

ASX / Press Release

13 December 2018

Supreme Court of Victoria approves Scheme of Arrangement

Mitula Group Limited (“**Mitula**”) announces that the Supreme Court of Victoria (“**Court**”) has today made orders approving the scheme of arrangement under which LIFULL Co., Ltd (“**LIFULL**”) will acquire all of the shares in Mitula (“**Scheme**”).

Mitula also confirms that it has lodged a copy of the Court’s orders approving the Scheme with the Australian Securities and Investments Commission today, at which time the Scheme became legally effective. A copy of the Court’s orders is attached to this announcement.

Mitula shares will be suspended from trading on ASX from close of trading today.

All conditions precedent to the Scheme have been satisfied or waived. The Scheme is now effective and no further action from Mitula shareholders is required.

Scheme Consideration

Mitula shareholders who do not make an All Scrip Election will be entitled to receive:

- \$0.80 cash per Scheme Share for the first 20,000 of their Scheme Shares that were held as at 7pm, Wednesday 24 October 2018; and
- 0.0753 New LIFULL Shares for each remaining Scheme Share including any Scheme Shares for which they became the beneficial or registered holder after 7pm, Wednesday 24 October 2018, subject to the application of the Downside Price Protection Mechanism or the Upside Participation Cap.

ENDS

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

S ECI 2018 00452

IN THE MATTER OF MITULA GROUP LIMITED
ACN 604 677 796

MITULA GROUP LIMITED
ACN 604 677 796

Plaintiff

ORDER

JUDGE: The Honourable Justice Robson

DATE MADE: 13 December 2018

ORIGINATING PROCESS: Originating Process filed on 20 July 2018

HOW OBTAINED: On the further return of the Originating Process

ATTENDANCE: P D Crutchfield of Her Majesty's Counsel and
B K Holmes of counsel (for the Plaintiff)

M I Borsky of Her Majesty's Counsel and
Dr E J Boros of counsel (for LIFULL Co. Ltd.)

OTHER MATTERS:

A. The Court received into evidence the Sixth Affidavit of Rodd Ashton Levy dated 13 December 2018 and the exhibits thereto.

B. There has been produced to the Court a statement in writing by the Australian Securities and Investments Commission (**ASIC**) in accordance with section 411(17)(b) of the *Corporations Act 2001* (Cth) stating that ASIC has no objection to the scheme of arrangement between the Plaintiff and its members referred to in this Order.



- C. Associate Justice Gardiner has by order made on 12 December 2018 pursuant to rule 16.6 of the *Supreme Court (Corporations) Rules 2013* (Vic) declared that the meeting of the members of the Plaintiff convened pursuant to the order of the Honourable Justice Robson made on 25 October 2018 and held on 11 December 2018 was duly convened and held and the resolution considered by the said meeting was duly passed.
- D. The New LIFULL Shares (as defined in the Scheme of Arrangement) to be issued pursuant to the Scheme will not be registered under the *Securities Act 1933* (US) or the securities laws of any other state jurisdiction in the United States. In connection with the implementation of the Scheme and the issue of New LIFULL Shares, LIFULL and Mitula intend to rely:
- (a) on the Supreme Court of Victoria's approval of the Scheme; and
 - (b) on section 3(a)(10) of the *Securities Act 1933* (US).

THE COURT ORDERS THAT:

1. Pursuant to sub-sections 411(4)(b) and 411(6) of the *Corporations Act 2001* (Cth) (**Act**), the scheme of arrangement between the Plaintiff and its members agreed to by the said members at the meeting held on 11 December 2018 (the terms of which are set out in the document annexed as Schedule 1 to this order), be and is hereby approved, with the alterations incorporated in the Scheme as it appears in the Schedule to the Second SID Amending Deed dated 19 November 2018 (which is included in exhibit RAL-16 to the Fourth Affidavit of Rodd Ashton Levy sworn on 22 November 2018, and which is Schedule 2 to this order).
2. Pursuant to s 411(12) of the Act, the Plaintiff be exempted from compliance with section 411(11) of the Act in relation to paragraph 1 of this order.
3. This order be drawn up by the solicitors for the Plaintiff and it be signed by the Honourable Justice Robson pursuant to rule 60.02(2) of the *Supreme Court (General Civil Procedure) Rules 2015* (Vic).



The Honourable Justice Robson

SCHEDULE 1 – SCHEME OF ARRANGEMENT



Scheme of Arrangement

Baker & McKenzie
ABN 32 266 778 912
Level 19
181 William Street
Melbourne VIC 3000
Australia
www.bakermckenzie.com
Richard Lustig/Robert Gough

Scheme of Arrangement

Parties

This scheme of arrangement is made under section 411 of the *Corporations Act 2001* (Cth) between:

- (a) **Mitula Group Limited** (ABN 82 604 677 796) of Suite 810, Level 8, 2 Queen Street, Melbourne, Victoria, 3000 Australia (**Target**)
- (b) Each person who holds one or more Scheme Shares (**Scheme Shareholders**).

Background

- A Target is a company limited by shares and is admitted to the official list of ASX.
- B LIFULL Co., Ltd. (**Bidder**) is a public company limited by shares and its common shares are listed on the first section of TSE.
- C On 9 May 2018, Bidder and Target entered into the Implementation Deed pursuant to which, amongst other things, Target has agreed to propose this Scheme to the Scheme Shareholders, and each of Target and Bidder have agreed to take certain steps to give effect to this Scheme.
- D If this Scheme becomes Effective, then all the Scheme Shares will be transferred to Bidder and the Scheme Consideration will be provided to or on behalf of the Scheme Shareholders in accordance with the provisions of this Scheme.
- E Bidder has entered into the Deed Poll for the purposes of covenanting in favour of Scheme Shareholders to perform all actions attributed to it under this Scheme.

The parties agree:

1. Defined terms and interpretation

Definitions in the Dictionary

- 1.1 A term or expression starting with a capital letter:
 - (a) which is defined in the Dictionary in the Schedule (**Dictionary**), has the meaning given to it in the Dictionary; and
 - (b) which is defined in the Corporations Act, but is not defined in the Dictionary, has the meaning given to it in the Corporations Act.

Interpretation

- 1.2 The interpretation clause in the Schedule sets out rules of interpretation for this document.

2. Conditions

Conditions to the Scheme

- 2.1 The Scheme is conditional upon, and will have no force or effect until, the satisfaction of each of the following:
 - (a) as at 8.00am on the Second Court Date, each of the conditions set out in clause 3.1 of the Implementation Deed (other than the condition relating to the approval of the Court set out in clause 3.1(d) of the Implementation Deed) have been satisfied or waived in accordance with the terms of the Implementation Deed;

- (b) as at 8.00am on the Second Court Date, neither the Implementation Deed nor the Deed Poll have been terminated in accordance with their terms;
- (c) the Court approves this Scheme under section 411(4)(b) of the Corporations Act;
- (d) subject to clause 8.14, such other conditions made or required by the Court under section 411(6) of the Corporations Act in relation to the Scheme have been satisfied or waived; and
- (e) the coming into effect of the Scheme Order, on or before the End Date.

Certificate

- 2.2 Target will provide to the Court on the Second Court Date a certificate signed by Bidder and Target (or such other evidence as the Court requests) stating whether or not the conditions referred to in clause 3.1 of the Implementation Deed (other than the condition relating to the approval of the Court set out in clause 3.1(d) of the Implementation Deed) have been satisfied or waived in accordance with the terms of the Implementation Deed as at 8.00am on the Second Court Date.
- 2.3 The certificate referred to in clause 2.2 constitutes conclusive evidence that the conditions referred to in clause 3.1 of the Implementation Deed (other than the condition relating to the approval of the Court set out in clause 3.1(d) of the Implementation Deed) were satisfied or waived in accordance with the terms of the Implementation Deed on or before 8.00am on the Second Court Date.

Termination

- 2.4 Without limiting any rights under the Implementation Deed, if the Implementation Deed is terminated in accordance with its terms before the Scheme becomes Effective, Target is released from any further obligation to take steps to implement the Scheme and any liability with respect to the Scheme (other than in respect of any Break Fee that may be payable by Target under terms of the Implementation Deed).

3. The Scheme

- 3.1 Subject to clause 2.1, this Scheme takes effect for all purposes on the Effective Date.
- 3.2 This Scheme will lapse and be of no further force or effect if the Effective Date has not occurred on or before the End Date.

4. Implementation of the Scheme

Lodgement of Scheme Order with ASIC

- 4.1 If the conditions in clauses 2.1(a) to 2.1(d) are satisfied, Target must lodge with ASIC, in accordance with section 411(10) of the Corporations Act, an office copy of the Scheme Order approving this Scheme as soon as possible after, and in any event by 7.00pm on the first Business Day after, the day on which the Court approves this Scheme.

Transfer of Scheme Shares

- 4.2 Subject to this Scheme becoming Effective, the following actions will occur (in the order set out below):
 - (a) Bidder will provide the Scheme Consideration in the manner contemplated by clause 5; and

- (b) on the Implementation Date:
 - (i) the Scheme Shares, together with all rights and entitlements attaching to the Scheme Shares as at the Implementation Date, must be transferred to Bidder, without the need for any further act by any Scheme Shareholder (other than acts performed by Target as attorney and agent for Scheme Shareholders under clause 8.1), by Target effecting a valid transfer or transfers of the Scheme Shares to Bidder under section 1074D of the Corporations Act or, if that procedure is not available for any reason, by:
 - (A) Target delivering to Bidder a duly completed Scheme Transfer, executed on behalf of the Scheme Shareholders by Target; and
 - (B) Bidder duly executing the Scheme Transfer, attending to the stamping of the Scheme Transfer (if required) and delivering it to Target for registration; and
 - (ii) immediately following receipt of the Scheme Transfer in accordance with clause 4.2(b)(i)(B) or the transfer being effected under section 1074D of the Corporations Act (as the case may be), Target must enter, or procure the entry of, the name of Bidder in the Target Register in respect of all the Scheme Shares transferred to Bidder in accordance with this Scheme.

5. Scheme Consideration

Scheme Consideration

- 5.1 Subject to the terms of the Implementation Deed and this Scheme, the Scheme Consideration to be provided to each Scheme Shareholder will be as follows:
- (a) where that Scheme Shareholder has not made an Election, and is a Cut Off Date Shareholder:
 - (i) the Cash Consideration for each Cash Consideration Entitlement Share held by that Scheme Shareholder as at the Scheme Record Date; and
 - (ii) the Scrip Consideration for each other Scheme Share held by that Scheme Shareholder;
 - (b) where that Scheme Shareholder has not made an Election and is not a Cut Off Date Shareholder, the Scrip Consideration for all Scheme Shares held by that Scheme Shareholder; or
 - (c) where that Scheme Shareholder has made an Election, the Scrip Consideration for each Scheme Share held by that Scheme Shareholder.

Downside Price Protection Mechanism

- 5.2 The Downside Price Protection Mechanism applies if the Final Bidder Share Price is less than the Initial Bidder Share Price.
- 5.3 Subject to clause 5.4, if the Downside Price Protection Mechanism applies, the Scrip Consideration for each Scheme Share will be increased to equal:
- (a) 0.0753, being the ratio set out in the definition of Scrip Consideration;
 - (b) multiplied by the Initial Bidder Share Price; and

(c) divided by the Final Bidder Share Price,

rounded to 6 decimal places.

- 5.4 The maximum number of New Bidder Shares that a Scheme Shareholder will be entitled to receive under clause 5.3 for each Scheme Share will be capped at 0.084336, being the Scrip Consideration ratio multiplied by 112%.

Upside Participation Cap

- 5.5 The Upside Participation Cap applies if the Final Bidder Share Price is more than 8% higher than the Initial Bidder Share Price. To avoid any doubt, the Upside Participation Cap does not apply if the Final Bidder Share Price is equal to or less than 8% higher than the Initial Bidder Share Price.

- 5.6 If the Upside Participation Cap applies, then the Scrip Consideration for each Scheme Share will be reduced to equal:

- (a) 0.0753, being the ratio set out in the definition of Scrip Consideration;
- (b) multiplied by the Initial Bidder Share Price;
- (c) divided by the Final Bidder Share Price; and
- (d) multiplied by 108%,

rounded to 6 decimal places.

Election Mechanism

- 5.7 A Scheme Shareholder may make a valid election (such election being subject to the terms of the Implementation Deed and this Scheme) for the purposes of clause 5.1(c) (**Election**).

- 5.8 The Election Form must be in a form agreed between Target and Bidder and shall provide that (subject to clause 5.9):

- (a) a Scheme Shareholder may make only one Election in relation to a particular holding;
- (b) any Election by a Scheme Shareholder will apply to all of the Scheme Shares held by that Scheme Shareholder;
- (c) an Election may be made by a Scheme Shareholder by:
 - (i) completing the Election Form in accordance with the instructions specified on the form or set out in the Scheme Booklet; and
 - (ii) returning the completed Election Form in accordance with the instructions on it so that it is received by no later than the Election Date,

or by taking equivalent actions in electronic form if permitted by the Court at the first Court hearing by no later than the Election Date;

- (d) once made, an Election by a Scheme Shareholder may be varied at any time on or before the Election Date; and
- (e) if an Election is not made by a Scheme Shareholder on or prior to the Election Date, then that Scheme Shareholder will receive the Scheme Consideration in respect of their Scheme Shares in accordance with clause 5.1.

5.9 Notwithstanding any other provision of this Scheme, a Scheme Shareholder who:

- (a) can demonstrate to the satisfaction of both Target and Bidder (each acting reasonably) that it holds one or more parcels of Scheme Shares as trustee or nominee for, or otherwise on account of, another person; and
- (b) provides a written notification to that effect to Target, in a form acceptable to Target (acting reasonably),

is entitled to the Scheme Consideration as if each parcel of Scheme Shares was held by a separate Scheme Shareholder, may make separate Elections in relation to each of those parcels, and an Election made in respect of one such parcel will not be taken to extend to the other parcels. To avoid any doubt, where a Scheme Shareholder holds one or more parcels of Scheme Shares as trustee or nominee for, or otherwise on account of, another person and makes separate Elections, Bidder will only be required to recognise the Scheme Shareholder as the party entitled to receive any Scheme Consideration.

5.10 Target must ensure that, to the extent reasonably practicable, Scheme Shareholders who have acquired Scheme Shares after the date of the dispatch of the Scheme Booklet can receive an Election Form on request to Target.

5.11 In order to facilitate the provision of the Scheme Consideration, Target must provide Bidder with:

- (a) a weekly update of the Elections that have been received;
- (b) details of the Final Elections made by each Scheme Shareholder, as soon as reasonably practicable after each of the Election Date and the Record Date (and must use best endeavours to ensure that the information is provided within one Business Day of the relevant date); and
- (c) a complete copy of the Target Register (which must include the name, registered address and registered holding of each Scheme Shareholder) as at each of the Cut Off Date, the date of the Scheme Booklet, the date of the Scheme Meeting and the Record Date:
 - (i) in respect of each of the Cut Off Date, the date of the Scheme Booklet and the date of the Scheme Meeting, as soon as reasonably practicable after the relevant date (and must use best endeavours to ensure that the information is provided within one Business Day after the relevant date); and
 - (ii) in respect of the Record Date, as soon as reasonably practicable on or after the Record Date (and must use best endeavours to ensure that the information is provided on the Record Date),

and such other information as Bidder may reasonably require to provide the Scheme Consideration in accordance with the Implementation Deed and the terms of this Scheme. Target acknowledges that a delay in providing Bidder with such information on or after the Election Date and the Record Date is likely to result in a delay in either or both of the Implementation Date and the Settlement Completion Date.

Election to receive Scrip Consideration

5.12 If a Scheme Shareholder has made an Election, the Scheme Shareholder will be entitled to receive the Scrip Consideration for each Scheme Share held by that Scheme Shareholder at the Record Date that is the subject of the Election.

Provision of Scheme Consideration – Cash Consideration

- 5.13 Bidder must, by no later than three Business Days before the Implementation Date, deposit in cleared funds an amount equal to the Aggregate Cash Consideration in an Australian dollar denominated trust account nominated by Target to Bidder in writing and operated by or on behalf of Target as trustee of the Scheme Shareholders who are entitled to receive the Cash Consideration, provided that any interest on the amounts deposited (less bank fees and other charges) will be credited to Bidder's account.
- 5.14 Subject to Bidder having complied with clause 5.13, Target must, on the Implementation Date and from the trust account referred to in clause 5.13, pay or procure the payment to each Scheme Shareholder who is entitled to receive the Cash Consideration, that part of the Aggregate Cash Consideration attributable to that Scheme Shareholder, based on the number of Scheme Shares held by that Scheme Shareholder as at the Record Date.
- 5.15 Target's obligation under clause 5.14 will be satisfied by Target:
- (a) where a Scheme Shareholder has, before the Record Date, made an election in accordance with the requirements of either the Scheme Booklet or otherwise the Target Share Registry to receive dividend payments from Target or the Cash Consideration, by electronic funds transfer to a bank account nominated by the Scheme Shareholder (**Registered Account**), paying, or procuring the payment of, the relevant amount of Australian currency by electronic means in accordance with that Election into the Registered Account; or
 - (b) if the Scheme Shareholder has not made an election for the purposes of clause 5.15(a), dispatching, or procuring the dispatch of, a cheque in Australian currency to the Scheme Shareholder by prepaid post (or, if the Registered Address of the Scheme Shareholder is outside Australia, by prepaid airmail post) to the Registered Address as at the Record Date, such cheque being drawn in the name of the Scheme Shareholder (or in the case of joint holders, in accordance with the procedures set out in clause 5.26), for the relevant amount.

Provision of Scheme Consideration – Allotment and issue of New Bidder Shares

- 5.16 Subject to clauses 5.17 to 5.25 and to the Scheme becoming Effective, Bidder must allot and issue to or on behalf of the Scheme Shareholders the New Bidder Shares that comprise the Scheme Consideration in accordance with the Scheme and Final Elections.

Settlement

- 5.17 On the Implementation Date, Bidder will issue the New Bidder Shares and will ensure that the New Bidder Shares are recorded in a securities account with an account management institution in Japan that has been admitted by the Japan Securities Depository Center Inc. (**JASDEC Account**) to be held by a custodian on behalf of the relevant Scheme Shareholders (**Account B**) on the basis that Bidder procures that the custodian satisfies all of its obligations with respect thereto, on the basis that in relation to:
- (a) negotiating and finalising the terms on which the Custodian is so engaged; and
 - (b) any other documentation in relation to the settlement process in clauses 5.17 to 5.21 (including the sales policy),
- Bidder will consult with Target in relation to the terms of those documents, and consider in good faith, for the purpose of amending those documents, comments from Target.

- 5.18 If a Scheme Shareholder returns a validly completed "designated securities account form" as contemplated by the Scheme Booklet (**Form A**) by the Election Date, on the date which is 7 Business Days after the Implementation Date (**Settlement Completion Date**), Bidder will ensure that the New Bidder Shares to which the Scheme Shareholder is entitled are transferred from Account B into the name of the Scheme Shareholder in accordance with the Form A.
- 5.19 If a Scheme Shareholder returns a validly completed "comprehensive account A form" as contemplated by the Scheme Booklet (**Form B**) by the Election Date, on the Settlement Completion Date, Bidder will ensure that the New Bidder Shares to which the Scheme Shareholder is entitled are transferred from Account B into the comprehensive account A nominated by the Scheme Shareholder in accordance with the Form B, and Bidder will ensure that each relevant Scheme Shareholder is entitled to the voting rights and the right to receive dividends as a holder of the New Bidder Shares transferred into the comprehensive account A.
- 5.20 If a Scheme Shareholder does not return either Form A or a Form B by the Election Date (**No Action Scheme Shareholder**), the New Bidder Shares to which the No Action Scheme Shareholder is entitled will remain in Account B until the earlier of:
- (a) the No Action Scheme Shareholder has advised Bidder in the manner described in the Scheme Booklet; or
 - (b) such New Bidder Shares are sold or otherwise dealt with on behalf of the No Action Scheme Shareholder subject to and in accordance with the sales policy described in the Scheme Booklet and all the proceeds of sale are remitted to the No Action Scheme Shareholder (after deducting any applicable brokerage, stamp duty and other selling costs, taxes and charges).
- 5.21 Target must procure that:
- (a) a complete copy of each Form A and Form B received by or on behalf of Target is provided to Bidder or its nominee by no later than 3 Business Days after each such form is received by or on behalf of Target; and
 - (b) a summary of all such Forms A and Forms B received is provided to Bidder or its nominee no later than one Business Day after the Record Date, including:
 - (i) the number of New Bidder Shares to be issued in aggregate and on an individual basis for each Scheme Shareholder; and
 - (ii) the quantity of Cash Consideration to be paid by Bidder in aggregate and on an individual basis for each Scheme Shareholder.

Ineligible Foreign Shareholders

- 5.22 Bidder will be under no obligation under the Scheme to issue, and will not issue, any New Bidder Shares to any Ineligible Foreign Shareholder, and instead, unless Bidder and Target otherwise agree, Bidder will issue into Account B on the Implementation Date the New Bidder Shares to which that Ineligible Foreign Shareholder would otherwise have been entitled (if they were a Scheme Shareholder who was not an Ineligible Foreign Shareholder).
- 5.23 Where New Bidder Shares are issued pursuant to clause 5.22, Bidder will procure that, on the Settlement Completion Date, the New Bidder Shares will be transferred to a JASDEC Account held by one or more custodians on behalf of Scheme Shareholders and such custodians thereafter:
- (a) sells on TSE the New Bidder Shares subject to and in accordance with the sales policy described in the Scheme Booklet; and

- (b) all the proceeds of sale are remitted to the Ineligible Foreign Shareholder (after deducting any applicable brokerage, stamp duty and other selling costs, taxes and charges).

Fractional entitlements

- 5.24 Any fractional entitlement of a Scheme Shareholder to a part of a New Bidder Share will be rounded down to the nearest whole number of New Bidder Shares.

Share splitting

- 5.25 If Bidder or Target are of the opinion that a Scheme Shareholder has been a party to Share Splitting or division in an attempt to obtain an unfair advantage in relation to accessing the Cash Consideration, then Bidder and Target must consult in good faith to determine whether such matters have arisen and if agreement is reached between Bidder and Target following such consultation, Target must give notice to those Scheme Shareholders:

- (a) setting out their names and registered addresses as shown in the Target Register;
- (b) stating that opinion; and
- (c) attributing the Scheme Shares held by all of them to one of them as specifically identified in the notice,

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 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 Scheme, be taken to hold no Scheme Shares. Bidder, in complying with the other provisions of the Scheme relating to it 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 its obligations to the other Scheme Shareholders named in the notice under the terms of the Scheme.

Joint holders

- 5.26 In the case of Scheme Shares held in joint names:
- (a) any cheque required to be paid to Scheme Shareholders will be payable to the joint holders and will be forwarded to the holder whose name appears first in the Target Register on the Record Date; and
 - (b) any other document required to be sent under this Scheme will be forwarded to the holder whose name appears first in the Target Register as at the Record Date.

Surplus funds

- 5.27 Subject to clause 5.28, to the extent that, following satisfaction of Target's obligations under clauses 5.14 and 5.15, there is a surplus in the amount held by Target as trustee for the Scheme Shareholders in the trust account referred to in that clause, that surplus must be paid by Target to Bidder.

Unclaimed Cash Consideration

- 5.28 If:
- (a) in the case of a deposit under clause 5.15(a), the deposit is rejected or refunded or a Registered Account which has previously been notified is no longer valid; or

- (b) in the case of a dispatch of a cheque under clause 5.15(b), a cheque properly despatched by or on behalf of Target is:
 - (i) returned to Target (or its agents) as undelivered;
 - (ii) not presented by a Scheme Shareholder within six months after the Implementation Date; or
 - (iii) Target reasonably believes that a Scheme Shareholder is not known at a Scheme Shareholder's Registered Address,

then Target may cancel the relevant cheque and credit the amount payable to the relevant Scheme Shareholder to a separate bank account of Target to be held until the Scheme Shareholder claims the amount, or the amount is dealt with in accordance with any applicable unclaimed moneys legislation. An amount credited to the account is to be treated as having been paid to the Scheme Shareholder when credited to the account. Target must maintain records (for the minimum period required by applicable law) of the amounts paid, the people who are entitled to the amounts, and any transfers of the amounts.

6. Dealings in Target Shares

Determination of Scheme Shareholders

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

and Target must not accept for registration, nor recognise for any purpose (except a transfer to Bidder pursuant to this Scheme and any subsequent transfer by Bidder or 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.

Register

- 6.2 Target must register all registrable transmission applications or transfers of the Scheme Shares in accordance with clause 6.1(b) on or before the Record Date, provided that, for the avoidance of doubt, nothing in this clause 6.2 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 6.2 'marketable parcel' has the meaning given in the official operating rules of ASX).
- 6.3 If this Scheme becomes Effective, a Scheme Shareholder (and any person claiming through that Scheme Shareholder) must not dispose of, or purport or agree to dispose of, any Scheme Shares or any interest in them after the 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.

- 6.4 For the purpose of determining entitlements to the Scheme Consideration, Target must maintain the Target Register in accordance with the provisions of this clause 6 until the Scheme Consideration has been paid to the Scheme Shareholders. The Target Register in this form will solely determine entitlements to the Scheme Consideration.
- 6.5 All statements of holding for Target Shares (other than statements of holding in favour of Bidder) will cease to have effect after the Record Date as documents of title in respect of those shares and, as from the Record Date, each entry on the Target Register (other than entries on the Target Register 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.
- 6.6 As soon as possible on or after the Record Date, and in any event within one Business Day after the Record Date, Target will ensure that details of the names, registered addresses and holdings of Target Shares for each Scheme Shareholder as shown in the Target Register as at the Record Date are available to Bidder in the form Bidder reasonably requires.

7. Quotation of Target Shares

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

8. General Scheme provisions

Appointment of agent and attorney

- 8.1 On this Scheme becoming Effective, each Scheme Shareholder, without the need for any further act, irrevocably appoints Target as its agent and attorney for the purposes of:
- (a) in the case of Scheme Shares in a CHESS holding:
 - (i) causing a message to be transmitted to ASPL in accordance with the ASX Settlement Rules to transfer the Scheme Shares held by the Scheme Shareholder from the CHESS subregister of Target to the issuer sponsored subregister operated by Target or the Target Share Registry at any time after Bidder has paid or procured the payment of the Scheme Consideration which is due under this Scheme to Scheme Shareholders; and
 - (ii) completing and signing on behalf of Scheme Shareholders any required form of transfer of Scheme Shares;
 - (b) in the case of Scheme Shares registered in the issuer sponsored subregister operated by Target or the Target Share Registry, completing and signing on behalf of Scheme Shareholders any required form of transfer;
 - (c) in all cases, executing any document or form or doing any other act necessary to give effect to the terms of this Scheme including, without limitation, the execution of the Scheme Transfer and the giving of the Scheme Shareholder's consent under clause 8.4; and

(d) enforcing the Deed Poll against Bidder,

and Target accepts such appointment.

- 8.2 Target, as agent and attorney of each Scheme Shareholder, may sub-delegate its functions, authorities or powers under clause 8.1 to all or any of its directors and officers (jointly, severally, or jointly and severally).

Enforcement of Deed Poll

- 8.3 Target undertakes in favour of each Scheme Shareholder that it will enforce the Deed Poll against Bidder (as applicable on behalf of and as agent and attorney for the Scheme Shareholders).

Scheme Shareholders' consent

- 8.4 Each Scheme Shareholder irrevocably consents to Target and Bidder 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.

Scheme Shareholders' agreements

- 8.5 Under this Scheme:
- (a) each Scheme Shareholder 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) each Scheme Shareholder agrees to the variation, cancellation or modification of the rights attached to their Scheme Shares constituted by or resulting from this Scheme;
 - (c) each Scheme Shareholder acknowledges that this Scheme binds Target and all Scheme Shareholders (including those who did not attend the Scheme Meeting and those who did not vote, or voted against this Scheme, at the Scheme Meeting) and, to the extent of any inconsistency, overrides the constitution of Target; and
 - (d) each Scheme Shareholder in respect of which clause **Error! Reference source not found.** or **Error! Reference source not found.** is applicable accepts the New Bidder Shares issued to or on behalf of the Scheme Shareholder under the Scheme on the terms and conditions of the Bidder constitution.

Warranty by Scheme Shareholders

- 8.6 Each Scheme Shareholder is deemed to have warranted to Bidder that:
- (a) all their Scheme Shares (including any rights and entitlements attaching to those Scheme Shares) will, at the date of the transfer of them to Bidder, be fully paid and free from all mortgages, charges, security interests (including any 'security interests' within the meaning of section 12 of the *Personal Property Securities Act 2009* (Cth)), liens, encumbrances and interests of third parties of any kind, whether legal or otherwise, and restrictions on transfer of any kind; and
 - (b) they have full power and capacity to sell and to transfer their Scheme Shares, and all rights and entitlements attaching to those Scheme Shares, to Bidder.

Title to Scheme Shares

- 8.7 Immediately upon provision of the Scheme Consideration in accordance with clauses 5.14 and 5.16, Bidder will be beneficially entitled to the Scheme Shares transferred to it under this Scheme pending registration by Target of Bidder in the Target Register as the holder of the Scheme Shares.
- 8.8 To the extent permitted by law, the Scheme Shares (including all rights and entitlements attaching to the Scheme Shares) transferred under this Scheme to Bidder will, at the time of transfer of them to Bidder, vest in Bidder free from all mortgages, charges, security interests (including any 'security interests' within the meaning of section 12 of the *Personal Property Securities Act 2009* (Cth)), liens, encumbrances and interests of third parties of any kind, whether legal or otherwise, and restrictions on transfer of any kind.

Appointment of sole proxy

- 8.9 Immediately upon provision of the Scheme Consideration in accordance with clauses 5.14 and 5.16, and until Target registers Bidder as the holder of all Scheme Shares in the Target Register, each Scheme Shareholder:
- (a) is deemed to have appointed Bidder as attorney and agent (and directed Bidder in each such capacity) to appoint any director, officer, secretary or agent nominated by Bidder as its sole proxy and, where applicable or appropriate, corporate representative to attend shareholders' meetings, exercise the votes attaching to the Scheme Shares registered in their name and sign any shareholders' resolution;
 - (b) acknowledges that no Scheme Shareholder may itself attend or vote at any of those meeting or sign any resolutions, whether in person, by proxy or by corporate representative (other than pursuant to clause 8.9(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 conferred in clause 8.9(a), Bidder and any director, officer, secretary or agent nominated by Bidder under that clause may act in the best interests of Bidder as the intended registered holder of the Scheme Shares.

Notices

- 8.10 Where a notice, transfer, transmission application, direction or other communication referred to in this Scheme is sent by post to Target, it will not be deemed to be received in the ordinary course of post or on a date other than the date (if any) on which it is actually received at Target's registered office or at the Target Share Registry as the case may be.

Inconsistencies

- 8.11 This Scheme binds Target and all Target Shareholders, and to the extent of any inconsistency, overrides the Target constitution.

No liability when acting in good faith

- 8.12 None of Bidder, Target nor any director, officer, secretary or employee of either Bidder or Target will be liable for anything done or omitted to be done in good faith in the performance of this Scheme or the Deed Poll.

Further assurance

- 8.13 Target will execute all documents and do all acts and things as may be necessary or expedient for the implementation of, and performance of its obligations under, this Scheme.

Alterations and conditions

- 8.14 If the Court proposes to approve this Scheme subject to any conditions or alterations under section 411(6) of the Corporations Act, Target may, by its counsel on behalf of all persons concerned, consent to only such of those conditions or alterations to this Scheme to which Bidder has consented, such consent not to be unreasonably withheld or delayed.

Stamp Duty

- 8.15 Bidder will pay any stamp duty payable on the transfer by Scheme Shareholders of the Scheme Shares to Bidder.

Governing Law

- 8.16 This Scheme is governed by and will be construed according to the laws of Victoria.

Schedule

Dictionary

1. Defined terms

1.1 In this Scheme, except where the context otherwise requires:

Aggregate Cash Consideration means the aggregate amount of the Cash Consideration payable to Scheme Shareholders.

ASIC means the Australian Securities and Investments Commission.

ASPL means ASX Settlement Pty Ltd (ABN 49 008 504 532).

ASX means ASX Limited (ABN 98 008 624 691) or, if the context requires, the financial market operated by it.

ASX Settlement Rules means the ASX Settlement Operating Rules.

Australian Dollar Equivalent means the amount in Australian dollars based on the Japan/Australia exchange price specified by the Reserve Bank of Australia (online at <https://www.rba.gov.au/statistics/frequency/exchange-rates.html>) at 4.15pm on the relevant day (and if there is no such price specified on that day, then the price specified on the most recent day specified before then).

Bidder means LIFULL Co., Ltd of 1-4-4, Kojimachi, Chiyoda-ku, Tokyo, 102-0083, Japan.

Bidder VWAP means:

- (a) subject to paragraph (b) below, the volume weighted average price of Bidder Shares traded on TSE that is calculated and displayed by the TSE as the daily volume weighted average price of Bidder Shares on each of the Trading Days comprising the Bidder VWAP Period, provided that, the basis for the volume weighted average price of Bidder Shares excludes any trades made outside the TSE's auction market (including but not limited to (i) single-issue transactions, (ii) basket transactions, (iii) closing price transactions, (iv) off-auction own shares repurchase transactions (each as defined in the Special Regulations of Business Regulations and Brokerage Agreement Standards Concerning ToSTNeT Market of TSE), (v) any overseas trades or (vi) trades pursuant to the exercise of options over Bidder Shares) and such other trades that Bidder and Target reasonably agree to exclude on the basis that they are not representative of the general price at which Bidder Shares are trading on TSE in the context of trading in Bidder Shares on any of the Trading Days in the Bidder VWAP Period; and
- (b) where:
 - (i) on some or all of the Trading Days in the Bidder VWAP Period, Bidder Shares have been quoted on TSE as *cum* dividend or *cum* any other distribution or entitlement and the New Bidder Shares will not carry the entitlement on the Implementation Date (**Ex Date**), then the volume weighted average price on the Trading Days on which those shares have been quoted *cum* dividend or *cum* entitlement shall be reduced by an amount (**Cum Value**) equal to:
 - (A) (in the case of a dividend), the amount of the Expected Dividend;

- (B) (in the case of an entitlement which is traded on TSE on any of those Trading Days), the volume weighted average price of all such entitlements sold on TSE during the Bidder VWAP Period on Trading Days on which those entitlements were traded; or
 - (C) (in the case of an entitlement which is not traded on TSE on any of those Trading Days), the value of the entitlement determined by the directors of Bidder in good faith after consultation with Target; and
- (ii) on some or all of the Trading Days in the Bidder VWAP Period, Bidder Shares have been quoted on TSE as ex dividend, ex distribution or ex entitlement, and the New Bidder Shares will be entitled to receive the relevant dividend, distribution or entitlement, then the volume weighted average price on the Trading Days on which the New Bidder Shares have been quoted ex dividend, ex distribution or ex entitlement shall be increased by the Cum Value.

Bidder VWAP Period means the 10 Trading Days up to and including the Record Date.

Business Day means a day that is not a Saturday, Sunday or a public holiday or bank holiday in Melbourne, Victoria, Luxembourg or Tokyo, Japan.

Cash Consideration means A\$0.80 per Scheme Share.

Cash Consideration Entitlement Share means for each Cut Off Date Shareholder:

- (a) if the Cut Off Date Shareholder held 20,000 or less Target Shares as at the Cut Off Date, all of the Target Shares held by the Cut Off Date Shareholder as at the Cut Off Date; or
- (b) if the Cut Off Date Shareholder held more than 20,000 Target Shares as at the Cut Off Date, 20,000 Target Shares.

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

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

Court means the Supreme Court of Victoria or any other court of competent jurisdiction under the Corporations Act as the parties may agree in writing.

Cut Off Date means 7.00 pm on 24 October 2018.

Cut Off Date Shareholder means each Scheme Shareholder who was also a Target Shareholder on the Cut Off Date.

Deed Poll means the deed poll executed by Bidder under which Bidder covenants in favour of the Scheme Shareholders to perform all actions attributed to it under this Scheme.

Downside Price Protection Mechanism means the downside price protection mechanism set out in clauses 5.2 to 5.4 (inclusive).

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

Effective Date, with respect to the Scheme, means the date on which the Scheme becomes Effective.

Election is defined in clause 5.7 and **Elect** has a corresponding meaning.

Election Date means the last date and time for receipt of an Election Form in order to make an Election in accordance with the terms of the Scheme, being 7.00pm on the Second Court Date or such other date as Target and Bidder agree in writing.

Election Form means the election form provided with the Scheme Booklet under which each Scheme Shareholder (other than an Excluded Shareholder) may Elect to receive the Scrip Consideration (instead of the Cash Consideration) in respect of all of their Scheme Shares.

End Date means the later of:

- (a) 14 December 2018; and
- (b) such other date and time agreed in writing between Bidder and Target.

Excluded Shareholder means any Target Shareholder who is Bidder or a wholly-owned subsidiary of Bidder.

Expected Dividend means Bidder's expected dividend amount obtained by multiplying (i) the amount of Bidder's then current forecast on the basic earnings per share disclosed in filings with the TSE by (ii) Bidder's then current payout ratio disclosed in filings with the TSE, each in respect of the relevant period.

Final Bidder Share Price means the Bidder VWAP for the Bidder VWAP Period using the Australian Dollar Equivalent on each Trading Day.

Final Election means, in respect of each Scheme Shareholder that returned an Election in accordance with the instructions on the Election Form, the last Election received by Target as at the Election Date.

First Court Date means the date the Court first hears the application to order the convening of the Scheme Meeting under section 411(1) of the Corporations Act.

Governmental Agency means, whether domestic or foreign, any government or representative of a government or any governmental, semi-governmental, administrative, fiscal, regulatory or judicial body, department, commission, authority, tribunal, agency, competition authority or entity and includes any minister, ASIC, ASX, TSE and any regulatory organisation established under statute or any stock exchange.

Implementation Date means, with respect to the Scheme, the eighth Business Day, or such other Business Day as the parties agree, following the Record Date for the Scheme.

Implementation Deed means the scheme implementation deed dated 9 May 2018 between Bidder and Target, as amended or varied from time to time.

Ineligible Foreign Shareholder means a Scheme Shareholder whose address as shown in the Target Register (as at the Record Date) is in a place which is unlawful or unduly onerous to issue that Scheme Shareholder with New Bidder Shares when the Scheme becomes Effective (provided that a Scheme Shareholder whose address shown in the Target Register is within Australia and its external territories, New Zealand, Spain, Hong Kong and any other jurisdictions determined by Target in consultation with Bidder will not be an Ineligible Foreign Shareholder).

Initial Bidder Share Price means A\$11.29.

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

New Bidder Share means a fully paid ordinary share in the capital of Bidder to be issued under the Scheme and to be listed on TSE.

Record Date means, in respect of the Scheme, 7.00pm on the third Business Day (or such other Business Day as the parties agree in writing) following the Effective Date.

Registered Account has the meaning given in clause 5.15(a).

Registered Address means the address of each Scheme Shareholder as recorded in the Target Register as at the Record Date.

Scheme means the proposed scheme of arrangement pursuant to Part 5.1 of the Corporations Act between Target and the Scheme Shareholders as set out in this Scheme together with, subject to clause 8.14, any alterations or conditions made or required by the Court under section 411(6) of the Corporations Act.

Scheme Booklet means the explanatory booklet which accompanies and includes the notice of Scheme Meeting.

Scheme Consideration means the consideration payable to Scheme Shareholders under the Scheme, being comprised of the Scrip Consideration and the Cash Consideration.

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

Scheme Order means the orders of the Court made under section 411(4)(b) of the Corporations Act (and, if applicable and subject to clause 8.14, section 411(6) of the Corporations Act) in relation to this Scheme.

Scheme Share means a Target Share on issue as at the Record Date other than any Target Share then held by an Excluded Shareholder (but including any such Target Share held on behalf of one or more third parties or otherwise in a fiduciary capacity).

Scheme Shareholder means a person who holds one or more Scheme Shares registered in the Target Register.

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

Scrip Consideration means 0.0753 New Bidder Shares for each Scheme Share to which the Cash Consideration does not apply, subject to the application of the Downside Price Protection Mechanism or the Upside Participation Cap.

Second Court Date means the first day on which an application made to the Court for an order under 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.

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

Target 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.

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

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

Target Share Registry means Boardroom Pty Limited.

Trading Day means a day determined by TSE to be a trading day.

Transaction means the proposed acquisition by Bidder, in accordance with the terms and conditions of this Scheme, of all of the Target Shares (other than the Target Shares held by an Excluded Shareholder) through the implementation of the Scheme.

TSE means the Tokyo Stock Exchange.

Upside Participation Cap means the upside participation cap set out in clauses 5.5 and 5.6.

Interpretation

1.2 In this Scheme the following rules of interpretation apply unless the contrary intention appears:

- (a) headings are for convenience only and do not affect the interpretation of this Scheme;
- (b) the singular includes the plural and vice versa;
- (c) words that are gender neutral or gender specific include each gender;
- (d) where a word or phrase is given a particular meaning, other parts of speech and grammatical forms of that word or phrase have corresponding meanings;
- (e) the words 'such as', 'including', 'particularly' and similar expressions are not used as, nor are intended to be, interpreted as words of limitation;
- (f) a reference to:
 - (i) a person includes a natural person, partnership, joint venture, Governmental Agency, association, corporation, trust or other body corporate;
 - (ii) a thing (including, but not limited to, a chose in action or other right) includes a part of that thing;
 - (iii) a party includes its agents, successors and permitted assigns;
 - (iv) a document includes all amendments or supplements to that document;
 - (v) a clause, term, party, schedule or attachment is a reference to a clause or term of, or party, schedule or attachment to this Scheme;
 - (vi) this Scheme includes all schedules and attachments to it;
 - (vii) a law includes a constitutional provision, treaty, decree, convention, statute, regulation, ordinance, by-law, judgment, rule of common law or equity and is a reference to that law as amended, consolidated or replaced;
 - (viii) a statute includes any regulation, ordinance, by-law or other subordinate legislation made under it;
 - (ix) an agreement other than this Scheme includes an undertaking, or legally enforceable arrangement or understanding, whether or not in writing; and

- (x) a monetary amount is in Australian dollars, unless otherwise specified;
- (g) unless otherwise defined in this Scheme, a term defined in or for the purposes of the Corporations Act has the same meaning when used in this Scheme;
- (h) an agreement on the part of two or more persons binds them jointly and each of them severally;
- (i) when the day on which something must be done is not a Business Day, that thing must be done on the following Business Day;
- (j) a reference to time is to Melbourne, Australia time; and
- (k) no rule of construction applies to the disadvantage of a party because that party was responsible for the preparation of this Scheme or any part of it.

SCHEDULE 2 – ALTERED SCHEME OF ARRANGEMENT

Schedule

Scheme of Arrangement

Scheme of Arrangement

Baker & McKenzie
ABN 32 266 778 912
Level 19
181 William Street
Melbourne VIC 3000
Australia
www.bakermckenzie.com
Richard Lustig/Robert Gough

Scheme of Arrangement

Parties

This scheme of arrangement is made under section 411 of the *Corporations Act 2001* (Cth) between:

- (a) **Mitula Group Limited** (ABN 82 604 677 796) of Suite 810, Level 8, 2 Queen Street, Melbourne, Victoria, 3000 Australia (**Target**)
- (b) Each person who holds one or more Scheme Shares (**Scheme Shareholders**).

Background

- A Target is a company limited by shares and is admitted to the official list of ASX.
- B LIFULL Co., Ltd. (**Bidder**) is a public company limited by shares and its common shares are listed on the first section of TSE.
- C On 9 May 2018, Bidder and Target entered into the Implementation Deed (subsequently amended by the SID Amending Deed dated 22 October 2018 and the Second SID Amending Deed dated 19 November 2018) pursuant to which, amongst other things, Target has agreed to propose this Scheme to the Scheme Shareholders, and each of Target and Bidder have agreed to take certain steps to give effect to this Scheme.
- D If this Scheme becomes Effective, then all the Scheme Shares will be transferred to Bidder and the Scheme Consideration will be provided to or on behalf of the Scheme Shareholders in accordance with the provisions of this Scheme.
- E Bidder has entered into the Deed Poll for the purposes of covenanting in favour of Scheme Shareholders to perform all actions attributed to it under this Scheme.

The parties agree:

1. Defined terms and interpretation

Definitions in the Dictionary

- 1.1 A term or expression starting with a capital letter:
 - (a) which is defined in the Dictionary in the Schedule (Dictionary), has the meaning given to it in the Dictionary; and
 - (b) which is defined in the Corporations Act, but is not defined in the Dictionary, has the meaning given to it in the Corporations Act.

Interpretation

- 1.2 The interpretation clause in the Schedule sets out rules of interpretation for this document.

2. Conditions

Conditions to the Scheme

- 2.1 The Scheme is conditional upon, and will have no force or effect until, the satisfaction of each of the following:

- (a) as at 8.00am on the Second Court Date, each of the conditions set out in clause 3.1 of the Implementation Deed (other than the condition relating to the approval of the Court set out in clause 3.1(d) of the Implementation Deed) have been satisfied or waived in accordance with the terms of the Implementation Deed;
- (b) as at 8.00am on the Second Court Date, neither the Implementation Deed nor the Deed Poll have been terminated in accordance with their terms;
- (c) the Court approves this Scheme under section 411(4)(b) of the Corporations Act;
- (d) subject to clause 8.14, such other conditions made or required by the Court under section 411(6) of the Corporations Act in relation to the Scheme have been satisfied or waived; and
- (e) the coming into effect of the Scheme Order, on or before the End Date.

Certificate

- 2.2 Target will provide to the Court on the Second Court Date a certificate signed by Bidder and Target (or such other evidence as the Court requests) stating whether or not the conditions referred to in clause 3.1 of the Implementation Deed (other than the condition relating to the approval of the Court set out in clause 3.1(d) of the Implementation Deed) have been satisfied or waived in accordance with the terms of the Implementation Deed as at 8.00am on the Second Court Date.
- 2.3 The certificate referred to in clause 2.2 constitutes conclusive evidence that the conditions referred to in clause 3.1 of the Implementation Deed (other than the condition relating to the approval of the Court set out in clause 3.1(d) of the Implementation Deed) were satisfied or waived in accordance with the terms of the Implementation Deed on or before 8.00am on the Second Court Date.

Termination

- 2.4 Without limiting any rights under the Implementation Deed, if the Implementation Deed is terminated in accordance with its terms before the Scheme becomes Effective, Target is released from any further obligation to take steps to implement the Scheme and any liability with respect to the Scheme (other than in respect of any Break Fee that may be payable by Target under terms of the Implementation Deed).

3. The Scheme

- 3.1 Subject to clause 2.1, this Scheme takes effect for all purposes on the Effective Date.
- 3.2 This Scheme will lapse and be of no further force or effect if the Effective Date has not occurred on or before the End Date.

4. Implementation of the Scheme

Lodgement of Scheme Order with ASIC

- 4.1 If the conditions in clauses 2.1(a) to 2.1(d) are satisfied, Target must lodge with ASIC, in accordance with section 411(10) of the Corporations Act, an office copy of the Scheme Order approving this Scheme as soon as possible after, and in any event by 7.00pm on the first Business Day after, the day on which the Court approves this Scheme.

Transfer of Scheme Shares

- 4.2 Subject to this Scheme becoming Effective, the following actions will occur (in the order set out below):
- (a) Bidder will provide the Scheme Consideration in the manner contemplated by clause 5; and
 - (b) on the Implementation Date:
 - (i) the Scheme Shares, together with all rights and entitlements attaching to the Scheme Shares as at the Implementation Date, must be transferred to Bidder, without the need for any further act by any Scheme Shareholder (other than acts performed by Target as attorney and agent for Scheme Shareholders under clause 8.1), by Target effecting a valid transfer or transfers of the Scheme Shares to Bidder under section 1074D of the Corporations Act or, if that procedure is not available for any reason, by:
 - (A) Target delivering to Bidder a duly completed Scheme Transfer, executed on behalf of the Scheme Shareholders by Target; and
 - (B) Bidder duly executing the Scheme Transfer, attending to the stamping of the Scheme Transfer (if required) and delivering it to Target for registration; and
 - (ii) immediately following receipt of the Scheme Transfer in accordance with clause 4.2(b)(i)(B) or the transfer being effected under section 1074D of the Corporations Act (as the case may be), Target must enter, or procure the entry of, the name of Bidder in the Target Register in respect of all the Scheme Shares transferred to Bidder in accordance with this Scheme.
-

5. Scheme Consideration

Scheme Consideration

- 5.1 Subject to the terms of the Implementation Deed and this Scheme, the Scheme Consideration to be provided to each Scheme Shareholder will be as follows:
- (a) where that Scheme Shareholder has not made an Election, and is a Cut Off Date Shareholder:
 - (i) the Cash Consideration for each Cash Consideration Entitlement Share held by that Scheme Shareholder as at the Scheme Record Date; and
 - (ii) the Scrip Consideration plus the Cash Top Up (if applicable) for each other Scheme Share held by that Scheme Shareholder;
 - (b) where that Scheme Shareholder has not made an Election and is not a Cut Off Date Shareholder, the Scrip Consideration plus the Cash Top Up (if applicable) for all Scheme Shares held by that Scheme Shareholder; or
 - (c) where that Scheme Shareholder has made an Election, the Scrip Consideration plus the Cash Top Up (if applicable) for each Scheme Share held by that Scheme Shareholder.

Downside Price Protection Mechanism

- 5.2 The Downside Price Protection Mechanism applies if the Final Bidder Share Price is less than the Initial Bidder Share Price.
- 5.3 Subject to clause 5.4, if the Downside Price Protection Mechanism applies, the Scrip Consideration for each Scheme Share will be increased to equal:
- (a) 0.0753, being the ratio set out in the definition of Scrip Consideration;
 - (b) multiplied by the Initial Bidder Share Price; and
 - (c) divided by the Final Bidder Share Price,
- rounded to 6 decimal places.
- 5.4 The maximum number of New Bidder Shares that a Scheme Shareholder will be entitled to receive under clause 5.3 for each Scheme Share will be capped at 0.084336, being the Scrip Consideration ratio multiplied by 112%.

Cash Top Up Price Protection Mechanism

- 5.4A The Cash Top Up Price Protection Mechanism only applies if the Final Bidder Share Price multiplied by 0.084336 is lower than A\$0.80. For the avoidance of doubt, the Cash Top Up only applies to Scheme Shares entitled to receive the Scrip Consideration (**Scrip Shares**).
- 5.4B Subject to clauses 5.4C to 5.4F (inclusive), the amount of top up cash (**Cash Top Up**) to be paid per Scrip Share will be calculated in accordance with the following formula:
- $$A = B - (C \times D)$$
- Where:
- A is the Australian dollar amount of Cash Top Up payable per Scrip Share (rounded down to three decimal places);
 - B is A\$0.80;
 - C is Final Bidder Share Price; and
 - D is 0.084336, being the Scrip Consideration ratio multiplied by 112%.
- 5.4C The maximum total Cash Top Up payable on all Scrip Shares is A\$10 million (**Cash Cap**).
- 5.4D If the total Cash Top Up payable on all Scrip Shares exceeds the Cash Cap, then the amount of Cash Top Up payable per Scrip Share will be scaled back in accordance with the following formula:
- $$E = F \div G$$
- Where:
- E is the Australian Dollar Amount of Cash Top Up payable per Scrip Share (rounded down to three decimal places);
 - F is A\$10 million; and
 - G is the total number of Scrip Shares.

5.4E The Cash Top Up Price Protection Mechanism is conditional on Bidder's shareholders approving the Cash Top Up Price Protection Mechanism at an annual general meeting of shareholders on or about 10 December 2018 (**Bidder Shareholder Meeting**). If this condition is not satisfied prior to the date of the Scheme Meeting, then the Cash Top Up Price Protection Mechanism will not apply. If the Final Bidder Share Price multiplied by 0.084336 is equal to or greater than A\$0.80, then the resolution to be put to Bidder shareholders regarding the Cash Top Up Price Protection Mechanism at the Bidder Shareholder Meeting will be withdrawn. For the purposes of this clause, Bidder VWAP Period means the 10 Trading Days up to and including 7 December 2018.

5.4F Notwithstanding any other provisions of this Scheme, if:

- (a) any aspect of the Cash Top Up Price Protection Mechanism is unable to be implemented as fully contemplated by this Scheme due to the requirements of a Governmental Agency or the Court; or
- (b) implementation of the Cash Top Up Price Protection Mechanism creates any issue not attributable to Bidder that may reasonably give rise to delay in the implementation of the Scheme in accordance with the timetable as announced by the Target's press release dated 26 October 2018 through ASX,

then the Cash Top Up Price Protection Mechanism will not apply.

Upside Participation Cap

5.5 The Upside Participation Cap applies if the Final Bidder Share Price is more than 8% higher than the Initial Bidder Share Price. To avoid any doubt, the Upside Participation Cap does not apply if the Final Bidder Share Price is equal to or less than 8% higher than the Initial Bidder Share Price.

5.6 If the Upside Participation Cap applies, then the Scrip Consideration for each Scheme Share will be reduced to equal:

- (a) 0.0753, being the ratio set out in the definition of Scrip Consideration;
- (b) multiplied by the Initial Bidder Share Price;
- (c) divided by the Final Bidder Share Price; and
- (d) multiplied by 108%,

rounded to 6 decimal places.

Election Mechanism

5.7 A Scheme Shareholder may make a valid election (such election being subject to the terms of the Implementation Deed and this Scheme) for the purposes of clause 5.1(c) (**Election**).

5.8 The Election Form must be in a form agreed between Target and Bidder and shall provide that (subject to clause 5.9):

- (a) a Scheme Shareholder may make only one Election in relation to a particular holding;
- (b) any Election by a Scheme Shareholder will apply to all of the Scheme Shares held by that Scheme Shareholder;
- (c) an Election may be made by a Scheme Shareholder by:

(i) completing the Election Form in accordance with the instructions specified on the form or set out in the Scheme Booklet; and

(ii) returning the completed Election Form in accordance with the instructions on it so that it is received by no later than the Election Date,

or by taking equivalent actions in electronic form if permitted by the Court at the first Court hearing by no later than the Election Date;

(d) once made, an Election by a Scheme Shareholder may be varied at any time on or before the Election Date; and

(e) if an Election is not made by a Scheme Shareholder on or prior to the Election Date, then that Scheme Shareholder will receive the Scheme Consideration in respect of their Scheme Shares in accordance with clause 5.1.

5.9 Notwithstanding any other provision of this Scheme, a Scheme Shareholder who:

(a) can demonstrate to the satisfaction of both Target and Bidder (each acting reasonably) that it holds one or more parcels of Scheme Shares as trustee or nominee for, or otherwise on account of, another person; and

(b) provides a written notification to that effect to Target, in a form acceptable to Target (acting reasonably),

is entitled to the Scheme Consideration as if each parcel of Scheme Shares was held by a separate Scheme Shareholder, may make separate Elections in relation to each of those parcels, and an Election made in respect of one such parcel will not be taken to extend to the other parcels. To avoid any doubt, where a Scheme Shareholder holds one or more parcels of Scheme Shares as trustee or nominee for, or otherwise on account of, another person and makes separate Elections, Bidder will only be required to recognise the Scheme Shareholder as the party entitled to receive any Scheme Consideration.

5.10 Target must ensure that, to the extent reasonably practicable, Scheme Shareholders who have acquired Scheme Shares after the date of the dispatch of the Scheme Booklet can receive an Election Form on request to Target.

5.11 In order to facilitate the provision of the Scheme Consideration, Target must provide Bidder with:

(a) a weekly update of the Elections that have been received;

(b) details of the Final Elections made by each Scheme Shareholder, as soon as reasonably practicable after each of the Election Date and the Record Date (and must use best endeavours to ensure that the information is provided within one Business Day of the relevant date); and

(c) a complete copy of the Target Register (which must include the name, registered address and registered holding of each Scheme Shareholder) as at each of the Cut Off Date, the date of the Scheme Booklet, the date of the Scheme Meeting and the Record Date:

(i) in respect of each of the Cut Off Date, the date of the Scheme Booklet and the date of the Scheme Meeting, as soon as reasonably practicable after the relevant date (and must use best endeavours to ensure that the information is provided within one Business Day after the relevant date); and

- (ii) in respect of the Record Date, as soon as reasonably practicable on or after the Record Date (and must use best endeavours to ensure that the information is provided on the Record Date),

and such other information as Bidder may reasonably require to provide the Scheme Consideration in accordance with the Implementation Deed and the terms of this Scheme. Target acknowledges that a delay in providing Bidder with such information on or after the Election Date and the Record Date is likely to result in a delay in either or both of the Implementation Date and the Settlement Completion Date.

Election to receive Scrip Consideration

- 5.12 If a Scheme Shareholder has made an Election, the Scheme Shareholder will be entitled to receive the Scrip Consideration for each Scheme Share held by that Scheme Shareholder at the Record Date that is the subject of the Election.

Provision of Scheme Consideration – Cash Consideration

- 5.13 Bidder must, by no later than three Business Days before the Implementation Date, deposit in cleared funds an amount equal to the Aggregate Cash Consideration in an Australian dollar denominated trust account nominated by Target to Bidder in writing and operated by or on behalf of Target as trustee of the Scheme Shareholders who are entitled to receive the Cash Consideration, provided that any interest on the amounts deposited (less bank fees and other charges) will be credited to Bidder's account.
- 5.14 Subject to Bidder having complied with clause 5.13, Target must, on the Implementation Date and from the trust account referred to in clause 5.13, pay or procure the payment to each Scheme Shareholder who is entitled to receive the Cash Consideration, that part of the Aggregate Cash Consideration attributable to that Scheme Shareholder, based on the number of Scheme Shares held by that Scheme Shareholder as at the Record Date.
- 5.15 Target's obligation under clause 5.14 will be satisfied by Target:
 - (a) where a Scheme Shareholder has, before the Record Date, made an election in accordance with the requirements of either the Scheme Booklet or otherwise the Target Share Registry to receive dividend payments from Target or the Cash Consideration, by electronic funds transfer to a bank account nominated by the Scheme Shareholder (**Registered Account**), paying, or procuring the payment of, the relevant amount of Australian currency by electronic means in accordance with that Election into the Registered Account; or
 - (b) if the Scheme Shareholder has not made an election for the purposes of clause 5.15(a), dispatching, or procuring the dispatch of, a cheque in Australian currency to the Scheme Shareholder by prepaid post (or, if the Registered Address of the Scheme Shareholder is outside Australia, by prepaid airmail post) to the Registered Address as at the Record Date, such cheque being drawn in the name of the Scheme Shareholder (or in the case of joint holders, in accordance with the procedures set out in clause 5.26), for the relevant amount.

Provision of Scheme Consideration – Allotment and issue of New Bidder Shares

- 5.16 Subject to clauses 5.17 to 5.25 and to the Scheme becoming Effective, Bidder must allot and issue to or on behalf of the Scheme Shareholders the New Bidder Shares that comprise the Scheme Consideration in accordance with the Scheme and Final Elections.

Settlement

5.17 On the Implementation Date, Bidder will issue the New Bidder Shares and will ensure that the New Bidder Shares are recorded in a securities account with an account management institution in Japan that has been admitted by the Japan Securities Depository Center Inc. (**JASDEC Account**) to be held by a custodian on behalf of the relevant Scheme Shareholders (**Account B**) on the basis that Bidder procures that the custodian satisfies all of its obligations with respect thereto, on the basis that in relation to:

- (a) negotiating and finalising the terms on which the Custodian is so engaged; and
- (b) any other documentation in relation to the settlement process in clauses 5.17 to 5.21 (including the sales policy),

Bidder will consult with Target in relation to the terms of those documents, and consider in good faith, for the purpose of amending those documents, comments from Target.

5.18 If a Scheme Shareholder returns a validly completed "designated securities account form" as contemplated by the Scheme Booklet (**Form A**) by the Election Date, on the date which is 7 Business Days after the Implementation Date (**Settlement Completion Date**), Bidder will ensure that the New Bidder Shares to which the Scheme Shareholder is entitled are transferred from Account B into the name of the Scheme Shareholder in accordance with the Form A.

5.19 If a Scheme Shareholder returns a validly completed "comprehensive account A form" as contemplated by the Scheme Booklet (**Form B**) by the Election Date, on the Settlement Completion Date, Bidder will ensure that the New Bidder Shares to which the Scheme Shareholder is entitled are transferred from Account B into the comprehensive account A nominated by the Scheme Shareholder in accordance with the Form B, and Bidder will ensure that each relevant Scheme Shareholder is entitled to the voting rights and the right to receive dividends as a holder of the New Bidder Shares transferred into the comprehensive account A.

5.20 If a Scheme Shareholder does not return either Form A or a Form B by the Election Date (**No Action Scheme Shareholder**), the New Bidder Shares to which the No Action Scheme Shareholder is entitled will remain in Account B until the earlier of:

- (a) the No Action Scheme Shareholder has advised Bidder in the manner described in the Scheme Booklet; or
- (b) such New Bidder Shares are sold or otherwise dealt with on behalf of the No Action Scheme Shareholder subject to and in accordance with the sales policy described in the Scheme Booklet and all the proceeds of sale are remitted to the No Action Scheme Shareholder (after deducting any applicable brokerage, stamp duty and other selling costs, taxes and charges).

5.21 Target must procure that:

- (a) a complete copy of each Form A and Form B received by or on behalf of Target is provided to Bidder or its nominee by no later than 3 Business Days after each such form is received by or on behalf of Target; and
- (b) a summary of all such Forms A and Forms B received is provided to Bidder or its nominee no later than one Business Day after the Record Date, including:
 - (i) the number of New Bidder Shares to be issued in aggregate and on an individual basis for each Scheme Shareholder; and

- (ii) the quantity of Cash Consideration and Cash Top Up (if applicable) to be paid by Bidder each in aggregate and on an individual basis for each Scheme Shareholder.

Ineligible Foreign Shareholders

- 5.22 Bidder will be under no obligation under the Scheme to issue, and will not issue, any New Bidder Shares to any Ineligible Foreign Shareholder, and instead, unless Bidder and Target otherwise agree, Bidder will issue into Account B on the Implementation Date the New Bidder Shares to which that Ineligible Foreign Shareholder would otherwise have been entitled (if they were a Scheme Shareholder who was not an Ineligible Foreign Shareholder).
- 5.23 Where New Bidder Shares are issued pursuant to clause 5.22, Bidder will procure that, on the Settlement Completion Date, the New Bidder Shares will be transferred to a JASDEC Account held by one or more custodians on behalf of Scheme Shareholders and such custodians thereafter:
 - (a) sells on TSE the New Bidder Shares subject to and in accordance with the sales policy described in the Scheme Booklet; and
 - (b) all the proceeds of sale are remitted to the Ineligible Foreign Shareholder (after deducting any applicable brokerage, stamp duty and other selling costs, taxes and charges).

Fractional entitlements

- 5.24 Any fractional entitlement of a Scheme Shareholder to a part of a New Bidder Share will be rounded down to the nearest whole number of New Bidder Shares.

Share splitting

- 5.25 If Bidder or Target are of the opinion that a Scheme Shareholder has been a party to Share Splitting or division in an attempt to obtain an unfair advantage in relation to accessing the Cash Consideration, then Bidder and Target must consult in good faith to determine whether such matters have arisen and if agreement is reached between Bidder and Target following such consultation, Target must give notice to those Scheme Shareholders:
 - (a) setting out their names and registered addresses as shown in the Target Register;
 - (b) stating that opinion; and
 - (c) attributing the Scheme Shares held by all of them to one of them as specifically identified in the notice,

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 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 Scheme, be taken to hold no Scheme Shares. Bidder, in complying with the other provisions of the Scheme relating to it 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 its obligations to the other Scheme Shareholders named in the notice under the terms of the Scheme.

Joint holders

- 5.26 In the case of Scheme Shares held in joint names:

- (a) any cheque required to be paid to Scheme Shareholders will be payable to the joint holders and will be forwarded to the holder whose name appears first in the Target Register on the Record Date; and
- (b) any other document required to be sent under this Scheme will be forwarded to the holder whose name appears first in the Target Register as at the Record Date.

Surplus funds

5.27 Subject to clause 5.28, to the extent that, following satisfaction of Target's obligations under clauses 5.14 and 5.15, there is a surplus in the amount held by Target as trustee for the Scheme Shareholders in the trust account referred to in that clause, that surplus must be paid by Target to Bidder.

Unclaimed Cash Consideration

5.28 If:

- (a) in the case of a deposit under clause 5.15(a), the deposit is rejected or refunded or a Registered Account which has previously been notified is no longer valid; or
- (b) in the case of a dispatch of a cheque under clause 5.15(b), a cheque properly despatched by or on behalf of Target is:
 - (i) returned to Target (or its agents) as undelivered;
 - (ii) not presented by a Scheme Shareholder within six months after the Implementation Date; or
 - (iii) Target reasonably believes that a Scheme Shareholder is not known at a Scheme Shareholder's Registered Address,

then Target may cancel the relevant cheque and credit the amount payable to the relevant Scheme Shareholder to a separate bank account of Target to be held until the Scheme Shareholder claims the amount, or the amount is dealt with in accordance with any applicable unclaimed moneys legislation. An amount credited to the account is to be treated as having been paid to the Scheme Shareholder when credited to the account. Target must maintain records (for the minimum period required by applicable law) of the amounts paid, the people who are entitled to the amounts, and any transfers of the amounts.

6. Dealings in Target Shares

Determination of Scheme Shareholders

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

and Target must not accept for registration, nor recognise for any purpose (except a transfer to Bidder pursuant to this Scheme and any subsequent transfer by Bidder or 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.

Register

- 6.2 Target must register all registrable transmission applications or transfers of the Scheme Shares in accordance with clause 6.1(b) on or before the Record Date, provided that, for the avoidance of doubt, nothing in this clause 6.2 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 6.2 'marketable parcel' has the meaning given in the official operating rules of ASX).
- 6.3 If this Scheme becomes Effective, a Scheme Shareholder (and any person claiming through that Scheme Shareholder) must not dispose of, or purport or agree to dispose of, any Scheme Shares or any interest in them after the 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.
- 6.4 For the purpose of determining entitlements to the Scheme Consideration, Target must maintain the Target Register in accordance with the provisions of this clause 6 until the Scheme Consideration has been paid to the Scheme Shareholders. The Target Register in this form will solely determine entitlements to the Scheme Consideration.
- 6.5 All statements of holding for Target Shares (other than statements of holding in favour of Bidder) will cease to have effect after the Record Date as documents of title in respect of those shares and, as from the Record Date, each entry on the Target Register (other than entries on the Target Register 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.
- 6.6 As soon as possible on or after the Record Date, and in any event within one Business Day after the Record Date, Target will ensure that details of the names, registered addresses and holdings of Target Shares for each Scheme Shareholder as shown in the Target Register as at the Record Date are available to Bidder in the form Bidder reasonably requires.

7. Quotation of Target Shares

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

8. General Scheme provisions

Appointment of agent and attorney

- 8.1 On this Scheme becoming Effective, each Scheme Shareholder, without the need for any further act, irrevocably appoints Target as its agent and attorney for the purposes of:

- (a) in the case of Scheme Shares in a CHES holding:
 - (i) causing a message to be transmitted to ASPL in accordance with the ASX Settlement Rules to transfer the Scheme Shares held by the Scheme Shareholder from the CHES subregister of Target to the issuer sponsored subregister operated by Target or the Target Share Registry at any time after Bidder has paid or procured the payment of the Scheme Consideration which is due under this Scheme to Scheme Shareholders; and
 - (ii) completing and signing on behalf of Scheme Shareholders any required form of transfer of Scheme Shares;
 - (b) in the case of Scheme Shares registered in the issuer sponsored subregister operated by Target or the Target Share Registry, completing and signing on behalf of Scheme Shareholders any required form of transfer;
 - (c) in all cases, executing any document or form or doing any other act necessary to give effect to the terms of this Scheme including, without limitation, the execution of the Scheme Transfer and the giving of the Scheme Shareholder's consent under clause 8.4; and
 - (d) enforcing the Deed Poll against Bidder,
- and Target accepts such appointment.

- 8.2 Target, as agent and attorney of each Scheme Shareholder, may sub-delegate its functions, authorities or powers under clause 8.1 to all or any of its directors and officers (jointly, severally, or jointly and severally).

Enforcement of Deed Poll

- 8.3 Target undertakes in favour of each Scheme Shareholder that it will enforce the Deed Poll against Bidder (as applicable on behalf of and as agent and attorney for the Scheme Shareholders).

Scheme Shareholders' consent

- 8.4 Each Scheme Shareholder irrevocably consents to Target and Bidder 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.

Scheme Shareholders' agreements

- 8.5 Under this Scheme:
- (a) each Scheme Shareholder 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) each Scheme Shareholder agrees to the variation, cancellation or modification of the rights attached to their Scheme Shares constituted by or resulting from this Scheme;
 - (c) each Scheme Shareholder acknowledges that this Scheme binds Target and all Scheme Shareholders (including those who did not attend the Scheme Meeting and those who did not vote, or voted against this Scheme, at the Scheme Meeting) and, to the extent of any inconsistency, overrides the constitution of Target; and

- (d) each Scheme Shareholder in respect of which clause 5.1(a)(ii) or 5.1(c) is applicable accepts the New Bidder Shares issued to or on behalf of the Scheme Shareholder under the Scheme on the terms and conditions of the Bidder constitution.

Warranty by Scheme Shareholders

8.6 Each Scheme Shareholder is deemed to have warranted to Bidder that:

- (a) all their Scheme Shares (including any rights and entitlements attaching to those Scheme Shares) will, at the date of the transfer of them to Bidder, be fully paid and free from all mortgages, charges, security interests (including any 'security interests' within the meaning of section 12 of the *Personal Property Securities Act 2009* (Cth)), liens, encumbrances and interests of third parties of any kind, whether legal or otherwise, and restrictions on transfer of any kind; and
- (b) they have full power and capacity to sell and to transfer their Scheme Shares, and all rights and entitlements attaching to those Scheme Shares, to Bidder.

Title to Scheme Shares

- 8.7 Immediately upon provision of the Scheme Consideration in accordance with clauses 5.14 and 5.16, Bidder will be beneficially entitled to the Scheme Shares transferred to it under this Scheme pending registration by Target of Bidder in the Target Register as the holder of the Scheme Shares.
- 8.8 To the extent permitted by law, the Scheme Shares (including all rights and entitlements attaching to the Scheme Shares) transferred under this Scheme to Bidder will, at the time of transfer of them to Bidder, vest in Bidder free from all mortgages, charges, security interests (including any 'security interests' within the meaning of section 12 of the *Personal Property Securities Act 2009* (Cth)), liens, encumbrances and interests of third parties of any kind, whether legal or otherwise, and restrictions on transfer of any kind.

Appointment of sole proxy

- 8.9 Immediately upon provision of the Scheme Consideration in accordance with clauses 5.14 and 5.16, and until Target registers Bidder as the holder of all Scheme Shares in the Target Register, each Scheme Shareholder:
 - (a) is deemed to have appointed Bidder as attorney and agent (and directed Bidder in each such capacity) to appoint any director, officer, secretary or agent nominated by Bidder as its sole proxy and, where applicable or appropriate, corporate representative to attend shareholders' meetings, exercise the votes attaching to the Scheme Shares registered in their name and sign any shareholders' resolution;
 - (b) acknowledges that no Scheme Shareholder may itself attend or vote at any of those meeting or sign any resolutions, whether in person, by proxy or by corporate representative (other than pursuant to clause 8.9(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 conferred in clause 8.9(a), Bidder and any director, officer, secretary or agent nominated by Bidder under that clause may act in the best interests of Bidder as the intended registered holder of the Scheme Shares.

Notices

- 8.10 Where a notice, transfer, transmission application, direction or other communication referred to in this Scheme is sent by post to Target, it will not be deemed to be received in the ordinary course of post or on a date other than the date (if any) on which it is actually received at Target's registered office or at the Target Share Registry as the case may be.

Inconsistencies

- 8.11 This Scheme binds Target and all Target Shareholders, and to the extent of any inconsistency, overrides the Target constitution.

No liability when acting in good faith

- 8.12 None of Bidder, Target nor any director, officer, secretary or employee of either Bidder or Target will be liable for anything done or omitted to be done in good faith in the performance of this Scheme or the Deed Poll.

Further assurance

- 8.13 Target will execute all documents and do all acts and things as may be necessary or expedient for the implementation of, and performance of its obligations under, this Scheme.

Alterations and conditions

- 8.14 If the Court proposes to approve this Scheme subject to any conditions or alterations under section 411(6) of the Corporations Act, Target may, by its counsel on behalf of all persons concerned, consent to only such of those conditions or alterations to this Scheme to which Bidder has consented, such consent not to be unreasonably withheld or delayed.

Stamp Duty

- 8.15 Bidder will pay any stamp duty payable on the transfer by Scheme Shareholders of the Scheme Shares to Bidder.

Governing Law

- 8.16 This Scheme is governed by and will be construed according to the laws of Victoria.

Schedule

Dictionary

Defined terms

- 1.1 In this Scheme, except where the context otherwise requires:

Aggregate Cash Consideration means the aggregate amount of the Cash Consideration plus the Cash Top Up (if applicable) payable to Scheme Shareholders.

ASIC means the Australian Securities and Investments Commission.

ASPL means ASX Settlement Pty Ltd (ABN 49 008 504 532).

ASX means ASX Limited (ABN 98 008 624 691) or, if the context requires, the financial market operated by it.

ASX Settlement Rules means the ASX Settlement Operating Rules.

Australian Dollar Equivalent means the amount in Australian dollars based on the Japan/Australia exchange price specified by the Reserve Bank of Australia (online at <https://www.rba.gov.au/statistics/frequency/exchange-rates.html>) at 4.15pm on the relevant day (and if there is no such price specified on that day, then the price specified on the most recent day specified before then).

Bidder means LIFULL Co., Ltd of 1-4-4, Kojimachi, Chiyoda-ku, Tokyo, 102-0083, Japan.

Bidder VWAP means:

- (a) subject to paragraph (b) below, the volume weighted average price of Bidder Shares traded on TSE that is calculated and displayed by the TSE as the daily volume weighted average price of Bidder Shares on each of the Trading Days comprising the Bidder VWAP Period, provided that, the basis for the volume weighted average price of Bidder Shares excludes any trades made outside the TSE's auction market (including but not limited to (i) single-issue transactions, (ii) basket transactions, (iii) closing price transactions, (iv) off-auction own shares repurchase transactions (each as defined in the Special Regulations of Business Regulations and Brokerage Agreement Standards Concerning ToSTNeT Market of TSE), (v) any overseas trades or (vi) trades pursuant to the exercise of options over Bidder Shares) and such other trades that Bidder and Target reasonably agree to exclude on the basis that they are not representative of the general price at which Bidder Shares are trading on TSE in the context of trading in Bidder Shares on any of the Trading Days in the Bidder VWAP Period; and
- (b) where:
 - (i) on some or all of the Trading Days in the Bidder VWAP Period, Bidder Shares have been quoted on TSE as *cum* dividend or *cum* any other distribution or entitlement and the New Bidder Shares will not carry the entitlement on the Implementation Date (**Ex Date**), then the volume weighted average price on the Trading Days on which those shares have been quoted *cum* dividend or *cum* entitlement shall be reduced by an amount (**Cum Value**) equal to:

- (A) (in the case of a dividend), the amount of the Expected Dividend;
 - (B) (in the case of an entitlement which is traded on TSE on any of those Trading Days), the volume weighted average price of all such entitlements sold on TSE during the Bidder VWAP Period on Trading Days on which those entitlements were traded; or
 - (C) (in the case of an entitlement which is not traded on TSE on any of those Trading Days), the value of the entitlement determined by the directors of Bidder in good faith after consultation with Target; and
- (ii) on some or all of the Trading Days in the Bidder VWAP Period, Bidder Shares have been quoted on TSE as ex dividend, ex distribution or ex entitlement, and the New Bidder Shares will be entitled to receive the relevant dividend, distribution or entitlement, then the volume weighted average price on the Trading Days on which the New Bidder Shares have been quoted ex dividend, ex distribution or ex entitlement shall be increased by the Cum Value.

Bidder VWAP Period means:

- (a) the 10 Trading Days up to and including 7 December 2018; or
- (b) if the Cash Top Up Price Protection Mechanism does not apply, the 10 Trading Days up to and including the Record Date..

Business Day means a day that is not a Saturday, Sunday or a public holiday or bank holiday in Melbourne, Victoria, Luxembourg or Tokyo, Japan.

Cash Cap has the meaning given to that term in clause 5.4C.

Cash Consideration means A\$0.80 per Scheme Share.

Cash Consideration Entitlement Share means for each Cut Off Date Shareholder:

- (a) if the Cut Off Date Shareholder held 20,000 or less Target Shares as at the Cut Off Date, all of the Target Shares held by the Cut Off Date Shareholder as at the Cut Off Date; or
- (b) if the Cut Off Date Shareholder held more than 20,000 Target Shares as at the Cut Off Date, 20,000 Target Shares.

Cash Top Up has the meaning given to that term in clause 5.4B.

Cash Top Up Price Protection Mechanism means the cash top up price protection mechanism referred to at clauses 5.4A to 5.4F.

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

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

Court means the Supreme Court of Victoria or any other court of competent jurisdiction under the Corporations Act as the parties may agree in writing.

Cut Off Date means 7.00 pm on 24 October 2018.

Cut Off Date Shareholder means each Scheme Shareholder who was also a Target Shareholder on the Cut Off Date.

Deed Poll means the deed poll executed by Bidder under which Bidder covenants in favour of the Scheme Shareholders to perform all actions attributed to it under this Scheme.

Downside Price Protection Mechanism means the downside price protection mechanism set out in clauses 5.2 to 5.4 (inclusive).

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

Effective Date, with respect to the Scheme, means the date on which the Scheme becomes Effective.

Election is defined in clause 5.7 and **Elect** has a corresponding meaning.

Election Date means the last date and time for receipt of an Election Form in order to make an Election in accordance with the terms of the Scheme, being 7.00pm on the Second Court Date or such other date as Target and Bidder agree in writing.

Election Form means the election form provided with the Scheme Booklet under which each Scheme Shareholder (other than an Excluded Shareholder) may Elect to receive the Scrip Consideration (instead of the Cash Consideration) in respect of all of their Scheme Shares.

End Date means the later of:

- (a) 14 December 2018; and
- (b) such other date and time agreed in writing between Bidder and Target.

Excluded Shareholder means any Target Shareholder who is Bidder or a wholly-owned subsidiary of Bidder.

Expected Dividend means Bidder's expected dividend amount obtained by multiplying (i) the amount of Bidder's then current forecast on the basic earnings per share disclosed in filings with the TSE by (ii) Bidder's then current payout ratio disclosed in filings with the TSE, each in respect of the relevant period.

Final Bidder Share Price means the Bidder VWAP for the Bidder VWAP Period using the Australian Dollar Equivalent on each Trading Day.

Final Election means, in respect of each Scheme Shareholder that returned an Election in accordance with the instructions on the Election Form, the last Election received by Target as at the Election Date.

First Court Date means the date the Court first hears the application to order the convening of the Scheme Meeting under section 411(1) of the Corporations Act.

Governmental Agency means, whether domestic or foreign, any government or representative of a government or any governmental, semi-governmental, administrative, fiscal, regulatory or judicial body, department, commission, authority, tribunal, agency, competition authority or entity and includes any minister, ASIC, ASX, TSE and any regulatory organisation established under statute or any stock exchange.

Implementation Date means, with respect to the Scheme, the eighth Business Day, or such other Business Day as the parties agree, following the Record Date for the Scheme.

Implementation Deed means the scheme implementation deed dated 9 May 2018 between Bidder and Target, as amended or varied from time to time.

Ineligible Foreign Shareholder means a Scheme Shareholder whose address as shown in the Target Register (as at the Record Date) is in a place which is unlawful or unduly onerous to issue that Scheme Shareholder with New Bidder Shares when the Scheme becomes Effective (provided that a Scheme Shareholder whose address shown in the Target Register is within Australia and its external territories, New Zealand, Spain, Hong Kong and any other jurisdictions determined by Target in consultation with Bidder will not be an Ineligible Foreign Shareholder).

Initial Bidder Share Price means A\$11.29.

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

New Bidder Share means a fully paid ordinary share in the capital of Bidder to be issued under the Scheme and to be listed on TSE.

Record Date means, in respect of the Scheme, 7.00pm on the third Business Day (or such other Business Day as the parties agree in writing) following the Effective Date.

Registered Account has the meaning given in clause 5.15(a).

Registered Address means the address of each Scheme Shareholder as recorded in the Target Register as at the Record Date.

Scheme means the proposed scheme of arrangement pursuant to Part 5.1 of the Corporations Act between Target and the Scheme Shareholders as set out in this Scheme together with, subject to clause 8.14, any alterations or conditions made or required by the Court under section 411(6) of the Corporations Act.

Scheme Booklet means the explanatory booklet which accompanies and includes the notice of Scheme Meeting.

Scheme Consideration means the consideration payable to Scheme Shareholders under the Scheme, being comprised of the Scrip Consideration, the Cash Consideration and the Cash Top Up (if applicable).

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

Scheme Order means the orders of the Court made under section 411(4)(b) of the Corporations Act (and, if applicable and subject to clause 8.14, section 411(6) of the Corporations Act) in relation to this Scheme.

Scheme Share means a Target Share on issue as at the Record Date other than any Target Share then held by an Excluded Shareholder (but including any such Target Share held on behalf of one or more third parties or otherwise in a fiduciary capacity).

Scheme Shareholder means a person who holds one or more Scheme Shares registered in the Target Register.

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

Scrip Consideration means 0.0753 New Bidder Shares for each Scheme Share to which the Cash Consideration does not apply, subject to the application of the Downside Price Protection Mechanism or the Upside Participation Cap.

Scrip Shares has the meaning given to that term in clause 5.4A.

Second Court Date means the first day on which an application made to the Court for an order under 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.

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

Target 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.

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

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

Target Share Registry means Boardroom Pty Limited.

Trading Day means a day determined by TSE to be a trading day.

Transaction means the proposed acquisition by Bidder, in accordance with the terms and conditions of this Scheme, of all of the Target Shares (other than the Target Shares held by an Excluded Shareholder) through the implementation of the Scheme.

TSE means the Tokyo Stock Exchange.

Upside Participation Cap means the upside participation cap set out in clauses 5.5 and 5.6.

Interpretation

- 1.2 In this Scheme the following rules of interpretation apply unless the contrary intention appears:
- (a) headings are for convenience only and do not affect the interpretation of this Scheme;
 - (b) the singular includes the plural and vice versa;
 - (c) words that are gender neutral or gender specific include each gender;
 - (d) where a word or phrase is given a particular meaning, other parts of speech and grammatical forms of that word or phrase have corresponding meanings;
 - (e) the words 'such as', 'including', 'particularly' and similar expressions are not used as, nor are intended to be, interpreted as words of limitation;
 - (f) a reference to:
 - (i) a person includes a natural person, partnership, joint venture, Governmental Agency, association, corporation, trust or other body corporate;
 - (ii) a thing (including, but not limited to, a chose in action or other right) includes a part of that thing;

- (iii) a party includes its agents, successors and permitted assigns;
- (iv) a document includes all amendments or supplements to that document;
- (v) a clause, term, party, schedule or attachment is a reference to a clause or term of, or party, schedule or attachment to this Scheme;
- (vi) this Scheme includes all schedules and attachments to it;
- (vii) a law includes a constitutional provision, treaty, decree, convention, statute, regulation, ordinance, by-law, judgment, rule of common law or equity and is a reference to that law as amended, consolidated or replaced;
- (viii) a statute includes any regulation, ordinance, by-law or other subordinate legislation made under it;
- (ix) an agreement other than this Scheme includes an undertaking, or legally enforceable arrangement or understanding, whether or not in writing; and
- (x) a monetary amount is in Australian dollars, unless otherwise specified;
- (g) unless otherwise defined in this Scheme, a term defined in or for the purposes of the Corporations Act has the same meaning when used in this Scheme;
- (h) an agreement on the part of two or more persons binds them jointly and each of them severally;
- (i) when the day on which something must be done is not a Business Day, that thing must be done on the following Business Day;
- (j) a reference to time is to Melbourne, Australia time; and
- (k) no rule of construction applies to the disadvantage of a party because that party was responsible for the preparation of this Scheme or any part of it.