

ASX ANNOUNCEMENT

7 December 2018

Scottish Pacific Scheme Booklet registered with ASIC

Scottish Pacific Group Limited (ASX: SCO) (**Scottish Pacific**) is pleased to announce that the Supreme Court of Victoria (**Court**) has today made orders approving the scheme of arrangement to effect the proposed acquisition of all the shares on issue in Scottish Pacific by SME Capital Investments III Pty Ltd (ACN 628 950 514) (**Bidder**) (an entity wholly owned by funds managed or advised by Affinity Equity Partners Limited) (**Scheme**).

A copy of the Court's orders were lodged with the Australian Securities and Investments Commission today and, as a result, the Scheme is now legally effective. A copy of the Court order is attached to this announcement. Scottish Pacific has applied to ASX to suspend quotation and trading of Scottish Pacific's shares effective from close of trading on ASX today.

Scottish Pacific shareholders who hold shares on the record date for the Scheme (currently proposed as 5.00 pm on Wednesday, 12 December 2018) (**Scheme Participants**) will be entitled to receive the Scheme consideration (in accordance with the terms of the Scheme as set out in Annexure B to the Scheme booklet dated 26 October 2018 (**Scheme Booklet**)). The Scheme consideration will be paid to Scheme Participants (as defined in the Scheme Booklet) on the implementation date (currently proposed as Tuesday, 18 December 2018).

Further information

For further information, please contact:

Peter Langham

CEO

Phone: +61 2 9392 9999

ENDS

IN THE SUPREME COURT OF VICTORIA AT MELBOURNE
COMMERCIAL COURT
CORPORATIONS LIST

S ECI 2018 01484

IN THE MATTER OF SCOTTISH PACIFIC GROUP LIMITED
ACN 164 013 110

SCOTTISH PACIFIC GROUP LIMITED
ACN 164 013 110

Plaintiff

GENERAL FORM OF ORDER

JUDGE: The Honourable Justice Sifris

DATE MADE: 7 December 2018

ORIGINATING PROCESS: Originating process filed 25 September 2018

HOW OBTAINED: On return of the originating process filed 25 September 2018

ATTENDANCE: Dr O Bigos and Mr J Claridge of Counsel for the Plaintiff
Mr B Holmes of Counsel for SME Capital Investments III Pty Ltd (the **Bidder**)

OTHER MATTERS: A. The Court received into evidence the fifth affidavit of Ashley Ronald Poke dated 6 December 2018 and the exhibits thereto.

B. The Court noted that:

(i) Associate Justice Gardiner made orders on 5 December 2018 pursuant to rule 16.6 of the *Supreme Court (Corporations) Rules 2013* in relation to the meetings of members of the plaintiff held on 30 November 2018 and the passing of the resolution to approve the scheme of arrangement at those meetings.

(ii) There has been produced to the Court a statement in writing by the Australian Securities and Investments Commission stating that it has no objection to the compromise or arrangement between the plaintiff and its shareholders.

C. The Court also noted the Plaintiff's outline of submissions dated 6 December 2018.



D. This Order is signed by the Judge pursuant to Rule 60.02(1)(b) of the Supreme Court (General Civil Procedure) Rules 2015 (Vic).

THE COURT ORDERS THAT:

1. The scheme of arrangement in this proceeding in relation to the Plaintiff, the terms of which are set out in Annexure A to this Order, is hereby approved pursuant to section 411(4) of the *Corporations Act 2001* (Cth).
2. The plaintiff is exempted pursuant to section 411(12) of the *Corporations Act 2001* (Cth) from compliance with section 411(11) of the *Corporations Act 2001* (Cth) in relation to the scheme of arrangement referred to in paragraph 1 above.

DATE AUTHENTICATED: 7 DECEMBER 2018


THE HONOURABLE JUSTICE SIFRIS

SCHEDULE A

Terms of the scheme of arrangement between the Plaintiff and its members

Scheme of Arrangement

Dated

Scottish Pacific Group Limited (ACN 164 013 110) ("**Target**")

Scheme Participants

Scheme of Arrangement

Contents

Details	1
General terms	2
1 Definitions and interpretation	2
1.1 Definitions	2
1.2 General interpretation	6
2 Preliminary	6
2.1 Target	6
2.2 Bidder	7
2.3 If Scheme becomes Effective	7
2.4 Scheme Implementation Agreement	7
2.5 Deed Poll	7
3 Conditions precedent	7
3.1 Conditions precedent to Scheme	7
3.2 Conditions precedent and operation of clauses 5 and 6	8
3.3 Certificate in relation to conditions precedent	8
4 Scheme	8
4.1 Effective Date	8
4.2 End Date	8
5 Implementation of Scheme	8
5.1 Lodgement of Court orders with ASIC	8
5.2 Transfer and registration of Target Shares	9
5.3 Title and rights in Scheme Shares	9
5.4 Scheme Participants' agreements	9
5.5 Warranty by Scheme Participants	10
5.6 Transfer free of Encumbrances	10
5.7 Appointment of Bidder as sole proxy	10
5.8 Amendments to Investment Deed	11
6 Scheme Consideration	11
6.1 Consideration under the Scheme	11
6.2 Election procedure	11
6.3 Determination Scheme Consideration	11
6.4 Provision of Scheme Consideration	12
6.5 Cancellation and reissue of cheques	13
6.6 Status of HoldCo Shares	13
6.7 Orders of a court or Regulatory Authority	13
6.8 Joint holders	13
6.9 Fractional Entitlements	14
7 Dealings in Scheme Shares	14
7.1 Determination of Scheme Participants	14
7.2 Register	14
7.3 No disposals after Effective Date	14

7.4	Maintenance of Register	14
7.5	Effect of certificates and holding statements	15
7.6	Details of Scheme Participants	15
7.7	Quotation of Target Shares	15
7.8	Termination of quotation of Target Shares	15
8	Power of attorney	15
9	Notices	15
9.1	No deemed receipt	15
9.2	Accidental omission	16
10	General	16
10.1	Variations, alterations and conditions	16
10.2	Binding effect of Scheme	16
10.3	Further action by Target	16
10.4	Authority and acknowledgement	16
10.5	No liability when acting in good faith	16
10.6	Enforcement of Deed Poll	16
10.7	Stamp duty	16
11	Governing law	17
11.1	Governing law and jurisdiction	17
11.2	Serving documents	17
	Details	1
	General terms	2
1	Definitions and interpretation	2
1.1	Definitions	2
1.2	General interpretation	6
2	Preliminary	6
2.1	Target	6
2.2	Bidder	7
2.3	If Scheme becomes Effective	7
2.4	Scheme Implementation Agreement	7
2.5	Deed Poll	7
3	Conditions precedent	7
3.1	Conditions precedent to Scheme	7
3.2	Conditions precedent and operation of clauses 5 and 6	8
3.3	Certificate in relation to conditions precedent	8
4	Scheme	8
4.1	Effective Date	8
4.2	End Date	8
5	Implementation of Scheme	8
5.1	Lodgement of Court orders with ASIC	8
5.2	Transfer and registration of Target Shares	9
5.3	Title and rights in Scheme Shares	9
5.4	Scheme Participants' agreements	9

5.5	Warranty by Scheme Participants	10
5.6	Transfer free of Encumbrances	10
5.7	Appointment of Bidder as sole proxy	10
5.8	Amendments to Investment Deed	11
<hr/>		
6	Scheme Consideration	11
6.1	Consideration under the Scheme	11
6.2	Election procedure	11
6.3	Determination Scheme Consideration	11
6.4	Provision of Scheme Consideration	12
6.5	Cancellation and reissue of cheques	13
6.6	Status of HoldCo Shares	13
6.7	Orders of a court or Regulatory Authority	13
6.8	Joint holders	13
6.9	Fractional Entitlements	14
<hr/>		
7	Dealings in Scheme Shares	14
7.1	Determination of Scheme Participants	14
7.2	Register	14
7.3	No disposals after Effective Date	14
7.4	Maintenance of Register	14
7.5	Effect of certificates and holding statements	15
7.6	Details of Scheme Participants	15
7.7	Quotation of Target Shares	15
7.8	Termination of quotation of Target Shares	15
<hr/>		
8	Power of attorney	15
<hr/>		
9	Notices	15
9.1	No deemed receipt	15
9.2	Accidental omission	16
<hr/>		
10	General	16
10.1	Variations, alterations and conditions	16
10.2	Binding effect of Scheme	16
10.3	Further action by Target	16
10.4	Authority and acknowledgement	16
10.5	No liability when acting in good faith	16
10.6	Enforcement of Deed Poll	16
10.7	Stamp duty	16
<hr/>		
11	Governing law	17
11.1	Governing law and jurisdiction	17
11.2	Serving documents	17

Scheme of Arrangement

Details

Parties

Target	Name	Scottish Pacific Group Limited
	ACN	164 013 110
	Formed in	Victoria
	Address	Level 5, 20 Bond Street, Sydney, NSW 2000
	Email	Patrick.Elliott@nextcapital.com.au LanghamP@scottishpacific.com
	Attention	Patrick Elliott and Peter Langham
Scheme Participants	Each person registered as a holder of fully paid ordinary shares in Target as at the Record Date.	
Governing law	New South Wales	

General terms

1 Definitions and interpretation

1.1 Definitions

Unless the contrary intention appears, these meanings apply:

ACCC means the Australian Competition and Consumer Commission.

Affiliate means in respect of a person (**Primary Person**), a person:

- (a) Controlled directly or indirectly by the Primary Person;
- (b) Controlling directly or indirectly the Primary Person; or
- (c) directly or indirectly under the common Control of the Primary Person and another person or persons.

APRA means the Australia Prudential Regulation Authority.

ASIC means the Australian Securities and Investments Commission.

ASX means ASX Limited or the market operated by it, as the context requires.

AUSTRAC means the Australian Transaction Reports and Analysis Centre.

Bidder means SME Capital Investments III Pty Ltd (ACN 628 950 514).

Business Day means a business day as defined in the Listing Rules.

Cash Scheme Consideration means an amount equal to the aggregate amount of the cash component of the Scheme Consideration payable to Scheme Participants under clauses 6.3(a) and 6.3(b)(ii) of this Scheme.

CHES means the clearing house electronic sub-register system of share transfers operated by ASX Settlement and Transfer Corporation Pty Ltd.

Control means, with respect to any person (other than an individual), the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of such person, whether through the ownership of voting securities, by agreement or otherwise, and includes the following:

- (a) direct or indirect ownership of more than 50% of the voting rights of such person; or
- (b) the right to appoint the majority of the members of the board of directors of such person (or similar governing body) or to manage on a discretionary basis the assets of such person,

and, for the avoidance of doubt, and, solely for the purposes of the definition of Affiliate:

- (c) a general partner is deemed to Control a limited partnership;

- (d) a fund, client or account advised or managed, directly or indirectly, by a person will also be deemed to be Controlled by such person; and
- (e) a fund, client or account will be deemed to be an Affiliate of the Primary Person if the fund, client or account is advised or managed, directly or indirectly, by a person Controlling directly or indirectly the Primary Person or a person directly or indirectly under the common Control of the Primary Person and another person or persons.

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

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

Deed Poll means the deed poll dated _____ 2018 executed by Bidder and HoldCo substantially in the form of Annexure C of the Scheme Implementation Agreement or as otherwise agreed by Bidder and Target under which Bidder covenants in favour of each Scheme Participant to perform (or procure performance of) its obligations under this Scheme.

Details means the section of this agreement headed "Details".

Effective means the coming into effect, pursuant to section 411(10) of the Corporations Act, of the order of the Court made under section 411(4)(b) of the Corporations Act in relation to this Scheme, but in any event at no time before an office copy of the order of the Court is lodged with ASIC.

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

Election means an election by a Management Shareholder to receive their Scheme Consideration partly in the form of HoldCo Shares and partly in the form of cash in accordance with clause 6.3(b).

Election Date means 5.00pm on the date that is three clear Business Days before the date of the applicable Scheme Meeting or such other date as is agreed in writing between Bidder and Target.

Election Form means a form issued by Target for the purposes of a Management Shareholder making an Election.

Encumbrance means any security for the payment of money or performance of obligations, including a mortgage, charge, lien, pledge, trust, power or title retention or flawed deposit arrangement and any "security interest" as defined in sections 12(1) or (2) of the *Personal Property Securities Act 2009* (Cth), or any agreement to create any of them or allow them to exist.

End Date means 15 March 2019 or such other date as is agreed by Bidder and Target.

FCA means the Financial Conduct of Authority of the United Kingdom.

FIRB means the Foreign Investment Review Board.

Foreign Shareholder means a Scheme Participant whose address in the Register as at the Record Date is a place outside Australia or New Zealand unless Bidder and Target agree in writing that it is lawful and not unduly onerous or impracticable to issue HoldCo Shares to that Scheme Participant if the Scheme Participant so elects under the Scheme.

HoldCo means SME Capital Holdings Pty Ltd (ACN 628 947 544).

HoldCo Constitution means the constitution adopted, or to be adopted, by HoldCo substantially in the form attached to the Election Form.

HoldCo Share means a fully paid ordinary share in the capital of HoldCo issued on the terms of issue set out in the Investment Deed.

Immediately Available Funds means a bank cheque or other form of cleared funds acceptable to Target.

Implementation Date means the fifth Business Day following the Record Date or such other date as is agreed by Bidder and Target.

Investment Deed means the investment deed in relation to HoldCo substantially in the form attached to the Election Form.

Listing Rules means the Listing Rules of the ASX.

Management Shareholder means any Target Shareholder, other than a Foreign Shareholder, who is an employee (or an Affiliate of an employee) of a member of the Target Group and who earns an annual salary of \$200,000 or more.

OIO means the Overseas Investment Office of New Zealand.

Original Scheme Implementation Agreement means the scheme implementation agreement dated 24 September 2018 between Target and Bidder, which has been amended and replaced by the Scheme Implementation Agreement.

Record Date means 5.00pm on the fifth Business Day following the Effective Date or such other date as Target and Bidder agree.

Register means the register of members of Target maintained by or on behalf of Target in accordance with section 168(1) of the Corporations Act.

Registered Address means, in relation to a Target Shareholder, the address shown in the Register.

Regulatory Authority includes, in any jurisdiction:

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

and includes ASX, ACCC, ASIC, the Takeovers Panel, FIRB, APRA, AUSTRAC, OIO and FCA.

Scheme means this scheme of arrangement between Target and Scheme Participants under which all of the Scheme Shares will be transferred to Bidder under Part 5.1 of the Corporations Act as described in clause 6, in consideration for the Scheme Consideration, subject to any amendments or conditions made or required by the Court pursuant to section 411(6) of the Corporations Act to the extent they are approved in writing by Target and Bidder in accordance with clause 3.1(c).

Scheme Consideration means the consideration to be provided or procured by Bidder for the transfer of the Scheme Shares held by a Scheme Participant to Bidder determined in accordance with clause 6.3.

Scheme Implementation Agreement means the scheme implementation agreement dated _____ 2018 between Target and Bidder, which amended and replaced the Original Scheme Implementation Agreement, under which, amongst other things, Target has agreed to propose this Scheme to Target Shareholders, and each of Bidder and Target has agreed to take certain steps to give effect to this Scheme.

Scheme Meeting means any meeting of Target Shareholders, ordered by the Court to be convened pursuant to section 411(1) of the Corporations Act at which Target Shareholders will vote on this Scheme and includes any meeting convened following any adjournment or postponement of that meeting.

Scheme Participant means each person who is a Target Shareholder as at the Record Date.

Scheme Share means a Target Share held by a Scheme Participant as at the Record Date and, for the avoidance of doubt, includes any Target Shares issued on or before the Record Date.

Scrip Scheme Consideration means the Scheme Consideration to be provided to Scheme Participants in the form of the issue of HoldCo Shares under clause 6.3(b)(i) of this Scheme.

Second Court Date means the day on which the Court makes an order pursuant to section 411(4)(b) of the Corporations Act approving the Scheme.

Share Scheme Transfer means, for each Scheme Participant, a duly completed and executed proper instrument of transfer of the Scheme Shares held by that Scheme Participant for the purposes of section 1071B of the Corporations Act in favour of the Bidder as transferee, which may be a master transfer of all Scheme Shares.

Target Board means the board of directors of Target.

Target Group means Target and its Subsidiaries.

Target Option means an option over an unissued ordinary share in Target.

Target Registry means Link Market Service Limited (ACN 083 214 537).

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

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

Transaction means:

- (a) the proposed acquisition of the Target Shares by Bidder through implementation of the Scheme in accordance with the terms of this document; and
- (b) all associated transactions and steps contemplated in this document.

Trust Account means the trust account operated by or on behalf of Target to hold the Cash Scheme Consideration on trust for the purpose of paying the Cash Scheme Consideration to the Scheme Participants in accordance with clause 6.4.

1.2 General interpretation

Headings and labels used for definitions are for convenience only and do not affect interpretation. Unless the contrary intention appears, in this document:

- (a) the singular includes the plural and vice versa;
- (b) a reference to a document includes any agreement or other legally enforceable arrangement created by it (whether the document is in the form of an agreement, deed or otherwise);
- (c) a reference to a document also includes any variation, replacement or novation of it;
- (d) the meaning of general words is not limited by specific examples introduced by “including”, “for example”, “such as” or similar expressions;
- (e) a reference to “**person**” includes an individual, a body corporate, a partnership, a joint venture, an unincorporated association and an authority or any other entity or organisation;
- (f) a reference to a particular person includes the person’s executors, administrators, successors, substitutes (including persons taking by novation) and assigns;
- (g) a reference to a time of day is a reference to Sydney, Australia time;
- (h) a reference to dollars, \$ or A\$ is a reference to the currency of Australia;
- (i) a reference to any legislation includes regulations under it and any consolidations, amendments, re-enactments or replacements of any of them;
- (j) a reference to a group of persons is a reference to any 2 or more of them jointly and to each of them individually;
- (k) a reference to any thing (including an amount) is a reference to the whole and each part of it;
- (l) a period of time starting from a given day or the day of an act or event, is to be calculated exclusive of that day;
- (m) if a party must do something under this document on or by a given day and it is done after 5.00pm on that day, it is taken to be done on the next day; and
- (n) if the day on which a party must do something under this document is not a Business Day, the party must do it on the next Business Day.

2 Preliminary

2.1 Target

Target is:

- (a) a public company limited by shares;
- (b) incorporated in Australia and registered in Victoria; and

- (c) admitted to the official list of the ASX and Target Shares are officially quoted on the stock market conducted by ASX.

As at 24 October 2018, Target's issued securities are:

- (a) Target Shares: 139,191,601; and
- (b) Target Options: 4,243,619.

2.2 Bidder

Bidder is:

- (a) a proprietary company limited by shares; and
- (b) incorporated in Australia and registered in New South Wales.

2.3 If Scheme becomes Effective

If this Scheme becomes Effective:

- (a) in consideration of the transfer of each Scheme Share to Bidder, Target will provide or procure the provision of the Scheme Consideration to each Scheme Participant in accordance with the terms of this Scheme and the Deed Poll;
- (b) all Scheme Shares, together with all rights and entitlements attaching to the Scheme Shares, will be transferred to Bidder on the Implementation Date; and
- (c) Target will enter the name of Bidder in the Register in respect of all Scheme Shares transferred to Bidder in accordance with the terms of this Scheme.

2.4 Scheme Implementation Agreement

Target and Bidder have agreed by executing the Scheme Implementation Agreement to implement the terms of this Scheme.

2.5 Deed Poll

Bidder and HoldCo have executed the Deed Poll for the purpose of covenanting in favour of the Scheme Participants to perform (or procure the performance of) obligations attributed to them under this Scheme, including to provide the Scheme Consideration.

3 Conditions precedent

3.1 Conditions precedent to Scheme

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

- (a) as at 8.00am on the Second Court Date, neither the Scheme Implementation Agreement nor the Deed Poll having been terminated in accordance with their terms;
- (b) all of the conditions precedent in clause 3.1 of the Scheme Implementation Agreement (other than the condition precedent in clause

3.1(d) of the Scheme Implementation Agreement) having been satisfied or (other than the conditions precedent in clauses 3.1(a) and 3.1(c) of the Scheme Implementation Agreement) waived in accordance with the terms of the Scheme Implementation Agreement;

- (c) the Court having approved this Scheme, with or without any modification or condition, pursuant to section 411(4)(b) of the Corporations Act, and if applicable, Target and Bidder having accepted in writing any modification or condition made or required by the Court under section 411(6) of the Corporations Act; and
- (d) the coming into effect, pursuant to section 411(10) of the Corporations Act, of the orders of the Court made under section 411(4)(b) of the Corporations Act (and, if applicable, section 411(6) of the Corporations Act) in relation to this Scheme.

3.2 Conditions precedent and operation of clauses 5 and 6

The satisfaction of each condition of clause 3.1 is a condition precedent to the operation of clause 5 and 6.

3.3 Certificate in relation to conditions precedent

Target and Bidder must provide to the Court on the Second Court Date a certificate confirming (in respect of matters within their knowledge) whether or not all of the conditions precedent set out in clause 3.1 (other than the conditions precedent in clause 3.1(c) and clause 3.1(d)) have been satisfied or waived as at 8.00am on the Second Court Date.

The certificate referred to in this clause 3.3 will constitute conclusive evidence of whether the conditions precedent referred to in clause 3.1 (other than the conditions precedent in clause 3.1(c) and 3.1(d)) have been satisfied or waived as at 8.00am on the Second Court Date.

4 Scheme

4.1 Effective Date

Subject to clause 4.2, this Scheme will come into effect pursuant to section 411(10) of the Corporations Act on and from the Effective Date.

4.2 End Date

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

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

5 Implementation of Scheme

5.1 Lodgement of Court orders with ASIC

If the conditions precedent set out in clause 3.1 (other than the condition precedent in clause 3.1(d)) are satisfied, Target must lodge with ASIC in accordance with section 411(10) of the Corporations Act an office copy of the Court order approving this Scheme as soon as possible, and in any event by no

later than 5.00pm on the first Business Day after the day on which the Court approves this Scheme or such later time as Bidder and Target agree in writing.

5.2 Transfer and registration of Target Shares

Subject to the Scheme becoming Effective, the following will occur on the Implementation Date in the order set out below:

- (a) Bidder confirming in writing to Target that:
 - (i) the Cash Scheme Consideration has been provided in accordance with clause 6.4(a); and
 - (ii) the Scrip Scheme Consideration has been provided in accordance with clause 6.4(e);
- (b) payment by Target of the Cash Scheme Consideration in the manner contemplated by clause 6.1(b);
- (c) the Scheme Shares, together with all rights and entitlements attaching to the Scheme Shares as at the Implementation Date, must be transferred to Bidder without the need for any further act by any Scheme Participant (other than acts performed by Target as attorney and agent for Scheme Participants under clause 8 of this Scheme) by:
 - (i) Target delivering to Bidder a duly completed and executed Share Scheme Transfer, executed on behalf of the Scheme Participants by Target as their attorney and agent; and
 - (ii) Bidder duly executing the Share Scheme Transfer and delivering it to Target for registration; and
- (d) as soon as practicable after receipt of the duly executed Share Scheme Transfer in accordance with clause 5.2(c)(ii), Target must enter, or procure the entry of, the name of Bidder in the Register in respect of all Scheme Shares transferred to Bidder in accordance with the terms of this Scheme.

5.3 Title and rights in Scheme Shares

Subject to the provision of the Scheme Consideration for the Scheme Shares as contemplated by clause 6, on and from the Implementation Date, Bidder will be beneficially entitled to the Scheme Shares transferred to it under the Scheme, pending registration by Target of Bidder in the Register as the holder of the Scheme Shares.

5.4 Scheme Participants' agreements

Under this Scheme, each Scheme Participant agrees:

- (a) to the transfer of their Scheme Shares, together with all rights and entitlements attaching to those Scheme Shares, in accordance with the terms of this Scheme; and
- (b) to the extent they are, or are to be, issued with HoldCo Shares as a component of the Scheme Consideration to which they are entitled, to become a shareholder of HoldCo and to be bound by the HoldCo Constitution and the Investment Deed.

5.5 Warranty by Scheme Participants

Each Scheme Participant warrants to Bidder and is deemed to have authorised Target to warrant to Bidder as agent and attorney for the Scheme Participant by virtue of this clause 5.5, that:

- (a) all their Scheme Shares (including any rights and entitlements attaching to those shares) transferred to Bidder under the Scheme will, as at the date of the transfer, be fully paid and free from all Encumbrances; and
- (b) they have full power and capacity to sell and to transfer their Scheme Shares (including any rights and entitlements attaching to those shares) to Bidder under the Scheme.

5.6 Transfer free of Encumbrances

To the extent permitted by law, all Scheme Shares (including any rights and entitlements attaching to those shares) which are transferred to Bidder under this Scheme will, at the date of the transfer of them to Bidder, vest in Bidder free from all Encumbrances and interests of third parties of any kind, whether legal or otherwise, and free from any restrictions on transfer of any kind not referred to in this Scheme.

5.7 Appointment of Bidder as sole proxy

Immediately upon provision of the Scheme Consideration for the Scheme Shares as contemplated by clauses 5.2 and 6.4, on and from the Implementation Date until Target registers Bidder as the holder of all of the Scheme Shares in the Register, each Scheme Participant:

- (a) is deemed to have irrevocably appointed Target as attorney and agent (and directs Target in such capacity) to appoint Bidder and each of its directors, officers and any secretary or agent nominated by Bidder from time to time (jointly and each of them individually) as its sole proxy, and where applicable corporate representative, to:
 - (i) attend shareholders' meetings of Target, exercise the votes attaching to Scheme Shares registered in its name and sign any shareholders resolution, and no Scheme Participant may itself attend or vote at any of those meetings or sign any resolutions, whether in person, by proxy or by corporate representative (other than pursuant to this clause 5.7(a)); and
 - (ii) execute and deliver any deed or document required by Target, Bidder or HoldCo that causes each Scheme Participant entitled to HoldCo Shares to be bound by the Investment Deed and the HoldCo Constitution;
- (b) must take all other actions in the capacity of the registered holder of Scheme Shares as Bidder reasonably directs; and
- (c) acknowledges and agrees that in exercising the powers referred to in clause 5.7(a), Bidder and any director, officer, secretary or agent nominated under clause 5.7(a) may act in the best interests of Bidder as the intended registered holder of the Scheme Shares.

Target undertakes in favour of each Scheme Participant that it will appoint Bidder and each of its directors, officers and any secretary or agent nominated by Bidder from time to time (jointly and each of them individually) as that Scheme Participant's proxy or, where applicable, corporate representative in accordance with clause 5.7(a).

5.8 Amendments to Investment Deed

Bidder must ensure (and must procure that HoldCo ensures) that the Investment Deed is not amended without the consent of Target, before the issue of any HoldCo Shares to the Management Shareholders who have made valid Elections in accordance with clause 6.2.

6 Scheme Consideration

6.1 Consideration under the Scheme

On the Implementation Date, in consideration for the transfer to Bidder of the Scheme Shares, each Scheme Participant will be entitled to receive the Scheme Consideration in respect of each of their Scheme Shares in accordance with clauses 6.2 to 6.4.

6.2 Election procedure

- (a) Subject to clauses 6.2(b), 6.2(c), and 6.2(d), each of the Management Shareholders will be entitled to make an Election. All Elections will take effect in accordance with this Scheme to the extent that any Management Shareholder who makes an Election qualifies as a Scheme Participant.
- (b) A Management Shareholder who makes an Election may vary, withdraw or revoke that Election by lodging a replacement Election Form so that it is received on or before the Election Date.
- (c) An Election must be made in accordance with the terms and conditions of the Election Form and this clause 6.2, and an Election not so made will not be a valid Election for the purpose of this Scheme and will not be recognised by Bidder or Target for any purpose (provided that Bidder may, with the agreement of Target, waive this requirement and may, with the agreement of Target, settle as it thinks fit any difficulty, matter of interpretation or dispute which may arise in connection with determining the validity of any Election, and any such decision will be conclusive and binding on Bidder, Target and the relevant Management Shareholder).
- (d) If a Management Shareholder makes an Election, that Election will be deemed to apply in respect of that Management Shareholder's entire registered holding of Target Shares at the Record Date, regardless of whether the Management Shareholder's holding of Target Shares at the Record Date is greater or less than the Management Shareholder's holding at the time it made its Election, unless Bidder and Target agree otherwise, in their absolute discretion.

6.3 Determination Scheme Consideration

- (a) If the Scheme Participant is not a Management Shareholder or is a Management Shareholder who has not made a valid Election on or before the Election Date, then the Scheme Consideration applicable for that Scheme Participant is \$4.40 for each Scheme Share held by the Scheme Participant.
- (b) If the Scheme Participant is a Management Shareholder who has made a valid Election on or before the Election Date, then the Scheme Consideration applicable for that Scheme Participant is:
 - (i) in respect of 50% of the Scheme Shares held by the Scheme Participant (rounded down to the nearest whole Scheme Share), 1 HoldCo Share per Scheme Share; *plus*

- (ii) in respect of the balance of the Scheme Shares held by the Scheme Participant, \$4.40 per Scheme Share.

For the purpose of clause 6.3(b), the Scheme Participant may determine which Scheme Shares will be exchanged for HoldCo Shares in accordance with paragraph (i), and which Scheme Shares will be acquired for cash in accordance with paragraph (ii).

6.4 Provision of Scheme Consideration

- (a) The obligation of the Target to procure payment of the Cash Scheme Consideration pursuant to clauses 2.3(a) and 5.2(b) will be satisfied by Target procuring Bidder to, no later than one Business Day before the Implementation Date, deposit (or procure the deposit) in Immediately Available Funds the aggregate amount of the Cash Scheme Consideration payable to all Scheme Participants into the Trust Account (except that the amount of any interest on the amount deposited, less bank fees and other charges, will be credited to Bidder's account) such amount to be held by Target on trust for the purpose of paying the Cash Scheme Consideration to Scheme Participants who are entitled to receive it pursuant to clause 6.4(b).
- (b) On the Implementation Date, and subject to receipt of the Cash Scheme Consideration from Bidder in accordance with clause 6.4(a), Target must pay (or procure payment) from the Trust Account to each Scheme Participant an amount equal to the applicable amount of Cash Scheme Consideration for each Scheme Share transferred to Bidder on the Implementation Date by that Scheme Participant.
- (c) Target's obligation under clause 6.4(b) will be satisfied by Target:
 - (i) depositing (or procuring the deposit of) the relevant amount into an account with any Australian ADI (as defined in the Corporations Act) notified to Target by an appropriate authority from the Scheme Participant; or
 - (ii) sending (or procuring the sending of) a cheque for the relevant amount, drawn in Australian currency, to the address of the Scheme Participant as recorded in the Register on the Record Date by pre-paid ordinary post (or, if the address of the Scheme Participant in the Register is outside Australia, by pre-paid airmail post).
- (d) To the extent that following the satisfaction of Target's obligations under clause 6.4(b), there is a surplus in the Trust Account, that surplus must be paid by Target to Bidder.
- (e) Bidder must procure that HoldCo must, before no later than 12 noon (or such later time as Bidder and Target may agree in writing) on the Implementation Date, procure that the name of each Scheme Participant entitled to be issued HoldCo Shares under this Scheme is entered in HoldCo's register of members as the holder of those HoldCo Shares (and in relation to HoldCo Shares issued to a Scheme Participant, having the same holding name and address and other details as the holding of the relevant Target Shares).
- (f) On or before the date that is five Business Days after the Implementation Date, Bidder must send or procure the sending of a certificate to each Scheme Participant entitled to be issued HoldCo Shares under this Scheme, reflecting the issue of such HoldCo Shares.

6.5 Cancellation and reissue of cheques

Target may cancel a cheque issued under clause 6.4 if the cheque:

- (a) is returned to Target; or
- (b) has not been presented for payment within 6 months after the date on which the cheque was sent.

During the period of one year commencing on the Implementation Date, on request from a Scheme Participant to Target (or Target Registry) (which request may not be made until the date which is 20 Business Days after the Implementation Date), Target must reissue a cheque that was previously cancelled under this clause 6.5.

6.6 Status of HoldCo Shares

Subject to this Scheme becoming Effective, Bidder must procure that HoldCo:

- (a) issue (or procure the issue of) the HoldCo Shares required to be issued under this Scheme on terms such that each such HoldCo Share will rank equally in all respects with each other HoldCo Share on issue at the time and will have the rights set out in the HoldCo Constitution and the Investment Deed; and
- (b) ensure that each HoldCo Share required to be issued under this Scheme is duly and validly issued in accordance with all applicable laws and the HoldCo Constitution, and is fully paid and free from any Encumbrance (except for any lien arising under the HoldCo Constitution).

6.7 Orders of a court or Regulatory Authority

In the case of notice having been given to Target (or the Target Registry) of an order or direction made by a court of competent jurisdiction or Regulatory Authority:

- (a) which requires payment to a third party of a sum in respect of Scheme Shares held by a particular Scheme Participant, which would otherwise be payable to that Scheme Participant in accordance with clause 6.4, then Target must procure that payment is made in accordance with that order or direction; or
- (b) which would prevent Target from dispatching payment to any particular Scheme Participant in accordance with clause 6.4, Target will retain an amount, in Australian dollars, equal to the number of Scheme Shares held by that Scheme Participant multiplied by the applicable amount of Cash Scheme Consideration until such time as payment in accordance with clause 6.4 is permitted by the order or direction or otherwise permitted by law,

and the payment or retention by Target will constitute full discharge of Target's obligations under clause 6.4(a) with respect of the amount so paid or retained until, in the case of clause 6.7(b), it is no longer required to be retained.

6.8 Joint holders

In the case of Scheme Shares held in joint names:

- (a) any cheque required to be paid to Scheme Participants by Bidder must be payable to the joint holders and be forwarded to the holder whose name appears first in the Register as at the Record Date;

- (b) any HoldCo Shares comprised in the Scheme Consideration are to be registered in the names of the joint holders; and
- (c) any other document required to be sent under this Scheme will be forwarded, at the sole discretion of Target, either to the holder whose name appears first in the Register as at the Record Date or to joint holders.

6.9 Fractional Entitlements

Where the calculation of the Cash Scheme Consideration or the Scrip Scheme Consideration to be provided to a particular Scheme Participant would result in the Scheme Participant becoming entitled to a fraction of a cent, or fraction of a Holdco Share, the fractional entitlement will be rounded down (as applicable) to the nearest cent or Holdco Share as the case may be.

7 Dealings in Scheme Shares

7.1 Determination of Scheme Participants

To establish the identity of the Scheme Participants, dealings in Scheme Shares will only be recognised by Target if:

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

7.2 Register

Target must register any registrable transmission applications or transfers of the Scheme Shares received in accordance with clause 7.1(b) on or before the Record Date.

7.3 No disposals after Effective Date

If this Scheme becomes Effective, a Scheme Participant (and any person claiming through that holder) must not dispose of or purport or agree to dispose of any Scheme Shares or any interest in them after the Effective Date in any way except as set out in this Scheme and any such disposal will be void and of no legal effect whatsoever.

Target will not accept for registration or recognise for any purpose any transmission, application or transfer in respect of Scheme Shares received after the Record Date (except a transfer to Bidder pursuant to this Scheme and any subsequent transfer by Bidder or its successors in title) and any attempt to do so will have no effect and Target will be entitled to disregard any such disposal.

7.4 Maintenance of Register

For the purpose of determining entitlements to the Scheme Consideration, Target will maintain the Register in accordance with the provisions of this clause 7 until the Scheme Consideration has been paid to the Scheme Participants and Bidder has been entered in the Register as the holder of all the Scheme Shares. The Register in this form will solely determine entitlements to the Scheme Consideration.

7.5 Effect of certificates and holding statements

Subject to provision of the Scheme Consideration and registration of the transfer to Bidder contemplated in clauses 5.2 and 7.4, any statements of holding in respect of Scheme Shares will cease to have effect after the Record Date as documents of title in respect of those shares (other than statements of holding in favour of Bidder and its successors in title). After the Record Date, each entry current on the Register as at the Record Date (other than entries in respect of Bidder or its successors in title) will cease to have effect except as evidence of entitlement to the Scheme Consideration in respect of the Scheme Shares relating to that entry.

7.6 Details of Scheme Participants

Within three Business Days after the Record Date, Target will ensure that details of the names, Registered Addresses and holdings of Scheme Shares for each Scheme Participant, as shown in the Register at the Record Date are available to Bidder in such form as Bidder reasonably requires.

7.7 Quotation of Target Shares

Target will apply to ASX to suspend trading on ASX in Target Shares with effect from the close of trading on ASX on the Effective Date.

7.8 Termination of quotation of Target Shares

On a date after the Implementation Date to be determined by Bidder, Target will apply:

- (a) for termination of the official quotation of Target Shares on ASX; and
- (b) to have itself removed from the official list of the ASX.

8 Power of attorney

Each Scheme Participant, without the need for any further act by any Scheme Participant, irrevocably appoints Target and each of its directors and secretaries (jointly and each of them individually) as its attorney and agent for the purpose of:

- (a) executing any document necessary or expedient to give effect to this Scheme including the Share Scheme Transfer;
- (b) executing and delivering any deed or document required by Target, Bidder or HoldCo that causes each Scheme Participant entitled to HoldCo Shares to become a shareholder of HoldCo and to be bound by the Investment Deed and the HoldCo Constitution; and
- (c) enforcing the Deed Poll against Bidder,

and Target accepts such appointment.

9 Notices

9.1 No deemed receipt

If a notice, transfer, transmission application, direction or other communication referred to in this Scheme is sent by post to Target, it will not be taken to be received in the ordinary course of post or on a date and time other than the date

and time (if any) on which it is actually received at Target's registered office or at the office of the Target Registry.

9.2 Accidental omission

The accidental omission to give notice of a Scheme Meeting or the non-receipt of such a notice by any Target Shareholder will not, unless so ordered by the Court, invalidate the Scheme Meeting or the proceedings of the Scheme Meeting.

10 General

10.1 Variations, alterations and conditions

Target may, with the consent of Bidder (which cannot be unreasonably withheld), by its counsel or solicitor consent on behalf of all persons concerned (including, for the avoidance of doubt, all Scheme Participants) to any variations, alterations or conditions to this Scheme which the Court thinks fit to impose.

10.2 Binding effect of Scheme

To the extent of any inconsistency, this Scheme overrides the Target's constitution and binds Target and all of the Scheme Participants (including those who did not attend a Scheme Meeting and those who did not vote, or voted against this Scheme, at that meeting).

10.3 Further action by Target

Target will execute all documents and do all things (on its own behalf and on behalf of each Scheme Participant) necessary or expedient to implement, and perform its obligations under, this Scheme.

10.4 Authority and acknowledgement

Each of the Scheme Participants:

- (a) irrevocably consents to Target and Bidder doing all things necessary or expedient for or incidental to the implementation of this Scheme; and
- (b) acknowledges that this Scheme binds Target and all Scheme Participants (including those who do not attend a Scheme Meeting or do not vote at that meeting or vote against the Scheme at that Meeting) and, to the extent of any inconsistency and to the extent permitted by law, overrides the constitution of Target.

10.5 No liability when acting in good faith

Neither Target, Bidder nor HoldCo, nor any of their respective officers, will be liable for anything done or omitted to be done in the performance of this Scheme in good faith.

10.6 Enforcement of Deed Poll

Target undertakes in favour of each Scheme Participant to enforce the Deed Poll against Bidder and/or HoldCo on behalf of and as agent and attorney for the Scheme Participants.

10.7 Stamp duty

Bidder will:

- (a) pay all stamp duty (including any fines, penalties and interest) payable in connection with this Scheme or the Deed Poll; and
- (b) indemnify each Scheme Participant against any liability incurred by the Scheme Participant arising from failure to comply with clause 10.7(a).

11 Governing law

11.1 Governing law and jurisdiction

The law in force in the place specified in the Details governs this document. The parties submit to the non-exclusive jurisdiction of the courts of that place.

11.2 Serving documents

Without preventing any other method of service, any document in an action in connection with this document may be served on a party by being delivered or left at that party's address set out in the Details.