determined.

- In respect of the orders to be sought under section 444GA of the Act to transfer all of the shares in Holdings to the Purchaser:
 - as stated in Section 7.1.4 of the 439A Report, the Administrators believe, having regard to the financial position of the Ten Group companies that there are reasonable grounds to expect that the Court will grant the orders although it is ultimately a decision for the Court. It also assumes that the independent expert's report confirms the Administrators' opinion that the shares in Holdings have no value. As referenced in section 9.1.3 of the 439A Report and the Administrators' liquidation scenario, it is estimated that non-priority unsecured creditors will not receive a dividend in a liquidation. We also note that that none of the bids received provided a full return to unsecured creditors.
 - the Administrators anticipate that they will have approximately three months to have the application heard and determined which the Administrators believe is sufficient time having regard to previous section 444GA applications.



- c. In respect of ASIC granting the relief described in Note 1 above:
- i. ASIC will be provided with copies of the documents filed in the section 444GA application and will have an opportunity to participate in the proceedings if it wishes.
 - ii. the Administrators anticipate that if the section 444GA application is successful, the relief will be granted based on market precedents and assuming the independent expert's report confirms that shares in Holdings have no value. However, this is ultimately a matter for ASIC's discretion. The Administrators understand that it is ASIC's usual practice is to make an in principle decision before a section 444GA hearing, with relief being conditional on the orders being made by the Court.

3. The value of any tax or other benefit to the Purchaser as a result of the acquisition, having regard to the Ten Group's tax losses, is a matter for the Purchaser and is not known by the Administrators. Any value related to tax losses does not impact on the returns available to creditors from the DOCA or Creditors' Trust. Both final bids contemplated a transaction at the Holding level.
4. The re-appointment of the Receivers was a decision of the Purchaser (in its capacity as lender to Ten Group) (with CBS Studios, Inc being agent and security trustee). The retention or re-appointment of the Receivers was a feature of the pro-forma documents proposed by the Receivers and provided to bidders as part of the sale process.

We note that both final bids provided for either the ongoing appointment of the Receivers or alternatively the re-appointment of the Receivers.

The costs of the receivership (both the initial appointment and the subsequent appointment by CBS Studios, Inc) do not impact the return to creditors under the terms of the DOCA and Creditors' Trust proposed by the Purchaser. The initial receivership costs were paid as part of the refinancing. The costs of the subsequent receivership will be paid from the new working capital facility made available by the Purchaser to the Ten Group and not from the Trust Fund. As stated in section 6.1 of the 439A Report, all outstanding transaction costs associated with the sale/recapitalisation process will be paid by the Purchaser.

As stated in section 8.4.3 of the 439A Report, the only costs which can be paid from the Trust Fund are Administration costs, Deed Administration costs and Trustees' costs (payable out of Pool B) and any payments made in respect of warranty claims made by the Purchaser (payable out of Pool D). This reflects the terms of clause 4.3 (b) of the draft Trust Deed, which was attached to the 439A Report as Appendix 14.

5. With reference to the potential renegotiation of the Fox contract, the Administrators have not been involved in any renegotiation of the Fox contract. This is a matter for the Purchaser and Fox.
6. As stated in section 1.4 of this report, the Second Meetings of Creditors have been adjourned until 19 September 2017 at 11:00am. The Administrators will advise creditors if there are any changes or proposed changes to this timing as a result of the hearing of the Application.



3 Voting at the Second Meetings of Creditors

The entitlement of creditors to vote at the Second Meetings of Creditors is governed by the Act and the Insolvency Practice Rules.

A resolution put to a vote is decided on the voices unless a poll is demanded. If a poll is demanded, a resolution is carried if:

- The majority of the creditors voting (whether in person, by attorney or by proxy) vote in favour of the resolution (number test), and
- the value of the debts owed to those voting in favour of the resolution is more than half the total debts owed to all the creditors voting (value test).

If no result is reached because the majorities of value and number vote differently, the person presiding at the meeting (which in the case of the Second Meetings of Creditors must be an Administrator) may exercise a casting vote.

The Administrators have formed the view that all creditors whose debt or claim arose (or the circumstances giving rise to the claim occurred) before the appointment of the Administrators and have been admitted to proof for voting purposes will be entitled to vote on the resolution to approve the proposed DOCA ('DOCA resolution').

We are not aware of any basis that would require or enable the Administrators to exclude any creditor otherwise entitled to vote from voting on the DOCA resolution because they are:

- a creditor who is, or is related to, the Purchaser or the proponent of the DOCA
- a creditor whose debt or claims will not be extinguished by the DOCA.

Voting by CBS

The Purchaser is the proponent of the CBS DOCA and the claims of CBS as unsecured creditors will not be extinguished by the proposed DOCA.

As referred to in section 3.10.4 of the 439A Report, CBS has lodged a proof of debt for voting purposes in the sum of \$843.6 million and at the date of the 439A Report we indicated that CBS was likely to be admitted to proof for voting purposes in the amount of approximately \$348.0 million.

For the reasons set out above, it is our view that the Administrators would not be entitled to disregard any vote cast by CBS in its capacity as an unsecured creditor on the DOCA resolution.

CBS will however not be entitled to vote at the Second Meetings of Creditors in relation to the debt owed to it as a result of the refinancing of the CBA facility, as the debt arose after the date of the appointment of the Administrators.

The Application seeks certain relief to the effect that CBS either cannot vote or that the value of their vote be limited to \$1 on the DOCA resolution, or alternatively on all resolutions at the Second Meetings of Creditors. CBS has indicated that it will not support any proposal which is made in the alternative to the CBS DOCA.

Voting by shareholders of Holdings

Holdings has approximately 17,000 shareholders.

The Administrators have acted on the basis that shareholders whose claims against Holdings are either:

1. claims for a debt owed in the person's capacity as a shareholder or
2. claims that arises from buying, holding, selling or dealing in the shares in Holdings ("subordinate claims")

and are, by operation of the Act:

- only entitled to receive a copy of the 439A Report and this report if they make a request to the Administrators in writing
- not entitled to vote at the Second Meeting of Creditors of Holdings unless the Court makes an order entitling them to vote.

The Administrators have not received any requests from shareholders of Holdings that they be provided with a copy of the 439A Report. A copy is however available on the ASX platform, as an ASX announcement was made on 4 September 2017 in relation to the Second Meetings of Creditors, and a copy of the 439A Report was included in the ASX announcement.



Any subordinated claim of a shareholder will be extinguished by the proposed DOCA on effectuation unless it is an insured claim for the purposes of the proposed DOCA (in which case it will not be extinguished to the extent of any insurance payment) and will not participate in the Trust Fund.

Despite recent media speculation, the Administrators are not aware that any subordinated claims have been made or asserted by a shareholder against Holdings.

The Application seeks certain relief to require the Administrators to notify all shareholders of Holdings of the Second Meeting of Creditors of Holdings, provide them with the 439A Report and this report and to entitle them to vote at that meeting on the DOCA resolution.

The Administrators will oppose these aspects of the Application.

4 Transaction Deed

4.1 Alternate structure

The Transaction Deed is subject to confidentiality obligations and may not be disclosed without the approval of all parties. At the time of the release of the 439A Report, no waiver of the confidentiality obligations had been provided. The parties have now waived these confidentiality obligations, and a copy of the Transaction Deed is attached as Appendix 4 to this report.

The Administrators are of the opinion that all aspects of the Transaction Deed material to creditors' understanding of the DOCA and Creditors' Trust were adequately disclosed in the 439A Report.

By way of additional information, in relation to the 'alternate structures' noted in section 6.1.1 of the 439A Report, the Transaction Deed specifically provides that if the parties agree there is risk that the Transaction will not achieve Completion by 15 December 2017, the parties must consult in good faith to consider and, if agreed, determine whether the Transaction may proceed by way of alternative means or methods, including by way of the sale and purchase of all the shares in Network Ten or such other of the Ten Group companies on such terms as the parties, acting reasonably, may agree. This alternate structure would not require section 444GA approval and the shares and/or assets in Network Ten and other Ten Group companies could be sold to the Purchaser by the Receivers and/or the Administrators.

We note the draft DOCA (clause 5.3), which was attached to the 439A Report as Appendix 12, also includes provisions relating to an alternate structure: "providing for the sale and Transfer of some or all of the Assets" "providing for the payment of the Deed Fund on substantially the same terms" "including the treatment of the Trust Creditors and the Excluded Creditors". This clause is consistent with the terms of the Transaction Deed. This DOCA provision is referred to in Section 7.1.10 of the 439A Report.

4.2 Warranties

Pursuant to the Transaction Deed, the Administrators and Receivers (defined together as 'the Controllers') provided four fundamental Controller warranties to the Purchaser. These warranties are summarised in section 8.6 of the 439A Report and are now provided in detail below:

1. **(validly appointed)** each Controller (being each Administrator and Receiver) has been validly appointed for their role as receiver and manager or administrator of the Company and certain of its subsidiaries (as relevant) and in that role, has the capacity to execute, deliver and perform their obligations under the Transaction Deed and to consummate the transactions contemplated in the Transaction Deed to be consummated by them.
2. **(due authorisation)** the execution and delivery of the Transaction Deed and each other Transaction Document (being the documents giving effect to the refinance, the DOCA, the Creditors' Trust Deed, the Deed of Appointment and Deed of Indemnity in relation to the reappointment of the Receivers) to which it is a party by the Controller and the performance of the transactions and obligations contemplated by the Transaction Deed and each other Transaction Document to which it is a party are in accordance with the Controller's powers.
3. **(valid, binding and enforceable)** the Transaction Deed and each other Transaction Document to which it is a party constitutes legal, valid and binding obligations of the Controller, enforceable in accordance with its terms.
4. **(approvals)** neither the execution and delivery of the Transaction Deed and each other Transaction Document to which it is party, nor the consummation of the Transaction contemplated by the Transaction Deed, nor the compliance by the Controller with the terms of the Transaction Deed or any other Transaction Document to which it is a party will result in any default under any agreement or instrument to which the Controller is a party or violate any law applicable to the Controller (for the avoidance of doubt not including any matter relating to the solvency of the Group, or any change of control or similar provision in an agreement to which a Controller is a party).

The Transaction Deed limits the Controllers liability for the above warranties at \$5.0 million, with an individual claim threshold of \$0.2 million and a total claim threshold of \$2.0 million. Further, any liability of the Controllers for a claim arising from a breach of fundamental warranty is reduced or extinguished to the extent, among other matters, relevant information was fairly disclosed in the due diligence process.

The Trust Deed provides that any warranty claims are payable from Pool D.

Due to the limited nature of the warranties given by the Administrators, we made the general statement in the 439A Report that there is no expectation that a claim will arise within the 12 month period after the DOCA is effectuated.



5 Terms of the Refinance

The full terms of the documentation relating to the financing provided by the Purchaser to allow the refinance of the debt due to the Secured Creditors are confidential and commercially sensitive to the Ten Group. A summary of certain key commercial terms is set out below.

On 28 August 2017, Holdings entered into a financing agreement with CBS Studios, Inc as agent and security trustee ('New Facility'). The New Facility provided finance for up to \$169.1 million and comprised:

- Facility A: term debt of \$139.1 million that was fully drawn on 1 September 2017 with an expiry date 31 August 2020
- Facility B: working capital facility of \$30.0 million that was drawn to \$15.0 million on 1 September 2017 with an expiry date of 30 June 2018.

Facility A and a portion of Facility B (\$142.7 million in total) were utilised to discharge the secured obligations payable to the Security Trustee, including the amounts due to the CBA and the guarantee fees due to the Shareholder Guarantors on 1 September 2017. The residual Facility B balance remains available to fund the Ten Group's working capital as required.

We note that the terms of the New Facility are broadly similar to the CBA facility that was refinanced on 1 September 2017 (save that there are no external shareholder guarantors). Specifically:

- **Cost:** the blended cost of the New Facility is broadly in-line with the blended cost of the CBA Facility (i.e. including interest and guarantor/other fees)
- **Security and Guarantors:** the Security Providers for the CBA facility have secured and guaranteed the New Facility on broadly similar terms.

Moelis has further confirmed that the arrangements under the New Facility are consistent with transactions of this kind.

The 439A Report stated (section 3.6.3):

- The refinancing was undertaken as a result of a condition of the sale/recapitalisation transaction. By way of additional information, CBA provided a working capital facility to the Receivers (as an extension of the existing CBA facility guaranteed by the Shareholder Guarantors), pursuant to which (among other uses) funding could be provide to the Administrators to meet the ongoing funding requirements of the Ten Group businesses during the Administration period. This facility had an expiry date of 31 August 2017. As a result, it was a term of the sale/recapitalisation process conducted by the Receivers that any bidder had to provide sufficient consideration to be able to repay the current debt facilities in full and further, that there was sufficient funding available to ensure the business was adequately funded at all times through to completion. On acceptance of its bid, the Purchaser refinanced the entirety of the Ten Group secured debt, and provided an equivalent working capital facility.
- The new loan is on financial terms generally similar to the existing facility, having regard to the terms of the CBA facility and the shareholder guarantees, and otherwise reflects market based finance costs for a refinance in the current circumstances.

6 Transaction Value

The terms of the Transaction are outlined in section 6.1 of the 439A Report.

The cash value of the Transaction is estimated at a minimum of \$201.1 million. The \$201.1 million is comprised of:

- the amount required to repay the Secured Creditors (CBA and the Shareholder Guarantors)(\$139.1 million)
- the Trust Fund in the Creditors' Trust in the amount of \$32.0 million, to be distributed to creditors as set out in the DOCA and Trust Deed
- \$30.0 million working capital facility (Facility B) pursuant to the New Facility of which the undrawn balance is \$26.4 million.

Additionally, as a result of the DOCA:

- priority employee creditor entitlements will remain whole with no changes to current employment entitlements for continuing employees
- certain creditors will be kept whole (paid in full) and as a result, those creditors will not participate in the Creditors' Trust.



7 Proposed Creditors' Trust of the Purchaser

This section should be read in conjunction with section 8 of the 439A Report, and Appendix 5 and 6 of this report.

7.1 Purpose, risks and advantages of a creditors' trust

As stated in section 8.2 of the 439A Report, the DOCA proposal requires the use of a creditors' trust. The reason for a creditors' trust structure (and the main advantage of this proposed structure) is to allow the companies in the Ten Group to operate without the words 'Subject to Deed of Company Arrangement' after each company's name, as it is believed that the inclusion of these words will hinder the ongoing success of the business.

In the case of the Ten Group, operating under these conditions may have the following impacts:

- Some suppliers (such as key advertising or content suppliers) may have reservations about dealing with a company which is subject to a DOCA and this may impact the ability of the companies to enter into long term high value agreements which are critical to ongoing operations.
- Some international counterparties (such as content suppliers) may not understand the Australian insolvency regime and the implications of a DOCA.
- There may be (as there often are) significant additional costs associated with compliance of a company subject to a DOCA.

We do not believe that there would be any difference in the return to creditors or the timing of the distributions to creditors if the DOCA did not involve a creditors' trust, assuming that the fund that would be available to pay creditors' claims was equivalent. We consider that the work to be undertaken by the Trustees under the Trust Deed to receive and adjudicate on creditor claims, and make payments in relation to creditor claims, would be practically the same under a DOCA.

If a creditors' trust is not used, the Transaction will not complete as proposed. Any alternate proposal which does not include a creditors' trust could include a lower contribution to a DOCA fund, to take into account the Purchaser's perceived additional business risk. For these reasons, we consider the use of a creditors' trust is in the interests of creditors as a whole. As we advised in the 439A Report, we do not believe creditors will be disadvantaged by the use of a creditors' trust for the Ten Group companies.

In Appendix 5 to this report we have set out a list of the general risks that creditors' trusts may give rise to and our opinion on whether they are real risks in the context of the proposed CBS DOCA. Creditors should seek their own legal advice prior to the Second Meetings of Creditors if they are in any doubt as to what this means for them.

7.2 ASIC guidelines for creditors' trusts

In Section 8.3 of the 439A Report we set out in a table, information addressing issues raised in the ASIC Guide. An updated table can be found at Appendix 6 of this report.

7.3 Creditors' Trust pool structure

The Creditors' Trust Pool structure was proposed by the Purchaser. As you will note, and as discussed in detail in section 8.4.3 of the 439A Report, each pool is defined by a pool name which seeks to provide guidance to creditors as to the nature of each pool and the basis on which its members have been determined by the Purchaser.

- Pool A is categorised to include key content providers (as noted in the 439A Report) who:
 - have an important ongoing relationship with the Ten Group
 - have one or more contracts which it is intended will continue to be performed notwithstanding the Administration and the DOCA, and
 - had debts outstanding as at 14 June 2017, the quantum of which have been generally agreed as between the creditor and the Administrator.
- Pool B is categorised to include general trade creditors (as noted in the 439A Report) who will or are likely to have an ongoing relationship with the Ten Group but whose claims are yet to be determined and are generally of a lower value than the Pool A creditors.
- Pool C creditors are statutory, financial and litigation creditors (as noted in the 439A Report) who are not considered to be critical ongoing suppliers to the Ten Group.



- Pool D is categorised to include onerous or terminated contracts (as noted in the 439A Report) which the Purchaser has determined it will no longer continue with in their current form and which may be subject to renegotiation (i.e. the Purchaser may enter into new contracts with those creditors).

Notwithstanding differences between Pool A and Pool B creditors, the Purchaser has endeavoured to structure those pools in a manner which will provide 100 cents in the dollar or as close to as possible return to those continuing creditors who are critical to the Ten Group, reflecting the ongoing importance of those creditors.

The allocation of any payment made pursuant to any warranty claims to be paid from Pool D reflects the Purchaser preference to have creditors with ongoing relationships with the Ten Group, whether critical or otherwise, paid shortly after Completion.

As outlined above, given the limited nature of the Controllers warranties, it is the view of the Administrators that any warranty claim resulting in a reduction in the funds available to Pool D is unlikely.

As detailed in section 8, both final bids received in respect of Ten Group were based on differential treatment of creditors.

8 Comparison of outcomes between the CBS Transaction and the B&I Transaction

Although dated 24 August 2017, the B&I Transaction was submitted on 25 August 2017 at approximately 8:30am and was expressed to be open until 25 August 2017 at 5pm AEST, unless extended by Birketu and Illyria, after which time it lapsed. No extension was requested or otherwise provided to the Administrators or Receivers.

The B&I Transaction also involved the extension of the then existing CBA facility described in section 3.6.1 of the 439A Report which has now been replaced as part of the refinancing transaction described in section 3.6.3 of the 439A Report.

In comparing the bids received both under the CBS Transaction and the B&I Transaction, the Administrators gave primary consideration to:

- The financial return to creditors under each bid
- The complexity and risks associated with the conditions of each bid, including certainty of execution and structure
- The timeframe for completion of payments to creditors.

Our decision to recommend the CBS DOCA followed a thorough review and comparison of the two final bids received. Both the Receivers and the Administrators, having regard to their respective obligations, concluded that the CBS proposal was superior to the competing proposal for creditors generally. This view was also supported by Moelis and the Receivers having conducted the sale process and engaged with all bidders throughout.

8.1 Financial comparison

Based on this assessment, the CBS Transaction was superior to the B&I Transaction in each of the three assessment areas. Financial return to creditors. A comparison of outcomes to creditors under the CBS Transaction and the B&I Transaction is set out below:

Creditor group	CBS Transaction				B&I Transaction				CBS Transaction v B&I Transaction
	Pool	Est. claim \$' million	Total return \$' million	Return c/\$	Pool	Est. claim \$' million	Total return \$' million	Return c/\$	
Secured				100.00				100.00	
Priority				100.00				100.00	
Unsecured									
Critical programming creditors	Pool A	5.7	5.7	100.00	Pool A	5.7	5.7	100.00	Equal
General trade creditors	Pool B	15.5	15.5	100.00	Pool A	15.5	15.5	100.00	Equal
Financial (ANZ and Westpac)	Pool C	1.4	0.5	34.10	Pool A	1.4	1.4	100.00	Worse
Statutory (ATO and OSR)	Pool C	11.9	4.1	34.10	Pool B	11.9	0.3	2.12	Better
Formula One	Pool D	20.0	2.0	10.18	Pool B	20.0	0.4	2.12	Better
Disclaimed leases	Pool D	0.3	0.0	10.18	Pool B	9.2	0.2	2.12	Better
Other discontinuing contracts	Pool D	7.7	0.8	10.18	Pool B	2.4	0.1	2.12	Better
Fox	Pool D	195.0	3.4	1.75	Pool B	195.0	4.1	2.12	Worse
Total unsecured return \$ (before CBS)		257.5	32.0	12.43		261.1	27.6	10.58	Better
CBS	N/A	N/A	N/A	N/A	Pool B	348.0	7.4	2.12	N/A
Total Unsecured Return \$ (after CBS)		257.5	32.0	12.43		609.1	35.0	5.75	N/A

Note

The total return in the CBS Transaction relating to Disclaimed leases is \$30,000.

8.2 Comparison of conditions precedent and other execution risk factors

After comparing the conditions of both the CBS Transaction and the B&I Transaction, we concluded that the CBS Transaction was more certain as it had a lower execution risk. A comparison of conditions is set out below.

Condition	CBS Transaction	B&I Transaction	CBS terms v B&I terms
ACMA	Not applicable	Structure 1: not required if media reform passed before the structure election date of 30 September 2017 Structure 2: required if media law reform not passed. Considered low to medium risk	Better
444GA application	Required	Structure 1: same process as the Purchaser Structure 2: Ten to issue 1.07 billion zero cost options to Birketu & Illyria. ASIC and ASX relief for issue of options required or failing relief, shareholder approval required.	Better
Voting	CBS has value to allow DOCA proposal to carry if the majority of creditors in number are supportive.	CBS has value to vote down any proposal.	Better
Timing	CBS DOCA effectuation target of early October 2017	B&I DOCA effectuation likely late November 2017 at the earliest	Better
Repudiation of Key Leases	Not applicable	B&I Transaction document made provision for the repudiation of the leases relating to Pymont, Melbourne and Adelaide. Operationally seen as moderate to high risk	Better
ACCC clearance	Not a stated condition precedent	Condition precedent satisfied	Equal
FIRB approval	Required – considered low risk	Required – considered low risk	Equal
DOCA	Required, including a creditors' trust	Required, including a creditors' trust	Equal



9 Opinion

In the 439A Report, we stated as follows:

“It is our opinion that it would be in creditors’ interests for each of the Ten Group companies to execute the DOCA. It is not in creditors’ interests to wind up any company or to bring the Administrations to an end. As detailed in the financial analysis of the alternatives (section 9.2), the DOCA and Creditors’ Trust will result in a better return to creditors than if the Ten Group companies were liquidated.”

There has been no change to our opinion, or the reasons for the opinion.

10 Further information

Creditors requiring further information regarding the Administration can contact Link Market Services by email at tengroup@linkmarketservices.com.au or phone on 1300 853 816.

Dated: 11 September 2017



Mark Korda
Administrator



Jennifer Nettleton
Administrator



Jarrod Villani
Administrator

Enc.



Appendix 1 – Ten Group Companies in Administration and Receivership

Name	Receivers and Managers Appointed	ACN
Ten Network Holdings Limited	x	081 327 068
The Ten Group Pty Limited	x	057 564 708
Network Ten Pty Limited	x	052 515 250
Network Ten (Sydney) Pty Limited	x	008 664 962
Network Ten (Brisbane) Pty Limited	x	050 148 537
Network Ten (Melbourne) Pty Limited	x	008 664 953
Network Ten (Perth) Pty Limited	x	009 108 614
Network Ten (Adelaide) Pty Limited	x	007 577 666
Caprice Pty. Limited	x	008 655 847
Chartreuse Pty. Limited	x	008 655 874
Television & Telecasters (Properties) Pty. Limited		050 690 161
Ten Online Pty Limited		089 829 667
Ten Ventures Pty Limited		089 830 759
Ten Employee Share Plans Pty Limited		082 736 150



Appendix 2 – Notice of Reconvening of Adjourned Second Meetings of Creditors



Form 529

Corporations Act 2001

Notice of Reconvened Second Meeting of Creditors of Companies under Administration

Ten Network Holdings Ltd (Administrators Appointed) (Receivers and Managers Appointed) ACN 081 327 068 ('the Company') and Associated Entities (Collectively 'the Ten Group' - refer to Appendix 1)

Notice is hereby given that the reconvened second meetings of creditors of the Ten Group will be held concurrently, unless there are any objections, on Tuesday 19 September 2017 at Sydney Harbour Marriott, 30 Pitt Street, Sydney NSW 2000. Registration for all creditors and employees will open at 10.00am with the meetings commencing at 11.00am.

Agenda

1. The purpose of the meetings is:
 - a. to review the report of the Administrators in connection with the business, property, affairs and financial circumstances of the Ten Group.
 - b. for the creditors of each of the Ten Group companies to resolve:
 - i. that the company execute the deed of company arrangement, or
 - ii. that the administration should end, or
 - iii. that the company be wound up.
2. The following further resolutions will be considered:
 - a. For creditors of Network Ten Pty Limited: 'That, in accordance with Section 80-55(3) of Schedule 2 of the Corporations Act, the members of the Network Ten Committee of Creditors (or a related entity of those members) are permitted to continue dealing with Network Ten and its creditors on a business as usual basis during the period of the Voluntary Administration of Network Ten.'
 - b. If the Ten Group companies resolve to execute a Deed of Company Arrangement, 'That a Committee of Inspection be formed comprising representatives as determined by creditors of Ten Group as a whole and that the Committee of Inspection have the powers and functions as if the Committee was a Committee of Inspection for a single company'.
 - c. 'That, in accordance with Section 80-55(3) of Schedule 2 of the Corporations Act, the members of the DOCA committee of Inspection (or a related entity of those members) are permitted to continue dealing with the Company and its creditors on a business as usual basis during the period of the Deed of Company Arrangement.'
 - d. 'That the Deed Administrators be allowed to be reimbursed for staff per diem allowances and staff travel allowances paid to staff at the rates as set out in accordance with the schedule titled KordaMentha Rates-National-FY18, which was attached as Appendix 13 to the report to creditors dated 4 September 2017, during the period of the DOCA, as incurred, but to a maximum amount of \$15,000.'
3. Any other business properly brought before the meetings.

If you intend to appoint another person to act on your behalf at the Second Meetings of Creditors, or you are a corporate creditor, you are required to complete the Proxy Form appointing your representative.

Creditors are required to have lodged Proxy Forms by no later than 5.00 pm on Friday 15 September 2017 failing which they may be excluded from voting at the Second Meetings of Creditors.

If you are representing a company, please ensure that your Proxy Form is executed pursuant to Section 127 of the Corporations Act or your representative is appointed pursuant to Section 250A of the Corporations Act, otherwise you will not be entitled to vote.

If you have already lodged a Proxy Form for the Second Meetings of Creditors you are not required to lodge a further proxy (unless you wish to amend your proxy).

Creditors are required to have lodged Proofs of Debt by no later than 5.00 pm on Friday 15 September 2017 failing which they may be excluded from voting at the Second Meetings of creditors.

Those creditors who have already lodged a Proof of Debt are not required to lodge a further proof (unless they wish to amend their claim)

Proxy Forms and Proofs of Debt may be submitted as follows:

By Mail: Ten Group
 C/-Link Market Services Limited
 PO Box 3184
 Rhodes NSW 2138

By facsimile: +61 2 9287 0309

By email: tengroup@linkmarketservices.com.au

If you require any further information, please call Link Market Services on 1300 853 816 or tengroup@linkmarketservices.com.au or refer to the KordaMentha website www.kordamentha.com/Creditors/Ten-Group.

Dated: 11 September 2017



Mark Korda
Administrator

Appendix 1

Listing of entities in the Ten Group

Name	Receivers and Managers Appointed	ACN
Ten Network Holdings Limited	x	081 327 068
The Ten Group Pty Limited	x	057 564 708
Network Ten Pty Limited	x	052 515 250
Network Ten (Sydney) Pty Limited	x	008 664 962
Network Ten (Brisbane) Pty Limited	x	050 148 537
Network Ten (Melbourne) Pty Limited	x	008 664 953
Network Ten (Perth) Pty Limited	x	009 108 614
Network Ten (Adelaide) Pty Limited	x	007 577 666
Caprice Pty. Limited	x	008 655 847
Chartreuse Pty. Limited	x	008 655 874
Television & Telecasters (Properties) Pty. Limited		050 690 161
Ten Online Pty Limited		089 829 667
Ten Ventures Pty Limited		089 830 759
Ten Employee Share Plans Pty Limited		082 736 150

Appendix 3 – Amended Originating Process



IN THE SUPREME COURT OF NEW SOUTH WALES No. _____ of 2017
DIVISION: EQUITY
REGISTRY: SYDNEY
LIST: CORPORATIONS
IN THE MATTER OF TEN Network Holdings Limited (Administrators Appointed) (Receivers and Managers Appointed) ACN 081 327 068 and Others

WIN Corporation Pty Ltd ACN 000 737 404 and Others
Plaintiffs

Mark Korda and Others
Defendants

Amended Originating process

A. DETAILS OF APPLICATION

This application is made under sections 447A, 600H and 1324 of the *Corporations Act 2001* (Cth), sections 90-15 of Schedule 2 (Insolvency Practice Schedule (Corporations)) to the *Corporations Act 2001* (Cth), the inherent jurisdiction of the Court and section 23 of the *Supreme Court Act 1970* (NSW).

An application by a member and by creditors in relation to the conduct of the administration of the fourth to seventeenth defendants.

On the facts stated in the supporting affidavit, the plaintiffs claim the orders set out below:

In this originating process the following defined terms are used:

4 September 2017 Report means the report purportedly issued by the Administrators pursuant to s 439A of the Act on 4 September 2017 in relation to the Ten Group Companies.

Act means the Corporations Act 2001 (Cth).

Administrators means Mark Korda, Jarrod Villani and Jenny Nettleton.

Birketu means Birketu Pty Ltd.

CBS means CBS International Television Australia Pty Limited, CBS Broadcasting Inc. and Showtime Distribution B.V.

DOCA means Deed of Company Arrangement.

Fox means Twentieth Century Fox Film Corporation (Australia) Pty Limited.

Illyria means Illyria Nominees Television Pty Limited as trustee for the Illyria Investment Trust No. 4.

Proposed Birketu and Illyria DOCA means the proposed form of DOCA for the Ten Group Companies submitted to the Administrators by Birketu and Illyria.

Proposed CBS DOCA means the proposed form of DOCA for the Ten Group Companies included at Appendix 12 to the 4 September 2017 Report.

Receivers means Philip Carter, Christopher Hill and David McEvoy.

Rules means the *Insolvency Practice Rules (Corporations) 2016* (Cth).

Schedule means the *Insolvency Practice Schedule (Corporations)*, being Sched 2 to the Act.

Ten Group Companies means:

- a. Ten Network Holdings;
- b. The Ten Group Pty Limited (Administrators Appointed) (Receivers and Managers Appointed) ACN 057 564 708;
- c. Network Ten Pty Limited (Administrators Appointed) (Receivers and Managers Appointed) ACN 052 515 250;
- d. Network Ten (Sydney) Pty Limited (Administrators Appointed) (Receivers and Managers Appointed) ACN 008 664 962;
- e. Network Ten (Brisbane) Pty Limited (Administrators Appointed) (Receivers and Managers Appointed) ACN 050 148 537;
- f. Network Ten (Melbourne) Pty Limited (Administrators Appointed) (Receivers and Managers Appointed) ACN 008 664 953;
- g. Network Ten (Perth) Pty Limited (Administrators Appointed) (Receivers and Managers Appointed) ACN 009 108 614;
- h. Network Ten (Adelaide) Pty Limited (Administrators Appointed) (Receivers and Managers Appointed) ACN 007 577 666;
- i. Caprice Pty Limited (Administrators Appointed) (Receivers and Managers Appointed) ACN 008 655 847;
- j. Chartreuse Pty Limited (Administrators Appointed) (Receivers and Managers Appointed) ACN 008 655 874;
- k. Television and Telecasters (Properties) Pty Limited (Administrators Appointed) ACN 050 690 161;
- l. Ten Online Pty Limited (Administrators Appointed) ACN 089 829 667;
- m. Ten Ventures Pty Limited (Administrators Appointed) ACN 089 830 759; and
- n. Ten Employee Share Plans Pty Limited (Administrators Appointed) ACN 082 736 150.

Ten Network Holdings means Ten Network Holdings Limited (Administrators Appointed) (Receivers and Managers Appointed) ACN 081 327 068.

CBS Transaction Deed means the Transaction Deed referred to in the 4 September 2017 Report to which the Receivers and the Administrators are parties.

Preliminary Relief:

1. The plaintiffs have leave to file in Court the Originating Process and the Court notes the undertaking of the plaintiffs' solicitor to pay the applicable filing fees.
2. The time for service of the Originating Process be abridged to [date and time].

3. Service will be taken to have been effected upon the defendants if a copy of the Originating Process is sent by email to Maria O'Brien at the email address <maria.obrien@bakermckenzie.com> within the time indicated in order 2 above.
4. The Originating Process be returnable before the Corporations Judge at [date and time].
5. The costs of today be reserved.

Final Relief:

6. An order pursuant to s 447A of the Act that the operation of s 75-225(1) of the Rules be modified in relation to the Ten Group Companies by inserting the words "*and to the members of the company*" after the word "*creditors*".
7. In the alternative to Order 6, an order pursuant to s 90-15 of the Schedule that the Report be provided to as many members of the Ten Group Companies as reasonably practicable.
8. An order pursuant to s 90-15 of the Schedule or, alternatively, s 600H of the Act, that the members of Ten Network Holdings are entitled to vote in their capacity as creditors during the external administration of Ten Network Holdings.
9. An order pursuant to s 447A of the Act that the operation of s 75-85 of the Rules be modified in relation to the Ten Group Companies in its application to the meeting of creditors that has been called by the Administrators under s 439A of the Act by:
 - a. amending subparagraph 75-85(2) to read "*Subject to subsections (3), (4), (5) and (7), each creditor is entitled to vote and has one vote*"; and
 - b. either:
 - (i) inserting subparagraph 75-85(7) as follows:

"CBS International Television Australia Pty Limited, CBS Broadcasting Inc. and Showtime Distribution B.V. are not entitled to vote as creditors at a meeting of creditors on a resolution under s 439C that the company execute the Proposed CBS DOCA"; or
 - (ii) alternatively, inserting subparagraph 75-85(7) as follows:

"CBS International Television Australia Pty Limited, CBS Broadcasting Inc. and Showtime Distribution B.V. are entitled to vote as creditors at a meeting of creditors on a resolution under s 439C that the company execute the Proposed CBS DOCA for a claim value of no more than \$1".
10. In the alternative to Order 9, an order pursuant to s 90-15 of the Schedule prohibiting CBS International Television Australia Pty Limited, CBSA Broadcasting Inc and Showtime Distribution BV from voting as creditors at the meeting of creditors of the Ten Group Companies that has been called by the Administrators under s 439A of the Act or, alternatively, providing that those CBS entities may vote as creditors at the meeting for a claim value of no more than \$1.
11. A declaration that the 4 September 2017 Report does not satisfy the requirements of s 75-225(3) of the Rules in that it fails to include adequate information on the following topics:

- a. an independent expert's valuation of the business conducted by the Ten Group Companies both on the basis that the Ten Group Companies are wound up and on a going concern basis;
- b. the terms of the Proposed Birketu and Illyria DOCA;
- c. the Administrators' reasons for forming the opinion that it is in the creditors' interests for the Company to execute the Proposed CBS DOCA, and the other information known to the Administrators as will enable the creditors to make an informed decision as to whether it is in the creditors' interests for the Company to execute the Proposed CBS DOCA, including the reasons why the Proposed CBS DOCA is said to be preferable to the Proposed Birketu and Illyria DOCA and the basis for concluding that the Proposed CBS DOCA allegedly has greater execution certainty;
- d. each of:
 - (i) the terms of the CBS Transaction Deed, including the "alternate structure" referred to in paragraph 6.1.1 of the 4 September 2017 Report;
 - (ii) the terms of the CBS refinancing documentation; and
 - (iii) the total value of the transactions contemplated by the CBS Transaction Deed;
- e. the likelihood of the conditions precedent to the CBS DOCA not being satisfied by the sunset date of 15 December 2017 and the intentions of the Administrators and CBS in the event each condition precedent is not satisfied (including the terms of any alternative transaction);
- f. the expected value of any tax or other benefit to CBS (whether in Australia or in another jurisdiction) as a result of CBS acquiring the shares in Ten Network Holdings having regard to the existing tax losses available to Ten Network Holdings;
- g. an explanation as to:
 - (i) the reasons for, and advantages/disadvantages, of a creditors' trust;
 - (ii) the operation and commercial significance of the warranty claim provision in the proposed creditors' trust deed;
 - (iii) why the receivers have been re-appointed by CBS under its security;
 - (iv) whether the costs of the initial receivership were met as part of the refinancing transaction;
 - (v) if not, whether those costs, and the costs of the second appointment, are to be met from the proceeds made available from the completion of the transaction;
 - (vi) the total costs of each receivership and the effect of any payments required to be made to the receivers on the return to creditors;
- h. the extent to which the Ten Group Companies will be capable of trading as a going concern in the event that the Proposed CBS DOCA is approved and the transaction is completed given the secured debt of \$172m owed to CBS;

- i. the suggested entitlement of CBS to vote as a creditor at the second meeting of creditors in respect of the Proposed CBS DOCA notwithstanding that CBS is excluded from participating as a creditor for the purposes of the Proposed CBS DOCA;
 - j. the extent to which the Administrators and/or CBS have undertaken a renegotiation of the contracts between the Ten Group Companies and Fox and the status of any such negotiations that have occurred; and
 - k. the materially different and apparently discriminatory (and in some cases indeterminate) treatment of creditors under the Proposed CBS DOCA and the absence of any express or proper justification for such different and discriminatory treatment.
12. In the alternative to Order 11, an order pursuant to s 447A of the Act that the operation of s 75-225(3)(b)(v) of the Rules be modified in relation to the Ten Group Companies by inserting the following words after the words “*subparagraph (i), (ii) or (iii)*”:

“including information on the following topics:

- (i) *an independent expert’s valuation of the business conducted by the Ten Group Companies both on the basis that the Ten Group Companies are wound up and on a going concern basis;*
- (ii) *the terms of the Proposed Birketu and Illyria DOCA;*
- (iii) *the Administrators’ reasons for forming the opinion that it is in the creditors’ interests for the Company to execute the Proposed CBS DOCA, and the other information known to the Administrators as will enable the creditors to make an informed decision as to whether it is in the creditors’ interests for the Company to execute the Proposed CBS DOCA, including the reasons why the Proposed CBS DOCA is said to be preferable to the Proposed Birketu and Illyria DOCA and the basis for concluding that the Proposed CBS DOCA allegedly has greater execution certainty;*
- (iv) *each of:*
 - 1. *the terms of the CBS Transaction Deed, including the “alternate structure” referred to in paragraph 6.1.1 of the 4 September 2017 Report; and*
 - 2. *the terms of the CBS refinancing documentation;*
- (v) *the likelihood of the conditions precedent to the CBS DOCA not being satisfied by the sunset date of 15 December 2017 and the intentions of the Administrators and CBS in the event each condition precedent is not satisfied (including the terms of any alternative transaction);*
- (vi) *the expected value of any tax or other benefit to CBS (whether in Australia or in another jurisdiction) as a result of CBS acquiring the shares in Ten Network Holdings having regard to the existing tax losses available to Ten Network Holdings;*
- (vii) *an explanation as to:*
 - 1. *the reasons for, and advantages/disadvantages, of a creditors’ trust;*

2. the operation and commercial significance of the warranty claim provision in the proposed creditors' trust deed;
 3. why the receivers have been re-appointed by CBS under its security;
 4. whether the costs of the initial receivership were met as part of the refinancing transaction;
 5. if not, whether those costs, and the costs of the second appointment, are to be met from the proceeds made available from the completion of the transaction; and
 6. the total costs of each receivership and the effect of any payments required to be made to the receivers on the return to creditors;
- (viii) *the extent to which the Ten Group Companies will be capable of trading as a going concern in the event that the Proposed CBS DOCA is approved and the transaction is completed given the secured debt of \$172m owed to CBS;*
- (ix) *the suggested entitlement of CBS to vote as a creditor at the second meeting of creditors in respect of the Proposed CBS DOCA notwithstanding that CBS is excluded from participating as a creditor for the purposes of the Proposed CBS DOCA;*
- (x) *the extent to which the Administrators and/or CBS have undertaken a renegotiation of the contracts between the Ten Group Companies and Fox and the status of any such negotiations that have occurred; and*
- (xi) *the materially different and apparently discriminatory (and in some cases indeterminate) treatment of creditors under the Proposed CBS DOCA and the absence of any express or proper justification for such different and discriminatory treatment."*

13. An order pursuant to s 90-15 of the Schedule, or s 1324 of the Act, restraining the Administrators from holding the meeting called for Tuesday 12 September 2017 under s 439A of the Act:

- a. until further order; or
- b. alternatively, until no fewer than 5 business days after such time as
 - (i) information is circulated to creditors on the following topics:
 1. an independent expert's valuation of the business conducted by the Ten Group Companies both on the basis that the Ten Group Companies are wound up and on a going concern basis;
 2. the Proposed Birketu and Illyria DOCA;
 3. the Administrators' reasons for forming the opinion that it is in the creditors' interests for the Company to execute the Proposed CBS DOCA, and the other information known to the Administrators as will enable the creditors to make an informed decision as to whether it is in the creditors' interests for the Company to execute the Proposed CBS DOCA, including the reasons why the Proposed CBS DOCA is said to be preferable to the Proposed

Birketu and Illyria DOCA and the basis for concluding that the Proposed CBS DOCA allegedly has greater execution certainty;

4. each of:
 - a. the terms of the CBS Transaction Deed, including the "alternate structure" referred to in paragraph 6.1.1 of the 4 September 2017 Report; and
 - b. the terms of the CBS refinancing documentation;
5. the likelihood of the conditions precedent to the CBS DOCA not being satisfied by the sunset date of 15 December 2017 and the intentions of the Administrators and CBS in the event each condition precedent is not satisfied (including the terms of any alternative transaction);
6. the expected value of any tax or other benefit to CBS (whether in Australia or in another jurisdiction) as a result of CBS acquiring the shares in Ten Network Holdings having regard to the existing tax losses available to Ten Network Holdings;
7. an explanation as to:
 - a. the reasons for, and advantages/disadvantages, of a creditors' trust;
 - b. the operation and commercial significance of the warranty claim provision in the proposed creditors' trust deed;
 - c. why the receivers have been re-appointed by CBS under its security;
 - d. whether the costs of the initial receivership were met as part of the refinancing transaction;
 - e. if not, whether those costs, and the costs of the second appointment, are to be met from the proceeds made available from the completion of the transaction; and
 - f. the total costs of each receivership and the effect of any payments required to be made to the receivers on the return to creditors;
8. the extent to which the Ten Group Companies will be capable of trading as a going concern in the event that the Proposed CBS DOCA is approved and the transaction is completed given the secured debt of \$172m owed to CBS;
9. the suggested entitlement of CBS to vote as a creditor at the second meeting of creditors in respect of the Proposed CBS DOCA notwithstanding that CBS is excluded from participating as a creditor for the purposes of the Proposed CBS DOCA;
10. the extent to which the Administrators and/or CBS have undertaken a renegotiation of the contracts between the Ten Group Companies and Fox and the status of any such negotiations that have occurred; and

11. the materially different and apparently discriminatory (and in some cases indeterminate) treatment of creditors under the Proposed CBS DOCA and the absence of any express or proper justification for such different and discriminatory treatment; and
- (ii) the members of Ten Network Holdings are given notice of the second meeting of creditors as required by s 75-225(1) of the Rules pursuant to Order 6; and
- (iii) the Administrators have complied with their statutory obligations to provide information in accordance with requests made of the administrators by the plaintiffs on 6 September 2017 pursuant to s 40-75 of the Schedule).
14. Pursuant to s 90-15 and/or s 447A, an order that the date for lodgement of proofs of debt and proxies identified in the 4 September 2017 Report be extended to 2 days prior to the date to which the second creditors meetings are adjourned (or restrained in accordance with prayer 13).
15. Such further or other orders as the Court considers appropriate.
16. Costs.

Date: 7th September 2017



Signature of plaintiff's legal practitioner

Name of Legal practitioner: Michael John Sophocles

PCN:37681

Firm name: Atanaskovic Hartnell

This application will be heard by _____ at Supreme Court of New South
Wales, Queens Square, Phillip Street at _____ on _____ 2017.

B. NOTICE TO DEFENDANT(S) (IF ANY)

TO: The first to seventeenth defendants.

If you or your legal practitioner do not appear before the Court at the time shown above, the application may be dealt with, and an order made, in your absence. As soon after that time as the business of the Court will allow, any of the following may happen:

- (a) the application may be heard and final relief given,
- (b) directions may be given for the future conduct of the proceeding,
- (c) any interlocutory application may be heard.

Before appearing before the Court, you must file a notice of appearance, in the prescribed form, in the Registry and serve a copy of it on the plaintiff.

Note.

Unless the Court otherwise orders, a defendant that is a corporation must be represented at a hearing by a legal practitioner. It may be represented at a hearing by a director of the corporation only if the Court grants leave.

C. FILING

Date of filing:

This originating process is filed by Atanaskovic Hartnell for the plaintiff.

D. SERVICE

The plaintiffs' address for service is Atanaskovic Hartnell, Atanaskovic Hartnell House, Level 10, 75-85 Elizabeth St, Sydney NSW 2000.

It is intended to serve a copy of this originating process on each defendant and on any person listed below:

The time by which a copy of this originating process is to be served has been abridged by order made by *[name of Judge or other Court officer]* on *[date]* to *[time and date]*.

PARTY DETAILS

Parties to the proceedings

PLAINTIFFS

WIN Corporation Pty Ltd ACN 000 737 404

First Plaintiff

Birketu Pty Ltd ACN 003 831 392

Second Plaintiff

Andrew Lancaster

Third Plaintiff

DEFENDANTS

Mark Korda

First Defendant

Jarrood Villani

Second Defendant

Jenny Nettleton

Third Defendant

**Ten Network Holdings Limited
(Administrators Appointed) (Receivers
and Managers Appointed) ACN 081 327
068**

Fourth Defendant

**The Ten Group Pty Limited
(Administrators Appointed) (Receivers
and Managers Appointed) ACN 057 564
708**

Fifth Defendant

**Network Ten Pty Limited (Administrators
Appointed) (Receivers and Managers
Appointed) ACN 052 515 250**

Sixth Defendant

**Network Ten (Sydney) Pty Limited
(Administrators Appointed) (Receivers
and Managers Appointed) ACN 008 664
962**

Seventh Defendant

**Network Ten (Brisbane) Pty Limited
(Administrators Appointed) (Receivers
and Managers Appointed) ACN 050 148
537**

Eighth Defendant

**Network Ten (Melbourne) Pty Limited
(Administrators Appointed) (Receivers
and Managers Appointed) ACN 008 664
953**

Ninth Defendant

**Network Ten (Perth) Pty Limited
(Administrators Appointed) (Receivers
and Managers Appointed) ACN 009 108
614**

Tenth Defendant

**Network Ten (Adelaide) Pty Limited
(Administrators Appointed) (Receivers
and Managers Appointed) ACN 007 577
666**

Eleventh Defendant

**Caprice Pty Limited (Administrators
Appointed) (Receivers and Managers
Appointed) ACN 008 655 847**

Twelfth Defendant

**Chartreuse Pty Limited (Administrators
Appointed) (Receivers and Managers
Appointed) ACN 008 655 874**

Thirteenth Defendant

**Television and Telecasters (Properties)
Pty Limited (Administrators Appointed)
ACN 050 690 161**

Fourteenth Defendant

**Ten Online Pty Limited (Administrators
Appointed) ACN 089 829 667**

Fifteenth Defendant

**Ten Ventures Pty Limited (Administrators
Appointed) ACN 089 830 759**

Sixteenth Defendant

**Ten Employee Share Plans Pty Limited
(Administrators Appointed) ACN 082 736
150**

Seventeenth Defendant

Appendix 4 – Transaction Deed





Execution Version

Transaction Deed

relating to Ten Network Holdings Limited (Administrators appointed) (Receivers and Managers appointed)

Ten Network Holdings Limited (Administrators appointed) (Receivers and Managers appointed) (**Company**)

Network Ten Pty Limited (Administrators appointed) (Receivers and Managers appointed) (**Network Ten**)

Christopher Clarke Hill, Philip Patrick Carter and David Laurence McEvoy in their capacity as receivers and managers of Ten Network Holdings Limited (Administrators appointed) (Receivers and Managers appointed) (**Receivers**)

Mark Korda, Jenny Nettleton and Jarrod Villani in their capacity as administrators of Ten Network Holdings Limited (Administrators appointed) (Receivers and Managers appointed) (**Administrators**)

CBS International Television Australia Pty Ltd (**Purchaser**)

CBS Studios, Inc. (**Guarantor**)

Transaction Deed

relating to Ten Network Holdings Limited (administrators appointed)
(receivers and managers appointed)

Details	5
Agreed terms	7
1. Defined terms & interpretation	7
1.1 Defined terms	7
1.2 Interpretation	14
1.3 Obligations and rights of Controllers	15
1.4 Headings	15
2. Conditions precedent	15
2.1 Conditions	15
2.2 Waiver	15
2.3 Conduct of the parties	16
2.4 Failure of condition	16
2.5 Effect of termination	16
3. Exclusivity	16
4. New Facility Condition	17
5. Implementation of the Transaction	18
6. Transaction Payments	19
6.1 Payment	19
6.2 Cleared funds	19
7. Controller Liabilities	19
8. No Leakage	19
9. Obligations before Completion	20
9.1 Continuity of business	20
9.2 Prohibited actions	20
9.3 Exceptions	21
9.4 Employee termination costs	21
10. Completion	21
10.1 Time and place	21
10.2 Obligations of the Controllers	21
10.3 Obligations of the Purchaser	21
10.4 Simultaneous actions at Completion	22
10.5 Termination of DOCA and retirement of Controllers	22
10.6 Records	22
10.7 Purchaser's Nominee	23
11. Warranties and limitation of liability	23
11.1 Controller Fundamental Warranties	23
11.2 Company Fundamental Warranties	23
11.3 When Fundamental Warranties given	24
11.4 Application of Fundamental Warranties	24
11.5 Acknowledgments	24
11.6 No reliance	25
11.7 Financial limits on Claims	26

11.8	Time limits on Claims	26
11.9	Consequential Loss	27
11.10	Other limitations on Claims	27
11.11	Notice of potential Claim	28
11.12	Conduct of Third Party Claims	28
11.13	Rights of the Purchaser	28
11.14	Costs indemnity	29
11.15	Subject Claim payments	29
11.16	Mitigation of losses	29
11.17	No double recovery	29
11.18	Sole remedy	29
11.19	Statutory actions	30
11.20	Remedies of the Purchaser	30
11.21	No personal liability of Representatives of Controllers	30
11.22	Independent limitations	30
11.23	Related bodies corporate of the Purchaser	30
12.	Purchaser's and Guarantor's representations	30
12.1	Representations	30
12.2	Application of representations	31
13.	Confidentiality and public announcements	31
13.1	Confidentiality	31
13.2	Confidential Information	32
13.3	Announcements	32
14.	Guarantor's guarantee	32
14.1	Consideration	32
14.2	Guarantee and indemnity	32
14.3	Non-payment or non-performance	33
14.4	Demands	33
14.5	Immediate recourse	33
14.6	Continuing obligations	33
14.7	Extent of guarantee and indemnity	33
14.8	Principal and independent obligation	34
14.9	Deferral of certain rights	34
14.10	Prove in liquidation	34
14.11	Enforcement against Guarantor	35
15.	GST	35
15.1	Interpretation	35
15.2	GST gross up	35
15.3	Reimbursements	35
15.4	Tax invoice	35
16.	Notices and other communications	35
16.1	Service of notices	35
16.2	Effective on receipt	35
17.	Miscellaneous	36
17.1	Alterations	36
17.2	Approvals and consents	36
17.3	Assignment	36
17.4	Costs	36
17.5	Stamp duty	36
17.6	Survival	36

17.7 Counterparts 36

17.8 No merger 36

17.9 Entire agreement 36

17.10 Further action 36

17.11 Severability 36

17.12 Waiver 36

17.13 Relationship 36

17.14 Governing law and jurisdiction 37

17.15 New Deeds of Appointment and Indemnity 37

17.16 New Facility Documents 37

Schedule 1 – Implementation Steps 38

Schedule 2 – Group 41

Signing page 42

Details

Date **27 August 2017**

Parties

Name **Ten Network Holdings Limited** (Administrators appointed) (Receivers and Managers appointed)
ABN 14 081 327 068
Short form name **Company**
Notice details c/- PPB Advisory, Level 7, 8-12 Chifley Square Sydney NSW 2000
Email: chill@ppbadvisory.com / acolley@ppbadvisory.com
Attention: Christopher Hill / Adam Colley

Name **Christopher Clarke Hill, Philip Patrick Carter and David Laurence McEvoy** in their capacity as receivers and managers of Ten Network Holdings Limited (Administrators appointed) (Receivers and Managers appointed)
Short form name **Receivers**
Notice details PPB Advisory, Level 7, 8-12 Chifley Square Sydney NSW 2000
Email: chill@ppbadvisory.com / acolley@ppbadvisory.com
Attention: Christopher Hill / Adam Colley

Name **Mark Korda, Jenny Nettleton and Jarrod Villani** in their capacity as administrators of Ten Network Holdings Limited (Administrators appointed) (Receivers and Managers appointed)
Short form name **Administrators**
Notice details KordaMentha, Level 5, Chifley Tower, 2 Chifley Square Sydney NSW 2000
Email: mkorda@kordamentha.com / jnettleton@kordamentha.com / jvillani@kordamentha.com
Attention: The Administrators

Name **Network Ten Pty Limited** (Administrators appointed) (Receivers and Managers appointed)
ABN 50 057 564 708
Short form name **Network Ten**
Notice details c/- PPB Advisory, Level 7, 8-12 Chifley Square Sydney NSW 2000
Email: chill@ppbadvisory.com / acolley@ppbadvisory.com
Attention: Christopher Hill / Adam Colley

Name **CBS International Television Australia Pty Ltd**
Short form name **Purchaser**
Notice details Level 4, Kyle House, 27-31 Macquarie Place, Sydney NSW 2000
Email: stephen.white@cbs.com
Attention: Stephen White

Name **CBS Studios, Inc.**
Short form name **Guarantor**
Notice details c/o CBS Studios International
7800 Beverly Blvd.
Los Angeles, CA 90036 USA\
Attn: Armando Nuñez, President & CEO
Email: armando.nunez@cbs.com

Background

- A The Administrators were appointed as the joint and several administrators of the Company and certain of its subsidiaries on 14 June 2017 and their appointments subsist today.
- B The Receivers were appointed by the Security Trustee as receivers and managers of the Company and certain of its subsidiaries on 30 June 2017 and their appointments subsist today.
- C The parties to this deed wish to implement the Transaction.
- D The Guarantor is the holding company of the Purchaser and, in consideration of the Company and the Controllers entering into this deed at the Guarantor's request, have agreed to guarantee the obligations of the Purchaser under this deed.

Agreed terms

1. Defined terms & interpretation

1.1 Defined terms

In this deed:

1936 Tax Act means the *Income Tax Assessment Act 1936* (Cth).

1997 Tax Act means the *Income Tax Assessment Act 1997* (Cth).

440B Consent means the Administrators' consent to the appointment of the Receivers under the New Deed of Appointment, pursuant to section 440B of the Corporations Act, in clause 3 of the New Deed of Indemnity.

447A Orders means orders by the Court made pursuant to section 447A of the Corporations Act to the effect that Part 5.3A of the Corporations Act is to operate as if section 443A(1) of the Corporations Act is to operate in relation to the each of the Group Companies such that if the indemnity of the Administrators under section 443D of the Corporations Act from the Group Companies is insufficient to meet any amount for which the Administrators may be liable arising out of or in connection with the Transaction Documents (including in respect of any monies borrowed, interest in respect of monies borrowed and borrowing costs), then the Administrators will not be personally liable to repay such amount to the extent of that insufficiency.

588FM Application means an application to be made jointly by the Receivers and the Administrators (or the Administrators if clause 4(b) applies) for an order under section 588FM of the Corporations Act fixing a later time for registration of the security interests created under the New General Security Deed on the register under the PPSA for the purposes of section 588FL(2)(b)(iv) of the Corporations Act.

Accounting Standards means the Australian Accounting Standards, but if and to the extent that any matter is not covered by Australian Accounting Standards, means generally accepted accounting principles applied in Australia for companies similar to the Group.

Accounts means the audited balance sheet of each Group Company as at the Accounts Date and the audited profit and loss statement for the half-financial year ending on the Accounts Date together with the notes to, and the reports of the directors in respect of, those accounts.

Accounts Date means 28 February 2017.

Administrators means Mark Korda, Jenny Nettleton and Jarrod Villani:

- (a) in their capacity as administrators of Ten Network Holdings Limited (Administrators appointed) (Receivers and Managers appointed) and all relevant subsidiaries; or
- (b) in their capacity as deed administrators of the Company and all relevant subsidiaries, in each instance, as relevant.

Administrators' Remuneration means the remuneration payable to the Administrators for work performed by them, their partners, employees or agents with respect to acting as administrators of the Group or as administrators of the DOCA as determined in accordance with clause 15.1 of the DOCA and section 449E of the Corporations Act.

Administration Liabilities means all amounts, debts, liabilities, actions, suits, proceedings, accounts, claims, damages, awards and judgments in respect of which the Administrators are entitled to be indemnified under clause 15.2 of the DOCA.

Affiliate means, in relation to a person, a Related Body Corporate of that person or a Related Fund.

Ancillary Security has the meaning given to that term in the Facility Agreement.

ASIC means the Australian Securities and Investments Commission.

ASIC Relief means such exemptions and modifications from Chapter 6 of the Corporations Act granted by ASIC pursuant to section 655A of the Corporations Act as are necessary to permit the transfer of all of the shares in the Company to the Purchaser.

ASX means, as the case requires, ASX Limited or the Australian Securities Exchange.

Bonuses means all bonuses, whether contractual or discretionary, payable by a Group Company after the Locked Box Date (including to the employees of the Group or any Controller Party) as a result of, or in connection with, the Transaction.

Business means the businesses carried on by the Group as at the date of this deed, and all associated and incidental activities.

Business Day means:

- (a) for receiving a notice under clause 16, a day that is not a Saturday, Sunday, public holiday or bank holiday in the place where the notice is received; and
- (b) for all other purposes, a day that is not a Saturday, Sunday, public holiday or bank holiday in New South Wales, Australia, New York or Amsterdam.

Claim includes a claim, notice, demand, action, proceeding, litigation, investigation, judgment, damage, loss, cost, expense or liability however arising, whether present, unascertained, immediate, future or contingent, whether based in contract, tort or statute and whether involving a third party or a party to this deed.

Claim Notice has the meaning given to that term in clause 11.11.

Company Fundamental Warranty means a warranty in clause 11.2.

Completion means completion of the transfer of all of the shares of the Company to the Purchaser or to the Purchaser's Nominee (as applicable) as contemplated by and in accordance with this deed and the DOCA.

Completion Date means the date on which Completion occurs, which is the Implementation Date as defined in the DOCA.

Conditions means the conditions set out in clause 2.1.

Confidentiality Deed means the separate Confidentiality Deeds executed prior to the date of this deed between the Company, the Receivers and each Purchaser (or its Affiliate).

Consequential Loss means, in respect of a breach of this deed (including a breach of a Fundamental Warranty) or event, fact, matter or circumstance giving rise to a Claim:

- (a) any Liabilities suffered by a party that cannot reasonably be considered to arise naturally from that breach or the event, fact, matter or circumstance;
- (b) any Liabilities suffered by a party that cannot reasonably be considered to have been in the contemplation of the parties at the time the parties entered into this deed as a probable result of that breach or the event, fact, matter or circumstance; and
- (c) any and all consequential, special, indirect, exemplary or punitive Liabilities and any and all Liability relating to loss of profit, loss of revenue, loss of goodwill, loss of opportunity or loss of savings in relation to that breach or the event, fact, matter or circumstance, even if such Liability could reasonably be considered to arise naturally from that breach or the event, fact, matter or circumstance or could reasonably be considered to have been in the contemplation of the parties at the time the parties entered into this deed as a probable result of that breach or the event, fact, matter or circumstance,

whether arising in contract, tort (including negligence) or equity or under statute.

Controllers means the Receivers and the Administrators and **Controller** means any one of them.

Controller Liabilities means all Liabilities of the Controllers in relation to any contract, purchase order or other arrangement entered into by the Controllers in respect of a Group Company, or which the Controllers have caused a Group Company to perform, that remains undischarged at Completion, with the known Controller Liabilities as at 25 August 2017 being listed in the documents in the Data Room with Data Room reference numbers 2A.02.07.08 and 2A.02.07.09.

Controller Fundamental Warranty means a warranty in clause 11.1.

Controller Parties means in respect of each Controller:

- (a) the Controller; and
 - (b) each current or former Representative of the Controller,
- and **Controller Party** means any one of them.

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

Court has the meaning given to that term in the DOCA.

Creditors has the meaning given to that term in the DOCA.

Creditors' Trust means the trust to be established pursuant to the Creditors' Trust Deed.

Creditors Trust Account means the bank accounts controlled by the Creditors' Trust Trustees, the details of which will be notified by the Administrators to the Purchaser at least 2 Business Days prior to Completion.

Creditors Trust Trustees means the trustees of the Creditors' Trust.

Creditors' Trust Deed means the *Ten Group Creditors' Trust Deed* which is proposed to be entered into by the Group and the Administrators (acting as trustees of the Creditors' Trust), in substantially the form agreed between the Purchaser and the Receivers and Administrators prior to execution of this deed.

Defined Payment means the amount of \$32,000,000, which will constitute the 'Fund Amount' for the purposes of the DOCA.

DOCA means the 'Deed of company arrangement' which is proposed to be entered into by, among others, the Company, the Administrators and the Purchaser (or the Purchaser's Nominee), in substantially the form agreed between the Purchaser and the Receivers and Administrators prior to execution of this deed.

Draw Down Date means the date on which the Receivers or the Administrators (as the case may be) draw down the New Facility Amount under the New Facility Agreement, pursuant to the Implementation Steps.

Due Diligence Material means the:

- (a) information and documents which were made available at any time during the period commencing 6 July 2017 and ending on 18 August 2017 contained in the Data Room; and
- (b) written responses given to written questions submitted by the Purchaser and their Representatives as part of the question and answer process provided via the Data Room,

copies of which have been provided to the Purchaser on a USB key or DVD on or prior to the execution of this deed, and any written information made available at the management presentations attended by the Purchaser or its Representatives.

Excluded Liabilities means any Liability of a Controller arising as a result of the fraud, gross negligence, breach of duty or wilful default of that Controller and, in respect of the Receivers, any other Liabilities of the Receivers in respect of which the Purchaser's indemnity under the New Deed of Indemnity do not apply.

Facility means the revolving cash advance facility provided under the Facility Agreement.

Facility Agreement means the *Facility Agreement - A\$200,000,000 Revolving Cash Advance Facility* dated 16 October 2013 as amended from time to time (including pursuant to the Standstill and Amendment Deed), between, amongst others, the Secured Creditor, the Security Trustee and the Company.

FATA means the *Foreign Acquisitions and Takeovers Act 1975* (Cth).

Forward-looking Information has the meaning given to that term in clause 11.5(a)(vi).

Fundamental Warranties means the Controller Fundamental Warranties and the Company Fundamental Warranties.

Governmental Authority includes any governmental, semi-governmental, municipal or statutory authority, instrumentality, organisation, body or delegate (including any town planning or development authority, public utility, environmental, building, health, safety or other body or authority) having jurisdiction, authority or power over or in respect of a Group Company, the Business or a Group Company's premises.

GST has the meaning given to that term in *A New Tax System (Goods and Services Tax) Act 1999* (Cth).

Group means the Company and each other entity specified in Schedule 2 and **Group Company** means any one of them.

Implementation Steps means each of the steps set out in the column entitled 'Implementation Steps' in the table in Schedule 1.

Leakage means:

- (a) any dividend, or distribution declared, paid or made (or determined to be paid or made) by any Group Company to a Controller Party;
- (b) any Bonuses;
- (c) the creation of any Security Interest over any share or asset in favour of a Controller Party other than a Permitted Security Interest;
- (d) the incurring of any indebtedness by any Group Company other than any indebtedness to trade creditors incurred in the ordinary course of business and in accordance with transactions which do not breach any provision of this deed.
- (e) any payments made by any Group Company to a Controller Party in respect of any capital in any Group Company being issued, redeemed, cancelled, bought-back, purchased or repaid, or any other return of capital by any Group Company;
- (f) the waiver by any Group Company of any amount owed to that Group Company by a Controller Party;
- (g) any payments made or agreed to be made by any Group Company, any Liabilities to a Group Company forgiven or compromised and any Liabilities assumed or incurred, in each case outside the ordinary course of ordinary business or in breach of any provision of this deed;
- (h) the incurring or payment by any Group Company of any Tax, except in the ordinary course of the Business;
- (i) the making of any Tax election by any Group Company;
- (j) the payment of or agreement to pay any fees, costs or Tax or GST incurred by a Group Company as a result of those matters set out in paragraphs (a) to (i) above;
- (k) the entering into of any contract or agreement to do any of, announcing or taking any preparatory steps to do, any of the matters referred to in paragraphs (a) to (j) above; and
- (l) all Tax (and all Liabilities) incurred by a Group Company in relation to any of paragraphs (a) to (k) above,

in each case after the Locked Box Date and on or prior to the Completion Date but does not include a Permitted Leakage.

Liability means any liability or obligation (whether actual, contingent or prospective), including for any Loss of whatever description irrespective of when the acts, events or things giving rise to the liability or obligation occurred.

Locked Box Date means 30 June 2017.

Loss includes any loss, damage, cost, Claim, liability or expense.

Mitigation Principles has the meaning given to that term in clause 11.16(a).

New Deed of Appointment means the deed of appointment to be entered into by the New Security Trustee and the Receivers, in the form agreed between the Purchaser and the Receivers prior to execution of this deed.

New Deed of Indemnity means the deed of indemnity to be entered into by the Purchaser and the Receivers, in the form agreed between the Purchaser and the Receivers prior to execution of this deed.

New Facility Agreement means the facility agreement to be entered into by the Company and the Purchaser amongst others on or about the date of this deed, in the form agreed between the Purchaser and the Receivers and Administrators prior to execution of this deed, which will provide for funding sufficient to discharge the Secured Moneys, the Shareholder Guarantors' Fees and to provide for the working capital requirements of the Group (including for the funding of employee termination or redundancy costs), in an amount of not less than \$30,000,000.

New Facility Amount means the amount of funds required to discharge the Secured Moneys and the Shareholder Guarantors' Fees on the Draw Down Date.

New Facility Commitment means the 'Total Commitments' as defined in the New Facility Agreement.

New Facility Condition has the meaning given to that term in clause 4(a).

New Facility Documents means the New Facility Agreement, the New Security Trust Deed and the New General Security Deed.

New Facility Secured Moneys means all present and future, actual or contingent amounts owing by the Company and each other Obligor (under and as defined in the New Facility Agreement) to the Purchaser, the New Security Trustee and any facility agent under the New Facility Documents.

New Facility Sunset Date means 31 August 2017.

New General Security Deed means the general security deed to secure the New Facility Secured Moneys, to be entered into on or about the date of this deed by the New Security Trustee and the Company and others, in the form agreed between the Purchaser, the Receivers and the Administrators prior to the date of this deed.

New Security Trust Deed means the security trust deed to be entered into by the New Security Trustee, the Company, the Purchaser and others on or about the date of this deed, in the form agreed between the Purchaser, the Receivers and Administrators prior to the date of this deed.

New Security Trustee means CBS Studios, Inc..

Permitted Leakage means:

- (a) any payment or thing which as at the date of this deed has been made or which has occurred (or in respect of which a Group Company has a legal obligation) and, in each case, that has been fairly disclosed in the Due Diligence Materials;
- (b) any payment or thing that is expressly permitted or required to be done under a Transaction Document;
- (c) any payment or thing which is approved in writing by the Purchaser; and
- (d) any payment to which the Administrators are entitled from a Group Company:
 - (i) pursuant to their right of indemnity pursuant to section 443D of the Corporations Act; or
 - (ii) in respect of their remuneration fixed in accordance with the Corporations Act.

Permitted Security Interest means any of:

- (a) a retention of title arrangement under which title is retained by a supplier over goods supplied to a Group Company until payment for such goods is made provided that such arrangement has been entered into in the ordinary and usual course of business;

- (b) a security interest contemplated by section 12(3)(b) of the PPSA provided that such commercial consignment has been entered into in the ordinary and usual course of business;
- (c) a security interest contemplated by section 12(3)(c) of the PPSA provided that such PPS lease has been entered into in the ordinary and usual course of business and is not a security interest within the meaning of section 12(1) of the PPSA;
- (d) any lien arising in favour of the Controllers arising pursuant to section 443F of the Corporations Act (in the case of the Administrators) or in equity; and
- (e) any Security Interest arising under, or preserved by, a Transaction Document.

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

Purchaser Group means:

- (a) the Purchaser and the Guarantor; and
- (b) each Related Body Corporate of the Purchaser or the Guarantor,

and **Purchaser Group Member** means any one of them.

Purchaser's Nominee means an entity owned by the Purchaser or its Affiliates, details of which must be notified by the Purchaser to the Receivers upon the Purchaser making an election under clause 10.7.

Qualifying Subject Claim has the meaning given to that term in clause 11.7(a)(i).

Receivers means Christopher Clarke Hill, Philip Patrick Carter and David Laurence McEvoy in their capacity as receivers and managers of the Company and, as relevant, all relevant subsidiaries.

Records means all original and copy records, documents, books, files, reports, accounts, plans, correspondence, letters and papers of every description and other material regardless of their form or medium and whether coming into existence before, on or after the date of this deed, of a Group Company relating exclusively to the Business including certificates of registration, minute books, statutory books and registers, books of account, Tax returns, title deeds and other documents of title, customer lists, price lists, computer programs and software, and trading and financial records, but excludes any records which a Controller is required by law to retain.

Related Body Corporate has the meaning given to that term in the Corporations Act.

Related Fund means in relation to a fund (the "**first fund**"), a fund which is managed or advised by the same investment manager or investment adviser as the first fund or, if it is managed by a different investment manager or investment adviser, a fund whose investment manager or investment adviser of a Related Body Corporate of the investment manager or investment adviser of the first fund.

Representatives means, in relation to a person or entity, any director, officer, executive or employee of that person or entity and any contractor, agent, adviser or financier of that person or entity.

Secured Creditor means Commonwealth Bank of Australia ABN 48 123 123 124.

Secured Moneys has the meaning given to that term in the Facility Agreement, but for the avoidance of doubt does not include the Transaction Costs to the extent such Transaction Costs have not been paid by the Secured Creditor.

Securities has the meaning given to that term in the Security Trust Deed.

Security Documents has the meaning given to that term in the Facility Agreement.

Security Interest means a 'security interest' as defined in the PPSA and any mortgage, lien, charge, pledge, claim, restriction against transfer, encumbrance and other third party interest.

Security Trust Deed means the security trust deed between the Security Trustee, the Company and others dated 24 February 2014, as amended from time to time.

Security Trustee means CBA Corporate Services (NSW) Pty Limited ABN 25 072 765 434.

Shareholder Guarantees means:

- (a) the Deed of Guarantee and Indemnity dated 23 January 2014 between Consolidated Press Holdings ACN 008 394 509 and the Secured Creditor;
- (b) the Deed of Guarantee and Indemnity dated 23 January 2014 between Illyria Nominees Television Pty Limited ACN 147 289 647 as trustee for the Illyria Investment Trust No 4 and the Secured Creditor; and
- (c) the Deed of Guarantee and Indemnity dated 23 January 2014 between Birketu Pty. Ltd ACN 003 831 392 and the Secured Creditor,

and **Shareholder Guarantee** means any one of them.

Shareholder Guarantors means:

- (a) Consolidated Press Holdings ACN 008 394 509;;
- (b) Illyria Nominees Television Pty Limited ACN 147 289 647 as trustee for the Illyria Investment Trust No 4; and
- (c) Birketu Pty. Ltd ACN 003 831 392,

and **Shareholder Guarantor** means any one of them.

Shareholder Guarantors' Fees means all fees, disbursements or other amounts payable by the Group to the Shareholder Guarantors pursuant to the Shareholder Guarantee Reimbursement Deed, the Standstill and Amendment Deed or any other document relating to the Shareholder Guarantees.

Shareholder Guarantee Reimbursement Deed means the '*Shareholder Guarantee Reimbursement Deed*' between the Company and the Shareholder Guarantors dated 16 October 2013.

Standstill and Amendment Deed means the '*Standstill and Amendment Deed*' between the Company, the Secured Creditor, the Security Trustee and the Shareholder Guarantors, amongst others, dated 30 June 2017.

Subject Claim means a Claim by a Purchaser against a Controller arising as a direct result of a breach of a Fundamental Warranty.

Sunset Date means 15 December 2017.

Tax means all forms of taxes, duties, imposts, charges, withholdings, rates, levies or other governmental impositions of whatever nature and by whatever authority imposed, assessed or charged together with all costs, charges, interest, penalties, fines, expenses and other additional statutory charges, incidental or related to the imposition.

Tax Authority means any government, semi-government, administrative, municipal, statutory, fiscal or judicial body, department, commission, authority, tribunal, agency, entity or person responsible for the collection of any Tax or administration of any law with respect to Tax.

Tax Law means any law in relation to any Tax, including the 1936 Tax Act and the 1997 Tax Act.

Tax Relief means any credit, rebate, refund, relief, allowance or deduction in relation to Tax (including any carry forward Tax losses that accrue before Completion or become available before Completion).

Third Party means a person that is not a party or an Representative of a party.

Third Party Claim means a Claim made by a Third Party against a Group Company, a Purchaser or any Representative of a Purchaser that is reasonably likely to result in a Subject Claim.

Transaction means the transfer of all the shares of the Company to the Purchaser' Nominee to be implemented in accordance with this deed and the DOCA.

Transaction Payments means each of the following:

- (a) the New Facility Amount;
- (b) the Defined Payment; and

- (c) the Transaction Costs.

Transaction Costs means all remuneration, costs, expenses and other Liabilities of the Receivers which remain unpaid or outstanding as at Completion or which otherwise become payable as a consequence of Completion, excluding:

- (a) any Controller Liabilities;
- (b) any Administrators' Remuneration and Administration Liabilities (to the extent the Receivers have responsibility for such amounts); and
- (c) any Excluded Liabilities.

Transaction Document means each of:

- (a) this deed;
- (b) the New Facility Documents;
- (c) the DOCA;
- (d) the Creditors' Trust Deed;
- (e) the New Deed of Appointment;
- (f) the New Deed of Indemnity; and
- (g) any other document which the Purchaser and the Receivers (or the Administrators (as applicable) agree is a Transaction Document for the purposes of this deed.

1.2 Interpretation

In this deed:

- (a) the singular includes the plural and vice versa, and a gender includes other genders;
- (b) another grammatical form of a defined word or expression has a corresponding meaning;
- (c) a reference to a clause, paragraph, schedule or annexure is to a clause or paragraph of, or schedule or annexure to, this deed, and a reference to this deed includes any schedule or annexure;
- (d) a reference to a document or instrument includes the document or instrument as novated, altered, supplemented or replaced from time to time;
- (e) a reference to A\$, \$A, dollar or \$ is to Australian currency;
- (f) a reference to time is to Sydney, Australia time;
- (g) a reference to a party is to a party to this deed, and a reference to a party to a document includes the party's executors, administrators, successors and permitted assigns and substitutes;
- (h) a reference to a person includes a natural person, partnership, body corporate, association, governmental or local authority or agency or other entity;
- (i) a reference to a statute, ordinance, code or other law includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements of any of them;
- (j) a word or expression defined in the Corporations Act has the meaning given to it in the Corporations Act;
- (k) the meaning of general words is not limited by specific examples introduced by including, for example or similar expressions;
- (l) any agreement, representation, warranty or indemnity by two or more parties (including where two or more persons are included in the same defined term) binds them jointly and severally;

- (m) 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;
- (n) a rule of construction does not apply to the disadvantage of a party because the party was responsible for the preparation of this deed or any part of it; and
- (o) if a day on or by which an obligation must be performed or an event must occur is not a Business Day, the obligation must be performed or the event must occur on or by the next Business Day.

1.3 Obligations and rights of Controllers

In this deed:

- (a) each obligation and right of the Receivers is joint and several as between the Receivers;
- (b) each obligation and right of the Administrators is joint and several as between the Administrators;
- (c) each obligation and right of the Controllers is several as between the Receivers and the Administrators; and
- (d) except in such instances in which the context requires otherwise, any reference to the Controllers is a reference to each of the Receivers and the Administrators separately and as to themselves, so that (for example) an undertaking given by the Controllers is given by each of the Receivers and the Administrators separately about themselves (meaning that it is several but not joint as between the Receivers and the Administrators).

1.4 Headings

Headings are for ease of reference only and do not affect interpretation.

2. Conditions precedent

2.1 Conditions

Completion of the Transaction must not occur until all of the following Conditions are fulfilled:

- (a) **FIRB:** Either:
 - (i) the Purchaser has received a written notice under the FATA, by or on behalf of the Treasurer of the Commonwealth of Australia stating that the Commonwealth Government does not object to the Transaction (whether unconditionally or subject to conditions acceptable to the Purchaser, acting reasonably); or
 - (ii) the Treasurer of the Commonwealth of Australia becomes precluded from making an order in relation to the Transaction under the FATA; or
 - (iii) if an interim order is made under the FATA in respect of the Transaction, the subsequent period for making a final order prohibiting the transactions contemplated by this deed elapses without a final order being made;
- (b) **ASIC and ASX:** ASIC and ASX have issued or provided such consents or approvals or done such other acts which the parties agree in writing are reasonably necessary or desirable to implement the Transaction, including the ASIC Relief; and
- (c) **DOCA:** the DOCA has been executed by all parties to it, and the Administrators have obtained a Court order under section 444GA(1) of the Corporations Act granting leave to the Administrators to transfer all of the shares in the Company to the Purchaser' Nominee as contemplated by, and otherwise in accordance with the terms set out in this deed.

2.2 Waiver

The Conditions cannot be waived without the written agreement of all parties.

2.3 Conduct of the parties

- (a) Each party must use all reasonable efforts within its own capacity to ensure that each Condition is fulfilled before 5.00pm on the Sunset Date.
- (b) The parties must keep each other informed of any circumstances which may result in a Condition not being able to be satisfied.

2.4 Failure of condition

- (a) If the Receivers have or the Purchaser has, as relevant, complied with their obligations under clause 2.3, the Purchaser or the Receivers, as relevant, may terminate this deed by giving notice in writing to the other parties if one or more Conditions are not fulfilled by 5.00pm on the Sunset Date or another date agreed by the parties in writing.
- (b) Notwithstanding clause 2.4(a), if at any time prior to 5.00pm on the Sunset Date a Condition becomes incapable of being fulfilled, if the Purchaser or the Receivers have, as relevant, complied with their obligations under clause 2.3, the Purchaser or the Receivers, as relevant, may terminate this deed by giving notice in writing to the other parties.

2.5 Effect of termination

On termination of this deed under clause 2.4:

- (a) this clause 2.5 and clauses 13, 15, 16 and 17 continue to apply;
- (b) accrued rights and remedies of a party are not affected; and
- (c) the parties are released from further performing their obligations under this deed other than clauses 13, 15, 16 and 17 and this clause 2.5.

3. Exclusivity

- (a) Each party to this deed undertakes to each other party that, from the date of this deed until Completion:
 - (i) it will use all reasonable efforts within its own capacity to complete the Transaction in accordance with the terms of this deed; and
 - (ii) subject to clause 3(a)(iii), it will not (whether personally or by any of its Representatives) solicit, sponsor, endorse or otherwise take any action to implement or be involved in any transaction involving or relating to the Group or the Business which is inconsistent to clause 3(a)(i), including but not limited to an alternative deed of company arrangement relating to any Group Company or, in the case of a Controller, borrowing money from anyone other than the Purchaser or the Purchaser to enable the Company to repay the Secured Moneys and the Shareholder Guarantee Fees or incurring further indebtedness under the Facility Agreement or any other facility that is secured by the Security Documents.
 - (iii) The parties acknowledge and agree that:
 - (A) the Administrators may be subject to obligations pursuant to Part 5.3A of the Corporations Act in the event they receive an unsolicited proposal involving a deed of company arrangement received after entry of this deed (**Unsolicited Proposal**), and the Administrators will not be in breach of clause 3(a)(ii) to the extent that they comply with what they consider, acting reasonably, to be such obligations in respect of the Unsolicited Proposal; and
 - (B) a Controller will not be in breach of clause 3(a)(ii) to the extent that the Controller does any act or thing that the Controller, acting reasonably, considers necessary to comply with any legal obligation on the Controller.
- (b) Following the reappointment of the Receivers by the New Security Trustee pursuant to the Implementation Steps, and prior to Completion, the Purchaser must not (and must procure

that the New Security Trustee does not), without the prior written consent of the Receivers:

- (i) assign in whole or in part the New Facility Secured Moneys to any third party; or
 - (ii) terminate the appointment of the Receivers as receivers and managers of the Company and all relevant subsidiaries.
- (c) The Receivers may immediately terminate this deed by giving notice in writing to the other parties in the event of any breach by the Purchaser of clause 3(a) or clause 3(b).
- (d) The Purchaser may immediately terminate this deed by giving notice in writing to the other parties in the event of any breach by a Controller Party of clause 3(a).
- (e) On termination of this deed under clause 3(c) of clause 3(d):
- (i) this clause 3(e) and clauses 13, 15, 16 and 17 continue to apply;
 - (ii) accrued rights and remedies of a party are not affected; and
 - (iii) the parties are released from further performing their obligations under this deed other than clauses 13, 15, 16, 17 and this clause 3(e).

4. New Facility Condition

- (a) Each party agrees that it will use all reasonable efforts within its own capacity to procure that the New Facility Agreement is executed on or about the date of this deed and the New Facility Amount is advanced to or as directed by the Company (**New Facility Condition**) on or before 5.00pm on the New Facility Sunset Date. To avoid doubt, a party will not be taken to have used 'reasonable efforts' for the purposes of this clause if that party has failed to take any step which it is obliged under clause 5 to take and which is necessary to ensure that the New Facility Condition is satisfied.
- (b) If the Receivers do not, or notify the Purchaser that they are unwilling or unable to:
- (i) make the 588FM Application by 30 August 2017; or
 - (ii) take any other step required to be taken by them that is necessary to ensure the New Facility Condition is satisfied on or before the New Facility Sunset Date,
- the Administrators must promptly, and in any event prior to the New Facility Sunset Date, make the 588FM Application (if not yet made) and seek the 447A Orders, and subject to obtaining the relevant court orders the subject of the 588FM Application and the 447A Orders, enter into the New Facility Documents on behalf of the relevant Group Companies and draw down the New Facility Amount.
- (c) If the Receivers (or the Administrators (as applicable)), or the Purchaser (as relevant) have complied with their obligations under clause 4(a) or clause 4(b) (as applicable), it may terminate this deed by giving notice in writing to the other parties if the New Facility Condition has not been satisfied by 5.00pm on the New Facility Sunset Date or another date agreed by the parties in writing.
- (d) If the Purchaser has complied with its obligations under clause 4(a), the Purchaser may immediately terminate this deed by giving notice in writing to the other parties in the event of any breach by any other party of clause 4(a) or clause 4(b) (if applicable).
- (e) If the Receivers have complied with their obligations under clause 4(a), they may immediately terminate this deed by giving notice in writing to the other parties in the event of any breach by the Purchaser of clause 4(a).
- (f) On termination of this deed pursuant to this clause 4:
- (i) this clause 4(f) and clauses 13, 15, 16 and 17 continue to apply; and
 - (ii) accrued rights and remedies of a party are not affected.

5. Implementation of the Transaction

- (a) Each party agrees that it will use all reasonable efforts within its own capacity to:
- (i) undertake the Implementation Steps in the order and in accordance with the timetable specified in Schedule 1; and
 - (ii) procure that all necessary documents, board or shareholder resolutions necessary to give effect to the Implementation Steps are executed or passed promptly and evidence of such execution or resolution is provided where requested.
- (b) To avoid doubt, a party will not be taken to have used 'reasonable efforts' for the purposes of clause 5(a)(i) if that party fails to take any step which it is required to take under the Implementation Steps by the specified time in Schedule 1, unless such failure is solely due to the action or inaction of another party to this deed.
- (c) If:
- (i) there is an event or occurrence that would, or does, prevent any of the Implementation Steps being satisfied;
 - (ii) there is an event or occurrence that would, or does, prevent any of the Implementation Steps being satisfied by the time and date specified in this deed for the satisfaction of that Implementation Step; or
 - (iii) it becomes more likely than not that Completion will not occur by the Sunset Date, the parties must consult in good faith to:
 - (iv) consider and, if agreed, convene a further meeting of Creditors to consider variations to a DOCA;
 - (v) consider and, if agreed, determine whether the Transaction may proceed by way of alternative means or methods, including by way of the sale and purchase of all the shares in Network Ten or such other of the Group Companies on such terms as the parties, acting reasonably, may agree; and
 - (vi) consider and, if agreed, extend the relevant date for completion of the relevant Implementation Step or the Sunset Date.
- (d) If the Receivers or the Purchaser (as relevant) have complied with their obligations under clauses 5(a) and 5(b), it may terminate this deed by giving notice in writing to the other parties if the Transaction has not been completed by 5.00pm on the Sunset Date or another date agreed by the parties in writing.
- (e) If the Purchaser has complied with its obligations under clauses 5(a) and 5(b), the Purchaser may immediately terminate this deed by giving notice in writing to the other parties in the event of any material breach by any other party of clause 5(a).
- (f) If the Receivers have complied with their obligations under clause 5(a), they may immediately terminate this deed by giving notice in writing to the other parties in the event of any material breach by the Purchaser of clause 5(a).
- (g) If the Receivers retire as receivers and managers of the relevant Group Companies at any time prior to Completion, other than for the period after the Security Trustee is repaid in full, followed by their immediate reappointment by the New Security Trustee, then at any time during which the Receivers are not appointed as receivers and managers of the relevant Group Companies, the Administrators:
- (i) may at their election, and in their absolute discretion, exercise any right conferred on, or perform any obligation placed on, the Receivers under the terms of the Transaction Documents as if they were the Receivers as that term is defined in the respective Transaction Documents;
 - (ii) if they elect to exercise a right or perform an obligation under clause 5(g)(i), are entitled to such protections as are provided in the Transaction Documents or at law as if they were the Receivers.

A reference to **Receivers** in this clause 5(g) means the individuals defined as Receivers, and clause 1.2(g) does not apply to this clause 5(g).

- (h) On termination of this deed pursuant to this clause 5:
 - (i) this clause 5(h) and clauses 13, 15, 16 and 17 continue to apply; and
 - (ii) accrued rights and remedies of a party are not affected.

6. Transaction Payments

6.1 Payment

The Purchaser must pay the Transaction Payments by:

- (a) advancing the New Facility Amount to or as directed by the Company on the Draw Down Date (subject to the conditions precedent to the advance of the New Facility Amount specified in the New Facility Agreement being satisfied or waived by the Purchaser in accordance with the New Facility Agreement);
- (b) paying the Defined Payment to the Creditors' Trust Account on the Completion Date in accordance with the DOCA; and
- (c) paying or procuring the Company to pay the Transaction Costs to or as directed by the Receivers on the Completion Date.

6.2 Cleared funds

All payments under this deed must be paid by bank cheque or telegraphic transfer in cleared funds.

7. Controller Liabilities

On and from Completion, the Purchaser will:

- (a) assume liability for, and agree to pay, or procure the payment of, all the Controller Liabilities;
- (b) must use all reasonable efforts to procure the release of the Controllers from each of the Controller Liabilities as soon as practicable after Completion, including by entering into replacement contractual arrangements with the relevant counterparties to the Controller Liabilities; and
- (c) indemnify the Controllers from and against any Claim or Liability arising out of the Controller Liabilities that may be suffered or incurred by the Controllers to the extent not indemnified by the New Security Trustee under the New Deed of Indemnity.

8. No Leakage

Each Controller represents, warrants and undertakes to the Purchaser that between the Locked Box Date and the Completion Date (both dates inclusive), so far as the Controller is aware:

- (a) neither it nor any Controller Party has received, or will receive, any amount of Leakage;
- (b) neither it nor any Controller Party has, nor will it nor any Controller Party, in its capacity as a director of any Group Company or a shareholder of any Group Company, or by the giving of instructions to any director of any Group Company, consented to or voted in favour of any Leakage; and
- (c) no Group Company has or will make any payments, or enter into any transaction, that falls within the definition of Leakage.

9. Obligations before Completion

9.1 Continuity of business

Until Completion, the Controllers and the Company must each use all reasonable efforts within their own capacity to:

- (a) procure that each Group Company acts in accordance with the New Facility Agreement, and, to the extent not inconsistent with the New Facility Agreement, carries on the Business consistent with the plans and other material operational matters disclosed in the Disclosure Materials (for the avoidance of doubt having regard to the solvency of the Group and the fact that the Controllers have been appointed), and otherwise in compliance with applicable laws;
- (b) without limiting the Company's obligations under the New Facility Agreement, reasonably consult with the Purchaser and keep the Purchaser reasonably informed regarding the operation of the Business;
- (c) provide the Purchaser with timely financial information on the Business (including, but not limited to):
 - (i) weekly cash flow forecasts (on a moving six-week forward looking basis);
 - (ii) weekly / monthly dashboards for advertising sales;
 - (iii) monthly management accounts; and
 - (iv) any further financial information that the Purchaser may reasonably request.

9.2 Prohibited actions

Subject to clause 9.3, until the earlier of Completion or the termination of this deed, the Controllers and the Company must not, and must procure that each Group Company does not without the prior written consent of the Purchaser (such consent not to be unreasonably withheld or delayed), do, not authorise, agree or commit to, any of the following:

- (a) alter its constitution;
- (b) issue any shares, options, or securities that are convertible into shares in the Group Company;
- (c) distribute or return any capital to its members or otherwise reduce or redeem its capital;
- (d) pay any dividends or make any other distributions of its profits;
- (e) enter into any joint venture, partnership, unincorporated association, alliance or similar arrangement with any person;
- (f) enter into, amend or terminate (or agree to enter into, amend or terminate) a contract or commitment (other than a contract of employment) that will result in aggregate receipts or expenditure in excess of \$250,000;
- (g) terminate the contract of employment with any of Paul Anderson, David Boorman or Beverley McGarvey (and the Controllers and the Company must reasonably consult with the Purchaser regarding the termination of any other senior management);
- (h) acquire or dispose of any assets of the Group Company in any single transaction or a series of transactions involving purchase consideration, expenditure or liabilities in excess of \$250,000 (exclusive of GST), otherwise than in the ordinary course of business of the Group;
- (i) pay, authorise the payment of or agree or commit to pay any bonuses or other incentives to any employee, agent or contractor of the Business other than under an arrangement in place prior to the date of this deed;
- (j) commence any litigation, arbitration or other legal proceedings other than for the collection of debts owing to the Group Company or in the ordinary course of business of the Group;
or

- (k) settle or compromise any Claim for an amount in excess of \$250,000.

9.3 Exceptions

Nothing in this clause 9 prevents any action to the extent:

- (a) contemplated or required by this deed;
- (b) such action is fairly disclosed in the Due Diligence Materials and the relevant Group Company has either taken that action or is legally obliged to take that action;
- (c) required by law or any Governmental Authority or otherwise required to comply with a legal obligation of a Group Company in existence as at the date of this deed and fairly disclosed in the Due Diligence Materials;
- (d) the action is reasonably and prudently required to respond to an emergency or disaster affecting the Group or the Business (including a situation giving rise to a risk of personal injury or damage to property); or
- (e) agreed to in writing between the Controllers, the Company and the Purchaser. such agreement not to be unreasonably withheld or delayed.

9.4 Employee termination costs

For the avoidance of doubt, the Group's employee termination and redundancy costs that are payable as a result of the termination of an employee's employment (including redundancy payments and payments of accrued leave entitlements) in the period after the date of this deed and prior to Completion will be paid by the Group out of working capital.

10. Completion

10.1 Time and place

Completion will take place at 10.00am on the Completion Date at the offices of Minter Ellison, Level 40, Governor Macquarie Tower, 1 Farrer Place, Sydney, New South Wales or another time and place agreed by the parties.

10.2 Obligations of the Controllers

At Completion:

- (a) the Administrators must transfer all of the shares in the Company to the Purchaser or the Purchaser's Nominee (as applicable) in accordance with the DOCA; and
- (b) the Controllers must deliver to the Purchaser all Records (other than those which the Controllers are entitled to retain under clause 10.6) by leaving them at the places at the Group's premises at which they are usually located in the normal course of operations of the Business.

10.3 Obligations of the Purchaser

The Purchaser must:

- (a) at Completion:
 - (i) pay the Defined Payment to the Creditors' Trust Account in accordance with the DOCA; and
 - (ii) pay the Transaction Costs to or as directed by the Receivers.
- (b) at or before Completion, deliver to the Controllers counterparts of all documents that the Controllers are required to deliver under clause 10.2 to which the Purchaser are a party or which otherwise contemplates execution by the Purchaser, duly executed by the Purchaser.

10.4 Simultaneous actions at Completion

- (a) In respect of Completion:
 - (i) the obligations of the parties under this deed are interdependent; and
 - (ii) all actions required to be performed will be taken to have occurred simultaneously on the Completion Date.
- (b) If an action in clause 10.2 or 10.3 does not take place, then without prejudice to any rights available to any other party as a consequence:
 - (i) there is no obligation on any other party to undertake or perform any of the other actions;
 - (ii) to the extent that such actions have already been undertaken, the parties must do everything reasonably required to reverse those actions; and
 - (iii) the parties must each return to the other all documents delivered to them under or in connection with this deed and must each repay to the other parties all payments received by them under this deed, without prejudice to any other rights any party may have in respect of that failure.

10.5 Termination of DOCA and retirement of Controllers

As soon as practicable after Completion:

- (a) the Administrators will lodge with ASIC a notice of termination of the DOCA;
- (b) the Administrators will retire as deed administrators of the Company and all relevant subsidiaries; and
- (c) the Receivers will retire as receivers and managers of the Company and all relevant subsidiaries.

10.6 Records

- (a) Each Controller may retain after Completion copies of any Records and to the extent not retained, the Purchaser must at all reasonable times, upon the Controller giving reasonable notice, grant to the Controller or any of their Representatives access to the Records and the right to take copies of the Records (at the Controller's cost (as applicable)):
 - (i) that are, or are reasonably likely to be, relevant to any investigation by a Governmental Authority or any litigation that is actual, pending or threatened at Completion or relates to the period prior to Completion;
 - (ii) for the purpose of dealing with the accounting, Tax, financial or insurance affairs of the Controller or any Related Body Corporate of the Controller;
 - (iii) necessary for the Controller or any Related Body Corporate of the Controller to comply with any applicable law (including any applicable Tax Law) and for the purpose of assisting the Controller to prepare Tax or other returns, accounts or other financial statements required of the Controller or any Related Body Corporate of the Controller by law or any other regulatory requirements of any Governmental Authority; or
 - (iv) reasonably required for the purpose of the Controller complying with its obligations or exercising its rights under this deed.
- (b) The Purchaser must ensure that all Records in respect of the period ending on the Completion Date are preserved and accessible until the later of:
 - (i) seven years from the Completion Date; and
 - (ii) any date required by any applicable law.

10.7 Purchaser's Nominee

The Purchaser may, at any time but no later than 5 Business Days prior to Completion, notify the Receivers and the Administrators that it elects for the shares in the Company to be transferred to the Purchaser's Nominee. Notwithstanding such election, and to avoid doubt, the Purchaser shall remain liable for all the obligations of the Purchaser under this deed.

11. Warranties and limitation of liability

11.1 Controller Fundamental Warranties

Each Controller represents and warrants to the Purchaser that each of the following statements is true and accurate:

- (a) **(validly appointed)** each Controller has been validly appointed for their role as receiver and manager or administrator of the Company and certain of its subsidiaries (as relevant) and in that role has the capacity to execute, deliver and perform their obligations under this deed and to consummate the transactions contemplated in this deed to be consummated by them;
- (b) **(due authorisation)** the execution and delivery of this deed and each other Transaction Document to which it is a party by the Controller and the performance of the transactions and obligations contemplated by this deed and each other Transaction Document to which it is a party are in accordance with the Controller's powers;
- (c) **(valid, binding and enforceable)** this deed and each other Transaction Document to which it is a party constitutes legal, valid and binding obligations of the Controller, enforceable in accordance with its terms; and
- (d) **(approvals)** neither the execution and delivery of this deed and each other Transaction Document to which it is party, nor the consummation of the Transaction contemplated by this deed, nor the compliance by the Controller with the terms of this deed or any other Transaction Document to which it is a party will result in any default under any agreement or instrument to which the Controller is a party or violate any law applicable to the Controller (for the avoidance of doubt not including any matter relating to the solvency of the Group, or any change of control or similar provision in an agreement to which a Controller is a party). References in this clause 11.1(d) to 'Controller' mean the Controller in their personal capacity and not as agent of any Group Company)..

11.2 Company Fundamental Warranties

The Company represents and warrants to the Purchaser that each of the following statements is true and accurate:

- (a) **(existence)** the Company is validly existing under the laws of its place of incorporation or registration;
- (b) **(due authorisation)** the execution and delivery of this deed and each other Transaction Document to which it is a party by the Company and the performance of the transactions and obligations contemplated by this deed and each other Transaction Document to which it is a party are in accordance with the Company's powers;
- (c) **(valid, binding and enforceable)** this deed and each other Transaction Document to which it is a party constitutes legal, valid and binding obligations of the Company, enforceable in accordance with its terms;
- (d) **(approvals)** neither the execution and delivery of this deed, nor the consummation of the Transaction contemplated by this deed, nor the compliance by the Company with the terms of this deed or any other Transaction Document to which it is a party will result in any default under any agreement or instrument to which the Company is a party or violate any law applicable to the Company (for the avoidance of doubt not including any matter relating to the appointment of the Controllers, the solvency of the Group, or any change of control or similar provision in an agreement to which a Group Company is a party).

11.3 When Fundamental Warranties given

Each Fundamental Warranty is given as at the date of this deed (except, where relevant, in relation to the DOCA, as at the date of the DOCA and the Creditors' Trust Deed, as at the date of the Creditors' Trust Deed) and as at Completion (in relation to each Transaction Document (where relevant)), except to the extent the Fundamental Warranty is expressed to be given at a particular date or dates only, in which case the Fundamental Warranty is only given as at that date or dates.

11.4 Application of Fundamental Warranties

Each Fundamental Warranty:

- (a) remains in full force and effect after Completion; and
- (b) is separate and independent and is not limited by reference to any other Fundamental Warranty.

11.5 Acknowledgments

- (a) The Purchaser acknowledges and agrees that:
 - (i) the Company is in receivership and administration and it is usual that limited representations and warranties can be given by or on behalf of the Controllers and except as expressly set out in this deed, no representation or warranty is made by any Controller Party and none of the Controller Parties will be liable in any way in respect of the Transaction;
 - (ii) the Purchaser and its Representatives have had the opportunity to conduct, and have conducted, due diligence investigations in relation to the Group and the Business before the date of this deed and have had the opportunity to raise such enquiries with the Controllers as they considered necessary in relation to the Group, the Business and the Transaction;
 - (iii) the Purchaser has had the benefit of independent legal, tax and accounting advice relating to the Group, the Business, the Transaction and the terms of this deed and each other Transaction Document;
 - (iv) the Fundamental Warranties are the only warranties, representations, statements or inducements that the Purchaser requires, and on which the Purchaser has relied, in entering into this deed and the other Transaction Documents;
 - (v) to the extent permitted by law, all terms, conditions, warranties, representations, statements and undertakings (whether express or implied and whether oral or in writing) made or given by any Controller Party (except the Fundamental Warranties and the representations and warranties under clause 8) are expressly excluded;
 - (vi) no Controller Party has given any warranty or representation, expressed or implied, in relation to any expression or statement of intention, opinion, belief or expectation nor any forecast, model, forward-looking statement, budget, projection, estimate or any fiscal or economic matters (**Forward-looking Information**) contained or referred to in the Due Diligence Material, including in relation to the accuracy of, or reasonableness of any assumptions underlying any Forward-looking Information and the Purchaser is not entering into this deed or any other Transaction Document in reliance on, and they may not rely on, any Forward-looking Information;
 - (vii) the draft 'Project X Legal Review Report' prepared by Gilbert + Tobin dated 26 April 2017 (**Draft LRR**) included in the Due Diligence Material is draft, not final and is made available by the Company strictly on the basis that the Purchaser:
 - (A) is not entitled to, and does not, rely on any information, comment, conclusion or opinion in the Draft LRR, or the accuracy or completeness of any information included in the Draft LRR, for any purpose;

- (B) will make its own independent assessment of the Draft LRR and has engaged its own legal and other advisers for this purpose. The Purchaser is solely responsible, and Gilbert + Tobin has no responsibility, for the interpretations, opinions and conclusions that the Purchaser and its advisors may form as a result of examining the Draft LRR. The Draft LRR is not a substitute for the Purchaser's own legal enquiries and other investigations; and
 - (C) acknowledges and agrees that (a) none of Gilbert + Tobin or its partners, officers and employees, are liable to the Purchaser for any Claims whatsoever arising out of or in connection with the Draft LRR; and the Purchaser agrees to release and discharge Gilbert + Tobin and its partners, officers and employees from, and covenants not to bring or commence, any Claims arising out of or in connection with the Draft LRR;
- (viii) no Controller Party:
- (A) owes or accepts any duty of care to any Purchaser Group Member in respect of any disclosure or the provision of any information in connection with the Transaction (including in the Due Diligence Material); and
 - (B) except as expressly provided in this deed, has any Liability to any Purchaser Group Member if, for whatever reason, any information disclosed in connection with the Transaction (including in the Due Diligence Material) is or becomes untrue, incorrect, inaccurate or misleading in any way.
- (b) The Purchaser acknowledges that the Controllers have agreed to enter into this deed relying on the acknowledgements and agreements in clause 11.5 and would not be prepared to enter into the Transaction, this deed or the other Transaction Documents on any other basis.

11.6 No reliance

- (a) The Purchaser acknowledges, and represents and warrants to the Controllers, that:
- (i) at no time:
 - (A) has a Controller Party made or given; or
 - (B) has the Purchaser relied on,
 any representation, warranty, promise or undertaking in respect of any Forward-looking Information or otherwise relating to the future financial performance or prospects of the Group or the Business or otherwise (including in connection with any financial analysis or modelling conducted by the Purchaser or any of its Representatives);
 - (ii) no representations, warranties, promises, undertakings, statements or conduct:
 - (A) have induced or influenced the Purchaser to enter into, or agree to any terms or conditions of, this deed or any other Transaction Document;
 - (B) have been relied on in any way as being accurate by the Purchaser;
 - (C) have been warranted by a Controller Party to the Purchaser as being true; or
 - (D) have been taken into account by the Purchaser as being important to its decision to enter into, or agree to any or all of the terms of, this deed or any other Transaction Document,
 except the Fundamental Warranties and the representations and warranties in clause 9.
- (b) The parties acknowledge that the Controllers are not under any obligation to provide the Purchaser or its Representatives with any information (including Forward-looking Information or other financial information) on the future performance or prospects of the

Group or the Business. If the Purchaser or any of its Representatives has received Forward-looking Information in connection with the Group or the Business (including in connection with any financial analysis or modelling conducted by the Purchaser, or any of its Representatives), the Purchaser acknowledges and agrees that:

- (i) there are uncertainties inherent in Forward-looking Information (including attempting to make any opinions, estimates, projections, business plans, budgets, models or forecasts in connection with any Forward-looking Information) and the Purchaser is familiar with these uncertainties;
- (ii) the Purchaser is taking full responsibility for making its own evaluation of the adequacy and accuracy of any Forward-looking Information relating to the Group or the Business furnished to it; and
- (iii) no Controller Party has any Liability in relation to any Claim arising out of, relating to or in connection with any Forward-looking Information relating to the Group or the Business.

11.7 Financial limits on Claims

- (a) The Controllers have no Liability in relation to a Subject Claim:
 - (i) unless the amount finally agreed or adjudicated to be payable in respect of the Subject Claim exceeds \$200,000 (**Qualifying Subject Claim**); and
 - (ii) unless and until the aggregate of all Qualifying Subject Claims exceeds \$2,000,000,

in which event the Controllers are liable for all of that amount including the initial \$2,000,000.
- (b) For the purposes of this clause 11.7, Subject Claims:
 - (i) of the same or similar nature and arising out of the same or similar facts, matters or circumstances will be treated as one Subject Claim; and
 - (ii) arising out of separate sets of facts, matters or circumstances will not be treated as one Subject Claim, even if each set of facts, matters or circumstances may be a breach of the same warranty.
- (c) The maximum aggregate Liability of the Controllers (including legal costs and expenses incurred in defending a Claim from a third party) as a result of all Subject Claims or any other Claims under this deed is limited to \$5,000,000.

11.8 Time limits on Claims

The Controllers have no Liability in relation to a Subject Claim unless:

- (a) the Purchaser has given written notice of the relevant Subject Claim to the Controllers in accordance with clause 11.11 on or before the date being 12 months after the Completion Date; and
- (b) the Subject Claim:
 - (i) has been settled; or
 - (ii) legal proceedings in a court of competent jurisdiction in respect of the Subject Claim have been properly issued and served on the Controllers within 6 months of the Subject Claim being notified by the Purchaser to the Controllers in accordance with clause 11.11.

11.9 Consequential Loss

Notwithstanding any other provision in this deed, the Controllers and the Company will not, in any circumstances, be liable to the Purchaser or any other person for any Consequential Loss in relation to this deed or the Transaction (or any part of it).

11.10 Other limitations on Claims

The Liability of the Controllers in respect of any Subject Claim is reduced or extinguished (as the case may be) to the extent that:

- (a) matters of the nature of the subject matter giving rise to the Subject Claim is:
 - (i) provided for, referred to or otherwise covered in the Accounts; or
 - (ii) fairly disclosed in the Due Diligence Material;
- (b) the Subject Claim arises or is increased as a result of or in consequence of any voluntary act, omission, transaction or arrangement:
 - (i) at the direction or instruction, or with the prior written approval, of the Purchaser or, after Completion, a Group Company; or
 - (ii) of or on behalf of the Purchaser or, after Completion, a Group Company;
- (c) the Subject Claim would not have arisen but for any change in ownership of a Group Company, or a restructure of the Business (or any part of it), after Completion;
- (d) the Subject Claim is as a result of or in respect of, or where the Subject Claim arises from, any increase in the rate of Tax liable to be paid or any imposition of Tax not in effect at the date of this deed;
- (e) the Purchaser has not complied with any provision of this deed or any other Transaction Document;
- (f) the Subject Claim occurs or is increased as a result of legislation not in force or in effect at the date of this deed;
- (g) the Subject Claim occurs as a result of a change after the date of this deed in any:
 - (i) law or interpretation of law;
 - (ii) policy of any Governmental Authority; or
 - (iii) administrative practice of a Tax Authority;
- (h) anything related to the Subject Claim entitles the Purchaser or, after Completion, a Group Company to any:
 - (i) Tax Relief, credit, deduction, exemption, rebate, relief or set-off;
 - (ii) compensation or indemnification including under any insurance policy;
 - (iii) recovery under any Claim against a third party; or
 - (iv) payment, reduction in Tax, reduction of Liability, corresponding net saving or other benefit;
- (i) the breach giving rise to the Subject Claim is capable of remedy and, within 20 Business Days after receiving notice of the Subject Claim in accordance with clause 11.11, the Controllers remedy, or causes to be remedied, the breach to the reasonable satisfaction of the Purchaser; or
- (j) the Subject Claim (or any part of it) is based on a contingent Loss, unless and until the relevant Loss becomes an actual Loss and is due and payable;
- (k) the Subject Claim occurs or arises as a result of any stamp duty, duties or other Taxes of a similar nature (including fines, penalties and interest) arising from this deed, any other Transaction Document or the Transaction (or any part of it); or

- (l) the Purchaser are aware of any fact, matter or thing that it should reasonably know constitutes, or which would be reasonably expected with the lapse of time to constitute, a Subject Claim.

11.11 Notice of potential Claim

If the Purchaser become aware of anything which is or may be reasonably likely to give rise to a Subject Claim it must promptly notify the Controllers in writing after it has first come to the Purchaser's attention (**Claim Notice**), setting out the fact, event, circumstance, matter or thing relied on as giving rise to the Subject Claim, the warranty that is the subject of the Subject Claim (if applicable) and all relevant details (including a reasonable estimate of the amount) of the Subject Claim in so far as they are available to the Purchaser.

11.12 Conduct of Third Party Claims

- (a) Subject to this clause 11.12, the Receivers may at any time following receipt of a Claim Notice relating to a Third Party Claim elect by written notice given to the Purchaser to:
 - (i) take over the conduct of the Third Party Claim; and
 - (ii) take such actions as the Receivers may decide about the Third Party Claim, including to negotiate, defend and/or settle the Third Party Claim and to recover costs incurred as a consequence of the Third Party Claim from any person.
- (b) Where the Receivers take over the conduct and/or defence of any Third Party Claim under this clause 11.12, the Receivers must:
 - (i) afford the Purchaser the opportunity to consult with the Receivers on all matters of significance for the goodwill of the Business; and
 - (ii) at reasonable and regular intervals provide the Purchaser with written reports concerning the conduct, negotiation, control, defence and/or outcome or settlement of the Third Party Claim.
- (c) The Purchaser must take, and must procure that the Group takes, all steps necessary to allow the Receivers to conduct a Third Party Claim under this clause 11.12 including to:
 - (i) take all action and render all assistance reasonably requested by the Receivers in connection with its conduct of the Third Party Claim;
 - (ii) not admit liability for, negotiate, enter into any agreement about, settle or compromise the Third Party Claim without the Receivers' prior written consent;
 - (iii) allow the Receivers to negotiate, enter into any agreement about, settle or compromise the Third Party Claim as the Receivers consider appropriate; and
 - (iv) provide the Receivers with access to (with the right to take copies) and make available to the Receivers all relevant personnel, relevant documents, books and records reasonably required for the purpose of the conduct of any Third Party Claim. Nothing in this clause 11.12(c)(iv) requires the Purchaser (or members of the Group) to allow the Receivers to have access to anything that it reasonably determines to be the subject of legal professional privilege or have been prepared for the purpose of, or in contemplation of, the Purchaser making a Subject Claim against the Receivers under this deed.

11.13 Rights of the Purchaser

For as long as the Receivers have not elected to take over the conduct and/or defence of a Third Party Claim under clause 11.12:

- (a) the Purchaser may take such actions as the Purchaser may decide about the Third Party Claim, including to negotiate, defend and/or settle the Third Party Claim and to recover costs incurred as a consequence of the Third Party Claim from any person;
- (b) the Purchaser must at reasonable and regular intervals provide the Receivers with written reports concerning the conduct, negotiation, control, defence and/or outcome or

settlement of the Third Party Claim and must not settle the Third Party Claim without the prior approval of the Receivers (which must not be unreasonably withheld);

- (c) the Purchaser must afford the Receivers the opportunity to consult with the Purchaser on matters of significance in relation to the conduct, negotiation and settlement of the Third Party Claim; and
- (d) the Receivers must render to the Purchaser, at the Purchaser' expense, all such assistance as the Purchaser may reasonably require in disputing any Third Party Claim.

11.14 Costs indemnity

The Receivers indemnify the Purchaser and each Group Company against all Liabilities reasonably incurred by, or awarded against, the Purchaser or a Group Company arising out of the conduct of a Third Party Claim by the Receivers under clause 11.12 or acts required or requested of the Purchaser or the Group Company in respect of the same, as and when they fall due, including reasonable legal costs and disbursements of the Purchaser' lawyers and the Group Company's lawyers.

11.15 Subject Claim payments

Any payment made in respect of a Subject Claim is deemed to be a reduction in the Transaction Payments.

11.16 Mitigation of losses

- (a) The parties acknowledge that the general law provides, among other things, that if the Purchaser do not act reasonably to mitigate its losses in connection with a Subject Claim, the Controllers' liability for damages may be reduced or extinguished to the extent that the Purchaser' losses would have been reduced had the Purchaser acted reasonably to the extent and in the manner required under the law (**Mitigation Principles**).
- (b) Nothing in this deed affects the application of the Mitigation Principles to a Subject Claim.
- (c) The Purchaser must apply and must procure that, following Completion, each relevant Group Company applies, the Mitigation Principles in respect of any Liability or potential Liability of the Controllers for a Subject Claim.
- (d) The Controllers' liability for any Subject Claim will be reduced to the extent any Liability is greater as a consequence of a breach by the Purchaser of this clause 11.16.

11.17 No double recovery

- (a) No Purchaser Group Member or, following Completion, any Group Company will be entitled to recover damages or obtain payment, reimbursement, restitution or indemnity more than once for the same Liability or breach of this deed.
- (b) If for any reason more than one amount is paid in respect of the same Liability or breach of this deed, then the Purchaser must procure that the additional amount is immediately repaid to the Controllers so as to give full effect to clause 11.17(a).

11.18 Sole remedy

- (a) It is the intention of the parties that each Purchaser Group Member's and, following Completion, each Group Company's sole remedy in connection with the Transaction will be as set out in this deed and the other Transaction Documents.
- (b) The Purchaser agree that no Controller Party will have any Liability to a Purchaser Group Member or, following Completion, any Group Company:
 - (i) in connection with the Transaction or the matters the subject of this deed, any other Transaction Document or the Due Diligence Materials; or
 - (ii) resulting from or implied by conduct made in the course of communications or negotiations in respect of the Transaction or the matters the subject of this deed, any other Transaction Document or the Due Diligence Materials,

under a Claim unless the Claim may be made under the terms of this deed or any other Transaction Document or arises out of a statutory right or other Claim that cannot be excluded by contract.

- (c) The Purchaser must not, and must procure that each Purchaser Group Member and, following Completion, each Group Company, does not make a Claim of the kind referred to in clauses 11.18(b)(i) or 11.18(b)(ii) that the Purchaser would not be entitled to make under this deed or any other Transaction Document or that is otherwise inconsistent with the Purchaser's entitlement to make a Claim under this deed or any other Transaction Document and the Purchaser acknowledge and agree that to do so would be to seek to circumvent the parties' intention expressed in clause 11.18(a).

11.19 Statutory actions

To the extent permitted by law, the Purchaser agree not to make, and waives any right it may have to make, any Claim against a Controller Party under:

- (a) Part 7.10 of the Corporations Act;
- (b) the *Australian Securities and Investments Commission Act 2001* (Cth) in relation to a breach of section 12DA of that Act; or
- (c) the Australian Consumer Law (Schedule 2 to the *Competition and Consumer Act 2010* (Cth)) or the corresponding provision of any state or territory enactment,

and indemnifies each Controller Party against all Liabilities incurred in connection with any such Claim.

11.20 Remedies of the Purchaser

Despite any other provision of this deed, the sole remedy of the Purchaser for a breach of a warranty made under this deed is damages (and the Purchaser are the only persons entitled to make a Claim for breach of a warranty) and in no event are the Purchaser entitled to terminate this deed as a consequence of a breach of warranty.

11.21 No personal liability of Representatives of Controllers

The parties agree that:

- (a) no Representative of a Controller will bear any Liability to any Purchaser Group Member in respect of this deed, any other Transaction Document or the Transaction, other than in the case of an act of fraud by that person; and
- (b) each Representative of a Controller is entitled to the benefit of this clause 11.21 and each Controller holds such benefit on trust for those Representatives and is entitled to enforce this clause 11.21 on behalf of those Representatives.

11.22 Independent limitations

Each qualification and limitation in this clause 11 is to be construed independently of the others and is not limited by any other qualification or limitation.

11.23 Related bodies corporate of the Purchaser

The Purchaser must procure that each Purchaser Group Member and, following Completion, each Group Company acts in a manner consistent with this clause 11.

12. Purchaser's and Guarantor's representations

12.1 Representations

- (a) The Purchaser and the Guarantor each represents and warrants to the Controllers that each of the following statements is true and accurate at the date of this deed and will be true and accurate on the Completion Date:

- (i) **(existence)** it is validly existing under the laws of its place of incorporation or registration;
 - (ii) **(due authorisation)** the execution and delivery of this deed by it and the performance of the transactions and obligations contemplated by this deed are in accordance with the its powers;
 - (iii) **(valid, binding and enforceable)** this deed constitutes legal, valid and binding obligations of it, enforceable in accordance with its terms;
 - (iv) **(approvals)** neither the execution and delivery of this deed, nor the consummation of the Transaction contemplated by this deed, nor the compliance by it with the terms of this deed will result in any default under any agreement or instrument to which it is a party or violate any law applicable to it; and
 - (v) **(solvency)** no:
 - (A) meeting has been convened, resolution proposed, petition presented or order made for its winding up;
 - (B) receiver, receiver and manager, provisional liquidator, liquidator, administrator or other officer of the court has been appointed in relation to all or any of its assets; or
 - (C) mortgagee has taken, attempted to take or indicated an intention to exercise its rights under any security of which it is the mortgagor or chargor.
- (b) The Purchaser and the Guarantor each represents and warrants to the Controllers that, as at the date of this deed, it is not aware of any fact, matter or circumstance which will, or is reasonably likely to, give rise to a Subject Claim.

12.2 Application of representations

Each of the representations made by the Purchaser and the Guarantor under clause 12.1 remains in full force and effect on and after Completion.

13. Confidentiality and public announcements

13.1 Confidentiality

Each party:

- (a) must keep confidential the terms of this deed, the fact and content of negotiations leading up to or relating to this deed and any confidential information of the other parties **(Confidential Information)**;
- (b) may only use the Confidential Information for the purposes of this deed and/or the Transaction;
- (c) may disclose any Confidential Information only:
 - (i) to those of the party's officers or employees, accountants, consultants or advisers who have a need to know for the purposes of this deed and/or the Transaction, if those persons undertake to keep information disclosed confidential;
 - (ii) if required to do so by law or the listing rules of the ASX or any other applicable stock exchange, or in connection with legal proceedings;
 - (iii) to the Secured Creditor or the Security Trustee and their legal and other advisors as a party (acting reasonably) deems necessary or appropriate for the purposes of implementing the Transaction;
 - (iv) in the case of each Controller, to such persons and to the extent to which the Controller (acting reasonably) deem disclosure necessary or appropriate in order

for the Controller to fulfil their duties as administrators or receivers and managers (as relevant) or to fulfil any of the Controller's obligations under this deed;

- (v) if the disclosure is necessary to seek satisfaction of any Condition; or
- (vi) with the prior written approval of the other parties (such approval which may be given or withheld in a party's sole and absolute discretion).

13.2 Confidential Information

The provisions of clause 13.1 apply:

- (a) until Completion; or
 - (b) for a period of 2 years after termination of this deed,
- whichever first occurs.

13.3 Announcements

A party must not make or authorise a press release or public announcement relating to the Confidential Information (**Announcement**) unless:

- (a) it is required to be made by law or the listing rules of the ASX, but only to the extent required to comply with such law or listing rule, and before it is made that party has:
 - (i) notified the other parties; and
 - (ii) given the other parties a reasonable opportunity to comment on the contents of, and the requirement for, the Announcement; or
- (b) it has the prior written approval of each other party.

14. Guarantor's guarantee

14.1 Consideration

The Guarantor acknowledges:

- (a) entering into this deed in return for the Company and the Controllers agreeing to enter into this deed at the Guarantor's request and for other valuable consideration; and
- (b) that the Company and the Controllers rely on the operation of this clause 14.

14.2 Guarantee and indemnity

The Guarantor unconditionally and irrevocably:

- (a) guarantees to the Company and the Controllers the due and punctual performance and observance by the Purchaser of all of the obligations contained in or implied under this deed that must be performed and observed by the Purchaser (**Guaranteed Obligations**); and
- (b) indemnify the Company and the Controllers against any Liability suffered or incurred by the Company or the Controllers in relation to:
 - (i) any Guaranteed Obligation (or provision which would be or become a Guaranteed Obligation if enforceable, valid and not illegal) being or becoming enforceable, invalid or illegal;
 - (ii) the Purchaser failing, or being unable, to pay any amount or to perform any of its Guaranteed Obligations in accordance with this deed; or
 - (iii) any amount that the Purchaser is required to pay in respect of its Guaranteed Obligations under this deed not being recoverable from the Purchaser,

in each case, for any reason and whether or not the Company or the Controllers knew or ought to have known about those matters.

14.3 Non-payment or non-performance

If the Purchaser does not:

- (a) pay any amount it is obliged to pay under the Guaranteed Obligations in accordance with this deed, the Guarantor must pay that amount on demand as if it was the Purchaser; or
- (b) perform any of the other Guaranteed Obligations under this deed, the Guarantor must perform, or procure the performance of, those obligations (on demand by the Company or the Controllers) in accordance with this deed.

14.4 Demands

A demand under this clause 14 may be made at any time and from time to time. A demand need only specify the obligation to be fulfilled.

14.5 Immediate recourse

The Guarantor waives any right they may have to require the Company or the Controllers to proceed against, or enforce any other rights or claim payment from, any other person before claiming from the Guarantor under this clause 14.

14.6 Continuing obligations

The guarantee and indemnity in this clause 14:

- (a) extends to the present and future balance of all the money payable by the Purchaser in connection with this deed;
- (b) is not wholly or partially discharged by the payment of any amount payable by the Purchaser under this deed or the settlement of any account by the Purchaser; and
- (c) continues until all obligations of the Purchaser under this deed have been completely fulfilled.

14.7 Extent of guarantee and indemnity

This clause 14 applies and the obligations of the Guarantor are not reduced or discharged by (whether or not the Purchaser, the Company or the Controllers are aware of it or consents to it and despite any legal rule to the contrary):

- (a) any transaction or agreement, or amendment, novation or assignment of this deed, whether with or without the Guarantor's knowledge or consent;
- (b) a rule of law or equity to the contrary;
- (c) an insolvency event affecting a person or the death of a person;
- (d) a change in the constitution, membership, or partnership of a person;
- (e) the partial performance of any Guaranteed Obligation;
- (f) any judgment or order being obtained or made against, or the conduct of any proceedings by, the Purchaser or another person;
- (g) one or more of the Guaranteed Obligations, this deed or any provision of this deed being void, voidable, unenforceable (whether by reason of a legal limitation, disability or incapacity on the part of the Purchaser and whether this deed is void ab initio or is subsequently avoided), defective, released, waived, novated, enforced or impossible or illegal to perform;
- (h) any amount that the Purchaser is required to pay under this deed not being recoverable;
- (i) the exercise or non-exercise of any right, power, discretion or remedy of the Company or the Controllers;
- (j) any set-off, combination of accounts or counterclaim;

- (k) any default, misrepresentation, negligence, breach of contract, misconduct, acquiescence, delay, waiver, mistake, failure to give notice or other action or inaction of any kind (whether or not prejudicial to the Purchaser) by a party to this deed or any other person;
- (l) the Company or the Controllers granting any time or other indulgence or concession to, compounding or compromising with, or wholly or partially releasing the Purchaser or the Guarantor of an obligation; or
- (m) another thing happening that might otherwise release, discharge or affect the obligations of the Guarantor under this deed.

14.8 Principal and independent obligation

Each guarantee, indemnity and other obligation of the Guarantor in this deed is:

- (a) a principal obligation and is not to be treated as ancillary, collateral or limited by reference to another right or obligation; and
- (b) independent of and not in substitution for or affected by another security interest or guarantee or other document or agreement which the Company, the Controllers or another person may hold concerning the Guaranteed Obligations.

14.9 Deferral of certain rights

Until all Guaranteed Obligations have been performed, the Guarantor must not (either directly or indirectly) without the Company and the Controller's prior written consent:

- (a) claim, exercise or attempt to exercise a right of set-off, counterclaim or any other right or raise any defence against the Purchaser which might reduce or discharge the Guarantor's Liability under this clause 14;
- (b) claim or exercise a right of subrogation or contribution or otherwise claim the benefit of a security or guarantee, irrespective of whether or not that security or guarantee:
 - (i) relates to the Guaranteed Obligations;
 - (ii) is given by the Guarantor; or
 - (iii) is in favour or for the benefit of the Company,
 and any money the Guarantor receives in breach of this clause 14.9(b) must be paid promptly to the Company; or
- (c) unless the Company or the Controllers have given a direction to do so (in which case the Guarantor must do so in accordance with the direction as trustee for the Company or the Controllers (as applicable)):
 - (i) prove, claim or exercise voting rights in the Purchaser's liquidation, or otherwise claim or receive the benefit of any distribution, dividend or payment arising out of the Purchaser's liquidation on any account; or
 - (ii) demand, or accept payment of, any money owed to the Guarantor by the Purchaser,
 and any such money it receives must be paid promptly to the Company or the Controllers (as applicable).

14.10 Prove in liquidation

The Guarantor irrevocably authorises the Company or the Controllers to prove in the liquidation or other relevant insolvency event affecting the Purchaser for all money that the Guarantor can claim against the Purchaser on any account. The Company or the Controllers (as applicable) need only account to the Guarantor for distributions it receives in excess of any Guaranteed Obligations, without interest.

14.11 Enforcement against Guarantor

The Company or the Controllers may enforce this clause 14 against the Guarantor without first having to resort to another guarantee or security interest or other agreement relating to the Guaranteed Obligations.

15. GST

15.1 Interpretation

In this clause 15, a word or expression defined in the *A New Tax System (Goods and Services Tax) Act 1999* (Cth) and which is not otherwise defined in this deed has the meaning given to it in that Act.

15.2 GST gross up

If a party makes a supply under or in connection with this deed in respect of which GST is payable, the consideration for the supply but for the application of this clause 15.2 (**GST exclusive consideration**) is increased by an amount equal to the GST exclusive consideration multiplied by the rate of GST prevailing at the time the supply is made.

15.3 Reimbursements

If a party must reimburse or indemnify another party for a loss, cost or expense, the amount to be reimbursed or indemnified is first reduced by any input tax credit the other party is entitled to for the loss, cost or expense, and then increased in accordance with clause 15.2.

15.4 Tax invoice

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

16. Notices and other communications

16.1 Service of notices

A notice, demand, consent, approval or communication under this deed (**Notice**) must be:

- (a) in writing, in English and signed by a person duly authorised by the sender; and
- (b) hand delivered or sent by prepaid post, facsimile or email to the recipient's address for Notices specified in the Details, as varied by any Notice given by the recipient to the sender.

16.2 Effective on receipt

A Notice given in accordance with clause 16.1 takes effect when taken to be received (or at a later time specified in it), and is taken to be received:

- (a) if hand delivered, on delivery;
- (b) if sent by prepaid post, the second Business Day after the date of posting (or the seventh Business Day after the date of posting if posted to or from a place outside Australia); or
- (c) if sent by email, when sent by the sender unless the sender receives a delivery failure notification indicating that the email has not been delivered to the addressee,

but if the delivery, receipt or transmission is not on a Business Day or is after 5.00pm on a Business Day, the Notice is taken to be received at 9.00am on the next Business Day.

17. Miscellaneous

17.1 Alterations

This deed may be altered only in writing signed by all of the parties.

17.2 Approvals and consents

Except where this deed expressly states otherwise, a party may, in its discretion, give conditionally or unconditionally or withhold any approval or consent under this deed.

17.3 Assignment

A party may only assign this deed or a right under this deed with the prior written consent of each other party.

17.4 Costs

Each party must pay its own costs of negotiating, preparing and executing this deed.

17.5 Stamp duty

Any stamp duty, duties or other taxes of a similar nature (including fines, penalties and interest) in connection with this deed or the Transaction must be paid by the Purchaser.

17.6 Survival

Any indemnity or any obligation of confidence under this deed is independent and survives termination of this deed. Any other term by its nature intended to survive termination of this deed survives termination of this deed.

17.7 Counterparts

This deed may be executed in counterparts. All executed counterparts constitute one document.

17.8 No merger

The rights and obligations of the parties under this deed do not merge on completion of any transaction contemplated by this deed.

17.9 Entire agreement

This deed and the other Transaction Documents constitutes the entire agreement between the parties in connection with their subject matter and supersede all previous agreements or understandings between the parties in connection with such subject matter.

17.10 Further action

Each party must do, at its own expense, everything reasonably necessary (including executing documents) to give full effect to this deed and any transactions contemplated by it (including the Transaction).

17.11 Severability

A term or part of a term of this deed that is illegal or unenforceable may be severed from this deed and the remaining terms or parts of the term of this deed continue in force.

17.12 Waiver

A party does not waive a right, power or remedy if it fails to exercise or delays in exercising the right, power or remedy. A single or partial exercise of a right, power or remedy does not prevent another or further exercise of that or another right, power or remedy. A waiver of a right, power or remedy must be in writing and signed by the party giving the waiver.

17.13 Relationship

Except where this deed expressly states otherwise, it does not create a relationship of employment, trust, agency or partnership between the parties.

17.14 Governing law and jurisdiction

This deed is governed by the law of New South Wales and each party irrevocably and unconditionally submits to the non-exclusive jurisdiction of the courts of New South Wales and the Commonwealth of Australia.

17.15 New Deeds of Appointment and Indemnity

The parties agree that the New Deed of Appointment and the New Deed of Indemnity may not be amended, varied or waived without the prior consent of the Administrators, such consent not to be unreasonably withheld or delayed.

17.16 New Facility Documents

The parties agree that the New Facility Documents may not be amended, varied or waived, where such amendment, variation or waiver affects the rights and obligations of the Administrators, without the prior consent of the Administrators, such consent not to be unreasonably withheld or delayed. The parties to the New Facility Documents must provide the Administrators at least 3 Business Days prior written notice of any proposed amendment, variation or waiver to the New Facility Documents before such amendment, variation or waiver is made.

Schedule 1 – Implementation Steps

Item	Timing	Implementation Steps	Implementation Documents
1.	Date of execution of this deed	The Purchaser and the New Security Trustee execute, and the Receivers procure that each relevant Group Company executes, the New Facility Documents.	New Facility Documents.
2.	Date of execution of this deed	Subject to execution of the New Facility Documents, the Controllers must provide at least 2 Business Days' notice to the Secured Creditor, ASIC and the Creditor's committee in respect of the proposed ex-parte application to the court for vesting relief under section 588FM of the Corporations Act.	N/A
3.	On the date notified pursuant to item 2	The Controllers must make an ex-parte application to the court for vesting relief under section 588FM of the Corporations Act.	N/A
4.	As soon as practicable after the court order for vesting relief sought in item 3 is obtained	The Purchaser and the Guarantor execute the New Deed of Indemnity and procure that the New Security Trustee executes the New Deed of Appointment to reappoint the Receivers as receivers and managers of the Group, effective from completion of the Implementation Step set out in item 6 and the Administrators give the 440B Consent to those steps being taken.	New Deed of Appointment between the New Security Trustee and the Receivers. New Deed of Indemnity between the Purchaser, the Guarantor and the Receivers.
5.	As soon as practicable after item 4	The Company must draw the New Facility Amount under the New Facility Documents to: <ol style="list-style-type: none"> a. refinance all amounts owing under the Facility Agreement (such that all amounts owing under the Facility Agreement are fully and finally repaid); and b. pay the Shareholder Guarantors Fees. <p>The Purchaser must provide evidence reasonably satisfactory to the Receivers</p>	N/A

Item	Timing	Implementation Steps	Implementation Documents
		that the Purchaser has made the electronic transfer of the New Facility Amount to the Company.	
6.	As soon as practicable after item 5	<p>The Purchaser loans the New Facility Amount to the Company pursuant to the New Facility Agreement and the Receivers (or the Administrators if clause 4(b) applies) procure the Company to pay the New Facility Amount to the Security Trustee to satisfy the obligations in item 5, paragraphs a. and b. above.</p> <p>The Receivers procure that the Security Trustee provide a release of all Securities in a form reasonably acceptable to the Purchaser.</p> <p>The Receivers execute a deed of release of indemnity (in a form reasonably acceptable to the Receivers) and retire as receivers and managers of the Group.</p>	Deed of release of indemnity by the Receivers in favour of the Shareholder Guarantors.
7.	As soon as practicable after item 4	The Administrators finalise the section 439A report (recommending the DOCA) and issue the report to Creditors (with the section 439A report not deemed to have been received by Creditors until 2 clear Business Days after the date of issue), with the notice of second meeting of Creditors calling such meeting 5 clear Business Days after the date of deemed receipt of the section 439A report by the Creditors.	<p>Section 439A report.</p> <p>Notice of second meeting of Creditors.</p>
8.	Within 5 clear Business Days after the date of deemed receipt of the section 439A report by the Creditors pursuant to item 7	The Administrators hold the second meeting of Creditors.	N/A.
9.	As soon as practicable after item 8	The Company, the Administrators, the Purchaser (or the Purchaser' nominee) and the Administrators procure that each Group Company execute the DOCA and the Administrators must provide an executed copy of the DOCA to the	The DOCA between each Group Company, the Administrators (in their capacity as Administrators and trustees of the Creditors Trust) and the Purchaser (or the Purchaser' nominee).

Item	Timing	Implementation Steps	Implementation Documents
		<p>Purchaser.</p> <p>The Administrators execute the Creditors' Trust Deed and the Administrators must provide an executed copy of the Creditors' Trust Deed to the Purchaser.</p>	<p>Creditors' Trust Deed between the Group and the Administrators (in their capacity as trustees of the Creditors Trust).</p>
10.	As soon as practicable after item 9	<p>The Administrators:</p> <ol style="list-style-type: none"> a. lodge all necessary documentation to obtain all necessary relief from ASIC and ASX in respect of the Transaction (including the ASIC Relief); and b. make an application to the court for an order under section 444GA(1) of the Corporations Act. 	N/A.
11.	As soon as practicable after section 444GA(1) order is obtained and all Conditions to Completion are fulfilled.	<p>Each party must satisfy its obligations pursuant to clause 11 of this deed so that Completion occurs pursuant to clause 11 of this deed.</p>	N/A.
12.	As soon as practicable after Completion	<ol style="list-style-type: none"> a. The Administrators lodge with ASIC a notice of termination of each DOCA; b. The Administrators retire as deed administrators of the Group Companies; and c. The Receivers retire as receivers and managers of the Group Companies. 	N/A.

Schedule 2 – Group

1. Ten Network Holdings Limited (Administrators Appointed) (Receivers and Managers Appointed) ACN 081 327 068
2. The Ten Group Pty Limited (Administrators Appointed) (Receivers and Managers Appointed) ACN 057 564 708
3. Network Ten Pty Limited (Administrators Appointed) (Receivers and Managers Appointed) ACN 052 515 250
4. Network Ten (Sydney) Pty Limited (Administrators Appointed) (Receivers and Managers Appointed) ACN 008 664 962
5. Network Ten (Brisbane) Pty Limited (administrators appointed) (receivers and managers appointed) ACN 050 148 537
6. Network Ten (Melbourne) Pty Limited (Administrators Appointed) (Receivers and Managers Appointed) ACN 008 664 953
7. Network Ten (Perth) Pty Limited (Administrators Appointed) (Receivers and Managers Appointed) ACN 009 108 614
8. Network Ten (Adelaide) Pty Limited (Administrators Appointed) (Receivers and Managers Appointed) ACN 007 577 666
9. Caprice Pty Limited (Administrators Appointed) (Receivers and Managers Appointed) ACN 008 655 847
10. Chartreuse Pty Limited (Administrators Appointed) (Receivers and Managers Appointed) ACN 008 655 874
11. Television and Telecasters (Properties) Pty Limited (Administrators Appointed) ACN 050 690 161
12. Ten Online Pty Limited (Administrators Appointed) ACN 089 829 667
13. Ten Ventures Pty Limited (Administrators Appointed) ACN 089 830 759
14. Ten Employee Share Plans Pty Ltd (Administrators Appointed) ACN 082 736 150


Signing page

EXECUTED as a deed.

Executed for and on behalf of **Ten Network Holdings Limited** (administrators appointed) (receivers and managers appointed), by Christopher Clarke Hill in his capacity as receiver and manager, in the presence of



Signature of witness



Christopher Clarke Hill

GEREAD DOOLEY

Name of witness (print)

Executed for and on behalf of **Network Ten Pty Limited** (administrators appointed) (receivers and managers appointed), by Christopher Clarke Hill in his capacity as receiver and manager, in the presence of



Signature of witness



Christopher Clarke Hill

GEREAD DOOLEY

Name of witness (print)

Executed by **Christopher Clarke Hill** in the presence of



Signature of witness

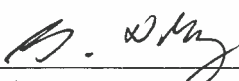


Christopher Clarke Hill


GEREAD DOOLEY

Name of witness (print)

Executed by **Phillip Patrick Carter** in the presence of



Signature of witness

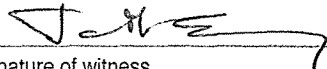



Phillip Patrick Carter

GEREAD DOOLEY

Name of witness (print)

Executed by David Laurence McEvoy in the presence of


Signature of witness


David Laurence McEvoy

JANE McEVoy
Name of witness (print)

Executed by Mark Korda in the presence of

Signature of witness

Mark Korda

Name of witness (print)

Executed by Jenny Nettleton in the presence of

Signature of witness

Jenny Nettleton

Name of witness (print)

Executed by Jarrod Villani in the presence of

Signature of witness

Jarrod Villani

Name of witness (print)

Executed by CBS International Television)
Australia Pty Ltd)

.....
Company Secretary/Director

.....
Director

.....
Name of Company Secretary/Director (print)

.....
Name of Director (print)

Executed by David Laurence McEvoy in the presence of

Signature of witness

David Laurence McEvoy

Name of witness (print)

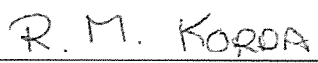
Executed by Mark Korda in the presence of

_____

Signature of witness

_____

Mark Korda

_____

Name of witness (print)

Executed by Jenny Nettleton in the presence of

Signature of witness

Jenny Nettleton

Name of witness (print)

Executed by Jarrod Villani in the presence of

Signature of witness

Jarrod Villani

Name of witness (print)

Executed by CBS International Television)
Australia Pty Ltd)

.....
Company Secretary/Director

.....
Director

.....
Name of Company Secretary/Director (print)

.....
Name of Director (print)

Executed by David Laurence McEvoy in the presence of

Signature of witness

David Laurence McEvoy

Name of witness (print)

Executed by Mark Korda in the presence of

Signature of witness

Mark Korda

Name of witness (print)

Executed by Jenny Nettleton in the presence of

Signature of witness

Jenny Nettleton

Name of witness (print)

Executed by Jarrod Villani in the presence of

Signature of witness

Jarrod Villani

Name of witness (print)

Executed by CBS International Television)
Australia Pty Ltd)

.....
Company Secretary/Director

.....
Director

.....
Name of Company Secretary/Director (print)

.....
Name of Director (print)

Executed by Phillip Patrick Carter in the presence of

Signature of witness

Phillip Patrick Carter

Name of witness (print)

Executed by David Laurence McEvoy in the presence of

Signature of witness

David Laurence McEvoy

Name of witness (print)

Executed by Mark Korda in the presence of

Signature of witness

Mark Korda

Name of witness (print)

Executed by Jenny Nettleton in the presence of

Signature of witness

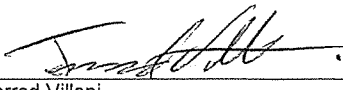
Jenny Nettleton

Name of witness (print)

Executed by Jarrod Villani in the presence of

_____ 

Signature of witness

_____ 

Jarrod Villani

_____ ADAM DAVID JOSE

Name of witness (print)

Executed by David Laurence McEvoy in the presence of

Signature of witness

David Laurence McEvoy

Name of witness (print)

Executed by Mark Korda in the presence of

Signature of witness

Mark Korda

Name of witness (print)

Executed by Jenny Nettleton in the presence of

Signature of witness

Jenny Nettleton

Name of witness (print)

Executed by Jarrod Villani in the presence of

Signature of witness

Jarrod Villani

Name of witness (print)

**Executed by CBS International Television)
Australia Pty Ltd)**

Company Secretary/Director

SHARON SYMONS

Name of Company Secretary/Director (print)

Director

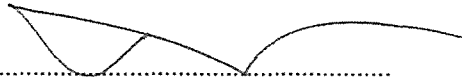
BARRY CHAMBERLAIN

Name of Director (print)

Executed by CBS Studios, Inc. by its duly)
appointed officer in the presence of:)
)

Carlos Avitia
.....
Witness

Carlos Avitia
.....
Name of Witness (print)


.....
Officer

JAVIER AVITIA
.....
Name of Officer (print)

Appendix 5 – Creditors' Trust – Risks and disadvantages

The potential risks and disadvantages of a creditors' trust are set out below along with the Administrators' views on their potential application in this case. Creditors should also read Appendix 6 of this report.

The Administrators note that the limited role of the Trustee under the Creditors' Trust is to finally adjudicate claims and distribute the Trust Fund. In those circumstances, and for the reasons set out below, the Administrators do not consider that any potential risks associated with the proposed Creditors' Trust will have a material adverse effect on creditors in this case.

Risks of a creditors' trust compared to a company remaining subject to a DOCA can include:

- Creditors' claims against a company may be extinguished before all or some of the trust funds are received - In the case of the proposed Creditors' Trust, this will not occur as the DOCA cannot terminate until all the Trust Funds have been received. On this basis, this risk has been mitigated.
- Creditors forgo their statutory rights to seek the assistance of the Court including the right to seek orders to terminate or vary the DOCA and to appeal against the valuation of claim. The risks associated with this are greatest where the DOCA terminates and the creditors' trust commences immediately on execution of the DOCA. In this case, the DOCA is likely to be on foot for at least a month whilst the conditions for completion are satisfied and any aggrieved creditor will have an opportunity to avail itself of these statutory rights during that period.
- Creditors may agree to the DOCA proposal without being aware of the implications of a creditors' trust - the 439A Report and this report provide disclosure of material information about the DOCA and the Creditors' Trust, and copies of the draft DOCA and Trust Deed were provided to creditors as appendices to the 439A Report.
- The additional complexity of the legal and documentary arrangements needed to support the use of a creditors' trust under a DOCA – the DOCA and Trust Deed have been prepared and reviewed by the Administrators and their advisers, and by the Purchaser and its advisers, all of whom have experience in dealing with DOCAs and Creditors' Trusts. We do not believe the complexity of documentary arrangements pose a risk to creditors.
- The trustee's identity, skills, remuneration and insurance arrangements – these factors are addressed in the table at Appendix 6 of this report. For the reasons set out in Appendix 6 of this report, we do not believe the trustee's identity, skills, remuneration and insurance arrangements pose a risk to creditors in this instance.
- Non-uniformity of the State and Territory Trustee Acts governing trusts and trustees - the Creditors' Trust will be governed by the Trustee Act (NSW). We do not believe the application of this Act poses any risk for creditors.
- Differences in the ways trustees and registered liquidators are regulated and supervised which may cause potential difficulties for ASIC and creditors to monitor and enforce proper conduct of the trustee - In a DOCA, creditors have the right to seek ASIC or court assistance under the Act. In a creditors' trust, the creditors (as beneficiaries) would not have those statutory rights and instead would have rights under the Trust Deed, in law or in equity. However, as the proposed trustees are registered liquidators, creditors will still be able to seek assistance from ASIC and the supervisory jurisdiction the Court has over trustees. Accordingly we do not believe this difference creates a material risk for creditors.



Appendix 6 – Creditors Trust – ASIC guidelines for creditors’ trusts

In May 2005, ASIC issued Regulatory Guide 82 in respect to Creditors’ Trusts, entitled ‘External Administrations: Deeds of company arrangement involving a creditors’ trust’ (‘the ASIC Guide’). A copy of the Guide can be downloaded from the ASIC website at <http://www.asic.gov.au/> or is available from our office upon request.

In accordance with the ASIC Guide, we set out below updated information required to be made available to creditors where a DOCA provides for the use of a creditors’ trust. This table replaces the table that appeared in section 8.3 of the 439A Report.

Issue	Comments
Reasons	The Transaction, which includes the DOCA proposal, requires the use of a creditors’ trust and that certain claims against the Ten Group companies are extinguished and they become claims against the Creditors’ Trust. See also section 7.1 of this Report for further information regarding the reasons for and advantages of a creditors’ trust.
Key events	<p>The following are the key events:</p> <ol style="list-style-type: none"> 1. Creditor approval for each of the Ten Group companies to execute the DOCA. Originally, the Second Meetings of Creditors was due to be held on 12 September 2017 and as noted in section 1 of this report, they have now been adjourned until 19 September 2017. 2. Deed Administrators to commence process pursuant to section 444GA of the Act – this is expected to occur shortly after the Second Meetings of Creditors. 3. Approval of the 444GA application by the Court – this is expected to take approximately one month from lodgement of the application, on an uncontested basis. Other conditions precedent, in particular FIRB approval, is expected to be achieved within the one month timeframe. See also Note 2 in Section 2 of this report. 4. Completion of the Transaction is to take place five business days after the last condition precedent is met. Assuming there are no further delays in holding the Second Meetings of Creditors and that section 444GA application can be completed in one month, Completion is estimated to occur in late October 2017. 5. Completion would entail the following simultaneous components: <ol style="list-style-type: none"> a. Transfer of the shares in Holdings to the Purchaser b. Payment of the Trust Fund to the Trustee by the Purchaser c. Termination (effectuation) of the DOCA d. The Creditors’ Trust coming into effect e. Extinguishment of each creditors’ claims (other than Excluded Claims) against the relevant Ten Group company in exchange for a claim against the Creditors’ Trust. 6. Once the Trustees have finally adjudicated on all claims by creditors, distribution of the Trust Fund to Admitted Creditors (see section 8.4.1 of the 439A Report). As stated in Section 10.2 of the 439A Report, it is estimated that a first and final dividend to Pool A, B and C creditors will be paid in December 2017 and that a first and final dividend to Pool D creditors will be paid once the warranties have expired (see also section 4.2 of this report), which is currently expected to be in October 2018. <p>Any delay in the completion of the Transaction and subsequently the receipt of Trust Funds by the Trustees will cause an equivalent delay in a distribution to creditors.</p> <p>In circumstances where Completion cannot occur, either because:</p> <ul style="list-style-type: none"> • the Court does not make an order granting leave to the Deed Administrators to transfer all the shares in Holdings (and an alternative structure providing the same outcomes for creditors has not been achieved) • the FIRB condition precedent cannot be achieved • the Purchaser cannot make the payments required under the Transaction Deed <p>the DOCA provides that the Deed Administrators must convene a meeting of creditors.</p>



Issue	Comments
Return to creditors	Refer to sections 8.4 and 10 of the 439A Report and section 1.2 of this Report. See also section 7.1 of this report for a discussion of the possible impact on a return to creditors if the DOCA did not include a creditors' trust.
Trustee particulars	<p>The Trust Deed provides that the Administrators/Deed Administrators will become the Trustees of the Creditors' Trust. The Administrators are registered liquidators and have the relevant skills and experience to perform the required duties and functions. The Administrators consider that there is no conflict of interest in them acting as trustees and that they have adequate civil liability insurance (including professional indemnity and fidelity) that will cover conduct by them in their capacity as trustee of the proposed trust. Full details of our experience, qualifications and credentials can be found at www.kordamentha.com or from this office upon request.</p> <p>ASIC will have certain supervisory powers (including the power to direct a registered liquidator to do certain things and disciplinary powers) under the IPS in relation to the conduct by the Trustees as they are registered liquidators.</p> <p>For added protection for creditors, we propose to seek an amendment to the draft Trust Deed requiring any replacement Trustee to be a registered liquidator (a replacement is only likely to arise if all of the Trustees resigned or were unable to act).</p>
Remuneration	<p>The Creditors' Trust will provide for payment of the following from Trust Funds in priority to any distribution to Admitted Creditors:</p> <ul style="list-style-type: none"> • Any approved remuneration owing to the Deed Administrators and the Administrators which remains unpaid as at the date of the DOCA being terminated and the Creditors' Trust coming into effect. We do not anticipate any Administrators' or Deed Administrators' fees and expenses will be outstanding as at the date the DOCA is terminated. • Remuneration and costs due to the Trustees. The Trustees' Remuneration will be based on the hours spent by the Trustees, calculated in accordance with the schedule titled KordaMentha Rates – National – FY18, which is enclosed as Appendix 13 to the 439A Report. <p>We have estimated the remuneration and costs of the Trustees to be \$0.5 million. This estimate assumes that the adjudication of creditor claims does not require litigation or protracted negotiations, and that the distributions from the Trust Fund occur in the timeframes proposed. It is not possible to estimate the quantum of Trustee fees which may otherwise be incurred.</p> <p>We do not consider that additional professional fees will be incurred as a result of the use of the Creditors' Trust, compared with the position if the Ten Group companies remain subject to a DOCA.</p> <p>In a DOCA, the approval of the Deed Administrators' remuneration is subject to provisions of the IPS which require that the remuneration be agreed by the Committee of Inspection or approved by resolution of creditors or by the Court and which allow – where remuneration is agreed by the Committee of Inspection or approved by resolution of creditors – for a creditor (among other parties) to apply to the Court to review the remuneration. On such an application, the Court must have regard to whether the Deed Administrators' remuneration is reasonable with regard to a list of specified criteria in IPS 60-12 and the Court can affirm, vary or set aside the Deed Administrators' remuneration.</p> <p>In a Creditors Trust, there is no equivalent statutory procedure in the Trustee Act 1925 (NSW) pursuant to which beneficiaries, the Committee of Creditors or the Court must agree or approve the Trustee's remuneration. A beneficiary can seek to review or challenge the Trustee's remuneration by application to the Supreme Court of New South Wales, including pursuant to Part 54 of the Uniform Civil Procedure Rules 2005.</p>
Indemnities	<p>Clause 10 of the Trust Deed provides that the Trustees are entitled to be indemnified out of the Trust Fund for all actions, suits, proceedings, accounts, claims and demands arising out of or relating to this Deed which may be commenced, incurred by or made on the Trustees by any person and against all costs, charges and expenses incurred by the Trustees in respect of them, provided that the Trustees shall not be entitled to an indemnity in respect of any liabilities or demands to the extent that the indemnification contravenes the Corporations Act or the Trustee Act or if the Trustees, or any partner, employee, authorised agent or delegate of the Trustees have acted negligently, in breach of fiduciary duty or in breach of trust.</p> <p>Accordingly, fees and costs of the Trustees, and costs associated with any legal actions that are required to be defended or taken will be a cost of the Trust Fund. These fees and costs may</p>



Issue	Comments
	<p>diminish the return to creditors. Given the Trustees' limited role (being to adjudicate claims and distribute the Trust Fund) we do not envisage any material legal actions.</p> <p>The indemnity is continuing and takes effect from the commencement date of the DOCA.</p> <p>No other indemnity has been or is to be provided to the Trustees by any related or third party.</p>
Powers	<p>The Trustees will have all the powers of a natural person or a corporation in connection with the exercise of their rights and compliance with their obligations under the Creditors' Trust. The Trustees may exercise their rights and comply with their obligations under the Creditors' Trust in any manner they think fit.</p> <p>A deed administrator is governed by the Corporations Act whilst a trustee is governed by the Trust Deed and the Trustees Act 1925 (NSW).</p> <p>The proposed role of the Trustees here is limited to calling for and adjudicating on claims, and distributing the Trust Funds. The draft Trust Deed has incorporated the same powers that would usually also apply to a Deed Administrator, by reference to the Regulations which would apply in a DOCA (see section 8.4.2 of the 439A Report).</p> <p>There are unlikely to be any deficiencies in the power of the Trustees to perform their limited functions, which may lead to applications to Court.</p>
Claims	<p>Refer to section 8.4 of 439A Report.</p>
Other creditor/beneficiary differences	<p>Refer also to Appendix 5 of this report. The Creditors' Trust means there are some differences for creditors compared to a DOCA, which include:</p> <ul style="list-style-type: none"> • Any appeal to the Trustees' decision to reject a claim of a Participating Creditor must be made within 14 days of the Trustees giving notice of rejection, or such longer period as the Trustees permit. In a liquidation, the Act (Regulation 5.6.54(1)(b)(i)) stipulates that the appeal must be made within 14 days of the liquidator giving notice of rejection, or such longer period as the court permits. • Beneficiaries of a creditors trust do not have statutory powers to call creditor meetings like they do in a DOCA. However, the Trust Deed stipulates that the requirements of the Act, the IPS and the Rules relating to creditors' meetings, and the ability of the creditors to require a meeting to be held, will also apply to the Creditors' Trust. • The draft Trust Deed was attached as Appendix 14 to the 439A Report. It does not contain any provisions relating to reporting to creditors, on the basis that the Trust Deed process for calling for proofs and paying dividends will involve communications with creditors at appropriate points. A change will be made to the Trust Deed to provide for a report to creditors every six months on the progress of distributing funds. This report will be made available on the KordaMentha website in the creditor information section, and be sent using the methods agreed by the Federal Court of Australia in the orders made on 17 July 2017. • In a DOCA, creditors have rights to call a meeting of creditors, or apply to the court to vary or terminate the DOCA. In a creditors' trust, creditors do not have this right. However, we cannot foresee circumstances where the Creditors' Trust would need to be terminated or varied, as the entirety of the Trust Fund is to be paid before the termination of the DOCA and the only role of the Creditors' Trust is to adjudicate on claims and make distributions to creditors. • Beneficiaries of the Creditors' Trust will have the same ability to complain about the conduct of the Trustees to ASIC as they would in a DOCA, as the Trustees are registered liquidators. <p>We do not consider that these differences will have a material adverse effect on creditors.</p>
FEG	<p>As companies in the Ten Group will not be placed into liquidation, the employees will not be able to access FEG.</p>
Compliance opinion	<p>Based on our own investigations, there is nothing to indicate that the Purchaser will be unable to comply with its obligations under the Transaction. Importantly, Admitted Creditors' claims against the Ten Group are not extinguished until the Trust Fund to satisfy claims are received.</p>
Solvency statement	<p>The terms of the proposed DOCA provides that, upon effectuation, all pre-appointment claims against the Ten Group companies, other than the Excluded Creditors, will be extinguished in full. The Purchaser has provided a new working capital facility to the Ten Group, and has confirmed further funding will be provided as required to Ten Group to enable its debts to be paid as and when they fall due. Further, CBS Studios Inc has provided short-term funding to Holdings to</p>



Issue	Comments
	<p>refinance the existing Secured Creditors and provide the Ten Group with \$30.0 million of working capital which we believe is sufficient to support the business as a going concern.</p> <p>We have further been advised that the new secured facility between CBS Studios Inc and Holdings is expected to be repaid or capitalised at the same time as, or shortly following, the acquisition of Holdings by the Purchaser. Accordingly, post-acquisition, the Ten Group will carry limited to no debt and it is anticipated that the new directors of Holdings would not have any difficulty in being able satisfy going concern requirements when preparing financial reports of Holdings (and related entities) for the relevant period. The Purchaser's ultimate parent company is listed on the New York Stock Exchange and currently has a market capitalisation value of approximately US\$27 billion.</p>
Tax (company/trust)	<p>The creation of a Creditors' Trust creates the potential for some taxation issues to arise, as compared to an ordinary DOCA proposal (where the claims of Admitted Creditors are dealt with by the Ten Group). These may mean that the funds available to creditors are reduced in order to account for any taxation liabilities associated with the administration of the distribution process under a trust structure. We do not expect that there will be any material changes to the funds available for distribution as a result of the Creditors' Trust structure, or that any taxation, capital gains or stamp duty liabilities will arise.</p>
Tax (creditor/beneficiary)	<p>There may be some implications for Admitted Creditors as a result of receiving a distribution from a trust in respect of a bad or doubtful debt, rather than from the debtor company being administered under a DOCA. Creditors are advised to seek their own tax advice as to their particular tax position – the Administrators are unable to provide advice on this issue.</p>
Other	<p>No other material aspects or implications have been identified at this stage.</p>



Appendix 7 – The B&I Transaction

For the reasons set out in section 8, the B&I Transaction is not a current proposal for creditors and this summary is provided as background information for creditors only.

Overview

The Administrators' assessment of the relevant features of the B&I Transaction is as follows:

1. Extend the then secured facility for \$200.0 million from 31 August 2017 to 15 December 2017 (providing up to \$45.6 million for working capital) subject to:
 - a. CBA consent (we understand that consent documents had been agreed with CBA)
 - b. CPH agreeing to a payment of its guarantor fee in cash on 31 August 2017 for release of its guarantee (we understand that documents had been agreed).
2. A total payment \$35.0 million would have been made available via the Creditors' Trust. The basis on which the funds were to be allocated is set out below.
3. All payments to implement the B&I Transaction were to be funded either under the existing \$200.0 million CBA facility or the new \$200.0 million CBA facility proposed post the B&I DOCA.
4. The retention of all Ten Group employees and the preservation of their employee entitlements.
5. A DOCA for the Ten Group as a whole, which was to be subject to creditor approval ('the B&I DOCA').
6. The B&I DOCA proposed two alternate structures. Election between the structures must be made at the latest by 30 September 2017, failing which Structure 2 would apply:
 - a. Structure 1 – Media Law Reform Bill² successfully passed:
 - i. Via an order under s 444GA of the Act, transfer to Birketu and Illyria of 75% of shareholdings held by all shareholders in Holdings other than Birketu and Illyria, which would have resulted in Birketu and Illyria holding ~80% of all shares in Holdings (including their existing shares). The Board of Holdings was to be reconstituted with Birketu and Illyria nominee directors, and control of the operations of the Ten Group would have reverted to the Board when all conditions precedent, other than making of the s 444GA order, had been satisfied (and so, before Completion); or
 - ii. If Court consent under s444GA was not granted, if directed by Birketu and Illyria, Holdings and the Deed Administrators were to promptly take action to issue further share capital to Birketu and Illyria to enable them to each hold 40% of the total share capital of Holdings, and to take all necessary steps to enable the issue of shares, such that in aggregate they held 80% of the equity in Holdings. A share issue for nil consideration would have been subject to either ASX and ASIC relief, or in the absence of such relief, a shareholder vote.
 - b. Structure 2 – Media Law Reform Bill is not passed:

The Administrators were to issue 1.07 billion zero cost ten year options in Holdings. The options were to be exercisable into ordinary shares only on Media Law Reform Bill being passed (with a 10 year sunset date). This would have resulted, following the exercising of these options, in Birketu and Illyria holding in aggregate 80% of shares in Holdings. This structure would have required either:

 - relief from ASIC and the ASX, or
 - approval by shareholders at an extraordinary general meeting (refer to 'Conditions Precedent' below).

The options were to be transferrable to (and hence potentially exercisable by) third parties (who would otherwise comply with the BSA). Siobhan McKenna was to be reappointed to the Holdings Board on Completion.

The B&I Transaction is structured, under either of Structure 1 or Structure 2 (upon exercise of the options), so that the existing shareholders of Holdings (other than Birketu and Illyria) retain 20% of the total share capital of Holdings.
7. The CBA facility was to have been replaced with a new \$200.0 million facility from CBA that remained guaranteed by Birketu and Illyria on substantially the same economic terms, but with a 3 year maturity.
8. The Administrators, the Receivers and the Purchaser were to be required to use all reasonable efforts to complete the B&I Transaction and not to solicit, sponsor, endorse or otherwise take any action to implement or be involved in any

² Amendments to the Broadcasting Services Act 1992 (Cth) in terms which would permit Birketu and Illyria to acquire a controlling interest in the Ten Group, whether in the terms of the proposed amendment before Parliament or otherwise.



transaction which was inconsistent with them using all reasonable efforts to complete the transaction, subject to an exception for a bona fide competing and superior proposal.

9. The B&I Transaction contained a sunset date of 15 December 2017, able to be extended by agreement.
10. Post completion of the B&I Transaction, Holdings would remain listed on the ASX.

Conditions precedent to completion of the B&I Transaction

Under both Structure 1 and 2

- Approval from FIRB in respect of Illyria's participation in the B&I Transaction.
- Approval of creditors of each of the Ten Group companies of the B&I DOCA and execution of the B&I DOCA.
- To the extent required waivers or approvals from ASIC and ASX could not be obtained, approval by shareholders.

Under Structure 1

- ASIC consent, which would have been involved in obtaining orders under section 444GA of the Act.
- The Administrators (as Deed Administrators of Holdings) would have needed to obtain a Court order pursuant to section 444GA(1) of the Act granting leave to the Administrators to transfer 75% of each shareholders' shares in Holdings (excluding shares held by Birketu, Illyria or related entities) to Birketu and Illyria.

Under Structure 2

- No reasonable objection received on or before 15 October 2017 (or a later date if agreed) from the Australian Communications and Media Authority ('ACMA').
- Relief from both ASIC and ASX in relation to the issuance of options. Failing ASIC and ASX relief being received, shareholder approval would be required.

Summary of the proposed B&I DOCA

The B&I Transaction proposed a DOCA with a similar implementation structure to that of the CBS DOCA, including:

- The B&I DOCA applies to each of the companies of the Ten Group.
- On Completion, the DOCA will terminate and a single Creditors' Trust will come into effect.
- The B&I DOCA and B&I Creditors' Trust contemplated that the claims of creditors of all Ten Group companies were to be combined to claim against the B&I Trust Fund. As such, a creditor of one entity in the Ten Group would have been treated under the DOCA as a creditor of all Ten Group companies without the need to prove its claim separately against each entity.
- The DOCA included the obligation on the deed administrators to facilitate the Section 444GA process if Structure 1 was pursued to give effect the transfer of the 75% of the shares held by third party shareholders to Birketu and Illyria, to give Birketu and Illyria ~80% of all shareholdings in Holdings following the transfer of shares.

In addition, the B&I DOCA obliged the Deed Administrators to diligently seek an order pursuant to section 444F of the Act if directed by Birketu and Illyria to limit the rights of secured creditors of the Ten Group or of owners or lessors of property in the possession of the Ten Group.

Creditor entitlements

Distributions to creditors were proposed in the B&I DOCA to be made pursuant to the B&I Creditors' Trust, which would have come into effect when completion of the B&I Transaction occurred and the B&I DOCA was terminated. The B&I Creditors Trust' provided for pools to be created for different categories of creditors. The pools are discussed below.

There was no difference in the treatment of employee creditors between the B&I DOCA and CBS DOCA.

The B&I DOCA provided that only companies of the Ten Group were to be excluded from the B&I DOCA, and would not have a claim in the B&I Creditors' Trust against the B&I Trust Fund.



Proposed B&I Creditors' Trust

Overview of the proposed creditors' trust

A payment of \$35.0 million from the working capital account would have been made available via the Creditors Trust to establish the B&I Trust Fund, which, based on the Administrators' estimate, would have been distributed to unsecured creditors (pool A and non CBS pool B) in the amount of \$27.6 million and to CBS in the amount of \$7.4 million ('Trust Fund').

Under the B&I Transaction, creditors were to have been divided into two pools, pool A and pool B based on the attributes of their claims.

Pool A creditors were to be determined by reference to whether they were:

1. a trade or operational creditor anticipated to have a continuing association, relationship or connection with a Ten Group company business, or
2. a trade or operational creditor whose support or goodwill (or both) is anticipated to be valuable to a Ten Group company's business, or
3. any other creditor whose claim is of minimal value pursuant to a specified formula.

Pool B creditors were defined as all creditors who were not pool A creditors. This includes the following creditors, to the extent that Birketu and Illyria exercised their right to direct the Administrators under the B&I DOCA to repudiate or terminate relevant contracts:

- Fox
- CBS
- Formula One World Championship Limited
- Australian Tax Office and various Offices of State Revenue
- McKinsey
- Lessors in respect of all leases of premises occupied by a Ten Group company in Sydney, Melbourne and Adelaide
- Warner Brothers in relation to "Supernatural" programming.

Mechanism to determine amounts payable in each pool

The proposed B&I Creditors' Trust stated that each pool outlined above, would receive payments in the following order from the \$35.0 million made available to the Creditors' Trust:

- First – amounts to be distributed to creditors equal to that which they would have otherwise received in a liquidation up to \$35.0 million
- Secondly – \$1.0 million to pool B creditors
- Thirdly – the remaining balance to pool A creditors. To the extent that pool A creditor claims were satisfied in full, surplus funds were to be applied to pool B.



Estimated return to creditors

Based on the B&I Transaction which was submitted by Birketu and Illyria and on the Administrators' knowledge of creditor balances as at 4 September 2017 (the release date of our s439A Report to Creditors) we estimated the following return to the following classes of creditors:

Creditor group	Pool	Est. claim \$' million	Return \$' million	Return cents / dollar
Unsecured				
Critical programming creditors	Pool A	5.7	5.7	100.00
General trade creditors	Pool A	15.5	15.5	100.00
Financial (ANZ and Westpac)	Pool A	1.4	1.4	100.00
Statutory (ATO and Offices of State Revenue)	Pool B	11.9	0.3	2.12
Formula One	Pool B	20.0	0.4	2.12
Disclaimed leases	Pool B	9.2	0.2	2.12
Other discontinuing contracts	Pool B	2.4	0.1	2.12
Fox	Pool B	195.0	4.1	2.12
Total unsecured return \$ (before CBS)		261.1	27.6	10.58
CBS	Pool B	348.0	7.4	2.12
Total Unsecured Return \$ (after CBS)		609.1	35.0	5.75

To enable comparison of the B&I DOCA to the CBS DOCA, some adjustments have been required to the figures in the B&I Transaction.

Post the binding bid date but before the issue of the 439A Report, the Administrators formed the view that the general trade creditor pool could potentially be \$4.0 million higher than initially expected. As such the Administrators have assumed that the increase is captured in pool A creditors for the B&I DOCA and pool B creditors for the CBS DOCA. The result of this under the B&I DOCA is that the CBS recovery is \$7.4 million as opposed to \$9.8 million under the assumptions made in the original B&I DOCA. Further the recovery to all creditors (ex CBS) on the updated assumptions is \$27.6 million compared to \$25.2 million under the original B&I DOCA assumptions.





Issued: 8 September 2017 2:36 PM

JUDGMENT/ORDER

COURT DETAILS

Court	Supreme Court of NSW
Division	Equity
List	Corporations List
Registry	Supreme Court Sydney
Case number	2017/00271140

TITLE OF PROCEEDINGS

First Plaintiff	WIN CORPORATION Pty Ltd ACN 000737404
Second Plaintiff	Birketu Pty Ltd
Number of Plaintiffs	3
First Defendant	Mark Korda
Second Defendant	Jarrod Villani
Number of Defendants	17

DATE OF JUDGMENT/ORDER

Date made or given	7 September 2017
Date entered	7 September 2017

TERMS OF JUDGMENT/ORDER

VERDICT, ORDER OR DIRECTION:

Directions hearing.

Ex tempore judgment delivered on application for joinder.

Black J makes the following order:

1. That CBS International Television Australia Pty Ltd, CBS Broadcasting Inc and Showtime Distribution B.V. be respectively joined as the Eighteenth, Nineteenth and Twentieth Defendants.

Ex tempore judgment delivered on hearing date.

Ex tempore judgment delivered on orders and deferral of second meeting of creditors and deferral of hearing date. Orders to be made in Chambers once reviewed by parties.

Black J makes orders in Chambers in accordance with the Short Minutes of Order initialled by him and placed in the file.

1. Pursuant to s447A of the Corporations Act 2001 (Cth) (Act) and/or s90-15 of the Insolvency Practice Schedule, that the second meetings of creditors of the 4th to 17th defendants be adjourned from Tuesday 12 September 2017 at 11.00am to 19 September 2017 at 11.00am at Sydney Harbour Marriott, 30 Pitt Street, Sydney, NSW, 2000.

2. Pursuant to s447A of the Act, and without determination as to the adequacy of the time provided for lodgement of proxies and proofs of debt, that any creditors wishing to vote at the meetings, who will not be attending in person or are a company, must complete and return a proxy form and proof of debts by no later than 5.00pm on Friday, 15 September 2017.

3. Pursuant to s447A(1) of the Act, Part 5.3A of the Act is to operate in relation to each of the 4th to 17th defendants such that notice of the second meetings of creditors required to be given pursuant to section 439A(3) of the Act (the Notice) will be validly given to creditors by:

(a) sending the Notice by email (Email) to the email address of each creditor at such email address as is recorded in the books and records of the 4th to 17th defendants;

(b) where an email address is not recorded in the books and records of the 4th to 17th defendants, sending the Notice by post (Letter) to the postal address of each creditor at such postal address as is recorded in the books and records of the 4th to 17th defendants;

(c) publishing the Notice on the website maintained by the 1st to 3rd defendants (Administrators) at www.kordamentha.com (Website) at least five business days before the second meetings of creditors;

(d) providing in the Email, Letter and the Notice as published on the Website:

(i) notice of the date, time and location of the second meetings of creditors;

(ii) notice that the report required to be given to creditors of each of the 4th to 17th defendants pursuant to section 439A(4) of the Act (the 439A Report) is available for download as to the Website; and

(iii) details of a telephone hotline number by which any creditors may contact the Administrators to request a paper or electronic copy of the 439A Report.

4. The Defendants to serve and send to the Associate to Black J any evidence by Monday, 11 September 2017 at 10.00am and submissions by the same date at 11.00am.

5. The matter be listed for hearing at 10.00am on 12 and 13 September 2017 before a Judge to be allocated by the Corporations Judge.

6. Costs of today be reserved.

SEAL AND SIGNATURE



Signature Chris D'Aeth
Capacity Principal Registrar
Date 8 September 2017

If this document was issued by means of the Electronic Case Management System (ECM), pursuant to Part 3 of the Uniform Civil Procedure Rules (UCPR), this document is taken to have been signed if the person's name is printed where his or her signature would otherwise appear.

FURTHER DETAILS ABOUT Plaintiff(s)

First Plaintiff

Name WIN CORPORATION Pty Ltd
 ACN 000737404

Address
Telephone

Fax
E-mail
Client reference

Second Plaintiff
Name

Birketu Pty Ltd
ACN 003831392

Address
Telephone
Fax
E-mail
Client reference

Third Plaintiff
Name

Andrew Lancaster

Address
Telephone
Fax
E-mail
Client reference

FURTHER DETAILS ABOUT Defendant(s)

First Defendant

Name Mark Korda
Address

Second Defendant

Name Jarrod Villani
Address

Third Defendant

Name Jenny Nettleton
Address

Fourth Defendant

Name TEN Network Holdings Limited (Adminstrators Appt)(Receivers
and Managers Appt)
ACN 081327068
Address

Fifth Defendant

Name The Ten Group Pty Limited (Adminstrators Appt) (Receivers and
Managers appt)
ACN 057564708
Address

Sixth Defendant

Name Network Ten Pty Limited (Adminstrators appt)(Receivers and
Managers appt)
ACN 052515250
Address

Seventh Defendant

Name Network Ten (Sydney) Pty Limited (Adminstrators Appt)
(Receivers and Managers appt)
ACN 008664962
Address

Eighth Defendant

Name Network Ten (Brisbane) Pty Limited (Administrators Appt)
(Receivers and Managers appt)
ACN 050148537

Address

Ninth Defendant

Name Network Ten (Melbourne) Pty Limited (Administrators Appt)
(Receivers and Managers appt)
ACN 008664953

Address

Tenth Defendant

Name Network Ten (Perth) Pty Limited (Administrators Appt) (Receivers
and Managers appt)
ACN 009108614

Address

Eleventh Defendant

Name Network Ten (Adelaide) Pty Limited (Administrators Appt)
(Receivers and Managers appt)
ACN 007577666

Address

Twelfth Defendant

Name Caprice Pty Limited ((Administrators Appt) (Receivers and
Managers appt)
ACN 008655847

Address

Thirteenth Defendant

Name Chartreuse Pty Limited (Administrators Appt) (Receivers and
Managers appt)
ACN 008655874

Address

Fourteenth Defendant

Name Television and Telecasters (Properties) Pty Limited
(Administrators Appointed)
ACN 050690161

Address

Fifteenth Defendant

Name Ten Online Pty Limited (Administrators appt)
ACN 089829667

Address

Sixteenth Defendant

Name Ten Ventures Pty Limited (Administrators appt)
ACN 089830759

Address

Seventeenth Defendant

Name Tem Employee Share Plans Pty Limited (Administrators appt)
ACN 082736150

Address

