



AmericanPacific

BORATES LIMITED

ASX Announcement

ASX Code: ABR

ACN: 615 606 114

28 February 2022

SCHEME OF ARRANGEMENT BECOMES EFFECTIVE

American Pacific Borates Limited (ASX:ABR) (**ABR** or the **Company**) is pleased to advise that a copy of the orders made by the Federal Court of Australia approving the scheme of arrangement pursuant to which 5E Advanced Materials, Inc. (**5EA**) will acquire all of the shares in ABR (**Scheme**) has been lodged with the Australian Securities and Investments Commission.

This means that the Scheme has become legally effective. A copy of the orders is attached to this announcement.

Pursuant to the Scheme, ABR Shareholders who hold shares on the Record Date (7:00 pm (AEDT) on 2 March 2022), other than Ineligible Foreign Shareholders, will receive:

- by default, 1 5EA CHESS Depository Interest (**CDI**) for every ABR share held on the Record Date; or
- for ABR shareholders who have elected to receive shares, 1 share of 5EA common stock for every 10 ABR shares held on the Record Date,

in each case with fractional entitlements to be rounded up to the nearest whole number. ABR shareholders wanting to elect to receive 5EA shares, or change an election previously made, must do so by providing an Election Form or Election Withdrawal Form to the ABR Registry by no later than 5:00 pm (AEDT) on 2 March 2022.

5EA CDIs to which Ineligible Foreign Shareholders otherwise would have been entitled will be issued to the Sale Agent and sold in accordance with the Sale Facility described in the Scheme Booklet, and the net proceeds will be remitted to those shareholders.

Further information

If you require further information or have questions, you should refer to Section 3 of the Scheme Booklet (Frequently asked questions), visit the ABR website at www.americanpacificborates.com or contact the Scheme Information Line on 1300 161 428 (within Australia) or +61 3 9415 4037 (outside Australia).

COMPANY DIRECTORS

David Salisbury – Non-Executive Chair

Anthony Hall - Executive Director

Stephen Hunt – Non-Executive Director

Jimmy Lim – Non-Executive Director



REGISTERED OFFICE

Level 12, 197 St Georges Terrace,
Perth, WA, 6000, Australia

US OFFICE

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Hesperia, CA, 92344, USA

CONTACT

American Pacific Borates Limited to be
renamed “**5E Advanced Materials, Inc.**”

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- Ends -

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About American Pacific Borates Limited (to be renamed 5E Advanced Materials Inc.)

American Pacific Borates Limited is an ASX listed company focused on advancing its 100% owned Fort Cady Integrated Boron Facility located in Southern California, USA. The Company is seeking to become a fully integrated producer of Boron specialty products and advanced materials. It is targeting Boron applications in the field of clean energy transition, electric transportation and food security amongst other high-performance, high-tech and high-margin applications.

The global shift from fossil based systems of energy production to renewable energy is increasingly important to investors, consumers and governments. The emergence of renewable energy, the onset of electrification and improvements in energy storage are all key drivers of clean energy transition. Boron is a key component in energy transition because it is highly versatile in chemical reactions and can be applied in processes for storing chemical and electrical energy, amongst other applications.

Global access to mined Boron is rare and the Company's production is underpinned by an even more rare and large colemanite deposit. Colemanite is a conventional Boron mineral that has been used to commercially produce Boron for broad applications for centuries. The Fort Cady colemanite ore deposit is the largest known contained traditional Borate occurrence in the world not owned by the two major Borate producers Rio Tinto and Eti Maden. The JORC compliant Mineral Resource Estimate and Reserve comprises 13.93Mt of contained Boric Acid.

As part of the commercialisation strategy, the Company will produce Boric Acid, Boron specialty products and advanced materials (and SOP as a by-product credit) from Mannheim furnaces. SOP is a high value specialty fertiliser prized for its low chloride potassium and sulfur content. Large target markets exist on ABR's doorstep in California and Arizona (collectively known as the bread basket of the United States)

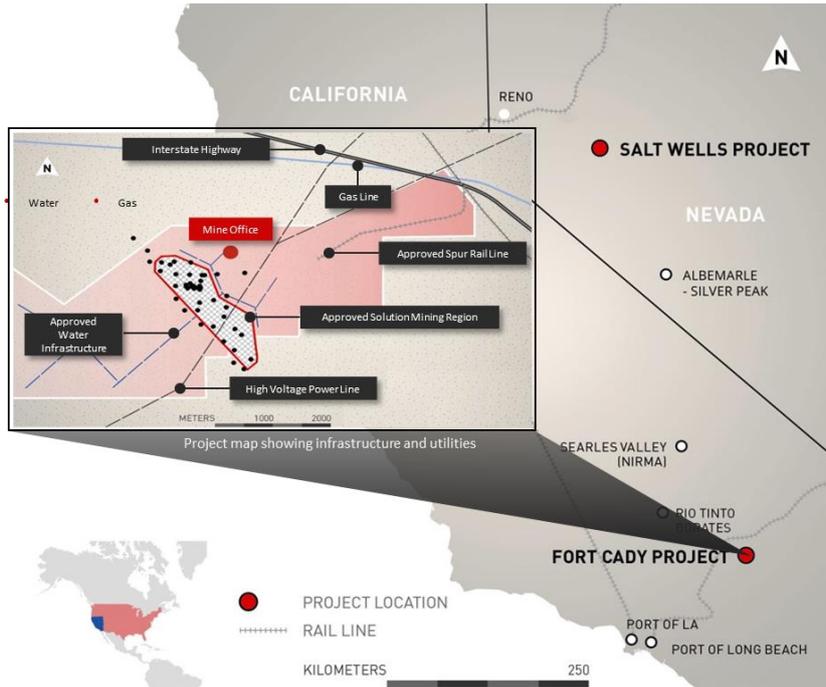


Figure 1: Location of the Fort Cady and Salt Wells Projects in the USA



Federal Court of Australia

District Registry: Victoria

Division: General

No: VID584/2021

AMERICAN PACIFIC BORATES LIMITED
Plaintiff

ORDER

JUDGE: JUSTICE ANASTASSIOU

DATE OF ORDER: 25 February 2022

WHERE MADE: Melbourne

THE COURT NOTES THAT:

- A. 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) (**Act**) stating that ASIC has no objection to the Scheme of Arrangement between the plaintiff (**ABR**) and its members agreed to by the said members at the meeting held on 3 December 2021, the terms of which are set out in Annexure A to this order (**Scheme**).
- B. The Holdco Shares and the Holdco CDIs (as defined in the Scheme) to be issued pursuant to the Scheme will not be registered under the US Securities Act 1933 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 the Holdco Shares and the Holdco CDIs, ABR and Holdco intend to rely on:
- i. the Federal Court of Australia's approval of the Scheme; and
 - ii. section 3(a)(10) of the US Securities Act 1933.

THE COURT ORDERS THAT:

1. Pursuant to section 411(4)(b) of the Act, the Scheme be and is hereby approved.
2. Pursuant to section 411(12) of the Act, ABR be exempted from compliance with section 411(11) of the Act in respect of the Scheme.
3. Pursuant to rule 39.34 of the *Federal Court Rules 2011* (Cth), these orders be entered forthwith.

Date that entry is stamped: 25 February 2022



Sia Lagos
Registrar



ANNEXURE A
SCHEME OF ARRANGEMENT

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Scheme of Arrangement

American Pacific Borates Limited

**The holders of fully paid ordinary shares in
American Pacific Borates Limited as at the
Record Date**

Table of contents

1.	Definitions and interpretation	1
2.	Preliminary	4
3.	Conditions	5
4.	Implementation of Scheme	5
5.	Scheme Consideration	6
6.	Dealings in ABR Shares	9
7.	Quotation	10
8.	General Scheme provisions	10

Scheme of Arrangement

pursuant to section 411 of the *Corporations Act 2001* (Cth)

between **American Pacific Borates Limited (ACN 615 606 114)** (a company incorporated in Australia) of Level 12, 197 St Georges Terrace, Perth WA 6000 Australia (**ABR**)

and **The holders of fully paid ordinary shares in ABR as at the Record Date**

Operative provisions

1. Definitions and interpretation

Definitions

1.1 In this document, unless the context requires otherwise:

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

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

ASIC means the Australian Securities and Investments Commission.

ASX means ASX Limited (ACN 008 624 691) or, where the context requires, the securities market which it operates.

ASX Settlement means ASX Settlement Pty Ltd (ACN 008 504 532).

ASX Settlement Rules means the ASX Settlement Operating Rules.

Business Day means a day that is not a Saturday, Sunday, public holiday or bank holiday in Sydney, New South Wales.

CDI means a CHESS Depository Interest, being a unit of beneficial ownership in a Holdco Share that is registered in the name of CDN, or beneficial ownership is held by CDN, in accordance with the ASX Settlement Rules and **CDIs** means a number of them.

CDN means CHESS Depository Nominees Pty Ltd (ACN 071 346 506).

CHESS means the Clearing House Electronic Subregister System of share transfers operated by ASX Settlement.

Condition means a condition set out in clause 3.1.

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

Court means the Federal Court of Australia or any other court of competent jurisdiction under the Corporations Act agreed in writing between ABR and Holdco.

Deed Poll means the deed poll in respect of this Scheme dated on or about the date of this document executed by Holdco in favour of each Scheme Shareholder.

Depository Nominee has the meaning given in the ASX Settlement Rules.

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

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

Encumbrance means any security for the payment of money or performance of obligations, including a mortgage, charge, lien, pledge, trust, power or title retention or flawed deposit arrangement, security interest (as defined in section 12 of the *Personal Property Securities Act 2009* (Cth)), right of first refusal, pre-emptive right, any similar restriction, or any agreement to create any of them or allow them to exist.

End Date means 5.00 pm on 31 January 2022 or such other date and time agreed in writing between ABR and Holdco.

Holdco means 5E Advanced Materials, Inc. (a company incorporated in the State of Delaware, United States of America).

Holdco CDI means a CDI representing a beneficial interest in 1/10th of a Holdco Share.

Holdco Share means a share of voting common stock in Holdco.

Implementation Date means the fifth Business Day after the Record Date or such other date as is agreed by ABR and Holdco.

Ineligible Foreign Shareholder means a Scheme Shareholder whose address, as shown in the Share Register (as at the Record Date), is in a place outside Australia, New Zealand, Canada, Hong Kong, Ireland, Papua New Guinea, Singapore, Malaysia, Thailand or the United States, unless Holdco is satisfied, acting reasonably, that the laws of that place permit the offer and issue of Holdco Shares or Holdco CDIs to that Scheme Shareholder and, in Holdco's sole discretion, is not unduly onerous or impracticable for Holdco to do so.

NASDAQ means Nasdaq Stock Market LLC or the Nasdaq Stock Market (or such other market operated by Nasdaq Stock Market LLC on which Holdco Shares may be listed or quoted), as the context requires.

Record Date means 7.00 pm on the second Business Day after the Effective Date.

Sale Agent means the person appointed by ABR to sell the Scheme Consideration that is attributable to Ineligible Foreign Shareholders under the terms of this Scheme.

Sale Facility means a facility to be established by ABR and managed by the Sale Agent under which the Scheme Consideration which otherwise would be received by Ineligible Foreign Shareholders will be sold in accordance with this Scheme and the agreement to be entered into between ABR and the Sale Agent.

Scheme means this scheme of arrangement under Part 5.1 of the Corporations Act between ABR and Scheme Shareholders, subject to any alterations or conditions made or required by the Court under section 411(6) of the Corporations Act and approved in writing by ABR and Holdco.

Scheme Consideration means the consideration to be provided to Scheme Shareholders under the terms of this Scheme for the transfer to Holdco of their Scheme Shares being:

- (a) where the Scheme Shareholder is a Share Elected Scheme Shareholder, 1 Holdco Share for every 10 Scheme Shares; or
- (b) where the Scheme Shareholder is a CDI Elected Scheme Shareholder, 1 Holdco CDI for every Scheme Share.

Scheme Implementation Agreement means the scheme implementation agreement dated 11 October 2021 between ABR and Holdco.

Scheme Meeting means the meeting of ABR Shareholders ordered by the Court to be convened under section 411(1) of the Corporations Act in relation to this Scheme.

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

Scheme Shareholder means each person who holds an ABR Share as at the Record Date.

Second Court Date means the first day on which the Court hears the application to approve this Scheme under section 411(4)(b) of the Corporations Act, or if the application is adjourned or subject to appeal for any reason, the first day on which the adjourned or appealed application is heard.

Share Elected Scheme Shareholder means each Scheme Shareholder (other than an Ineligible Foreign Shareholder) who has made a valid Share Election.

Share Election means a valid election for Holdco Shares by a Scheme Shareholder pursuant to the terms of this Scheme.

Share Register means the register of shareholders of ABR maintained by or on behalf of ABR.

Interpretation

1.2 In this document:

- (a) unless the context requires otherwise, a reference:
 - (i) to the singular includes the plural and vice versa;
 - (ii) to a gender includes all genders;
 - (iii) to a document or instrument is a reference to that document or instrument as amended, consolidated, supplemented, novated or replaced;
 - (iv) to a clause, paragraph, Schedule or Annexure is to a clause, paragraph, Schedule or Annexure of or to this document;
 - (v) to a law includes any legislation, judgment, rule of common law or equity or rule of any applicable stock exchange, and is a reference to that law as amended, consolidated, supplemented or replaced and includes a reference to any regulation, by-law or other subordinate legislation;
 - (vi) to any time is to Sydney time;
 - (vii) to "\$" is to the lawful currency of Australia;
- (b) the words "including" or "includes" means "including, but not limited to", or "includes, without limitation" respectively;
- (c) where a word or phrase is defined, its other grammatical forms have a corresponding meaning;

- (d) headings are for convenience only and do not affect interpretation of this document;
 - (e) if a payment or other act must (but for this clause) be made or done on a day that is not a Business Day, then it must be made or done on the next Business Day; and
 - (f) if a period must be calculated from, after or before a day or the day of an act or event, it must be calculated excluding that day.
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2. Preliminary

ABR

- 2.1 ABR is a public company limited by shares, incorporated in Australia and taken to be registered in Western Australia. Its registered office is at Level 12, 197 St Georges Terrace, Perth WA 6000.
- 2.2 ABR is admitted to the official list of ASX and ABR Shares are quoted on ASX.
- 2.3 As at 11 October 2021, 388,432,903 ABR Shares were on issue.

Holdco

- 2.4 Holdco is a corporation formed in the State of Delaware, United States of America. Its principal executive office is at 9329 Mariposa Suite 210, Hesperia California, 92344 United States of America.

Effect of Scheme

- 2.5 If this Scheme becomes Effective:
 - (a) Holdco will provide, or procure the provision of, the Scheme Consideration to Scheme Shareholders in accordance with the terms of this Scheme; and
 - (b) subject to provision of the Scheme Consideration, all of the Scheme Shares, together with all rights and entitlements attaching to the Scheme Shares as at the Implementation Date, will be transferred to Holdco and ABR will enter Holdco in the Share Register as the holder of the Scheme Shares.

Scheme Implementation Agreement

- 2.6 ABR and Holdco have entered into the Scheme Implementation Agreement which sets out the terms on which ABR and Holdco have agreed to implement this Scheme.

Deed Poll

- 2.7 This Scheme attributes actions to Holdco but does not itself impose an obligation on Holdco to perform those actions. Holdco has executed the Deed Poll in favour of each Scheme Shareholder under which it has covenanted, subject to this Scheme becoming Effective, to perform certain steps attributed to it under this Scheme and to do all things necessary or desirable to implement this Scheme, including to provide, or procure the provision of, the Scheme Consideration.
- 2.8 ABR undertakes in favour of each Scheme Shareholder to enforce the Deed Poll against Holdco on behalf of and as trustee and nominee for the Scheme Shareholders.

3. Conditions

Conditions to Scheme

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

- (a) **Satisfaction of Conditions:** all of the conditions set out in clause 3.1 of the Scheme Implementation Agreement, other than the condition in clause 3.1(b), having been satisfied or waived in accordance with the terms of the Scheme Implementation Agreement, before 8.00 am on the Second Court Date;
- (b) **Scheme Implementation Agreement:** as at 8.00 am on the Second Court Date, neither the Scheme Implementation Agreement nor the Deed Poll having been terminated in accordance with its terms;
- (c) **Court Approval:** the Court making orders under section 411(4)(b) of the Corporations Act approving this Scheme and, if applicable, ABR and Holdco having accepted in writing any modification or condition made or required by the Court under section 411(6) of the Corporations Act;
- (d) **Court Order:** the coming into effect, pursuant to section 411(10) of the Corporations Act, of the orders of the Court made under section 411(4)(b) of the Corporations Act (and, if applicable, section 411(6) of the Corporations Act) in relation to this Scheme,

and the provisions of clauses 4, 5, 6 and 7 will not come into effect unless and until each of these Conditions has been satisfied.

Certificate in relation to Conditions

3.2 ABR and Holdco must provide to the Court on the Second Court Date a certificate confirming (in respect of matters within their knowledge) whether or not all of the Conditions (other than the Conditions in clauses 3.1(c) and 3.1(d)) have been satisfied or waived as at 8.00 am on the Second Court Date.

3.3 The certificate referred to in clause 3.2 will, in the absence of manifest error, constitute conclusive evidence of whether the Conditions have been satisfied or waived.

Effective Date

3.4 Subject to clause 3.5, this Scheme will come into effect pursuant to section 411(10) of the Corporations Act on and from the Effective Date.

End Date

3.5 This Scheme will lapse and have no further force or effect if the Effective Date has not occurred on or before the End Date.

4. Implementation of Scheme

Lodgement of Court orders with ASIC

4.1 ABR must lodge with ASIC in accordance with section 411(10) of the Corporations Act an office copy of the Court order approving this Scheme as soon as practicable and, in any event, by no later than 5.00 pm on the first Business Day after the date on which the Court approves this Scheme (or on such other Business Day as ABR and Holdco agree).

Transfer of Scheme Shares

- 4.2 Subject to this Scheme becoming Effective and provision of the Scheme Consideration in accordance with clause 5, on the Implementation Date the Scheme Shares, together with all rights and entitlements attaching to them as at the Implementation Date, will be transferred to Holdco without the need for any further act by any Scheme Shareholder by:
- (a) ABR delivering to Holdco a duly completed share transfer form executed on behalf of the Scheme Shareholders (which may be a master share transfer form) to transfer all the Scheme Shares to Holdco;
 - (b) Holdco duly executing this transfer form and delivering this transfer form to ABR for registration; and
 - (c) to the extent applicable, ABR effecting a valid transfer of Scheme Shares under section 1074D of the Corporations Act.
- 4.3 As soon as practicable after receipt of the transfer form or completion of the transfer procedure, ABR must enter the name and address of Holdco in the Share Register as the holder of the Scheme Shares.
- 4.4 To the extent permitted by law, the Scheme Shares will be transferred to Holdco free from all Encumbrances.
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5. Scheme Consideration

Scheme Consideration

- 5.1 ABR must use its best endeavours to procure that, on the Implementation Date, Holdco provides the Scheme Consideration to each Scheme Shareholder by:
- (a) (subject to clause 5.3) in respect of each Share Elected Scheme Shareholder, issuing 1 Holdco Share for every 10 Scheme Shares held by the Scheme Shareholder;
 - (b) (subject to clause 5.3) in respect of all other Scheme Shareholders (other than an Ineligible Foreign Shareholder):
 - (i) procuring CDN to issue 1 Holdco CDI for every Scheme Share held by that Scheme Shareholder; and
 - (ii) issuing to CDN (as Depositary Nominee) the relevant number of Holdco Shares underlying such Holdco CDIs (being 1 Holdco Share for every 10 Holdco CDIs); and
 - (c) in respect of each Ineligible Foreign Shareholder:
 - (i) procuring CDN to issue to the Sale Agent such number of Holdco CDIs that the Ineligible Foreign Shareholder would otherwise have been entitled to; and
 - (ii) issuing to CDN (as Depositary Nominee) the relevant number of Holdco Shares underlying such Holdco CDIs (being 1 Holdco Share for every 10 Holdco CDIs).

Sequence of transactions

- 5.2 Subject to the remaining provisions of this clause 5, the transactions which form part of this Scheme will be implemented in the following sequence on the Implementation Date:

- (a) each Scheme Shareholder will receive the Scheme Consideration for the Scheme Shares held by that Scheme Shareholder on the Record Date; and
- (b) in exchange, all Scheme Shares will be transferred to Holdco.

Fractional entitlements

- 5.3 Where a Scheme Shareholder would otherwise be entitled under the Scheme to a fraction of a Holdco Share or a number of Holdco CDIs that do not equate to a whole number of Holdco Shares as part of the Scheme Consideration, the fractional entitlement will be rounded up to the nearest whole number of Holdco Shares.

Holdco CDIs

- 5.4 On the Business Day prior to the Implementation Date, ABR must procure that Holdco enters in its register of stockholders the name of CDN (as Depositary Nominee) to hold the Holdco Shares underlying the Holdco CDIs to be issued in accordance with this Scheme.
- 5.5 After the satisfaction of the obligation of Holdco under clause 5.4, ABR must procure that Holdco:
- (a) on the Implementation Date, procures that CDN records in the register of Holdco CDIs each Scheme Shareholder who is to receive Holdco CDIs under this Scheme and issues Holdco CDIs to the Sale Agent in accordance with clause 5.1; and
 - (b) as soon as is reasonably practicable despatches, or causes to be despatched, to each Scheme Shareholder who is to receive Holdco CDIs under this Scheme, a holding statement or confirmation advice in the name of that Scheme Shareholder representing the number of Holdco CDIs issued to that Scheme Shareholder.

Holdco Shares

- 5.6 The obligation of ABR to procure that Holdco issues Holdco Shares under clause 5.1 will be satisfied by Holdco, on the Implementation Date, procuring the entry into its register of stockholders the name of each person who is to receive Holdco Shares.

Sale Facility

- 5.7 Where a Scheme Shareholder is an Ineligible Foreign Shareholder, the number of Holdco Shares to which that Scheme Shareholder would otherwise have been entitled to under this Scheme will be issued to the Sale Agent (in the form of Holdco CDIs) and sold under the Sale Facility.
- 5.8 ABR will procure that, after the Implementation Date, the Sale Agent:
- (a) as soon as is reasonably practicable and, in any event, within 1 month after the Implementation Date, sells all Holdco CDIs issued to it under clause 5.7 in such manner, at such price and on such other terms as the Sale Agent determines in good faith and at the risk of the Ineligible Foreign Shareholders; and
 - (b) as soon as is reasonably practicable and, in any event, within 10 Business Days after the settlement of the sale of the last of the Holdco CDIs, remits the gross proceeds of the sale (free of any brokerage costs) to the Ineligible Foreign Shareholders in the amount to which they are entitled (on an averaged basis so that each Ineligible Foreign Shareholder receives the same price per Sale Security, subject to rounding to the nearest whole cent).

- 5.9 The remittance to each Ineligible Foreign Shareholder of the sale proceeds pursuant to clause 5.8(b) is in full and final satisfaction of that Ineligible Foreign Shareholder's right and entitlement to the Scheme Consideration referable to it.
- 5.10 Each Ineligible Foreign Shareholder, without the need for any further action, irrevocably appoints ABR as its agent to take any necessary or appropriate actions, or to receive on its behalf any financial services guide or other notice which may be given by the Sale Agent in connection with the Sale Facility.

Holdco Shares to rank equally

- 5.11 Holdco covenants in favour of ABR (in its own right and separately as trustee or nominee of each Scheme Shareholder) that:
- (a) all Holdco Shares issued as Scheme Consideration (including those issued to CDN in connection with the Holdco CDIs) will, upon their issue:
 - (i) rank equally with all other Holdco Shares then on issue; and
 - (ii) be fully paid and free from any Encumbrances; and
 - (b) it will use all reasonable endeavours to ensure that:
 - (i) Holdco Shares issued as Scheme Consideration will be listed for quotation on NASDAQ with effect from the Business Day after the Implementation Date (or such later date as NASDAQ may require); and
 - (ii) Holdco CDIs issued as Scheme Consideration will be listed for quotation on ASX with effect from the Business Day after the Implementation Date (or such later date as ASX may require).

Joint holders

- 5.12 In the case of Scheme Shares held in joint names:
- (a) any Scheme Consideration will be issued to and registered in the names of the joint holders;
 - (b) holding statements or notices confirming the issue of the Scheme Consideration will be provided to the holder whose name appears first in the Share Register as at the Record Date; and
 - (c) any amount to be paid to Scheme Shareholders will be payable to the joint holders.

Obligations of Scheme Shareholders

- 5.13 Each Scheme Shareholder who will be issued Holdco Shares or Holdco CDIs under this Scheme agrees to:
- (a) become a stockholder or CDI holder of Holdco (without the need for any further action on its part);
 - (b) be bound by the certificate of incorporation and by-laws of Holdco in force from time to time in respect of their Holdco Shares or Holdco CDIs; and
 - (c) have their name and address entered into the register of stockholders or CDI holders (as applicable) maintained by or on behalf of Holdco.

6. Dealings in ABR Shares

Determination of Scheme Shareholders

- 6.1 Each Scheme Shareholder will be entitled to participate in this Scheme.
- 6.2 For the purpose of determining who is a Scheme Shareholder, dealings in ABR Shares will only be recognised if:
- (a) in the case of dealings of the type to be effected by CHESS, the transferee is registered in the Share Register as the holder of the relevant ABR Shares by the Record Date; and
 - (b) in all other cases, share transfer forms in registrable form or transmission applications in respect of those dealings are received by ABR or its share registry by the Record Date.

ABR's obligation to register

- 6.3 ABR must register any registrable transfers or transmission applications of the kind referred to in clause 6.2(b) by the Record Date.

Transfers after the Record Date

- 6.4 If this Scheme becomes Effective, an ABR Shareholder (and any person claiming through that holder) must not dispose of, or purport or agree to dispose of, any ABR Shares or any interest in them after the Record Date (other than a transfer to Holdco in accordance with this Scheme and any subsequent transfers by Holdco or its successors in title).
- 6.5 ABR will not accept for registration, nor recognise for any purpose, any transfer or transmission application in respect of ABR Shares received after the Record Date (other than a transfer to Holdco in accordance with this Scheme and any subsequent transfers by Holdco or its successors in title).

Maintenance of Share Register

- 6.6 For the purpose of determining entitlements to the Scheme Consideration, ABR will, until the Scheme Consideration has been issued to Scheme Shareholders, maintain or procure the maintenance of the Share Register in accordance with this clause 6. The Share Register in this form will solely determine entitlements to the Scheme Consideration.

Effect of certificates and holding statements

- 6.7 From the Record Date, each certificate or holding statement for Scheme Shares will cease to have any effect as a document of title in respect of the Scheme Shares or otherwise (other than holding statements in favour of Holdco and its successors in title).
- 6.8 Each entry on the Share Register as at the Record Date (other than entries in respect of Holdco and its successors in title) will cease to have any effect other than as evidence of the entitlements of Scheme Shareholders to the Scheme Consideration.

Information to be made available to Holdco

- 6.9 As soon as reasonably practicable after the Record Date and in any event at least two Business Days before the Implementation Date, ABR will give to Holdco or as it directs or procure that Holdco be given or as it directs, details of the name, address and number of Scheme Shares held by each Scheme Shareholder as shown in the Share Register at the Record Date in the form Holdco reasonably requires.

7. Quotation

ABR will:

- (a) apply to ASX for suspension of trading of ABR Shares on ASX with effect from the close of trading on the Effective Date; and
- (b) if this Scheme has been fully implemented in accordance with its terms, on the date determined by Holdco, apply to ASX for the termination of official quotation of ABR Shares on ASX and to have ABR removed from the official list of ASX.

8. General Scheme provisions

Appointment of ABR as agent and attorney

- 8.1 Each Scheme Shareholder, without the need for any further act, irrevocably appoints ABR and each of the directors and officers of ABR (jointly and severally) as its agent and attorney for the purpose of doing all things and executing all deeds, instruments, transfers and other documents that may be necessary or desirable to give full effect to this Scheme and the transactions contemplated by it, including but not limited to:
- (a) enforcing the Deed Poll against Holdco;
 - (b) in the case of Scheme Shares in a CHESS holding:
 - (i) causing a message to be transmitted to ASX Settlement in accordance with the ASX Settlement Rules to transfer the Scheme Shares held by the Scheme Shareholder from the CHESS subregister of ABR to the issuer sponsored subregister operated by ABR or its share registry at any time after Holdco has issued 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;
 - (c) in the case of Scheme Shares registered in the issuer sponsored subregister operated by ABR or its share registry, completing and signing on behalf of Scheme Shareholders any required form of transfer; and
 - (d) in all cases, executing any document or doing any other act necessary or desirable to give full effect to this Scheme and the transactions contemplated by it, including executing a proper instrument of transfer of Scheme Shares for the purposes of section 1071B of the Corporations Act (which may be a master transfer).
- 8.2 ABR may sub-delegate its functions, authorities or powers under clause 8.1 as agent and attorney of each Scheme Shareholder to any or all of its directors or officers.

Agreement by Scheme Shareholders

- 8.3 Subject to provision of the Scheme Consideration as contemplated in clause 5.1, each Scheme Shareholder agrees to:
- (a) the transfer of its Scheme Shares together with all rights and entitlements attaching to those Scheme Shares to Holdco in accordance with the terms of this Scheme; and

- (b) the variation, cancellation or modification (if any) of the rights attached to its ABR Shares constituted by or resulting from this Scheme.

Warranty by Scheme Shareholders

- 8.4 Each Scheme Shareholder is deemed to have warranted to ABR, and is deemed to have authorised ABR to warrant to Holdco as agent and attorney for the Scheme Shareholder, that:
- (a) all of its Scheme Shares (including all rights and entitlements attaching to them) transferred to Holdco under this Scheme will, on the date of the transfer, be fully paid and free from all Encumbrances; and
 - (b) it has full power and capacity to sell and transfer its Scheme Shares (including all rights and entitlements attaching to them) to Holdco.

Title to Scheme Shares

- 8.5 On and from the Implementation Date, subject to provision of the Scheme Consideration as contemplated in clause 5.1, and pending registration by ABR of Holdco in the Share Register as the holder of the Scheme Shares, Holdco will be beneficially entitled to the Scheme Shares.

Appointment of Holdco as sole proxy

- 8.6 On and from the Implementation Date and subject to provision of the Scheme Consideration as contemplated in clause 5.1, until registration by ABR of Holdco in the Share Register as the holder of the Scheme Shares, each Scheme Shareholder:
- (a) without the need for any further act irrevocably appoints Holdco and each of its directors, officers and secretaries (jointly and each of them separately) as its agent and attorney to appoint an officer or agent nominated by Holdco as its sole proxy and where applicable, corporate representative to:
 - (i) attend shareholders' meetings of ABR;
 - (ii) exercise the votes attached to the Scheme Shares registered in the name of the Scheme Shareholder; and
 - (iii) sign any shareholders' resolution of ABR;
 - (b) undertakes not to attend or vote at any such meetings or sign any such resolutions, whether in person, by proxy or by corporate representative other than under clause 8.6;
 - (c) must take all other actions in the capacity of a registered holder of Scheme Shares as Holdco reasonably directs; and
 - (d) acknowledges and agrees that in exercising the powers referred to in this clause 8.6, Holdco and each of the directors, officers and secretaries of Holdco may act in the best interests of Holdco as the intended registered holder of the Scheme Shares.
- 8.7 ABR undertakes in favour of each Scheme Shareholder that it will appoint the officer or agent nominated by Holdco as that Scheme Shareholder's proxy or, where applicable, corporate representative in accordance with clause 8.6(a).

Scheme alterations and conditions

- 8.8 If the Court proposes to approve this Scheme subject to any alterations or conditions under section 411(6) of the Corporations Act, ABR may, by its counsel or solicitors, and with the

consent of Holdco, consent to those alterations or conditions on behalf of all persons concerned, including, for the avoidance of doubt, all Scheme Shareholders.

Effect of Scheme

- 8.9 The Scheme binds ABR and all Scheme Shareholders (including those who do not attend the Scheme Meeting, do not vote at the meeting or vote against this Scheme) and, to the extent of any inconsistency and to the extent permitted by law, overrides the constitution of ABR.

No liability when acting in good faith

- 8.10 Neither ABR nor Holdco, nor any of their respective officers or agents, will be liable to an ABR Shareholder for anything done or omitted to be done in the performance of this Scheme in good faith.

Notices

- 8.11 Where a notice, transfer, transmission application, direction or other communication referred to in this Scheme is sent by post to ABR, 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 ABR's registered office or at the address of its share registry.
- 8.12 The accidental omission to give notice of the Scheme Meeting or the non-receipt of such a notice by any ABR Shareholder will not, unless so ordered by the Court, invalidate the Scheme Meeting or the proceedings of the Scheme Meeting.

Further assurances

- 8.13 Each party must, at its own expense, whenever requested by the other party, promptly do or, to the extent reasonably practicable, arrange for others to do everything, including executing any documents, reasonably necessary to give full effect to this Scheme and the transactions contemplated by this Scheme.

Costs and stamp duty

- 8.14 Holdco will pay all stamp duty (if any) and any related fines, penalties and interest payable on the transfer by Scheme Shareholders of the Scheme Shares to Holdco.
- 8.15 Holdco will pay all brokerage costs and similar fees incurred in connection with the operation of the Sale Facility.

Governing law and jurisdiction

- 8.16 This document is governed by the laws of New South Wales. Each party irrevocably and unconditionally:
- (a) submits to the non-exclusive jurisdiction of the courts of New South Wales; and
 - (b) waives, without limitation, any claim or objection based on absence of jurisdiction or inconvenient forum.