

14 September 2022

ASX and Media Release

Scheme become effective

MyDeal.com.au Limited (**MyDeal**) (ASX:MYD) announces that it has today lodged with the Australian Investments and Securities Commission (**ASIC**) an office copy of the orders made by the Supreme Court of New South Wales (**Court**) approving the acquisition of 80.2% of the issued shares in MyDeal by Woolworths Group Limited (ASX:WOW) by way of a scheme of arrangement (**Scheme**) pursuant to section 411(10) of the *Corporations Act 2001* (Cth.). Unless otherwise defined herein, capitalised terms have the meaning given to them in the Scheme Booklet.

Accordingly, the Scheme is now legally effective and it is expected that quotation of MyDeal shares on the ASX will be suspended from close of trading today.

MyDeal shareholders (other than the holders of Excluded Shares) will be paid \$1.05 cash per MyDeal share on the implementation date of the Scheme (expected to be 23 September 2022) in respect of MyDeal shares held at 7.00 p.m. (AEST) on 16 September 2022.

An office copy of the Court orders lodged with ASIC in relation to the Scheme is attached.

Authorisation

This ASX Announcement has been authorised by MyDeal's Board of Directors.

—ENDS—

For more information

Media Enquiries	Investor Relations
https://investors.mydeal.com.au +61 401 496 334 ir@mydeal.com.au	https://investors.mydeal.com.au +61 3 9999 1091 ir@mydeal.com.au

About MyDeal

MyDeal is an online retail marketplace focused on home and lifestyle goods. MyDeal currently has more than 2,049 sellers (of which 1,373 are considered Active Sellers¹ as at 30 June 2022) on its platform with over 6 million product SKUs listed across 2,000 categories (with the number of SKUs available for sale at any time determined by sellers).

<https://investors.mydeal.com.au/site/content>

¹ "Active Sellers" are sellers that have sold products through the platform within the last three months.



Issued: 13 September 2022 11:40 AM

JUDGMENT/ORDER

COURT DETAILS

Court	Supreme Court of NSW
Division	Equity
List	Corporations List
Registry	Supreme Court Sydney
Case number	2022/00167838

TITLE OF PROCEEDINGS

First Plaintiff	MYDEAL.COM.AU LIMITED ACN 640108130
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First

DATE OF JUDGMENT/ORDER

Date made or given	13 September 2022
Date entered	13 September 2022

TERMS OF JUDGMENT/ORDER

VERDICT, ORDER OR DIRECTION:

- Black J grants leave for Woolworths Group Limited to appear under r 2.13 of the Supreme Court (Corporations) Rules.

Hearing of Originating Process filed 9 June 2022. Second Court hearing.

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

ORDERS:

1. Pursuant to section 411(4)(b) of the Corporations Act 2001 (Cth) (Act), the Scheme of Arrangement between the Plaintiff and holders of ordinary shares in the Plaintiff, excluding the shareholders of Excluded Shares (as defined in the Scheme of Arrangement), being Tripitaka Pty Ltd (ACN 660 758 083), Bonn Co. Pty Ltd (ACN 660 750 872), and Jack Road North Pty Ltd (ACN 660 725 495), the terms of which are set out in the document that is Annexure A to these Orders, be approved.
2. The Plaintiff lodge with the Australian Securities and Investments Commission a copy of the approved Scheme of Arrangement referred to in Order 1 above at the time of lodging an office copy of these Orders under section 411(10) of the Act.
3. Pursuant to section 411(12) of the Act, the Plaintiff be exempted from compliance with section 411(11) of the Act in relation to Order 1 above.
4. These orders be entered forthwith.

SEAL AND SIGNATURE



Signature Chris D'Aeth
Capacity Principal Registrar
Date 13 September 2022

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

FURTHER DETAILS ABOUT Plaintiff(s)

First Plaintiff
Name MYDEAL.COM.AU LIMITED
ACN 640108130
Address Level 1
446 Collins Street
MELBOURNE VIC 3000
Telephone
Fax
E-mail
Client reference

Legal representative

Name Norman Lucas
Practicing certificate number 22635
Address Angel Place Level 27
123 Pitt Street
SYDNEY NSW 2000
DX address DX 10284 Sydney NSW
Fax 02 9221 0872
Email norman.lucas@maddocks.com.au
Electronic service address norman.lucas@maddocks.com.au
Contact name and telephone ERIN GRACE HOURIGAN
02 9291 6308

FURTHER DETAILS ABOUT (s)

ATTACHMENTS TO ORDERS

(Annexure A - Orders 13.9.22.pdf)

[attach.]

Annexure A



Scheme of arrangement

MyDeal.com.au Limited

ACN 640 108 130

and

Scheme Shareholders

2022

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THIS SCHEME OF ARRANGEMENT is made on

2022

BETWEEN:

- (1) **MyDeal.com.au Limited** ACN 640 108 130 of Level 1, 446 Collins Street, Melbourne VIC 3000 (**Target**); and
- (2) **Scheme Shareholders**, each person who is registered as the holder of Target Shares recorded in the Target Register as at the Scheme Record Date (**Scheme Shareholders**).

THE PARTIES AGREE AS FOLLOWS:

1. DEFINITIONS, INTERPRETATION AND SCHEME COMPONENTS

1.1 Definitions

The meanings of the terms used in this Scheme are set out below.

ADI means authorised deposit-taking institution (as defined in the *Banking Act 1959* (Cth)).

ASIC means the Australian Securities and Investments Commission.

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

Bidder means Woolworths Group Limited ACN 000 014 675 of 1 Woolworths Way, Bella Vista NSW 2153.

Bidder Group means Bidder and its subsidiaries.

Business Day means a business day as defined in the Listing Rules and which is not a Saturday, Sunday or a public holiday or bank holiday in Sydney, Australia.

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

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

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

Deed Poll means the deed poll under which Bidder covenants in favour of the Scheme Shareholders to perform the obligations attributed to Bidder under this Scheme.

Effective means when used in relation to this Scheme, the coming into effect, under subsection 411(10) of the Corporations Act, of the Court Order (as defined in clause 4) made under paragraph 411(4)(b) of the Corporations Act in relation to this Scheme.

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

End Date has the meaning given to it in the Scheme Implementation Agreement, including any variation as permitted under that document.

Excluded Shares mean:

- (a) 48,997,216 Target Shares held by one or more entities controlled by Sean Servitne;
- (b) 1,316,942 Target Shares held by one or more entities controlled by Kate Dockery;
- (c) 1,043,377 Target Shares held by one or more entities controlled by Dean Ramler; or

- (d) any Target Shares held by a member of the Bidder Group or any person who holds any Target Shares on behalf of, or for the benefit of, any member of the Bidder Group and does not hold Target Shares on behalf of, or for the benefit of, any other person,

which will not be transferred to Bidder under the Scheme.

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

Implementation Date means the fifth Business Day after the Scheme Record Date, or such other date after the Scheme Record Date as agreed in writing by Target and Bidder.

Listing Rules means the official listing rules of ASX.

Operating Rules means the official operating rules of ASX.

Registered Address means in relation to a Target Shareholder, the address shown in the Target Register as at the Scheme Record Date.

Scheme means this scheme of arrangement under Part 5.1 of the Corporations Act between Target and the Scheme Shareholders subject to any alterations or conditions made or required by the Court under subsection 411(6) of the Corporations Act and agreed to in writing by Target and Bidder.

Scheme Consideration means A\$1.05 cash for each Scheme Share.

Scheme Implementation Agreement means the scheme implementation agreement dated 20 May 2022 between Target and Bidder relating to the implementation of this Scheme.

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

Scheme Record Date means 7.00 pm on the second Business Day after the Effective Date or such other time and date after the Effective Date as may be agreed to in writing by Target and Bidder.

Scheme Share means a Target Share on issue as at the Scheme Record Date, other than an Excluded Share.

Scheme Shareholder means a person who holds one or more Scheme Shares as at the Scheme Record Date.

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, in favour of Bidder as transferee, which may be a master transfer of all or part of the Scheme Shares.

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

Target means MyDeal.com.au Limited ACN 640 108 130.

Target Register means the register of members of the Target maintained in accordance with the Corporations Act.

Target Registry means Boardroom Pty Limited ACN 003 209 836.

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

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

1.2 Interpretation

In this Scheme:

- (a) headings and bold type are for convenience only and do not affect the interpretation of this Scheme;
- (b) the singular includes the plural and the plural includes the singular;
- (c) words of any gender include all genders;
- (d) other parts of speech and grammatical forms of a word or phrase defined in this Scheme have a corresponding meaning;
- (e) a reference to a person includes any company, partnership, joint venture, association, corporation or other body corporate and any Government Agency as well as an individual;
- (f) a reference to a clause, party, schedule, attachment or exhibit is a reference to a clause of, and a party, schedule, attachment or exhibit to, this Scheme;
- (g) a reference to any legislation includes all delegated legislation made under it and amendments, consolidations, replacements or reenactments of any of them (whether passed by the same or another Government Agency with legal power to do so);
- (h) a reference to a document (including this Scheme) includes all amendments or supplements to, or replacements or novations of, that document;
- (i) a reference to \$, **A\$** or **dollar** is to Australian currency;
- (j) a reference to any time is, unless otherwise indicated, a reference to that time in Sydney;
- (k) a term defined in or for the purposes of the Corporations Act, and which is not defined in clause 1, has the same meaning when used in this Scheme;
- (l) a reference to a party to a document includes that party's successors and permitted assignees;
- (m) no provision of this Scheme will be construed adversely to a party because that party was responsible for the preparation of this Scheme or that provision;
- (n) any agreement, representation, warranty or indemnity in favour of two or more parties (including where two or more persons are included in the same defined term) is for the benefit of them jointly and severally;

- (o) a reference to a body, other than a party to this Scheme (including an institute, association or authority), whether statutory or not:
 - (i) which ceases to exist; or
 - (ii) whose powers or functions are transferred to another body,
 is a reference to the body which replaces it or which substantially succeeds to its powers or functions;
- (p) if a period of time is specified and dates from a given day or the day of an act or event, it is to be calculated exclusive of that day;
- (q) a reference to a day is to be interpreted as the period of time commencing at midnight and ending 24 hours later;
- (r) if an act prescribed under this Scheme to be done by a party on or by a given day is done after 5.00 pm on that day, it is taken to be done on the next day; and
- (s) a reference to the Listing Rules and the Operating Rules includes any variation, consolidation or replacement of these rules and is to be taken to be subject to any waiver or exemption granted to the compliance of those rules by a party.

1.3 Interpretation of inclusive expressions

Specifying anything in this Scheme after the words include or for example or similar expressions does not limit what else is included.

1.4 Business Day

Where the day on or by which any thing is to be done is not a Business Day, that thing must be done on or by the next Business Day.

1.5 Scheme components

This Scheme includes any schedule to it.

2. PRELIMINARY MATTERS

- (a) Target is a public company limited by shares registered in Victoria, Australia, and has been admitted to the official list of the ASX. Target Shares are quoted for trading on the ASX.
- (b) As at the date of the Scheme Implementation Agreement, there were on issue:
 - (i) 258,827,306 Target Shares, which are quoted for trading on the ASX; and
 - (ii) 12,925,696 options to subscribe for Target Shares, which are not quoted for trading on any stock exchange.
- (c) Bidder is a public company limited by shares registered in New South Wales, Australia, and has been admitted to the official list of the ASX. Bidder shares are quoted for trading on the ASX.
- (d) If this Scheme becomes Effective:
 - (i) Bidder must provide or procure the provision of the Scheme Consideration to the Scheme Shareholders in accordance with their respective obligations under the terms of this Scheme and the Deed Poll;

- (ii) all the Scheme Shares, and all the rights and entitlements attaching to them as at the Implementation Date, must be transferred to Bidder; and
 - (iii) Target will enter the name of Bidder in the Target Register in respect of the Scheme Shares.
- (e) Target and Bidder have agreed, by executing the Scheme Implementation Agreement, to implement this Scheme.
 - (f) This Scheme attributes certain actions to Bidder but does not itself impose an obligation on Bidder to perform those actions. Bidder has agreed, by executing the Deed Poll, to perform the actions attributed to it under this Scheme, including the provision or procuring the provision of the Scheme Consideration to the Scheme Shareholders.

3. CONDITIONS

3.1 Conditions precedent

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

- (a) all the conditions in clause 3.2 of the Scheme Implementation Agreement (other than the condition in the Scheme Implementation Agreement relating to Court approval of this Scheme) having been satisfied or waived in accordance with the terms of the Scheme Implementation Agreement by 8.00 am on the Second Court Date;
- (b) neither the Scheme Implementation Agreement nor the Deed Poll having been terminated in accordance with their terms before 8.00 am on the Second Court Date;
- (c) approval of this Scheme by the Court under paragraph 411(4)(b) of the Corporations Act, including with any alterations made or required by the Court under subsection 411(6) of the Corporations Act and agreed to by Target and Bidder;
- (d) such other conditions made or required by the Court under subsection 411(6) of the Corporations Act in relation to this Scheme and agreed to by Target and Bidder having been satisfied or waived; and
- (e) the orders of the Court made under paragraph 411(4)(b) (and, if applicable, subsection 411(6)) of the Corporations Act approving this Scheme coming into effect, pursuant to subsection 411(10) of the Corporations Act on or before the End Date (or any later date Target and Bidder agree in writing).

3.2 Certificate

- (a) Target and Bidder will each provide to the Court on the Second Court Date a certificate, or such other evidence as the Court requests, confirming (in respect of matters within their knowledge) whether or not all of the conditions precedent in clauses 3.1(a) and 3.1(b) have been satisfied or waived as at 8.00 am on the Second Court Date.
- (b) The certificate referred to in clause 3.2(a) constitutes conclusive evidence that such conditions precedent were satisfied, waived or taken to be waived as at 8.00 am on the Second Court Date.

3.3 End Date

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

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

unless Target and Bidder otherwise agree in writing.

4. **LODGEMENT OF COURT ORDER WITH ASIC**

Target must lodge with ASIC, in accordance with subsection 411(10) of the Corporations Act an office copy of the Court order approving this Scheme (the **Court Order**), as soon as possible after the Court approves this Scheme and in any event by 5.00 pm on the first Business Day after the day on which the Court approves this Scheme (or such later time or date as agreed in writing by Bidder).

5. **TRANSFER OF SCHEME SHARES**

On the Implementation Date:

- (a) subject to the provision of the Scheme Consideration in the manner contemplated by clause 6.1 and Bidder having provided Target with written confirmation of the provision of the Scheme Consideration, 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 9.5), by:
 - (i) Target delivering to Bidder a duly completed Scheme Transfer, executed on behalf of the Scheme Shareholders by Target; and
 - (ii) Bidder duly executing the Scheme Transfer, attending to the stamping of the Scheme Transfer (if required) and delivering it to Target for registration; and
- (b) immediately following receipt of the Scheme Transfer in accordance with clause 5(a)(ii), but subject to the stamping of the Scheme Transfer (if required), Target must enter the name of Bidder in the Target Register as the registered holder of all the Scheme Shares.

6. **SCHEME CONSIDERATION**

6.1 **Provision of Scheme Consideration**

- (a) Bidder must, by no later than the Business Day before the Implementation Date, deposit, or procure the deposit, in cleared funds an amount equal to the aggregate Scheme Consideration payable to all Scheme Shareholders into an Australian dollar denominated trust account with an ADI operated by Target as trustee for the Scheme Shareholders and notified to Bidder at least five Business Days prior to the Implementation Date. Any interest on the amounts deposited (less bank fees and other charges) will be credited to Bidder's account).
- (b) On the Implementation Date, subject to funds having been deposited in accordance with clause 6.1(a), Target must pay the Scheme Consideration from the trust account referred to in clause 6.1(a) to each Scheme Shareholder in respect of all that Scheme Shareholder's Scheme Shares in accordance with clause 6.1.
- (c) The obligations of Target under clause 6.1(b) will be satisfied by Target (in its absolute discretion, and despite any election referred to in clause 6.1(c)(i) or authority referred to in clause 6.1(c)(ii) made or given by the Scheme Shareholder):

- (i) if a Scheme Shareholder has, before the Scheme Record Date, made a valid election in accordance with the requirements of the Target Registry to receive dividend payments from Target by electronic funds transfer to a bank account nominated by the Scheme Shareholder, paying, or procuring the payment of, the relevant amount in Australian currency by electronic means in accordance with that election;
 - (ii) paying, or procuring the payment of, the relevant amount in Australian currency by electronic means to a bank account nominated by the Scheme Shareholder by an appropriate authority from the Scheme Shareholder to Target; or
 - (iii) dispatching, or procuring the dispatch of, a cheque for the relevant amount in Australian currency to the Scheme Shareholder by prepaid post to their Registered Address, 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 6.2).
- (d) To the extent that, following satisfaction of Target's obligations under clause 6.1(b), there is a surplus in the amount held by Target as trustee for the Scheme Shareholder in the trust account referred to in that clause, that surplus must be paid by Target to Bidder.

6.2 Joint holders

In the case of Scheme Shares held in joint names:

- (a) any cheque required to be sent under this Scheme will be made payable to the joint holders and sent to either, at the sole discretion of Target, the holder whose name appears first in the Target Register as at the Scheme Record Date or to the joint holders; and
- (b) any other document required to be sent under this Scheme, will be forwarded to either, at the sole discretion of Target, the holder whose name appears first in the Target Register as at the Scheme Record Date or to the joint holders.

6.3 Fractional entitlements and splitting

- (a) Where the calculation of the amount of Scheme Consideration to be paid, to a particular Scheme Shareholder would result in the Scheme Shareholder becoming entitled to a fraction of a cent, then the fractional entitlement will be rounded down to the nearest cent.
- (b) If Bidder is of the opinion, formed reasonably, that several Scheme Shareholders, each of which holds a holding of Target Shares which results in a fractional entitlement to the Scheme Consideration have, before the Scheme Record Date, been party to a shareholding splitting or division in an attempt to obtain an unfair advantage by reference to the rounding provided for in the calculation of each Scheme Shareholder's entitlement to the Scheme Consideration, Bidder may direct Target to give notice to those Scheme Shareholders:
 - (i) setting out the names and Registered Addresses of all of them;
 - (ii) stating that opinion; and
 - (iii) attributing to one of them specifically identified in the notice the Target Shares held by all of them,

and, after the notice has been so given, the Scheme Shareholder specifically identified in the notice shall, for the purposes of this Scheme, be taken to hold all those Target Shares and each of the other Scheme Shareholders whose names are set out in the notice shall, for the purposes of this Scheme, be taken to hold no Target Shares.

6.4 Unclaimed monies

- (a) Target may cancel a cheque issued under this clause 6 if the cheque:
 - (i) is returned to Target; or
 - (ii) has not been presented for payment within six months after the Implementation Date.
- (b) During the period of 12 months commencing on the Implementation Date, on request in writing from a Scheme Shareholder to Target (or the Target Registry) (which request may not be made until the date which is 20 Business Days after the Implementation Date), Target must reissue a cheque that was previously cancelled under this clause 6.4.
- (c) The *Unclaimed Money Act 1995* (NSW) will apply in relation to any Scheme Consideration which becomes unclaimed money (as defined in sections 7 and 8 of the *Unclaimed Money Act 1995* (NSW)).

6.5 Orders of a court or Government Agency

If Bidder or Target (or the Target Registry) is required under any applicable law including as a result of any order, direction or notice made or given by a court of competent jurisdiction or by another Government Agency that:

- (a) requires payment of a sum to a third party in respect of Scheme Shares held by a particular Scheme Shareholder, which would otherwise be payable to that Scheme Shareholder by Target in accordance with this clause 6, then Bidder or Target shall be entitled to procure that payment is made in accordance with that law, order, direction or notice; or
- (b) prevents Bidder or Target from dispatching payment to any particular Scheme Shareholder in accordance with this clause 6, or such payment is otherwise prohibited by applicable law, Bidder or Target shall be entitled to retain an amount, in Australian dollars, equal to the number of Scheme Shares held by that Scheme Shareholder multiplied by the Scheme Consideration until such time as payment in accordance with this clause 6 is permitted by that (or another) order, direction, notice or otherwise by law,

and the payment or retention by Bidder or Target in accordance with this clause 6.5 will constitute full discharge of Bidder's obligations under clause 6.1 with respect to such payment or retention.

7. DEALINGS IN TARGET SHARES

7.1 Determination of Scheme Shareholders

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 Scheme 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 5.00pm on the day on which the Scheme Record Date occurs 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 their respective successors in title), any transfer or transmission application or other request received after such times, or received prior to such times but not in registrable or actionable form, as appropriate.

7.2 Register

- (a) Target must register, or cause to be registered registrable transmission applications or transfers of Target Shares that are received in accordance with clause 7.1(b) before 5.00pm on the day on which the Scheme Record Date occurs provided that, for the avoidance of doubt, nothing in this clause 7.2(a) requires Target to register a transfer that would result in a Scheme Shareholder holding a parcel of Scheme Shares that is less than a marketable parcel (as defined in the Operating Rules).
- (b) If this Scheme becomes Effective, a Scheme Shareholder (and any person claiming through that holder) must not dispose of, or purport or agree to dispose of, any Scheme Shares or any interest in them on or after the Scheme Record Date otherwise than pursuant to this Scheme, and any attempt to do so will have no effect and Target shall be entitled to disregard any such disposal.
- (c) For the purpose of determining entitlements to the Scheme Consideration, Target must maintain, or cause to be maintained, the Target Register in accordance with the provisions of this clause 7.2 until the Scheme Consideration has been paid to the Scheme Shareholders and Bidder has been entered in the Target Register as holder of all the Scheme Shares. The Target Register in this form will solely determine entitlements to the Scheme Consideration.
- (d) All statements of holding for the Target Shares (other than statements of holding in favour of Bidder or in respect of any Excluded Shares) will cease to have effect after the Scheme Record Date as documents of title in respect of those securities and, as from that date, each entry current at that date on the Target Register (other than entries on the Target Register in respect of Bidder or in respect of any Excluded Shares) will cease to have effect except as evidence of entitlement to the Scheme Consideration in respect of the Scheme Shares relating to that entry.
- (e) As soon as possible on or after the Scheme Record Date, and in any event by 5.00 p.m. on the second Business Day after the Scheme Record Date, Target will ensure that details of the names, Registered Addresses and holdings of Target Shares for each Scheme Shareholder as shown in the Target Register at the Scheme Record Date are available to Bidder in the form that Bidder reasonably requires.

8. QUOTATION OF TARGET SHARES

- (a) Target must apply to ASX to suspend trading of the Target Shares on the ASX with effect from the close of trading on the Effective Date.
- (b) On a date after the Implementation Date to be determined by Bidder, Target must apply:
 - (i) for termination of the official quotation of the Target Shares on the ASX; and
 - (ii) to have itself removed from the official list of the ASX.

9. GENERAL SCHEME PROVISIONS

9.1 Consent to amendments to this Scheme

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

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

9.2 Scheme Shareholders' agreements and warranties

- (a) Each Scheme Shareholder irrevocably:
 - (i) agrees to the transfer of their Scheme Shares together with all rights and entitlements attaching to those Scheme Shares to Bidder in accordance with this Scheme;
 - (ii) agrees to the variation, cancellation or modification of the rights attached to their Scheme Shares constituted by or resulting from this Scheme;
 - (iii) acknowledges and agrees that this Scheme binds Target and all Scheme Shareholders (including those who do not attend the Scheme Meeting and those who do not vote, or vote against this Scheme, at the Scheme Meeting).
- (b) Each Scheme Shareholder is taken to have warranted to Target, Bidder on the Implementation Date, and appointed and authorised Target as its attorney and agent to warrant to Bidder on the Implementation Date, that:
 - (i) all of their Scheme Shares (including any rights and entitlements attaching to those shares) which are transferred under this Scheme will, at the date of transfer, be fully paid and free from all mortgages, charges, liens, encumbrances, pledges, security interests (including any security interests within the meaning of section 12 of the *Personal Property Securities Act 2009* (Cth)) and interests of third parties of any kind, whether legal or otherwise, and restrictions on transfer of any kind; and
 - (ii) they have full power and capacity to transfer their Scheme Shares to Bidder together with any rights and entitlements attaching to those shares; and
 - (iii) they have no existing right to be issued any Target Shares, options exercisable into Target Shares, performance rights, convertible notes or any other Target securities.
- (c) Target undertakes in favour of each Scheme Shareholder that it will provide the warranties in clause 9.2(b) to Bidder as agent and attorney of each Scheme Shareholder.

9.3 Title to and rights in Scheme Shares

- (a) To the extent permitted by law, the Scheme Shares (including all rights and entitlements attaching to the Scheme Shares) transferred under this Scheme to Bidder will, at the time of transfer of them to Bidder vest in Bidder free from all mortgages, charges, liens, encumbrances, pledges, security interests (including any security interests within the meaning of section 12 of the *Personal Property Securities Act 2009* (Cth)) and interests of third parties of any kind, whether legal or otherwise and free from any restrictions on transfer of any kind.

- (b) Immediately upon the provision of the Scheme Consideration to each Scheme Shareholder in the manner contemplated by clause 6.1, Bidder will be beneficially entitled to the Scheme Shares to be transferred to it under this Scheme pending registration by Target of Bidder in the Target Register as the holder of the Scheme Shares.

9.4 Appointment of sole proxy

Immediately upon the provision of the Scheme Consideration to each Scheme Shareholder in the manner contemplated by clause 6.1, 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 securityholders' meetings, exercise the votes attaching to the Scheme Shares registered in their name and sign any securityholders' resolution or document;
- (b) must not attend or vote at any of those meetings or sign any resolutions, whether in person, by proxy or by corporate representative (other than pursuant to clause 9.4(a));
- (c) must take all other actions in the capacity of a registered holder of Scheme Shares as Bidder reasonably directs; and
- (d) acknowledges and agrees that in exercising the powers referred to in clause 9.4(a), Bidder and any director, officer, secretary or agent nominated by Bidder under clause 9.4(a) may act in the best interests of Bidder as the intended registered holder of the Scheme Shares.

9.5 Authority given to Target

Each Scheme Shareholder, without the need for any further act:

- (a) on the Effective Date, irrevocably appoints Target and each of its directors, officers and secretaries (jointly and each of them severally) as its attorney and agent for the purpose of enforcing the Deed Poll against Bidder, and Target undertakes in favour of each Scheme Shareholder that it will enforce the Deed Poll against Bidder on behalf of and as agent and attorney for each Scheme Shareholder; and
- (b) on the Implementation Date, irrevocably appoints Target and each of its directors, officers and secretaries (jointly and each of them severally) as its attorney and agent for the purpose of executing any document or doing or taking any other act necessary, desirable or expedient to give effect to this Scheme and the transactions contemplated by it, including (without limitation) executing the Scheme Transfer and delivering share certificates for Scheme Shares,

and Target accepts each such appointment. Target as attorney and agent of each Scheme Shareholder, may sub-delegate its functions, authorities or powers under this clause 9.5 to all or any of its directors, officers, secretaries or employees (jointly, severally or jointly and severally).

9.6 Binding effect of Scheme

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

10. GENERAL

10.1 Stamp duty

Bidder will:

- (a) pay all stamp duty and any related fines and penalties in respect of this Scheme and the Deed Poll, the performance of the Deed Poll and each transaction effected by or made under or in connection with the Scheme and the Deed Poll; and
- (b) indemnify each Scheme Shareholder against any liability arising from failure to comply with clause 10.1(a).

10.2 Consent

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

10.3 Notices

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

10.4 Further action

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

10.5 No liability when acting in good faith

Each Scheme Shareholder agrees that none of Target, Bidder, or any of their respective directors, officers, secretaries or employees shall be liable for anything done or omitted to be done in the performance of this Scheme or the Deed Poll in good faith.

10.6 Governing law

- (a) This Scheme is governed by the laws in force in New South Wales, Australia.
- (b) The parties irrevocably submit to the exclusive jurisdiction of courts exercising jurisdiction in New South Wales, Australia and courts of appeal from them in respect of any proceedings arising out of or in connection with this Scheme. The parties irrevocably waive any objection to the venue of any legal process in these courts on the basis that the process has been brought in an inconvenient forum.

SCHEDULE 1

Deed Poll

[Not reproduced here]

