

**ASX Announcement**

19 February 2024

**Scheme of Arrangement legally effective**

Further to its announcement on 16 February 2024, Symbio Holdings Limited (ASX:SYM) ("**Symbio**") is pleased to announce that an office copy of orders made by the Federal Court of Australia ("**Court**") approving the scheme of arrangement under which Aussie Broadband Limited ("**ABB**") will acquire 100% of the issued shares in Symbio has been lodged with the Australian Securities and Investments Commission pursuant to section 411(10) of the *Corporations Act 2001* (Cth).

An office copy of the Court orders lodged with ASIC is annexed to this announcement.

The Scheme is now legally effective and it is expected that trading in Symbio's shares will be suspended from close of trading today.

On the Implementation Date (28 February 2024), Symbio Shareholders will:

- receive the Scheme Consideration to which they are entitled, in accordance with their Election (if a valid Election was made) and subject to the Scaleback Arrangements (for Symbio Shareholders other than Foreign Scheme Shareholders and Small Holders), for each Symbio Share they hold on the Scheme Record Date (5:00pm (Sydney time) on 21 February 2024); and
- be paid the Agreed Dividend for each Symbio Share they hold on the Agreed Dividend Record Date (5:00pm (Sydney time) today).<sup>1</sup>

**Further Information**

If you have any questions in relation to the Scheme, please visit the Scheme website at <https://events.miraql.com/sym-scheme> or contact the Shareholder Information Line on 1300 847 879 (within Australia) or +61 1300 847 879 (outside Australia), Monday to Friday (excluding public holidays) between 8.30am and 5.30pm (Sydney time).

**This announcement has been authorised for release by the Chair of Symbio.**

---

<sup>1</sup> In order to be entitled to both the Agreed Dividend and the Scheme Consideration, Symbio Shareholders must hold their Symbio Shares on both the Agreed Dividend Record Date and the Scheme Record Date.



Symbio Holdings Limited (ASX:SYM)  
ABN: 37 118 699 853  
Level 3, 580 George St, Sydney  
NSW 2000 Australia

### **Media and investor contact**

Michelle Loh, Cannings Strategic Communications  
Phone: +61 497 834 937  
Email: [mloh@canningscomms.com.au](mailto:mloh@canningscomms.com.au)

### **About Symbio**

Symbio (ASX: SYM) is a software company changing the way the world communicates.

Symbio's technology replaces old-fashioned telecom networks with software, making it faster and easier to deliver modern cloud-based communication services, unlocking endless new applications for calling, messaging and phone numbers.

Symbio is the backbone for the global cloud communication industry. Over 500 service providers – from telecom start-ups to the world's biggest software companies – rely on Symbio for the connectivity, quality and expertise they need to solve complex communication challenges.

Headquartered in Sydney, Symbio powers billions of calls and messages each year, owns networks in three countries and employs over 450 staff worldwide.

For more information, please visit <https://www.symbio.global/>



Federal Court of Australia  
District Registry: New South Wales  
Division: General

No: NSD1331/2023

**SYMBIO HOLDINGS LIMITED (ACN 118 699 853)**  
Plaintiff

**ORDER**

**JUDGE:** JUSTICE YATES

**DATE OF ORDER:** 16 February 2024

**WHERE MADE:** Sydney

**THE COURT ORDERS THAT:**

1. Pursuant to ss 411(4)(b) and 411(6) of the *Corporations Act 2001* (Cth) (**Act**), the Scheme of Arrangement between the plaintiff and its shareholders, the terms of which are set out in the marked-up document that is Annexure A to these orders, be approved.
2. The plaintiff lodge with the Australian Securities and Investments Commission a copy of the approved Scheme of Arrangement at the time of lodging an office copy of these orders under s 411(10) of the Act.
3. Pursuant to s 411(12) of the Act, the plaintiff be exempted from compliance with s 411(11) of the Act in relation to Order 1 above.
4. Pursuant to r 39.34 of the *Federal Court Rules 2001* (Cth), these orders be entered forthwith.

Date that entry is stamped: 16 February 2024

A handwritten signature in blue ink that reads 'Sia Lagos'.

Registrar



**Schedule**

No: NSD1331/2023

Federal Court of Australia

District Registry: New South Wales

Division: General

Interested Person            AUSSIE BROADBAND LIMITED



## Annexure A

KING & WOOD  
MALLESONS  
金杜律师事务所

# Scheme of Arrangement

Dated

Symbio Holdings Limited (ACN 118 699 853) ("**Target**")

Scheme Participants

**King & Wood Mallesons**  
Level 61  
Governor Phillip Tower  
1 Farrer Place  
Sydney NSW 2000  
Australia  
**T** +61 2 9296 2000  
**F** +61 2 9296 3999  
DX 113 Sydney  
[www.kwm.com](http://www.kwm.com)



## Scheme of Arrangement Contents

<b>Details</b>	<b>1</b>
<b>General terms</b>	<b>2</b>
<b>1 Definitions and interpretation</b>	<b>2</b>
1.1 Definitions	2
1.2 General interpretation	7
<b>2 Preliminary</b>	<b>8</b>
2.1 Target	8
2.2 Bidder	8
2.3 If Scheme becomes Effective	9
2.4 General	9
<b>3 Conditions precedent</b>	<b>9</b>
3.1 Conditions precedent to Scheme	9
3.2 Conditions precedent and operation of clauses 5 and 6	10
3.3 Certificate in relation to conditions precedent	10
<b>4 Scheme</b>	<b>10</b>
4.1 Effective Date	10
4.2 End Date	10
<b>5 Implementation of Scheme</b>	<b>11</b>
5.1 Lodgement of Court orders with ASIC	11
5.2 Transfer and registration of Scheme Shares	11
5.3 Title and rights in Scheme Shares	11
5.4 Scheme Participants' agreements	11
5.5 Warranty by Scheme Participants	12
<b>6 Scheme Consideration</b>	<b>12</b>
6.1 Consideration under the Scheme	12
6.2 Election procedure	13
6.3 Scheme Consideration if valid Election made	14
6.4 Scheme Consideration if valid Election not made	14
6.5 Scheme Consideration for Foreign Scheme Shareholders and Small Holders	14
6.6 Cash Scaleback Mechanism	15
6.7 Scrip Scaleback Mechanism	15
6.8 Payment of Scheme Cash Consideration	16
6.9 Provision of Scheme Scrip Consideration	17
6.10 Unclaimed monies	18
6.11 Fractional entitlements and splitting	18
6.12 Orders of a court or Regulatory Authority	18
6.13 Joint holders	19
<b>7 Dealings in Scheme Shares</b>	<b>19</b>
7.1 Determination of Scheme Participants	19
7.2 Register	19



7.3	No disposals after Effective Date	20
7.4	Maintenance of Target Register	20
7.5	Effect of certificates and holding statements	20
7.6	Details of Scheme Participants	20
7.7	Quotation of Target Shares	20
7.8	Termination of quotation of Target Shares	21
<b>8</b>	<b>Appointment of Target as attorney for implementation of Scheme</b>	<b>21</b>
<b>9</b>	<b>Appointment of Bidder as attorney in respect of Scheme Shares</b>	<b>21</b>
<b>10</b>	<b>Instructions and elections</b>	<b>22</b>
<b>11</b>	<b>Notices</b>	<b>22</b>
11.1	Accidental omission	22
11.2	Form	22
11.3	Delivery	22
11.4	When effective	23
11.5	When taken to be received	23
11.6	Receipt outside business hours	23
<b>12</b>	<b>General</b>	<b>23</b>
12.1	Variations, alterations and conditions	23
12.2	Further action by Target	23
12.3	Authority and acknowledgement	24
12.4	No liability when acting in good faith	24
12.5	Enforcement of Deed Poll	24
12.6	Stamp duty	24
<b>13</b>	<b>Governing law</b>	<b>24</b>
13.1	Governing law and jurisdiction	24
13.2	Serving documents	24



## Scheme of Arrangement

### Details

#### Parties

<b>Target</b>	Name	<b>Symbio Holdings Limited</b>
	ACN	118 699 853
	Formed in	Australia
	Address	Level 4, 580 George Street, Sydney NSW 2000
	Email	notices@symbio.global
	Attention	Chief Legal Officer

<b>Scheme Participants</b>	Each person registered as a holder of fully paid ordinary shares in Target as at the Record Date.
----------------------------	---

<b>Governing law</b>	New South Wales
----------------------	-----------------

<b>Recitals</b>	<b>A</b>	Target and Bidder have agreed by executing the Scheme Implementation Agreement to implement the terms of this document.
	<b>B</b>	This document imposes obligations on Bidder that Bidder has agreed to but does not impose an obligation on Bidder to perform those obligations.
	<b>C</b>	The Bidder has executed the Deed Poll for the purpose of covenanting in favour of the Scheme Participants to perform (or procure the performance) of its obligations as contemplated by this document.



## General terms

---

### 1 Definitions and interpretation

#### 1.1 Definitions

Unless the contrary intention appears, these meanings apply:

**ABB Reference Share Price** means \$3.92.

**ACCC** means the Australian Competition and Consumer Commission.

**Aggregate Maximum Cash Consideration** means the aggregate amount of Scheme Cash Consideration payable to Scheme Participants who have made a valid Maximum Cash Consideration Election, and excludes (for the avoidance of doubt):

- (a) any Scheme Cash Consideration payable to Foreign Scheme Holders and Small Holders; and
- (b) any Scheme Cash Consideration payable to Scheme Participants who have made a valid Default Consideration Election (or would otherwise receive Default Consideration under clause 6.4 of this Scheme).

**Aggregate Maximum Scrip Consideration** means the aggregate number of Bidder Shares to be provided to Scheme Participants who have made a valid Maximum Scrip Consideration Election. For the avoidance of doubt, this excludes any Bidder Shares to be provided to Scheme Participants who have made a valid Default Consideration Election (or would otherwise receive Default Consideration under clause 6.4 of this Scheme).

**Agreed Dividend Amount** means the amount per Target Share of any cash dividend declared or determined after the date of the Scheme Implementation Agreement of up to \$0.35.

**ASIC** means the Australian Securities and Investments Commission.

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

**Available Cash Consideration** means a cash amount equal to:

- (a)  $(\$2.26 - ADA) \times n$

where:

**ADA** = the Agreed Dividend Amount (if any); and

**n** = the number of Scheme Shares on issue as at the Record Date

- (b) less the aggregate of the Scheme Cash Consideration payable to:

- (i) Foreign Scheme Shareholders;
- (ii) Small Holders; and



(iii) Scheme Participants who have elected to receive Default Consideration (or would otherwise receive Default Consideration under clause 6.4 of this Scheme).

and whereby, if the amount so calculated is a value less than zero, the Available Cash Consideration will be deemed to be nil.

**Available Scrip Consideration** means:

(a) a number of Bidder Shares equal to:

$$0.192 \times n$$

where:

**n** = the number of Scheme Shares on issue as at the Record Date

(b) less any Bidder Shares to be provided to Scheme Participants who have elected to receive Default Consideration (or would otherwise receive Default Consideration under clause 6.4 of this Scheme).

**Bidder** means Aussie Broadband Limited (ACN 132 090 192).

**Bidder Constitution** means the constitution of the Bidder.

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

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

**Cash Scaleback Mechanism** means the scaleback mechanism set out in clause 6.6.

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

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

**Court** means the Federal Court of Australia, 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 18 December 2023 executed by Bidder 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 certain actions attributed to Bidder under this Scheme.

**Default Consideration** means for each Scheme Share held by a Scheme Participant:

(a) a cash amount which is calculated as follows:

$$\$2.26 - ADA,$$

where **ADA** means the Agreed Dividend Amount (if any); plus

(b) 0.192 Bidder Shares

**Default Consideration Election** means an election by a Target Shareholder to receive the Default Consideration.



**Details** means the section of this Scheme headed "Details".

**Effective**, when used in relation to this Scheme, 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:

- (a) a Maximum Cash Consideration Election;
- (b) a Maximum Scrip Consideration Election; or
- (c) a Default Consideration Election.

**Election Date** means 5.00pm on the fifth Business Day before the date of the Scheme Meeting (unless ASIC requires an earlier date, in which case such earlier date shall apply), or such other date as the Target and the Bidder agree in writing.

**Election Form** means a form issued by the Target for the purposes of a Scheme Participant (other than a Foreign Scheme 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 PPSA, or any agreement to create any of them or allow them to exist.

**End Date** means the "End Date" determined in accordance with the Scheme Implementation Agreement, or such other date as is agreed by Bidder and Target in writing.

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

**Immediately Available Funds** means by immediate electronic funds transfer 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.

**Listing Rules** means the Listing Rules of ASX and any other applicable rules of ASX modified to the extent of any express written waiver by ASX.

**Marketable Parcel** means a parcel of Bidder Shares having a value of not less than \$500 based on the closing price of Bidder Shares on the ASX on the day prior to the Record Date (Sydney time).

**Maximum Cash Consideration** means for each Scheme Share held by the Scheme Participant, a cash amount equal to \$3.01264 less the Agreed Dividend Amount (if any), subject to the Scaleback Arrangements and the terms and conditions of this Scheme.



**Maximum Cash Consideration Election** means an election by a Target Shareholder to receive Maximum Cash Consideration.

**Maximum Scrip Consideration** means for each Scheme Share held by the Scheme Participant, a number of Bidder Shares (which for the avoidance of doubt, includes a number less than one) calculated in accordance with the following formula (subject to the Scaleback Arrangements and the terms and conditions of this Scheme):

$$\frac{\$3.01264 - \text{Agreed Dividend Amount (if any)}}{\text{ABB Reference Share Price}}$$

**Maximum Scrip Consideration Election** means an election by a Target Shareholder to receive Maximum Scrip Consideration.

**Operating Rules** means the official operating rules of ASX.

**Record Date** means the second Business Day following the Effective Date or such other date as Target and Bidder agree in writing.

**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 as at the Record Date.

**Registry** means Link Market Services Limited (ABN 54 083 214 537).

**Regulatory Authority** includes:

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

**Scaleback Arrangements** means:

- (a) the Cash Scaleback Mechanism; and
- (b) the Scrip Scaleback Mechanism,

which are designed to give effect to clause 6.1(b).

**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 of this Scheme, 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 this Scheme.

**Scheme Booklet** means the information booklet to be approved by the Court and despatched to Target Shareholders which includes this Scheme, an explanatory statement complying with the requirements of the Corporations Act and notices of meeting and proxy forms.



**Scheme Cash Consideration** means for each Scheme Share held by a Scheme Participant, the component of the Scheme Consideration which comprises cash, calculated in accordance with, and subject to the terms and conditions in the Scheme.

**Scheme Consideration** means, depending on the relevant Scheme Participant's Election and subject to the Scaleback Arrangements and the terms of the Scheme, the consideration to be provided to each Scheme Participant for the transfer to the Bidder of each Scheme Share, being for each Scheme Share, either:

- (a) Maximum Cash Consideration;
- (b) Maximum Scrip Consideration; or
- (c) the Default Consideration.

**Scheme Implementation Agreement** means the scheme implementation agreement dated 1 November 2023 between Target and Bidder 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 the 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 such meeting convened following adjournment or postponement of that meeting.

**Scheme Participant** means each person who is a Target Shareholder on the Record Date.

**Scheme Scrip Consideration** means for each Scheme Share held by a Scheme Participant, the component of the Scheme Consideration which comprises Bidder Shares, the number of which is calculated in accordance with, and subject to the terms and conditions in this Scheme.

**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 Scaleback Mechanism** means the scaleback mechanism set out in clause 6.7.

**Scrip Scaleback Percentage** has the meaning given in clause 6.7(c).

**Second Court Date** means the first day on which an application made to the Court for an order pursuant to section 411(4)(b) of the Corporations Act approving the Scheme is heard or scheduled to be heard or, if the application is adjourned for any reason means the date on which the adjourned application is heard or scheduled to be heard.

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

**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, which may be a master transfer of all Scheme Shares.

**Small Holder** has the meaning given to it in clause 6.5(c) of this Scheme.



**Subsidiary** has the meaning given to it in the Corporations Act.

**Target Employee Rights** means an instrument or right, including any performance share right, deferred share right, call option or similar right, which upon vesting or conversion or satisfaction of any condition (as applicable) entitles the holder to have a Target Share transferred or issued to them.

**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.

**Trust Account** means the Australian dollar denominated trust account with an authorised deposit-taking institution (as defined in the *Banking Act 1959* (Cth)) operated by or on behalf of Target to hold the Scheme Consideration on trust for the purpose of paying the Scheme Consideration to the Scheme Participants in accordance with clause 6.8 of this Scheme.

**Unclaimed Money Act** means the *Unclaimed Money Act 1995* (NSW).

## 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 time;
- (h) a reference to dollars, \$ or A\$ is a reference to the currency of Australia;
- (i) a reference to "**law**" includes common law, principles of equity and legislation (including regulations);
- (j) a reference to any legislation includes regulations under it and any consolidations, amendments, re-enactments or replacements of any of them;
- (k) a reference to "**regulations**" includes instruments of a legislative character under legislation (such as regulations, rules, by-laws, ordinances and proclamations);



- (l) a reference to a group of persons is a reference to any 2 or more of them jointly and to each of them individually;
- (m) a reference to any thing (including an amount) is a reference to the whole and each part of it;
- (n) 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;
- (o) 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
- (p) 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 New South Wales; and
- (c) admitted to the official list of the ASX and Target Shares are officially quoted for trading on the stock market conducted by ASX.

As at the date of the Scheme Implementation Agreement, Target's issued securities are:

- (a) Target Shares: 86,010,170; and
- (b) Target Employee Rights: 2,443,941, comprising 401,649 performance rights and 2,042,292 options.

### **2.2 Bidder**

Bidder 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 Bidder Shares are officially quoted for trading on the stock market conducted by ASX.

As at the date of the Scheme Implementation Agreement, Bidder's issued securities are:

- (a) 239,209,360 Bidder Shares;
- (b) 3,311,400 options; and
- (c) 37,704 performance rights.



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

### 2.4 General

- (a) Target and Bidder have agreed by executing the Scheme Implementation Agreement to implement this Scheme.
- (b) This Scheme attributes actions to Bidder but does not itself impose an obligation on it to perform those actions, as Bidder is not a party to this Scheme. Bidder has executed the Deed Poll for the purposes of covenanting in favour of the Scheme Participants to perform its obligations as contemplated by this Scheme, including to provide the Scheme Consideration to the Scheme Participants.

---

## 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 having been satisfied or waived (other than the conditions precedent in clauses 3.1(b) and 3.1(d) which cannot be 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;
- (d) subject to clause 12.1, 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 Bidder and Target having been satisfied or waived; and
- (e) 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).



Act) in relation to this Scheme on or before the End Date (or any later date Target and Bidder agree in writing in accordance with the Scheme Implementation Agreement).

### **3.2 Conditions precedent and operation of clauses 5 and 6**

The satisfaction of each condition of clause 3.1 of this Scheme is a condition precedent to the operation of clauses 5 and 6 of this Scheme (other than, in respect of clause 5.1 of this Scheme only, the condition precedent in clause 3.1(e) of this Scheme).

### **3.3 Certificate in relation to conditions precedent**

Before 8.00am on the Second Court Date, each of Target and Bidder must provide to the Court a certificate signed by a duly authorised representative (or such other evidence as the Court requests) confirming (in respect of matters within their knowledge) whether or not the conditions precedent set out in clause 3.1(a) and clause 3.1(b) of this Scheme have been satisfied or waived as at that time.

The certificate referred to in this clause 3.3 will constitute conclusive evidence (in the absence of manifest error) of whether the conditions precedent referred to in clause 3.1(a) and clause 3.1(b) of this Scheme 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**

- (a) Unless Target and Bidder otherwise agree in writing this Scheme will lapse and be of no further force or effect if:
  - (i) the Effective Date does not occur on or before the End Date (or any later date Target and Bidder agree in writing in accordance with the Scheme Implementation Agreement); or
  - (ii) the Scheme Implementation Agreement or the Deed Poll is terminated in accordance with their terms before the Scheme becomes Effective.
- (b) Without limiting any rights under the Scheme Implementation Agreement, if any of the events referred to in clause 4.2(a) occur, Target and Bidder are each released from:
  - (i) any further obligation to take steps to implement this Scheme; and
  - (ii) any liability with respect to this Scheme.



---

## 5 Implementation of Scheme

### 5.1 Lodgement of Court orders with ASIC

If the conditions precedent set out in clause 3.1 of this Scheme (other than the condition precedent in clause 3.1(e) of this Scheme) 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 Scheme Shares

On the Implementation Date, but subject to the provision of the Scheme Consideration for the Scheme Shares in accordance with clause 6 of this Scheme and Bidder having provided Target with written confirmation of the provision of the Scheme Consideration:

- (a) the Scheme Shares, together with all rights and entitlements attaching to the Scheme Shares as at the Implementation Date, will 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; and
  - (ii) Bidder duly executing the Share Scheme Transfer and delivering it to Target for registration; and
- (b) immediately following receipt of the duly executed Share Scheme Transfer, but subject to the stamping of the Share Scheme Transfer (if required) Target must enter, or procure the entry of, the name of Bidder in the Register in respect of all of the Scheme Shares transferred to Bidder in accordance with the terms of this Scheme.

### 5.3 Title and rights in Scheme Shares

- (a) Subject to the provision of the Scheme Consideration for the Scheme Shares as contemplated by clause 6 of this Scheme, on and from the Implementation Date, Bidder will be beneficially entitled to the Scheme Shares transferred to it under this Scheme, pending registration by Target of Bidder in the Register as the holder of the Scheme Shares.
- (b) To the extent permitted by law, the Scheme Shares (including all rights and entitlements attaching to the Scheme Shares) transferred under this Scheme to Bidder will, at the time of transfer, 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.

### 5.4 Scheme Participants' agreements

Under this Scheme, each Scheme Participant:

- (a) irrevocably agrees to the transfer of their Scheme Shares, together with all rights and entitlements attaching to those Scheme Shares, to Bidder in accordance with the terms of this Scheme;



- (b) agrees to the variation, cancellation or modification of the rights attached to its Target Shares constituted by, or resulting from, this Scheme;
- (c) agrees to, on the direction of Bidder, destroy any holding statement or share certificates relating to its Target Shares;
- (d) who holds its Target Shares in a CHES Holding (as defined in the Settlement Rules) agrees to the conversion of those Target Shares to an Issuer Sponsored Holding (as defined in the Settlement Rules), and irrevocably authorises Bidder to do anything necessary, expedient or incidental (whether required by the Settlement Rules or otherwise) to effect or facilitate that conversion; and
- (e) acknowledges that this Scheme binds Target and all Scheme Participants (including those who do not attend the Scheme Meeting or do not vote at the Scheme Meeting or vote against the Scheme at the Scheme Meeting) and to the extent of any inconsistency and to the extent permitted by law, overrides the constitution of Target.

### 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 this Scheme will, as at the date of the transfer, be fully paid and free from all Encumbrances or any other third party interest or restrictions on transfer of any kind; and
- (b) they have full power and capacity to sell and to transfer their Scheme Shares (including any rights and entitlements attaching to those Scheme Shares) to Bidder under this Scheme.

---

## 6 Scheme Consideration

### 6.1 Consideration under the Scheme

- (a) 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 their Scheme Shares in accordance with this clause 6.
- (b) Notwithstanding any other provision of this Scheme:
  - (i) the aggregate Scheme Cash Consideration to be paid by Bidder under the terms of this Scheme will be the aggregate of the cash amounts payable to (A) Foreign Scheme Shareholders, plus (B) Small Holders, plus (C) all other Scheme Participants, each as determined in accordance with clauses 6.2 to 6.7, 6.11 and the other terms and conditions of this Scheme~~the aggregate Scheme Cash Consideration to be paid by Bidder under the terms of this Scheme will not exceed the amount calculated under paragraph (a) of the definition of Available Cash Consideration~~; and
  - (ii) the aggregate Scheme Scrip Consideration to be provided by Bidder under the terms of this Scheme will not exceed the number of Bidder Shares calculated under paragraph (a) of the definition of Available Scrip Consideration.



## 6.2 Election procedure

- (a) Each Target Shareholder (other than a Foreign Scheme Shareholder) will be entitled to make an Election.
- (b) All Elections will take effect in accordance with this Scheme to the extent that any Target Shareholder who makes an Election qualifies as a Scheme Participant.
- (c) Target must ensure that the Scheme Booklet is accompanied with an Election Form.
- (d) Subject to clause 6.2(h), an Election may only be made in accordance with the terms and conditions stated on the Election Form for it to be valid and must be completed and returned in writing to the address specified on the Election Form before the Election Date.
- (e) A Target Shareholder which 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.
- (f) 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 Scheme Participant).
- (g) Subject to clause 6.2(h), if a Target Shareholder makes an Election, that Election will be deemed to apply in respect of the Target Shareholder's entire registered holding of Target Shares at the Record Date, regardless of whether the Target Shareholder's holding of Target Shares at the Record Date is greater or less than the Target Shareholder's holding at the time it made its Election.
- (h) A Target Shareholder who is noted on the Register as holding one or more parcels of Target Shares as trustee or nominee for, or otherwise on account of, another person, may make separate Elections under this clause 6.2 in relation to each of those parcels of Target Shares (subject to providing to Bidder and Target any substantiating information they reasonably require), and if it does so it will be treated as a separate Scheme Participant in respect of each such parcel in respect of which a separate Election is made (and in respect of any balance of its holding), provided that if, at the Record Date, it holds fewer Target Shares than it held at the time that it made the Election, then, unless it has at the time of any sale of Target Shares notified Target whether the Target Shares sold relate to any such separate Election (and if so which separate Election the Target Shares sold relate to), it will be treated as not having made a valid Election in respect of any of its Target Shares (or will be treated in any other manner that Bidder and Target agree is fair to the Target Shareholder in all the circumstances acting reasonably).
- (i) The parties agree that the Election Form will include the following terms and conditions:
  - (i) Foreign Scheme Shareholders may not make an Election and that any purported Election by such persons will be of no effect and clause 6.5 will apply to such persons;



- (ii) if a Target Shareholder (who is not a Foreign Scheme Shareholder) does not make a valid Election, clause 6.4 will apply to that person;
- (iii) Target Shareholders who receive Scheme Scrip Consideration agree to become members of Bidder from the Implementation Date and become bound by the Bidder Constitution pursuant to this Scheme;
- (iv) Target Shareholders who receive Scheme Scrip Consideration will have such Scheme Scrip Consideration issued having the same holding name and address and other details as the holding of the relevant Scheme Shares; and
- (v) such other terms and conditions as Bidder reasonably requires to be stated on the Election Form.

### **6.3 Scheme Consideration if valid Election made**

Subject to the Scaleback Arrangements, if a Target Shareholder makes a valid Election that Target Shareholder will be entitled to receive the Scheme Consideration as nominated by their Election.

### **6.4 Scheme Consideration if valid Election not made**

If a Target Shareholder (not being a Foreign Scheme Shareholder or Small Holder) does not make a valid Election, the Scheme Consideration payable to that Target Shareholder will be the Default Consideration.

### **6.5 Scheme Consideration for Foreign Scheme Shareholders and Small Holders**

Notwithstanding any other provision of this Scheme:

- (a) if a Scheme Participant is a Foreign Scheme Shareholder, the Scheme Consideration payable to that Scheme Participant will be the Maximum Cash Consideration, which will not be subject to the Cash Scaleback Mechanism;
- (b) Bidder has no obligation to provide, and will not provide under the Scheme, any Scheme Scrip Consideration to Foreign Scheme Shareholders regardless of the Election made by the Foreign Scheme Shareholders; and
- (c) a Scheme Participant will be deemed to have elected Maximum Cash Consideration (which will not be subject to the Cash Scaleback Mechanism) if:
  - (i) the Scheme Scrip Consideration to which it is entitled comprises a number of Bidder Shares that is less than a Marketable Parcel; and
  - (ii) the Scheme Participant has not completed the appropriate section of the Election Form indicating that they wish to receive their Scheme Scrip Consideration even where it comprises a number of Bidder Shares that is less than a Marketable Parcel,

(such person being a "**Small Holder**").



### 6.6 Cash Scaleback Mechanism

If:

- (a) a Scheme Participant (other than a Foreign Scheme Shareholder or a Small Holder) has made a valid Maximum Cash Consideration Election on or before the Election Date; and
- (b) the Aggregate Maximum Cash Consideration exceeds the Available Cash Consideration,

then, the Scheme Participant will receive the following as Scheme Consideration for each Scheme Share held:

- (c) a cash amount which is calculated as follows:

$$(\$3.01264 - ADA) \times \left(\frac{C}{D}\right)$$

where:

**ADA** = the Agreed Dividend Amount (if any);

**C** = the Available Cash Consideration; and

**D** = the Aggregate Maximum Cash Consideration; plus

- (d) a number of Bidder Shares which is calculated as follows:

$$\frac{\$3.01264 - (SCC + ADA)}{ABB \text{ Reference Share Price}}$$

where:

(i) SCC means Scheme Cash Consideration calculated in accordance with clause 6.6(c); and

(ii) ADA means the Agreed Dividend Amount (if any).

### 6.7 Scrip Scaleback Mechanism

If:

- (a) a Scheme Participant (other than a Foreign Scheme Shareholder or a Small Holder) has made a valid Maximum Scrip Consideration Election on or before the Election Date; and
- (b) the Aggregate Maximum Scrip Consideration exceeds the Available Scrip Consideration,

then, the Scheme Participant will receive the following as Scheme Consideration for each Scheme Share held:

- (c) the number of Bidder Shares which is calculated as follows:

$$\left(\frac{\$3.01264 - ADA}{ABB \text{ Reference Share Price}}\right) \times \left(\frac{C}{D}\right)$$

where:

**ADA** = the Agreed Dividend Amount (if any);



- C** = the Available Scrip Consideration; and
- D** = the Aggregate Maximum Scrip Consideration; *plus*
- (d) a cash amount which is calculated as follows:

$$\$3.01264 - (\text{SSC} + \text{ADA})$$

where:

- (i) SSC means the number of Bidder Shares calculated in accordance with clause 6.7(c) multiplied by the ABB Reference Share Price; and
- (ii) ADA means the Agreed Dividend Amount (if any).

### 6.8 Payment of Scheme Cash Consideration

- (a) Bidder must, by no later than the Business Day before the Implementation Date, deposit (or procure the deposit) in Immediately Available Funds the aggregate amount of the Scheme Cash 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 to Bidder's account).
- (b) On the Implementation Date, and subject to funds having been deposited by Bidder in accordance with clause 6.8(a) of this Scheme, Target must pay or procure the payment to each Scheme Participant an amount equal to the aggregate amount of the Scheme Cash Consideration due to that Scheme Participant in respect of its Scheme Shares in accordance with this Scheme on the Implementation Date from the Trust Account.
- (c) The obligations of Target under clause 6.8(b) will be satisfied by Target (in its absolute discretion), and despite any election referred to in clause 6.8(c)(i) or authority referred to in clause 6.8(c)(ii) made or given by the Scheme Participant:
- (i) paying, or procuring the payment of, the relevant amount in A\$ by electronic means to a bank account nominated by the Scheme Participant, where the Scheme Participant has made a valid election prior to the Record Date in accordance with the requirements of the Registry to receive dividend payments from Target to that bank account;
- (ii) paying, or procuring the payment of, the relevant amount in A\$ by electronic means to a bank account nominated by the Scheme Participant by an appropriate authority from the Scheme Participant to Target; or
- (iii) dispatching, or procuring the dispatch of, a cheque drawn on an Australian bank for the relevant amount in A\$ to each Scheme Participant by pre-paid ordinary post (or, if the address of the Scheme Participant in the Register is outside Australia, by pre-paid airmail post) to their address recorded in the Register on the Record Date, such cheque being drawn in the name of the Scheme Participant (or in the case of joint holders, in accordance with the procedures set out in clause 6.13).
- (d) If:



- (i) a Scheme Participant does not have a Registered Address and no account has been notified in accordance with clause 6.8(c)(i) or a deposit into such account is rejected or refunded; or
- (ii) a cheque issued under this clause 6.8 has been cancelled in accordance with clause 6.10(a)(i),

Target as the trustee for the Scheme Participants may credit the amount payable to the relevant Scheme Participant to a separate bank account of Target ("**Separate Account**") to be held until the Scheme Participant claims the amount or the amount is dealt with under the Unclaimed Money Act. If the amount is not credited to a Separate Account, the amount will continue to be held in the Trust Account until the Scheme Participant claims the amount or the amount is dealt with under the Unclaimed Money Act. Until such time as the amount is dealt with under the Unclaimed Money Act, Target must hold the amount on trust for the relevant Scheme Participant, but any interest or other benefit accruing from the amount will be to the benefit of Bidder. An amount credited to the Separate Account or Trust Account (as applicable) is to be treated as having been paid to the relevant Scheme Participant when credited to the Separate Account or Trust Account (as applicable). Target must maintain records of the amounts paid, the people who are entitled to the amounts and any transfers of the amounts.

- (e) If, following satisfaction of Target's obligations under clause 6.8(d), there is a surplus in the amount held by Target as trustee for the Scheme Participants in the Trust Account, that surplus must be paid by Target to Bidder.
- (f) Target must pay any accrued interest (less bank fees and other charges) under clause 6.8(a) to any account nominated by Bidder following satisfaction of Target's obligations under this clause 6.8.

#### **6.9 Provision of Scheme Scrip Consideration**

- (a) Bidder must, before 12.00pm (or such later time as Bidder and Target may agree in writing) on the Implementation Date, procure that:
  - (i) Bidder issues the Bidder Shares to each Scheme Participant who is entitled under this Scheme to be issued the Bidder Shares; and
  - (ii) the name and address of each such Scheme Participant is entered in Bidder's register of shareholders (as maintained by Bidder or its agent) as the holder of those Bidder Shares with the same holding name and address and other details as the holding of the relevant Target Shares.
- (b) On or before the date that is 5 Business Days after the Implementation Date, Bidder must send or procure the sending of a holding statement (or equivalent document) to the Registered Address of each Scheme Participant to whom Bidder Shares are issued under this Scheme, reflecting the issue of such Bidder Shares.
- (c) Bidder must ensure that the Bidder Shares issued in accordance with this Scheme, at the time they are issued:
  - (i) have the rights set out in the Bidder Constitution;
  - (ii) rank equally in all respects among themselves and with all other Bidder Shares on issue in Bidder, and



- (iii) are fully paid, duly and validly issued in accordance with all applicable laws and free from any Encumbrance.

#### 6.10 Unclaimed monies

- (a) Target may cancel a cheque issued under clause 6.8 of this Scheme if the cheque:
  - (i) is returned to Target; or
  - (ii) has not been presented for payment within 6 months after the date on which the cheque was sent.
- (b) During the period of 1 year commencing on the Implementation Date, on request in writing from a Scheme Participant to Target or the 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 6.10.
- (c) The Unclaimed Money Act will apply in relation to any Scheme Consideration which becomes "unclaimed money" (as defined in section 3 of the Unclaimed Money Act). Any interest or other benefit accruing from the unclaimed Scheme Consideration will be to the benefit of Bidder.

#### 6.11 Fractional entitlements and splitting

Where the calculation of the Scheme Consideration to be issued to a particular Scheme Participant would result in the Scheme Participant becoming entitled to:

- (a) a fraction of a cent, the fractional entitlement will be rounded down to the nearest whole cent; and/or
- (b) a fraction of a Bidder Share, that fractional entitlement will be rounded down to the nearest whole number of Bidder Shares.

#### 6.12 Orders of a court or Regulatory Authority

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

- (a) requires consideration to be provided to a third party (either through payment of a sum or issuance of a security) in respect of Scheme Shares held by a particular Scheme Participant, which would otherwise be payable or required to be issued to that Scheme Participant in accordance with clause 6 of this Scheme, then Target or Bidder (as applicable) will be entitled to pay or issue that consideration ( or procure that it is paid or issued) in accordance with that order or direction; or
- (b) would prevent Target from providing consideration to any particular Scheme Participant in accordance with clause 6 of this Scheme, or the payment or issuance of such consideration is otherwise prohibited by applicable law, Target will be entitled to (as applicable):
  - (i) retain an amount, in Australian dollars, equal to the cash component of the Scheme Consideration to which that Scheme Participant would otherwise be entitled to under this clause 6; and



- (ii) direct Bidder not to issue, or to provide to a trustee or nominee, such number of Bidder Shares as that Scheme Participant would otherwise be entitled to under this clause 6,

until such time as provision of the consideration in accordance with clause 6 of this Scheme is permitted by that order or otherwise by law.

- (c) To the extent that amounts are so deducted or withheld in accordance with this clause 6.12, 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.

### 6.13 Joint holders

In the case of Scheme Shares held in joint names:

- (a) subject to clause 6.13(c), any amount comprising the Scheme Cash Consideration payable in respect of those Scheme Shares is payable to the joint holders and any cheque required to be sent under this Scheme will be made payable to the joint holders and sent to either, at the sole discretion of Target, the holder whose name appears first in the Register as at the Record Date or to the joint holders; and
- (b) any Bidder Shares to be provided under this Scheme as part of the Scheme Scrip Consideration must be provided to and registered in the names of the joint holders; and
- (c) any other document required to be sent under this Scheme, will be forwarded to either, at the sole discretion of Target, the holder whose name appears first in the Register as at the Record Date or to the joint holders.

---

## 7 Dealings in Scheme Shares

### 7.1 Determination of Scheme Participants

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

- (a) in the case of dealings of the type to be effected using CHES, 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,

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

### 7.2 Register

Target must register registrable transmission applications or transfers of the Scheme Shares in accordance with clause 7.1(b) before the Record Date provided that, for the avoidance of doubt, nothing in this clause 7.2 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' (for the purposes of this clause 7.2, 'marketable parcel' has the meaning given in the Operating Rules).

### **7.3 No disposals after Effective Date**

- (a) If this Scheme becomes Effective, a holder of Scheme Shares (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.
- (b) 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).

### **7.4 Maintenance of Target Register**

For the purpose of determining entitlements to the Scheme Consideration, Target will maintain the Register in accordance with the provisions of this clause 7.4 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 of this Scheme, 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.

### **7.6 Details of Scheme Participants**

- (a) Target must provide, or procure the provision, to Bidder, details of any Election made by Target Shareholders, on the Business Day after the Election Date, including the name and address of each Target Shareholder who has made a valid Election and the number of Bidder Shares that the Bidder must issue to those Target Shareholders to meet its obligations under the Scheme in accordance with those Target Shareholders' Elections subject to the terms of this Scheme, including the Scaleback Arrangements.
- (b) Within 3 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 must apply to ASX to suspend trading on ASX of Target Shares with effect from the close of trading on the Effective Date.



### 7.8 Termination of quotation of Target Shares

After the Scheme has been fully implemented, 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 Appointment of Target as attorney for implementation of Scheme

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 or doing or taking any other act necessary, desirable or expedient, or incidental to give effect to this Scheme and the transactions contemplated by it including executing and delivering any Share Scheme Transfer; and
- (b) on and from the Effective Date enforcing the Deed Poll against Bidder (and Target undertakes in favour of each Scheme Participant that it will enforce the Deed Poll against Bidder on behalf of, and as agent and attorney of, each Scheme Participant),

and Target accepts such appointment. Target, as attorney and agent of each Scheme Participant, may sub-delegate any of its functions, authorities or powers under this clause 8 to all or any of its directors or officers (jointly, individually or jointly and individually).

---

## 9 Appointment of Bidder as attorney in respect of Scheme Shares

Immediately upon the provision of the Scheme Consideration to each Scheme Participant in the manner contemplated by clause 6, until Bidder is registered as the holder of all Scheme Shares in the Register, each Scheme Participant, without the need for any further act by any Scheme Participant:

- (a) irrevocably appoints Bidder as its agent and attorney (and irrevocably appoints Bidder in such capacity) to appoint any director or officer nominated by Bidder as its sole proxy, and where applicable corporate representative to:
  - (i) attend Target Shareholders' meetings;
  - (ii) exercise the votes attaching to the Scheme Shares; and
  - (iii) sign any Target Shareholders' resolution;
- (b) must not attend or vote at any Target Shareholders' meetings, exercise the votes attaching to Scheme Shares registered in their names or sign or vote on any Target Shareholders' resolution (whether in person, by proxy or by corporate representative) other than pursuant to clause 9(a);
- (c) must take all other action in the capacity of a registered holder of Scheme Shares as Bidder reasonably directs; and



- (d) acknowledges and agrees that in exercising the powers referred to in clause 9(a), Bidder and any officer or agent nominated by Bidder under clause 9(a) may act in the best interests of Bidder as the intended registered holder of Target Shares.

---

## 10 Instructions and elections

If not prohibited by law (and including where permitted or facilitated by relief granted by a Regulatory Authority), all instructions, notifications or elections by a Scheme Participant to Target binding or deemed binding between the Scheme Participant and Target relating to Target or Target Shares, including instructions, notifications or elections relating to:

- (a) whether dividends are to be paid by cheque or into a specific bank account;
- (b) payments of dividends on Target Shares; and
- (c) notices or other communications from Target (including by email),

will be deemed from the Implementation Date (except to the extent determined otherwise by Bidder in its sole discretion), by reason of this Scheme, to be made by the Scheme Participant to Bidder and to be a binding instruction, notification or election to, and accepted by, Bidder in respect of the Bidder Shares provided to that Scheme Participant until that instruction, notification or election is revoked or amended in writing addressed to Bidder at its registry.

---

## 11 Notices

### 11.1 Accidental omission

The accidental omission to give notice of the 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.

### 11.2 Form

Unless this document expressly states otherwise, all notices, demands, certificates, consents, approvals, waivers and other communications in connection with this document must be in writing and signed by the sender (if an individual) or an authorised officer of the sender.

All communications (other than email communications) must also be marked for the attention of the person referred to in the Details (or, if the recipient has notified otherwise, then marked for attention in the way last notified).

Email communications must state the first and last name of the sender and are taken to be signed by the named sender.

### 11.3 Delivery

Communications must be:

- (a) left at the address referred to in the Details;
- (b) sent by regular ordinary post (airmail if appropriate) to the address referred to in the Details; or



- (c) sent by email to the address referred to in the Details.

If the intended recipient has notified changed contact details, then communications must be sent to the changed contact details.

#### **11.4 When effective**

Communications take effect from the time they are received or taken to be received under clause 11.5 (whichever happens first) unless a later time is specified in the communication.

#### **11.5 When taken to be received**

Communications are taken to be received:

- (a) if sent by post, 2 Business Days after posting; or
- (b) if sent by email:
- (i) when the sender receives an automated message confirming delivery; or
  - (ii) 2 hours after the time sent (as recorded on the device from which the sender sent the email) unless the sender receives an automated message that delivery failed (which excludes any response generated by or at the instigation of the recipient such as an 'out of office' message),

whichever happens first.

#### **11.6 Receipt outside business hours**

Despite anything else in this clause 11, if communications are received or taken to be received under clause 11.5 after 5.00pm on a Business Day or on a non-Business Day, they are taken to be received at 9.00am on the next Business Day. For the purposes of this clause, the place in the definition of Business Day is taken to be the place specified in the Details as the address of the recipient and the time of receipt is the time in that place.

---

## **12 General**

### **12.1 Variations, alterations and conditions**

- (a) Target may, with the prior consent of Bidder, by its counsel or solicitor, consent on behalf of all persons concerned to those variations, alterations or conditions to this Scheme which the Court thinks fit to impose; and
- (b) each Scheme Participant agrees to any such variations, alterations or conditions which Target has consented to.

### **12.2 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.



### **12.3 Authority and acknowledgement**

Each of the Scheme Participants irrevocably consents to Target and Bidder doing all things necessary or expedient for or incidental to the implementation of this Scheme.

### **12.4 No liability when acting in good faith**

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

### **12.5 Enforcement of Deed Poll**

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

### **12.6 Stamp duty**

Bidder will:

- (a) pay all stamp duty (including any fines, penalties and interest) payable in connection with this Scheme or the transactions effected by or made under the Scheme; and
- (b) indemnify each Scheme Participant against any liability arising from failure to comply with clause 12.6(a),

subject to and in accordance with clause 7 of the Deed Poll.

---

## **13 Governing law**

### **13.1 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.

### **13.2 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.