

ASX Announcement (UWL)

Scheme of Arrangement Legally Effective

21 July 2022: Uniti Group Limited (**Uniti** or **Company**) (ASX:UWL) refers to the announcement made earlier today and confirms that it has lodged an office copy of the orders made by the Federal Court approving the scheme of arrangement under which MBC BidCo Pty Ltd (**MBC**), an entity wholly owned by a consortium comprising The Morrison & Co Infrastructure Partnership, Commonwealth Superannuation Corporation and BIF IV One Holdings LP (a special purpose limited partnership managed by Brookfield), will acquire 100% of the issued shares in Uniti (**Scheme**) with the Australian Securities and Investments Commission (**ASIC**).

Lodgment of Federal Court Orders and Suspension of Trading

An office copy of the Federal Court orders lodged with ASIC is attached to this announcement as **Annexure A**.

The Scheme is now legally effective, and it is expected that quotation of Uniti Shares on the ASX will be suspended from the close of trading today (Thursday, 21 July 2022).

Payment of Scheme Consideration and Permitted Dividend

Uniti Shareholders who are on the Uniti Register at the Permitted Dividend Record Date of 7.00pm AEST (Sydney, Melbourne) on Friday, 22 July 2022 and continue to hold their Uniti Shares on the Scheme Record Date of 7.00pm AEST (Sydney, Melbourne) on Thursday, 28 July 2022 will receive the Cash Consideration of \$5.00 per Uniti Share, comprising:

- \$4.895 per Uniti Share by way of cash payable by MBC; plus
- \$0.105 per Uniti Share by way of Permitted Dividend payable by Uniti.

The Rollover Shareholders who elected to receive a portion of their Scheme Consideration as Scrip Consideration will be issued 0.315594 RPS Management Shares and 0.684406 Ordinary Management Shares in TopCo for each dollar of Cash Consideration they would have otherwise received for each Scheme Share they hold at the Scheme Record Date (being 7.00pm AEST (Sydney, Melbourne) on Thursday, 28 July 2022).

ATO Class Ruling

Uniti has applied to the ATO requesting a class ruling regarding the income tax implications for Uniti Shareholders of receiving the Permitted Dividend, including the ability to attach franking credits to the Permitted Dividend. Subject to the receipt of a favourable class ruling from the ATO, and depending on their own tax circumstances, Uniti Shareholders may receive additional value from any franking credits attaching to the Permitted Dividend as previously announced.

Unless otherwise indicated, capitalised terms used in this announcement have the meaning given to them in the Scheme Booklet dated 7 June 2022.

This announcement is authorised for release by the Uniti Board.

Further Information

If you have any questions in relation to the Scheme please contact the Uniti Shareholder Information Line on 1300 737 760 (within Australia) or +61 2 9290 9600 (outside Australia), Monday to Friday (excluding public or bank holidays in Adelaide or Sydney, Australia) between 9.00am and 5.00pm AEST (Sydney, Melbourne).

For further information, contact as below:

Investors

Ashe-Lee Jegathesan – Company Secretary

P – 03 9034 7897

E – investors@unitigrouplimited.com

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Annexure A - Federal Court Orders lodged with ASIC



Federal Court of Australia

District Registry: Victoria

Division: General

No: VID278/2022

IN THE MATTER OF UNITI GROUP LIMITED

UNITI GROUP LIMITED ACN 158 957 889

Plaintiff

ORDER

JUDGE: JUSTICE BEACH

DATE OF ORDER: 21 July 2022

WHERE MADE: Melbourne

OTHER MATTERS:

- A. There has been produced to the Court a statement in writing by the Australian Securities and Investments Commission (ASIC) in accordance with s 411(17)(b) of the *Corporations Act 2001* (Cth) (Act) stating that ASIC has no objection to the Scheme of Arrangement between the plaintiff (Uniti) and its shareholders (Uniti Shareholders) which was agreed to by the Uniti Shareholders at meetings on 15 July 2022.

THE COURT ORDERS THAT:

1. Pursuant to s 411(4)(b) of the Act, the Scheme of Arrangement between Uniti and the Uniti Shareholders agreed to by those shareholders at the meetings held on 15 July 2022 (Scheme), the terms of which are set out in Annexure A to these orders, be and is hereby approved.
2. Pursuant to s 411(12) of the Act, Uniti be exempted from compliance with s 411(11) of the Act in respect of the Scheme.

Note: Entry of orders is dealt with in rule 39.34 of the *Federal Court Rules 2011* (Cth).



Date that entry is stamped: 21 July 2022

Sia Lagos
Registrar



Annexure A

CLAYTON UTZ

Scheme of arrangement made under section 411 of the Corporations Act 2001 (Cth)

Parties **Uniti Group Limited ACN 158 957 889** of Level 1, 44 Currie Street, Adelaide, South Australia 5000 (**Target**)

Each holder of Target Shares recorded in the Target Share Register on the Scheme Record Date.

Background

- A. Target and Bidder have entered into the Implementation Deed, pursuant to which, amongst other things, Target agreed to propose this Scheme to Target Shareholders and each of Target and Bidder agreed to take certain steps to give effect to this Scheme and the Deed Poll.
- B. If the Scheme becomes Effective, Bidder will provide or procure the provision of the Scheme Consideration to the Scheme Shareholders in accordance with the provisions of this Scheme and the Deed Poll, Bidder will acquire all Scheme Shares and all of the rights and entitlements attaching to them as at the Implementation Date and Target will enter Bidder in Target Share Register as the holder of the Scheme Shares.

Operative provisions

1. Definitions and interpretation

1.1 Definitions

Unless the context requires otherwise, in this Scheme:

Affiliate means, in respect of a person (the primary person), a person:

- (a) Controlled directly or indirectly by the primary person;
- (b) Controlling directly or indirectly the primary person; or
- (c) who is Controlled, directly or indirectly, by a person or persons who Control the primary person,

where **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 for the avoidance of doubt, a general partner is deemed to Control a limited partnership of which it is the general partner and, solely for the purposes of this deed, a fund advised or managed directly or indirectly by a person will also be deemed to be Controlled by such person.

ASIC means the Australian Securities and Investments Commission.

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

Bidder means MBC Bidco Pty Ltd ACN 658 690 343.



Business Day means a day that is not a Saturday, Sunday or a public holiday or bank holiday in Adelaide or Sydney, Australia.

Cash Consideration means \$5.00 for each Target Share, subject to and as adjusted in accordance with clause 4.8 of the Implementation Deed.

CHESS means the Clearing House Electronic Subregister System for the electronic transfer of securities, operated by ASX Settlement Pty Limited and ASX Clear Pty Limited.

CHESS Holding has the meaning given in the Settlement Rules.

Condition means each condition specified in clause 3.1 of the Implementation Deed.

Consortium Members means:

- (a) BIF IV One Holdings LP;
- (b) The Morrison & Co Infrastructure Partnership Master Fund SCSp;
- (c) Commonwealth Superannuation Corporation in its capacity as trustee of the ARIA Investments Trust; and
- (d) any new Consortium Member permitted by clause 4.10 of the Implementation Deed.

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

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

Deed Poll means a deed poll to be entered into by Bidder and TopCo substantially in the form of Attachment 3 to the Implementation Deed under which Bidder and TopCo covenant in favour of the Scheme Shareholders to perform their obligations under the Scheme.

Effective means, when used in relation to this Scheme, 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.

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

Election means an election by a Relevant Shareholder to receive their Scheme Consideration partly in the form of Scrip Consideration and partly in the form of Cash Consideration, made in accordance with clause 4.4 of the Implementation Deed.

Election Form means a form issued by or on behalf of the Target for the purposes of a Relevant Shareholder making an Election in a form agreed to by Target and Bidder.

Election Time means 5.00pm on 2 June 2022.

Employee Options means the options to acquire Target Shares issued under the Target's employee share option plan and the Target's employee retention option plan as listed in Schedule 3 of the Implementation Deed.

Encumbrance means a mortgage, charge, pledge, lien, encumbrance, security interest, title retention, preferential right, trust arrangement, contractual right of set-off, or any other security agreement or arrangement in favour of any person, whether registered or unregistered, including any Security Interest.

End Date means the date that is 8 months from the date of the Implementation Deed, or such other date as agreed in writing by Target and Bidder.



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

Implementation Date means the fifth Business Day after the Scheme Record Date, or such other date after the Scheme Record Date as the parties agree in writing or is ordered by the Court or required by ASX.

Implementation Deed means the scheme implementation deed between Target and Bidder dated 13 April 2022.

Issuer Sponsored Holding has the meaning given in the Settlement Rules.

Legacy Options means the options to acquire Target Shares (ASX Security Code: UWLAAB), granted by the Target on 29 June 2021 as listed in Schedule 3 of the Implementation Deed.

Listing Rules means the official listing rules of the ASX.

Manager Shareholders Agreement means the manager shareholders agreement to be entered into by the Relevant Shareholders, the Consortium Members and TopCo.

Marketable Parcel has the meaning given to that term in the Listing Rules.

Ordinary Management Shares means non-voting fully paid ordinary shares in the capital of TopCo, having the rights and obligations as set out in the constitution of TopCo and the Manager Shareholders Agreement.

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

Registered Addresses means in relation to a Scheme Shareholder, the address of the Scheme Shareholder as recorded in Target Share Register.

Related Bodies Corporate has the meaning set out in section 50 of the Corporations Act, provided that, where, for the purposes of this definition, the reference to 'subsidiary' in section 50 of the Corporations Act is amended as necessary such that:

- (a) a body corporate or a trust will also be taken to be a subsidiary of an entity if it is controlled by that entity (as defined in section 50AA of the Corporations Act);
- (b) a trust, partnership or fund may be a subsidiary, for the purpose of which a unit, partnership interest or other beneficial interest in the trust, partnership or fund will be regarded as a share (ignoring the operation of section 48(2) of the Corporations Act); and
- (c) an entity may be a subsidiary of a trust, partnership or fund if it would have been a subsidiary if that trust, partnership or fund were a body corporate.

Relevant Shareholder means:

- (a) Michael John Simmons;
- (b) Michael John Simmons as trustee for the Luab Unit Trust; and
- (c) Geoffrey William Aldridge as trustee for the Arsenal Aldridge Trust.

RPS Management Shares means non-voting redeemable preference shares in the capital of TopCo, having the rights and obligations as set out in the constitution of TopCo and the Manager Shareholders Agreement.



Scheme means this scheme of arrangement under Part 5.1 of the Corporations Act between Target and the Scheme Shareholders under which all of the Scheme Shares will be transferred to Bidder and the Scheme Shareholders will be entitled to receive the Scheme Consideration, together with any alterations or conditions made or required by the Court under section 411(6) of the Corporations Act and agreed to in writing by Bidder and Target.

Scheme Consideration means the Cash Consideration and, if applicable, Scrip Consideration to be provided to each Scheme Shareholder for the transfer to Bidder of each Scheme Share.

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

Scheme Record Date means 7.00 pm on the date which is 5 Business Days after the Effective Date or such other time and date agreed in writing between Bidder and Target.

Scheme Shareholder means a person registered in the Target Share Register as a holder of a Scheme Share as at the Scheme Record Date.

Scheme Share means a Target Share held by a Scheme Shareholder as at the Scheme Record Date.

Scheme Transfer means one or more proper instruments of transfer in respect of the Scheme Shares for the purposes of section 1071B of the Corporations Act, in favour of Bidder as transferee, which may be or include a master transfer of all or part of the Scheme Shares.

Scrip Consideration means for each Scheme Share in respect of which a Relevant Shareholder has elected to receive Scrip Consideration:

- (a) such number of Ordinary Management Shares in TopCo as is equal to (Cash Consideration x 0.684406); *plus*
- (b) such number of RPS Management Shares in TopCo as is equal to (Cash Consideration x 0.315594).

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

Security Interest means any mortgage, charge, pledge, lien, assignment or other security interest or any other arrangement (including a right of set off or combination) entered into for the purpose of conferring a priority, including any security interest as defined in section 51A of the Corporations Act or in the PPSA.

Settlement Rules means the ASX Settlement Operating Rules, being the official operating rules of the settlement facility provided by ASX Settlement Pty Ltd.

Share Rights means the rights to Target Shares issued under the Target's executive incentive plan as listed in Schedule 3 of the Implementation Deed.

Target Equity Incentive means the Share Rights, Legacy Options and Employee Options.

Target Registry means Boardroom Pty Limited of Level 12, 225 George St Sydney, NSW 2000.

Target Share Register means the register of members of Target maintained by or on behalf of Target in accordance with the Corporations Act.

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



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

TopCo means MBC TopCo Pty Ltd ACN 658 690 101, the ultimate holding company of the Bidder.

TopCo Securities means the Ordinary Management Shares and RPS Management Shares in TopCo and **TopCo Security** means any one of them.

Trust Account means an Australian dollar denominated trust account which attracts interest at a commercial rate and is operated by or on behalf of Target as trustee for the Scheme Shareholders (except that any interest on the amount deposited, less bank fees and other charges, will accrue for the benefit of Bidder), details of which Target must notify to Bidder no later than 5 Business Days before the Implementation Date.

Unclaimed Money Legislation has the meaning given in clause 5.8(c).

1.2 Business Day

If the day on which any act to be done under this Scheme is a day other than a Business Day, that act must be done on or by the next Business Day except where this Scheme expressly specifies otherwise.

1.3 Listing rules are law

A Listing Rule or business rule of a financial market or securities exchange will be regarded as a law for the purposes of this Scheme.

1.4 Interpretation

In this Scheme headings are for convenience only and do not affect interpretation and, unless the contrary intention appears:

- (a) a word importing the singular includes the plural and vice versa, and a word of any gender includes the corresponding words of any other gender;
- (b) the word **including** or any other form of that word is not a word of limitation;
- (c) if a word or phrase is given a defined meaning, any other part of speech or grammatical form of that word or phrase has a corresponding meaning;
- (d) a reference to a **person** includes an individual, the estate of an individual, a corporation, an authority, an association or parties in a joint venture, a partnership and a trust;
- (e) a reference to a party includes that party's executors, administrators, successors and permitted assigns, including persons taking by way of novation and, in the case of a trustee, includes any substituted or additional trustee;
- (f) a reference to a document (including this Scheme) is to that document as varied, novated, ratified or replaced from time to time;
- (g) a reference to a party, clause, schedule, exhibit, attachment, or annexure is a reference to a party, clause, schedule, exhibit, attachment, or annexure to or of this Scheme, and a reference to this Scheme includes all schedules, exhibits, attachments, and annexures to it;
- (h) a reference to an agency or body if that agency or body ceases to exist or is reconstituted, renamed or replaced or has its powers or function removed



(**obsolete body**), means the agency or body which performs most closely the functions of the obsolete body;

- (i) a reference to a statute includes any regulations or other instruments made under it (**delegated legislation**) and a reference to a statute or delegated legislation or a provision of either includes consolidations, amendments, re-enactments and replacements;
- (j) a reference to **\$** or **dollar** is to Australian currency;
- (k) if a word or phrase is not given a defined meaning in clause 1.1 but is defined in or for the purposes of the Corporations Act, it has the same meaning when used in this Scheme;
- (l) a reference to a date or time is to that date or time in Melbourne, Australia; and
- (m) this Scheme (including any term or condition of it) must not be construed adversely to a party solely on the basis that the party prepared it or caused it to be prepared.

2. Preliminary matters

2.1 Target

- (a) Target is a public company limited by shares, incorporated in Australia and registered in the State of South Australia, Australia.
- (b) Target is admitted to the official list of ASX and Target Shares are officially quoted on the ASX.
- (c) As at the date of the Implementation Deed, 679,836,786 Target Shares were on issue.

2.2 Bidder

Bidder is a proprietary company limited by shares, incorporated and registered in Victoria, Australia.

2.3 Implementation Deed

Bidder and Target have agreed, by executing the Implementation Deed, to implement this Scheme (among other things).

2.4 Deed Poll

The Scheme attributes actions to Bidder and TopCo but does not itself impose an obligation on either or both of them to perform any of those actions. Bidder and TopCo have agreed, by executing the Deed Poll, to perform the obligations attributed to them under this Scheme, including the obligation to provide or procure the provision of the Scheme Consideration to the Scheme Shareholders in accordance with the terms of the Scheme.

3. Conditions precedent

3.1 Conditions

- (a) The Scheme is conditional on and will have no force or effect (and will not become Effective) unless and until each of the following conditions precedent is satisfied:
 - (i) all of the Conditions in clause 3.1 of the Implementation Deed (other than the Condition in clause 3.1(e) of the Implementation Deed relating



to Court approval of this Scheme) are satisfied or waived in accordance with the terms of the Implementation Deed by 8.00am on the Second Court Date;

- (ii) neither the Implementation Deed nor Deed Poll is terminated in accordance with their terms before 8.00am on the Second Court Date;
- (iii) this Scheme is approved by the Court under section 411(4)(b) of the Corporations Act, including with such alterations or other conditions made or required by the Court under section 411(6) of the Corporations Act and agreed to by Target and Bidder (each acting reasonably);
- (iv) such other conditions made or required by the Court under section 411(6) of the Corporations Act in relation to this Scheme and agreed to by Target and Bidder (each acting reasonably) are satisfied or waived; and
- (v) 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) approving this Scheme coming into effect pursuant to section 411(10) of the Corporations Act on or before the End Date (or any later date Target and Bidder agree in writing).

3.2 Certificate

- (a) Target and Bidder must provide to the Court on the Second Court Date a certificate (signed for and on behalf of Target and Bidder respectively), or such other evidence as the Court may require or request, confirming (in respect of matters within their knowledge) whether or not as at 8.00am on the Second Court Date the conditions in clauses 3.1(a)(i) and 3.1(a)(ii) have been satisfied or waived in accordance with the Implementation Deed.
- (b) The certificate referred to in clause 3.2(a) constitutes conclusive evidence that such conditions precedent were satisfied, waived or taken to be waived.

3.3 End Date

Without limiting any rights under the Implementation Deed, 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 Implementation Deed or the Deed Poll is terminated in accordance with its terms,

unless Target and Bidder otherwise agree in writing (and, if required, as approved by the Court).

4. Implementation of this Scheme

4.1 Lodgement of Court orders with ASIC

For the purposes of section 411(10) of the Corporations Act, Target must lodge with ASIC an office copy of the orders made by the Court under section 411(4)(b) of the Corporations Act approving this Scheme as soon as possible following such approval and, in any event, by no later than 5.00pm on the Business Day following the day on which the Court approves this Scheme (or such later date as is agreed between Target and Bidder in writing).



4.2 Consequences of this Scheme becoming Effective

If this Scheme becomes Effective:

- (a) in consideration for the transfer of each Scheme Share to Bidder, Bidder will provide or procure the provision of the Cash Consideration to Scheme Shareholders in accordance with clause 5.4(a) and the Deed Poll and, if applicable, TopCo will issue the Scrip Consideration in accordance with clause 5.5 and the Deed Poll;
- (b) all of the Scheme Shares, together with all rights and entitlements attaching to the Scheme Shares at the Implementation Date, will be transferred to Bidder; and
- (c) Target will enter the name and address of Bidder in the Target Share Register in respect of all the Scheme Shares.

4.3 Transfer of Scheme Shares

On the Implementation Date:

- (a) subject to Bidder providing or procuring the provision of the Scheme Consideration in the manner contemplated by clause 5.4(a) and the Deed Poll, and, if applicable, TopCo issuing the Scrip Consideration in accordance with clause 5.5 and the Deed Poll, the Scheme Shares, together with all rights and entitlements attaching to them at the Implementation Date, must be transferred to Bidder, without the need for any further act by any Scheme Shareholder (other than acts performed by Target or its officers as agent and attorney of the Scheme Shareholders under clause 8.5) by:
 - (i) Target delivering to Bidder a duly completed and executed Scheme Transfer to transfer all of the Scheme Shares to Bidder, executed on behalf of the Scheme Shareholders by Target as their agent and attorney; and
 - (ii) Bidder duly executing such Scheme Transfer and delivering the executed and, if necessary, stamped, Scheme Transfer to Target for registration; and
- (b) immediately following receipt of the Scheme Transfer in accordance with clause 4.3(a)(ii), but subject to stamping of the Scheme Transfer (if necessary), Target must enter or procure the entry of, the name of Bidder in the Target Share Register in respect of all the Scheme Shares transferred to Bidder in accordance with this Scheme.

5. Scheme Consideration

5.1 Entitlement to Scheme Consideration

Subject to the terms of this Scheme, on the Implementation Date, in consideration for the transfer to Bidder of the Scheme Shares, each Scheme Shareholder will be entitled to the Scheme Consideration for each Scheme Share held by that Scheme Shareholder in accordance with this clause 5 and the Deed Poll.

5.2 Election procedure

- (a) The Target must provide or procure the provision of an Election Form to each Relevant Shareholder.
- (b) Subject to clauses 5.2(c), 5.2(d) and 5.2(e), each of the Relevant Shareholders will be entitled to make an Election. All Elections will take effect in accordance with the



Scheme (provided that any Relevant Shareholder who makes an Election is also a Scheme Shareholder).

- (c) For an Election to be valid:
- (i) the Relevant Shareholder must complete and sign the Election Form in accordance with the terms and conditions of the Election Form, the Scheme and this clause 5.2; and
 - (ii) the Election Form must be received by the Target Registry at the address specified on the Election Form before the Election Time,
- unless Bidder and Target agree otherwise, in their absolute discretion.
- (d) If a Relevant Shareholder makes an Election, that Election will apply in respect of that percentage (as specified in the Election Form) of the Relevant Shareholder's entire registered holding of Target Shares at the Scheme Record Date, regardless of whether the Relevant Shareholder's holding at the Scheme Record Date is greater or less than the Relevant Shareholder's holding at the time it made its Election, unless Bidder and Target agree otherwise, in their absolute discretion.
- (e) A Relevant Shareholder who makes a valid Election may vary, withdraw or revoke that Election by lodging a replacement Election Form so that it is received by the Target Registry at the address specified on the Election Form before the Election Time. After the Election Time, a valid Election made by a Relevant Shareholder will be irrevocable unless Bidder and Target agree, in their absolute discretion, to the revocation of the Election.
- (f) The Election Form must include the relevant matters set out in the Scheme and must otherwise be in a form agreed by Bidder and Target in writing.

5.3 Determination of Scheme Consideration

- (a) If a Scheme Shareholder is not a Relevant Shareholder, then the Scheme Consideration applicable for that Scheme Shareholder is the Cash Consideration for each Scheme Share held by the Scheme Shareholder.
- (b) If a Scheme Shareholder is a Relevant Shareholder who has not made a valid Election before the Election Time, then the Scheme Consideration applicable for that Scheme Shareholder is the Cash Consideration per Scheme Share in respect of 100% of the Scheme Shares held by the Relevant Shareholder on the Record Date.
- (c) If the Scheme Shareholder is a Relevant Shareholder who has made a valid Election before the Election Time, then the Scheme Consideration applicable for that Scheme Shareholder for the Scheme Shares held by the Scheme Shareholder is:
- (i) the Scrip Consideration per Scheme Share in respect of the Scheme Shares held by the Relevant Shareholder for which the Relevant Shareholder has elected (in the Election Form) to receive the Scrip Consideration; *plus*
 - (ii) the Cash Consideration per Scheme Share in respect of the Scheme Shares held by the Relevant Shareholder for which the Relevant Shareholder has elected (in the Election Form) to receive the Cash Consideration.



5.4 Provision of Cash Consideration

- (a) The obligation of Bidder to provide, or procure the provision of, the Cash Consideration to Scheme Shareholders in accordance with this Scheme and the Deed Poll will be satisfied by Bidder by depositing, or procuring the deposit, into the Trust Account, of an amount in cleared funds equal to the aggregate amount of the Cash Consideration payable to all Scheme Shareholders by no later than one Business Day before the Implementation Date to be held by or on behalf of Target on trust for the purpose of paying the Cash Consideration to Scheme Shareholders who are entitled to receive it pursuant to clause 5.4(b) (provided that any interest on the amount so deposited, less bank fees and other charges, will accrue for the benefit of Bidder).
- (b) Subject to Bidder complying with its obligations under clause 5.4(a), Target must on the Implementation Date pay, or procure the payment, from the Trust Account to each Scheme Shareholder an amount equal to the applicable amount of Cash Consideration that the Scheme Shareholder is entitled to pursuant to clause 5.3 in respect of each Scheme Share held by that Scheme Shareholder as set out in the Target Share Register on the Scheme Record Date.
- (c) Target's obligations under clause 5.4(b) will be satisfied by Target (in its absolute discretion, and despite any election referred to in clause 5.4(c)(i) or authority referred to in 5.4(c)(ii) made or given by the Scheme Shareholder):
 - (i) where a Scheme Shareholder has, before the Scheme Record Date, made an election in accordance with the requirements of the Target Registry to receive dividend payments from Target by electronic funds transfer to a bank account nominated by the Scheme Shareholder, paying, or procuring the payment of, the relevant amount to that Scheme Shareholder in Australian currency by electronic means in accordance with that election;
 - (ii) paying, or procuring the payment of, the relevant amount in Australian currency by electronic means to a bank account nominated by the Scheme Shareholder by an appropriate authority from the Scheme Shareholder to Target; or
 - (iii) dispatching, or procuring the dispatch of, a cheque in Australian currency for the relevant amount to that Scheme Shareholder by prepaid post to the Registered Address of that Scheme Shareholder (as at the Scheme Record Date), such cheque being drawn in the name of the Scheme Shareholder (or in the case of joint holders, in accordance with clause 5.5).

5.5 Provision of Scrip Consideration

- (a) TopCo must, by no later than 12:00 noon (or such later time as Bidder and Target may agree in writing) on the Implementation Date:
 - (i) issue the number of TopCo Securities to each Scheme Shareholder that is a Relevant Shareholder in accordance with clause 5.3; and
 - (ii) procure that the name and address of such Scheme Shareholder is entered in TopCo's register of members as the holder of those TopCo Securities (and in relation to TopCo Securities issued to such Scheme Shareholder, having the same holding name and address and other details as recorded in the Target Register as at the Scheme Record Date).



- (b) A Scheme Shareholder that is a Relevant Shareholder that is entitled to be issued TopCo Securities under this Scheme may, in the Election Form, direct that the TopCo Securities to which they are entitled be issued to a Related Body Corporate of the Scheme Shareholder (in which case such Related Body Corporate's name and details will be entered into TopCo's register of members).
- (c) On the Implementation Date, TopCo must send or procure the sending of a certificate to each Scheme Shareholder to whom TopCo Securities are issued under this Scheme, reflecting the issue of such TopCo Securities.

5.6 Joint holders

In the case of Scheme Shares held in joint names:

- (a) subject to clause 5.4(c), any cheque required to be sent under this Scheme will be made payable to the joint holders and sent at the sole discretion of Target, either to the holder whose name appears first in the Target Share Register as at the Scheme Record Date or to the joint holders (unless the joint holders have nominated a bank account under clause 5.4(c)(i) or 5.4(c)(ii), in which case the amount must be deposited directly to the nominated bank account of the joint holders); and
- (b) 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 Target Share Register as at the Scheme Record Date or to the joint holders.

5.7 Fractional entitlements and share splitting or division

- (a) Where the calculation of the Scheme Consideration to be provided to a particular Scheme Shareholder would result in the Scheme Shareholder becoming entitled to a fraction of a cent, or a fractional entitlement to a TopCo Security, the fractional entitlement will:
 - (i) in the case of TopCo Security, be rounded down to the nearest whole number of TopCo Security; and
 - (ii) in the case of Cash Consideration, be rounded up to the nearest whole cent.
- (b) If Bidder is of the opinion (acting reasonably) that two or more Scheme Shareholders (each of whom holds a number of Scheme Shares which results in rounding in accordance with clause 5.7(a)) have, before the Scheme Record Date, been party to shareholding splitting or division in an attempt to obtain unfair advantage by reference to such rounding, then Bidder may direct Target to give notice to those Scheme Shareholders:
 - (i) setting out their names and registered addresses as shown in the Target Share Register;
 - (ii) stating that opinion; and
 - (iii) attributing to one of them specifically identified in the notice of the Scheme Shares held by all of them

and, after such notice has been given, the Scheme Shareholder specifically identified in the notice as the deemed holder of all the specified Scheme Shares will, for the purposes of the provisions of the Scheme, be taken to hold all of those Scheme Shares and each of the other Scheme Shareholders whose names and registered addresses are set out in the notice will, for the purposes of the provisions of the Scheme, be taken to hold no Scheme Shares. Bidder and TopCo, in complying with the provisions of the Scheme relating to them in respect of the



Scheme Shareholder specifically identified in the notice as the deemed holder of all the specified Scheme Shares, will be taken to have satisfied and discharged their obligations to the other Scheme Shareholders named in the notice under the terms of the Scheme.

5.8 Unclaimed monies

- (a) Target may cancel a cheque issued under clause 5 if the cheque:
 - (i) is returned to Target; or
 - (ii) has not been presented for payment within six months after the date on which the cheque was sent.
- (b) During the period of 12 months commencing on the Implementation Date, on request in writing from a Scheme Shareholder to Target (or the Target Registry) (which request may not be made until the date which is 20 Business Days after the Implementation Date), a cheque that was previously cancelled under clause 5.8(a) must be reissued by Target.
- (c) The *Unclaimed Money Act 2008* (Vic) will apply in relation to any Scheme Consideration which becomes 'unclaimed money' (as defined in section 3 of *Unclaimed Money Act 2008* (Vic)).
- (d) Any interest or other benefit accruing from unclaimed Scheme Consideration will be to the benefit of Bidder.

5.9 TopCo Securities

Each TopCo Security issued as Scrip Consideration will, on issue:

- (a) rank equally in all respects with all other TopCo Securities in the same class; and
- (b) be fully paid and free from any Encumbrance and third party rights or interests of any kind, whether legal or otherwise.

5.10 Treatment of surplus amounts

To the extent that there is a surplus in the amount held by Target as the trustee for the Scheme Shareholders in the Trust Account, that surplus will, at the election of Bidder, either remain with Target or be paid by Target as trustee for the Scheme Shareholders to Bidder following the satisfaction of Target's obligation as the trustee for the Scheme Shareholders under clause 5.4.

5.11 Amounts to be withheld or retained

- (a) If written notice is given to Target (or the Target Registry) or Bidder of an order or direction made by a court of competent jurisdiction or another Government Agency that:
 - (i) requires consideration to be provided to a third party (either through payment of a sum or the issuance of a security) in respect of Scheme Shares held by a particular Scheme Shareholder, which amount would otherwise be payable or required to be issued to that Scheme Shareholder by Target in accordance with clause 5, then Target will be entitled to procure that provision of that consideration is made in accordance with that order or direction; or
 - (ii) prevents Target from providing consideration to any particular Scheme Shareholder in accordance with this clause 5, or the payment or



issuance of such consideration is otherwise prohibited by applicable law, Target will be entitled to (as applicable):

- A. retain an amount, in Australian dollars, equal to the number of Scheme Shares held by that Scheme Shareholder multiplied by the Scheme Consideration; and
- B. direct TopCo not to issue, or to issue to a trustee or nominee, any Scrip Consideration that Scheme Shareholder would otherwise be entitled to under clause 5.1,

until such time as the provision of Scheme Consideration in accordance with this clause 5.11(a)(ii) is permitted by that (or another) order or direction or otherwise by law.

- (b) To the extent that amounts are so deducted or withheld in accordance with clause 5.11(a), such deducted or withheld amounts will be treated for all purposes under this Scheme as having been paid to the person in respect of which such deduction and withholding was made, provided that such deducted or withheld amounts are actually remitted as required.

6. Dealings in Target Shares

6.1 Determination of Scheme Shareholders

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

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

and for the purpose of establishing the persons who are Scheme Shareholders, Target will not accept for registration nor recognise for any purpose (except a transfer to Bidder pursuant to this Scheme and any subsequent transfer by Bidder or its successors in title) any transfer or transmission application or other request received after the Scheme Record Date or received prior to the Scheme Record Date but not in registrable or actionable form (as appropriate).

6.2 Target Share Register

- (a) For the purposes of determining entitlements to the Scheme Consideration, Target must maintain the Target Share Register in accordance with the provisions of this clause 6.2 until the Scheme Consideration has been provided to the Scheme Shareholders in accordance with clauses 5.4(b), 5.4(c) and 5.5. The Target Share Register in this form will solely determine entitlements to the Scheme Consideration.
- (b) Target must register, or cause to be registered, valid registrable transmission applications or transfers of the Scheme Shares that are received in accordance with clause 6.1(b) by no later than the Scheme Record Date (provided that for the avoidance of doubt nothing in this clause 6.2(b) requires Target to register a transfer that would result in a Target Shareholder holding a parcel of Target Shares that is less than a Marketable Parcel).
- (c) Target will not accept for registration or recognise for any purpose any transmission application or transfer in respect of Target Shares received after the Scheme



Record Date, other than to Bidder in accordance with this Scheme and any subsequent transfer by Bidder or its successors in title.

- (d) If this Scheme becomes Effective, a Scheme Shareholder (and any person claiming through that holder) must not dispose of or otherwise deal with, or purport or agree to dispose of or otherwise deal with, any Scheme Shares or any interest in them on or after the Scheme Record Date otherwise than pursuant to this Scheme, and any attempt to do so will have no effect and Target shall be entitled to disregard any such disposal, purported disposal, agreement or other dealing.

6.3 Information made available to Bidder

As soon as possible after the Scheme Record Date and in any event within 2 Business Days after the Scheme Record Date, Target will ensure that details of the names, Registered Addresses and holdings of Target Shares for each Scheme Shareholder as shown in the Target Share Register as at the Scheme Record Date are available to Bidder in the form Bidder reasonably requires.

6.4 Effect of share certificates and holding statements

- (a) Each entry which is current on the Target Share Register as at the Scheme Record Date is the sole evidence of entitlement to the Scheme Consideration in respect of the Target Shares relating to that entry.
- (b) All certificates and statements of holding for Target Shares (other than statements of holding in favour of Bidder and its successors in title) will cease to have effect after the Scheme Record Date as documents of title (or evidence thereof) in respect of those shares and, as from that date, each entry current at that date on the Target Share Register (other than entries in respect of Bidder) will cease to have effect except as evidence of entitlement to the Scheme Consideration in respect of the Target Shares relating to that entry.

7. Quotation of Target Shares

7.1 Suspension of trading

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

7.2 Removal of Target from official list of ASX

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 the ASX; and
- (b) to have itself removed from the official list of ASX.

8. General Scheme provisions

8.1 Consent to amendments to this Scheme

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

- (a) Target may, by its counsel or solicitors, consent on behalf of all persons concerned to those alterations or conditions to which Bidder has consented; and
- (b) each Scheme Shareholder agrees to any such alterations or conditions which Target, by its counsel or solicitors, has consented to in accordance with clause 8.1(a).



8.2 Binding effect of the scheme

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

8.3 Agreement of Scheme Shareholders

- (a) Each Scheme Shareholder:
- (i) irrevocably agrees to the transfer of their Scheme Shares, together with all rights and entitlements attaching to the Scheme Shares, in accordance with terms of this Scheme;
 - (ii) agrees to the variation, cancellation or modification of the rights attached to their Scheme Shares constituted by or resulting from this Scheme;
 - (iii) agrees to, on the direction of Bidder, destroy any share certificates or holding statements relating to their Scheme Shares;
 - (iv) agrees that after the transfer of the Scheme Shares to Bidder, any share certificate relating to the Scheme Shares will not constitute evidence of title to those Scheme Shares;
 - (v) who holds their Target Shares in a CHESS Holding agrees to the conversion of those Scheme Shares to an Issuer Sponsored Holding and irrevocably authorises Target to do anything necessary or expedient (whether required by the Settlement Rules or otherwise) to effect or facilitate such conversion;
 - (vi) acknowledges and agrees that this Scheme binds Target and all Scheme Shareholders (including those who did not attend the relevant Scheme Meeting, those who did not vote at the relevant Scheme Meeting, or voted against this Scheme at the relevant Scheme Meeting) and, to the extent of any inconsistency, overrides the constitution of Target to the extent of any inconsistency; and
 - (vii) irrevocably consents to Bidder and Target doing all things and executing all deeds, instruments, transfers or other documents as may be necessary, incidental or expedient to the implementation and performance of this Scheme,
- without the need for any further act by the Scheme Shareholder.
- (b) Each Scheme Shareholder that is a Relevant Shareholder that is issued TopCo Securities under this Scheme agrees to become a shareholder of TopCo in respect of those TopCo Securities and to be bound by the TopCo constitution and each other agreement governing the TopCo Securities or TopCo, in each case substantially in the form provided to each Relevant Shareholder with the Election Form or such later time as agreed with the Relevant Shareholder(s).

8.4 Warranties by Scheme Shareholders

- (a) Each Scheme Shareholder is deemed to have warranted to Target and Bidder on the Implementation Date, and appointed and authorised Target as its attorney and agent to warrant to Bidder on the Implementation Date that:
- (i) all Scheme Shares held by that Scheme Shareholder, together all rights and entitlements attaching to those Scheme Shares, which are



transferred to Bidder under this Scheme will, at the time of transfer to Bidder, be:

- A. fully paid;
 - B. free from all Encumbrances and third party rights or interests of any kind, whether legal or otherwise; and
 - C. free from all restrictions on transfer of any kind;
- (ii) it has full power and capacity to sell and to transfer their Scheme Shares, together with all rights and entitlements attaching to their Scheme Shares, to Bidder; and
 - (iii) it has no existing right to be issued any Target Shares, Target Equity Incentive, or any other Target equity securities.
- (b) Target undertakes that it will provide the warranty in clause 8.4(a) to Bidder as agent and attorney for each Scheme Shareholder.

8.5 Authority given to Target

Upon this Scheme becoming Effective, each Scheme Shareholder without the need for any further act:

- (a) irrevocably appoints Target and each of its directors, secretaries and officers (jointly and severally) as its attorney and agent for the purpose of:
 - (i) enforcing the Deed Poll against Bidder and TopCo;
 - (ii) doing and/or executing all acts, matters, things and documents necessary, desirable, incidental or expedient to give full effect to this Scheme and the transactions contemplated by it, including executing and delivering the Scheme Transfer,and Target accepts such appointment; and
- (b) will be deemed to have authorised Target to do and execute all acts, matters, things and documents on the part of each Scheme Shareholder necessary, desirable, incidental or expedient to give full effect to this Scheme and the transactions contemplated by it, including executing and delivering the Scheme Transfer as agent and attorney of each Scheme Shareholder.

Target as attorney and agent of each Scheme Shareholder, may sub-delegate its functions, authorities or powers under this clause 8.5 to all or any of its directors, officers, secretaries or employees (jointly, severally or jointly and severally).

8.6 Appointment of sole proxy

Immediately upon the provision of the Scheme Consideration to the Scheme Shareholders and until Target registers Bidder as the holder of all Scheme Shares in the Target Share Register, each Scheme Shareholder:

- (a) is deemed to have irrevocably appointed Bidder as its attorney and agent (and directed Bidder in such capacity) to appoint any director, officer, secretary or agent nominated by Bidder as its sole proxy and, where applicable, corporate representative to attend shareholders' meetings of Target, exercise the votes attaching to the Scheme Shares registered in their name and sign any Target shareholders' resolution or document whether in person, by proxy or by corporate representative;



- (b) must not attend or vote at any of those meetings or sign or vote on any resolutions, whether in person, by proxy or by corporate representative, other than as pursuant to clause 8.6(a);
- (c) must take all other actions in the capacity of a registered holder of Scheme Shares as Bidder reasonably directs; and
- (d) acknowledges and agrees that in exercising the powers referred to in clause 8.6(a), Bidder and any director, officer, secretary or agent nominated by Bidder under clause 8.6(a) may act in the best interests of Bidder as the intended registered holder of the Scheme Shares.

8.7 Title to Target Shares

- (a) To the extent permitted by law, the Scheme Shares (including all rights and entitlements attaching to the Scheme Shares) transferred under this Scheme will, at the time of transfer of them to Bidder, vest in Bidder:
 - (i) free from all Encumbrances and third party rights or interests of any kind, whether legal or otherwise; and
 - (ii) free from all restrictions of transfer of any kind.
- (b) Upon the Scheme Consideration being provided to the Scheme Shareholders and until Target registers Bidder as the holder of all Scheme Shares in the Target Share Register, Bidder will be beneficially entitled to all of the Scheme Shares. Bidder's entitlement to be registered in the Target Share Register as the holder of the Scheme Shares arises on the Implementation Date in accordance with clause 4.3.

9. General

9.1 Stamp duties

Bidder:

- (a) must pay all stamp duties (if any) and any related fines and penalties in respect of the transfer of the Scheme Shares to Bidder pursuant to this Scheme or the Deed Poll and is authorised to apply for and retain the proceeds of any refund due in respect of stamp duty paid under this clause; and
- (b) indemnifies each Scheme Shareholder against any liability from a failure to comply with clause 9.1(a).

9.2 Consent

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

9.3 Notices

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



9.4 Further acts and documents

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

9.5 No liability when acting in good faith

Each Scheme Shareholders agrees that neither Target or Bidder, nor any of their respective directors, officers, secretaries, employees or Related Bodies Corporate, will be liable for anything done or omitted to be done in the performance of this Scheme or the Deed Poll in good faith.

10. Governing law and jurisdiction

10.1 Governing law

This Scheme is governed by the law applying in Victoria, Australia.

10.2 Jurisdiction

Each party irrevocably:

- (a) submits to the non exclusive jurisdiction of the courts of Victoria, Australia the courts having jurisdiction in that state and the courts competent to determine appeals from those courts, with respect to any proceedings that may be brought at any time relating to this Scheme; and
- (b) waives any objection it may now or in the future have to the venue of any proceedings, and any claim it may now or in the future have that any proceedings have been brought in an inconvenient forum, if that venue falls within clause 10.2(a).