



Update on Scheme of Arrangement – Court approves Scheme

20 June 2022 – Angel Seafood Holdings Ltd (ASX: AS1) (the “Company” or “Angel”) advises that the Federal Court of Australia has today made orders approving the proposed Scheme.

Implementation of the Scheme

Angel refers to its previous announcements in relation to the proposed Scheme of Arrangement between Angel, Valley Seas BidCo Pty Ltd ACN 657 211 606 (**BidCo**) and Laguna Bay Agricultural No 1 Pty Ltd ACN 608 464 624 (**Laguna Bay**) (**Scheme**).

The Federal Court of Australia has today made orders approving the Scheme.

Angel proposes to lodge a copy of the Court orders with the Australian Securities and Investments Commission on Tuesday, 21 June 2022, at which time the Scheme will become legally effective pursuant to section 411(10) of the Corporations Act (**Effective**).

A copy of the Court orders approving the Scheme is attached to this announcement.

Subject to the Scheme becoming Effective:

- Angel will apply for its shares to cease trading on ASX from the close of trading on Tuesday, 21 June 2022;
- the Scheme Record Date will be at 7.00pm (Melbourne time) on Monday, 27 June 2022; and
- the Scheme is expected to be implemented on Monday, 4 July 2022 (**Implementation Date**).

Scheme Consideration

On the basis that the Scheme becomes Effective, on the Implementation Date, all Scheme Shareholders will be paid their Scheme Consideration, which in respect of each Scheme Share held by a Scheme Shareholder is a cash amount equal to \$0.20.

Further Information

If you have any questions in relation to the Scheme, please contact the Angel Shareholder Information Line on 1300 556 161 (within Australia) or +61 3 9415 4000 (from outside Australia) Monday to Friday between 9.00am and 5.00pm (Melbourne time).

This announcement was approved for release by the Board.

Any questions or requests for further information should be directed via email to:

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About Angel Seafood Holdings Ltd

Angel Seafood is a producer of fresh, clean and consistently high-quality oysters that don't compromise the environment. Angel has grown from a family-operated South Australian business and has rapidly developed from a traditional oyster-growing business into a premium, innovative and organically certified producer of Coffin Bay Oysters. The Company primarily sells oysters to the domestic market; however, exports represent a substantial long-term growth opportunity.

Angel Seafood is the Southern Hemisphere's largest sustainable and organic certified pacific oyster producer.



Federal Court of Australia

District Registry: Victoria

Division: General

No: VID170/2022

IN THE MATTER OF ANGEL SEAFOOD HOLDINGS LTD ACN 615 035 366

ANGEL SEAFOOD HOLDINGS LTD ACN 615 035 366

Plaintiff

ORDER

JUDGE: JUSTICE BEACH

DATE OF ORDER: 20 June 2022

WHERE MADE: Melbourne

OTHER MATTERS:

There has been produced to the Court a statement in writing by the Australian Securities and Investments Commission 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 (Angel) and its shareholders other than certain excluded shareholders (Angel Shareholders), which was agreed to by the Angel Shareholders at a meeting on 10 June 2022.

THE COURT ORDERS THAT:

1. Pursuant to section 411(4)(b) of the Act, the Scheme of Arrangement between Angel and the Angel Shareholders agreed to by those shareholders at the meeting held on 10 June 2022 (Scheme) be and is hereby approved, subject to the Scheme being altered pursuant to s 411(6) of the Act so that the reference to "*Angel Oysters Australia Pty Ltd ACN 615 037 815*" in sub-paragraph (d) of the definition of "*Excluded Shares*" be deleted and replaced with a reference to "*Angel Oysters Pty Ltd ACN 147 593 799*", so that the Scheme as so altered is as set out in Annexure A to these orders.
2. Pursuant to section 411(12) of the Act, Angel be exempted from compliance with section 411(11) of the Act in respect of the Scheme.



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

Date that entry is stamped: 20 June 2022

Sia Lagos
Registrar



ANNEXURE A

Angel Seafood Holdings Ltd

Scheme Participants

Scheme of Arrangement

3445-8911-1576v7

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Parties

Angel Seafood Holdings Ltd (ACN 615 035 366) of 48 Proper Bay Road, Port Lincoln SA 5606 (**Target**)

Each Scheme Participant

Background

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

Agreed terms

1 Definitions and interpretation

1.1 Definitions

In this Scheme, these terms have the following meanings:

ASIC	the Australian Securities and Investments Commission.
ASX	ASX Limited ACN 008 624 691, or as the context requires or permits, the market operated by it.
ATO	the Australian Taxation Office.
Bidder	Valley Seas BidCo Pty Ltd ACN 657 211 606.
Bidder's Guarantor	Laguna Bay Agricultural No 1 Pty Ltd ACN 608 464 624 of Level 1, 69 Robertson Street Fortitude Valley QLD 4006
Bidder Group	Bidder and each of its Related Entities.
Business Day	the meaning given in the ASX Listing Rules.
CHESS	the clearing house electronic subregister system of share transfers operated by ASX Settlement Pty Limited ABN 49 008 504 532.
Control	the meaning given to that term in the Corporations Act and, solely for the purposes of this document, a fund advised or managed directly or indirectly by or forming a stapled entity or group with a person will also be deemed to be Controlled by such person.



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Corporations Act	the <i>Corporations Act 2001</i> (Cth).
Court	the Federal Court of Australia (Victoria Registry) or such other court of competent jurisdiction under the Corporations Act agreed between Target and Bidder's Guarantor.
Cut Off Time	8.00 am on the Second Court Date.
Deed Poll	the deed poll dated 14 April 2022 executed by Bidder and Bidder's Guarantor under which each of Bidder and Bidder's Guarantor covenants in favour of the Scheme Participants to perform the actions attributed to it under this Scheme, and to provide the Scheme Consideration in accordance with this Scheme.
Effective	the coming into effect pursuant to section 411(10) of the Corporations Act of the order of the Court made under section 411(4)(b) of the Corporations Act in relation to this Scheme.
Effective Date	the date on which this Scheme becomes Effective.
End Date	the date which is five months after the date of the Scheme Implementation Agreement or such later date as Bidder and Target agree in writing.
Excluded Shares	<p>the following Target Shares:</p> <ul style="list-style-type: none">(a) all Target Shares registered in the name of the Bidder;(b) all Target Shares registered in the name of a Related Entity of Bidder;(c) 1,000,002 Target Shares to be registered in the name of Isaac Lee Halman on the Effective Date;(d) 13,174,826 Target Shares to be registered in the name of Angel Oysters Pty Ltd ACN 147 593 799 as trustee for the Halman Family Trust ABN 93 200 641 811 on the Effective Date; and(e) 2,004,099 Target Shares to be registered in the name of Isaac Lee Halman and Kady Jennifer Huxley as trustee for the Halman Super Fund ABN 95 319 001 493 on the Effective Date.
Implementation Date	the fifth Business Day following the Record Date, or such other date after the Record Date as ordered by the Court or agreed to in writing between Target and Bidder.
Listing Rules	the official listing rules of ASX as amended from time to time.



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Record Date	7.00pm on the fourth Business Day after the Effective Date or such other time and date agreed to in writing between Target and Bidder.
Register	the register of members of Target maintained by or on behalf of Target in accordance with the Corporations Act.
Related Body Corporate	the meaning given to that term in the Corporations Act.
Related Entities	of a party means another entity which: <ul style="list-style-type: none">(a) is a Related Body Corporate of the first entity;(b) is in any consolidated entity (as defined in section 9 of the Corporations Act) which contains the party; or(c) the party Controls.
Registered Address	in relation to an Target Shareholder, the address shown in the Register as at the Record Date.
Relevant Amount	the meaning given in clause 5.4(a) .
Scheme	this scheme of arrangement under Part 5.1 of the Corporations Act between Target and the Scheme Participants, subject to any alterations or conditions agreed in writing between Target and Bidder and approved by the Court or any alterations or conditions made or required by the Court under section 411(6) of the Corporations Act and agreed in writing by Target and Bidder.
Scheme Consideration	in respect of each Scheme Share held by a Scheme Participant, a cash amount equal to \$0.20.
Scheme Implementation Agreement	the scheme implementation agreement dated 10 February 2022 between Target, Bidder and Bidder's Guarantor.
Scheme Meeting	the meeting of Target Shareholders ordered by the Court to be convened pursuant to section 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 Share	the Target Shares other than any Excluded Shares.
Scheme Participant	each holder of Scheme Shares as at the Record Date.
Second Court Date	the first day on which an application made to the Court for an order under section 411(4)(b) of the Corporations Act approving this Scheme is heard or scheduled to be heard or, if the application is adjourned for any reason, means



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	the date on which the adjourned application is heard or scheduled to be heard.
Settlement Rules	the ASX Settlement Operating Rules.
Subsidiary	the meaning given to that term in section 46 of the Corporations Act.
Target Registry	Computershare Investor Services Pty Limited ABN 48 078 279 277 or any replacement provider of share registry services to Target.
Target Share	an issued fully paid ordinary share in the capital of Target.
Target Shareholder	each person who is registered in the Register as the holder of Target Shares.
Trust Account	an Australian dollar denominated trust account with an authorised deposit-taking institution (as defined in the <i>Banking Act 1959</i> (Cth)) operated by Target as trustee for the benefit of Scheme Participants, as nominated by Target and notified to Bidder at least 5 Business Days prior to the Implementation Date, being the account into which Bidder will deposit the Scheme Consideration in accordance with clause 5.2(a) .
Unclaimed Consideration	has the meaning given in clause 5.6 .

2 Preliminary

2.1 Target

- (a) Target is a public company limited by shares, registered in South Australia and admitted to the official list of ASX.
- (b) The Target Shares are officially quoted on ASX.
- (c) As at 28 April 2022, Target's issued securities were as follows:
 - (i) 161,574,854 Target Shares;
 - (ii) 4,700,000 options;
 - (iii) 1,000,000 performance shares; and
 - (iv) 1,000,000 performance rights.

2.2 Bidder and Bidder's Guarantor

- (a) Bidder is a company incorporated in Queensland, Australia and is a company limited by shares.
- (b) Bidder's Guarantor is a company incorporated in Victoria, Australia and is a company limited by shares.



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2.3 General

- (a) Target, Bidder and Bidder's Guarantor have agreed by executing the Scheme Implementation Agreement to implement this Scheme.
- (b) This Scheme attributes actions to Bidder and Bidder's Guarantor but does not itself impose an obligation on it to perform those actions, as Bidder and Bidder's Guarantor are not parties to this Scheme. Bidder and Bidder's Guarantor have agreed, by executing the Deed Poll, to perform the actions attributed to them under this Scheme, including the provision of the Scheme Consideration in accordance with **clause 5.2(a)** of this Scheme.

2.4 Consequences of this Scheme becoming Effective

If this Scheme becomes Effective:

- (a) Bidder will provide, and Bidder's Guarantor will procure that Bidder provides, the Scheme Consideration in accordance with **clause 5.2(a)** of this Scheme; and
- (b) on the Implementation Date, subject to the matters in **clause 2.4(a)** being satisfied and subject to payment of the Scheme Consideration by Target to the Scheme Participants in the manner contemplated by **clauses 5.2(b) and 5.2(c)**, all the Scheme Shares, together with all rights and entitlements attaching to the Scheme Shares, will be transferred to Bidder, and Target will enter Bidder in the Register as the holder of the Scheme Shares.

3 Conditions

3.1 Scheme conditions

- (a) This Scheme is conditional on, and will have no force or effect until, the satisfaction of each of the following conditions precedent:
 - (i) all the conditions precedent in clauses 3.1 of the Scheme Implementation Agreement (other than the condition in clause 3.1 (k) of the Scheme Implementation Agreement (Court approval)) having been satisfied or waived in accordance with the terms of the Scheme Implementation Agreement by no later than the Cut Off Time;
 - (ii) approval of this Scheme by the Court under section 411(4)(b) of the Corporations Act, including with any alterations made or required by the Court under section 411(6) of the Corporations Act as are accepted in writing by Target and Bidder;
 - (iii) such other conditions imposed by the Court under section 411(6) of the Corporations Act, as are accepted by Target and Bidder in writing, having been satisfied; and



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- (iv) the orders of the Court made under section 411(4)(b) (and if applicable section 411(6)) of the Corporations Act approving the Scheme coming into effect, pursuant to section 411(10) of the Corporations Act, on or before the End Date (or any later date Target and Bidder agree in writing).
- (b) The satisfaction of the conditions referred to in **clause 3.1** of this document is a condition precedent to the operation of **clauses 4.2 and 5**.

3.2 Certificate in relation to conditions precedent

- (a) On the Second Court Date:
 - (i) Target must provide to the Court a certificate (or such other evidence as the Court may request) confirming (in respect of matters within its knowledge) whether or not as at the Cut Off Time the conditions set out in clause 3.1 of the Scheme Implementation Agreement (other than clause 3.1(k) of the Scheme Implementation Agreement) have been satisfied or waived in accordance with the Scheme Implementation Agreement; and
 - (ii) Bidder must provide to the Court a certificate (or such other evidence as the Court may request) confirming (in respect of matters within its knowledge) whether or not as at the Cut Off Time the conditions set out in clause 3.1 of the Scheme Implementation Agreement (other than clause 3.1(k) of the Scheme Implementation Agreement) have been satisfied or waived in accordance with the Scheme Implementation Agreement.
- (b) The certificates referred to in **clause 3.2(a)** will constitute conclusive evidence of whether the conditions precedent referred to in **clause 3.1(a)(i)** of this Scheme have been satisfied or waived as at the Cut Off Time.

3.3 Termination of Scheme Implementation Agreement

Without limiting rights under the Scheme Implementation Agreement if the Scheme Implementation Agreement is terminated in accordance with its terms before the Cut Off Time, Target, Bidder and Bidder's Guarantor are each released from:

- (a) any further obligation to take steps to implement the Scheme; and
- (b) any liability with respect to the Scheme.

3.4 End dates

The Scheme will lapse and be of no further force or effect if the Scheme has not become Effective on or before the End Date.



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4 Implementation

4.1 Lodgement of Court orders

Target must lodge with ASIC under section 411(10) of the Corporations Act office copies of any Court orders under section 411(4)(b) (and if applicable section 411(6)) of the Corporations Act approving this Scheme as soon as possible and in any event no later than by 5.00pm on the first Business Day after the Court approves this Scheme.

4.2 Transfer of Scheme Shares

On the Implementation Date:

- (a) subject to the matters in **clause 2.4(a)** being satisfied and subject to the payment by Target of the Scheme Consideration in the manner contemplated by **clauses 5.2(b) and 5.2(c)**, the Scheme Shares, together with all rights and entitlements attaching to the Scheme Shares at the Implementation Date, will be transferred to Bidder, without the need for any further act by any Scheme Participant (other than acts performed by Target or its officers as agent and attorney of the Scheme Participants under **clause 8.6** or otherwise), by:
 - (i) Target delivering to Bidder a duly completed and executed share transfer form to transfer all the Scheme Shares to Bidder, executed on behalf of the Scheme Participants by Target, for registration; and
 - (ii) Bidder duly executing such transfer form and delivering it to Target for registration; and
- (b) immediately after receipt of the transfer form in accordance with **clause 4.2(a)(ii)** Target must enter, or procure the entry of, the name of Bidder in the Register in respect of the Scheme Shares transferred to Bidder in accordance with this Scheme.

5 Scheme Consideration

5.1 Amount of Scheme Consideration

Each Scheme Participant is entitled to receive the Scheme Consideration.

5.2 Payment of Scheme Consideration

- (a) Bidder must, and Bidder's Guarantor must procure that Bidder does, by no later than the Business Day before the Implementation Date, deposit in cleared funds into the Trust Account an amount equal to the aggregate amount of the total Scheme Consideration payable to all Scheme Participants, such amount to be held by Target on trust for the Scheme Participants and for the purpose of sending the aggregate Scheme Consideration to the Scheme Participants (except that any interest, net of bank fees and other charges, on the amount will be for the account of Bidder).



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- (b) Subject to **clause 5.2(c)**, on the Implementation Date and subject to funds having been deposited in accordance with **clause 5.2(a)**, Target must pay or procure the payment of the Scheme Consideration to each Scheme Participant from the Trust Account by doing any of the following at its election:
 - (i) sending (or procuring the Target Registry to send) it to the Scheme Participant's Registered Address by cheque in Australian currency drawn out of the Trust Account; or
 - (ii) depositing (or procuring the Target Registry to deposit) it by electronic funds transfer into an account with any Australian ADI (as defined in the Corporations Act) notified to Target (or the Target Registry) by an appropriate authority from the Scheme Participants (which will include a current authority to pay dividends).
- (c) The obligation referred to in **clause 5.2(b)** will be satisfied:
 - (i) in respect of any Scheme Participant to which Target has provided an employee loan for the purpose of their acquisition of Scheme Shares, by paying:
 - (A) to Target the portion of the Scheme Consideration in respect of each Scheme Share held by that Scheme Participant equal to the amount of the loan which Target is entitled to recover from that Scheme Participant in relation to that Scheme Share; and
 - (B) as to the balance (if any) of the Scheme Consideration due to that Scheme Participant, to that Scheme Participant in accordance with the Scheme; and
 - (ii) in any other case, by paying the aggregate amount of the Scheme Consideration due to that Scheme Participant in accordance with the Scheme;
- (d) To the extent that, following satisfaction of Target's obligations under **clause 5.2(b)**, and completion of the process in **clause 5.6**, there is a surplus in the amount held in the Trust Account, that surplus may be paid by Target to Bidder.

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



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name appears first in the Register as at the Record Date or to the joint holders.

5.4 Withholding

- (a) If Bidder is liable to pay an amount to the Commissioner of Taxation under Subdivision 14-D of Schedule 1 to the *Taxation Administration Act 1953 (Cth)* (**Subdivision 14-D**) in respect of the acquisition of Scheme Shares from a Target Shareholder (being the **Relevant Amount**), then Bidder is entitled to withhold the Relevant Amount before making the payment to the Target Shareholder and payment of the reduced amount and payment of the Relevant Amount to the relevant taxation authority pursuant to **clause 5.4(b)** will be taken to be full payment of the Relevant Amount for the purposes of this Scheme.
- (b) Bidder must pay any Relevant Amount so withheld to the ATO within the time permitted by law, and, if requested in writing by the relevant Target Shareholder, provide a receipt or other appropriate evidence (or procure the provision of such receipt or other evidence) of such payment to the relevant Target Shareholder.

5.5 Fractional entitlements

Where the calculation of the Scheme Consideration to be paid to a Scheme Participant would result in the Scheme Participant becoming entitled to a fraction of a cent, that fractional entitlement will be rounded down to the nearest whole cent.

5.6 Unclaimed monies

To the extent that a cheque or electronic funds transfer issued under this **clause 5** is returned to Target as undelivered, or the cheque is not presented by a Scheme Participant earlier than six months after the Implementation Date (**Unclaimed Consideration**):

- (a) Target may cancel the cheque or electronic funds transfer issued in respect of the Unclaimed Consideration;
- (b) during the period of one year commencing on the Implementation Date, on request from a Scheme Participant, Target must reissue a cheque or electronic funds transfer that was previously cancelled under this **clause 5.6**; and
- (c) The *Unclaimed Money Act 2008 (Vic)* will apply in relation to any Scheme Consideration which becomes 'unclaimed money' (as defined in section 3 of the *Unclaimed Money Act 2008 (Vic)*).

5.7 Order of a court

If:

- (a) written notice is given to Target (or the Target Registry) of an order or direction made by a court of competent jurisdiction that requires payment to a third party of a sum in respect of Scheme Shares held by a particular Scheme Participant, which would otherwise be payable to



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that Scheme Participant by Target in accordance with this **clause 5**, then Target may procure that payment is made in accordance with that order or direction; or

- (b) written notice is given to Target (or the Target Registry) of an order or direction made by a court of competent jurisdiction that prevents Target from making a payment to any particular Scheme Participant in accordance with **clause 5.2(b)**, or such payment is otherwise prohibited by applicable law, Target may retain an amount equal to the number of Scheme Shares held by that Scheme Participant multiplied by the Scheme Consideration until such time as payment in accordance with this **clause 5** is permitted by that order or direction or otherwise by law,

and the payment or retention by Target (or the Target Registry) will constitute the full discharge of Target's obligations under **clause 5.2(b)** with respect of the amount so paid or retained until, in the case of **clause 5.7(b)**, it is no longer required to be retained.

5.8 Definition of 'sending'

For the purposes of **clause 5**, the expression **sending** means, in relation to each Scheme Participant:

- (a) sending by ordinary pre-paid post or courier to the Registered Address of that Scheme Participant as at the Record Date; or
- (b) delivery to the Registered Address of that Scheme Participant as at the Record Date by any other means at no cost to the recipient.

6 Dealings in Target Shares

6.1 Determination of Scheme Participants

To establish the identity of the Scheme Participants, dealings in Target Shares or other alterations to the 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 Register as the holder of the relevant Target Shares on or before the Record Date; and
- (b) in all other cases, registrable transmission applications or transfers in respect of those dealings are received on or before the Record Date at the place where the Register is kept,

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



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6.2 Register

- (a) **(Registration of transfers)** Target must register registrable transmission applications or transfers of the kind referred to in **clause 6.1(b)** by or as soon as reasonably practicable after 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' (as defined in the Settlement Rules)).
- (b) **(No registration after Record Date)** Target will not accept for registration or recognise for any purpose any transmission application or transfer in respect of Target Shares received after the Record Date, other than to Bidder in accordance with this Scheme and any subsequent transfer by Bidder or its successors in title.
- (c) **(Maintenance of Register)** For the purpose of determining entitlements to the Scheme Consideration, Target must maintain the Register in accordance with the provisions of this clause until the Scheme Consideration has been delivered to the Scheme Participants. The Register in this form will solely determine entitlements to the Scheme Consideration.
- (d) **(No disposal after Record Date)** From the Record Date until registration of Bidder in respect of all Scheme Shares under **clause 4.2(b)**, no Target Shareholder may dispose or otherwise deal with Target Shares in any way except as set out in this Scheme and any attempt to do so will have no effect and Target shall be entitled to disregard any such disposal or dealing.
- (e) **(Statements of holding from Record Date)** All statements of holding for Target Shares will cease to have effect from the Record Date as documents of title in respect of those shares. As from the Record Date, each entry current at that date on the Register will cease to have effect except as evidence of entitlement to the Scheme Consideration in respect of the Target Shares relating to that entry.
- (f) **(Provision of Scheme Participant details)** As soon as practicable 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 Participant are available to Bidder in the form Bidder reasonably requires.

7 Quotation of Target Shares

- (a) Target will apply to ASX to suspend trading on the ASX in Target Shares with effect from the close of trading on the Effective Date.



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- (b) On a date after the Implementation Date to be determined by Bidder, and only after the transfer of the Scheme Shares has been registered in accordance with **clause 4.2(b)**, Target will apply:
 - (i) for termination of the official quotation of Target Shares on ASX; and
 - (ii) to have itself removed from the official list of ASX.

8 General Scheme Provisions

8.1 Consent to amendments to this Scheme

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

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

8.2 Binding effect of Scheme

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

8.3 Scheme Participants' agreements and acknowledgment

Each Scheme Participant:

- (a) agrees to the transfer of their Scheme Shares together with all rights and entitlements attaching to those Target Shares in accordance with this Scheme;
- (b) agrees to any variation, cancellation or modification of the rights attached to their Scheme Shares constituted by or resulting from this Scheme;
- (c) agrees to, on the direction of Bidder, destroy any share certificates relating to their Scheme Shares; and
- (d) acknowledges and agrees that this Scheme binds Target and all Scheme Participants (including those who did not attend the Scheme Meeting or did not vote at that meeting or voted against this Scheme at that meeting).

8.4 Warranties by Scheme Participants

- (a) Each Scheme Participant is deemed to have warranted to Target, in its own right and for the benefit of Bidder and Bidder's Guarantor, that as at the Implementation Date:



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- (i) all of its Scheme Shares which are transferred to Bidder under this Scheme, including any rights and entitlements attaching to those Scheme Shares, will, at the date of transfer, be 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 (but acknowledging that a security interest holder may potentially have an interest in the Scheme Consideration in accordance with the terms of such security interest);
 - (ii) all of its Scheme Shares which are transferred to Bidder under this Scheme will, on the date on which they are transferred to Bidder, be fully paid;
 - (iii) it has full power and capacity to transfer its Scheme Shares to Bidder together with any rights attaching to those shares; and
 - (iv) it has no existing right to be issued any Target Shares, Target options, Target performance rights, Target performance shares, Target convertible notes or any other Target securities.
- (b) Target hereby provides the warranties in **clause 8.4(a)** to Bidder and Bidder's Guarantor as agent and attorney of each Scheme Participant.

8.5 Title to and rights in Scheme Shares

- (a) To the extent permitted by law, the Scheme Shares transferred under this Scheme will be transferred 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.
- (b) On and from the Implementation Date, immediately after the payment by Target of the Scheme Consideration in the manner contemplated by **clauses 5.2(b) and 5.2(c)**, Bidder will be beneficially entitled to the Scheme Shares transferred to it under this Scheme pending registration by Target of Bidder in the Register as the holder of the Scheme Shares.

8.6 Authority given to Target

- (a) On this Scheme becoming Effective, Scheme Participants will be deemed to have authorised Target to do and execute all acts, matters, things and documents on the part of each Scheme Participant necessary for or incidental to the implementation of this Scheme, including executing, as agent and attorney of each Scheme Participant, a share transfer or transfers in relation to Scheme Shares as contemplated by **clause 4.2**.



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- (b) On this Scheme becoming Effective, each Scheme Participant, without the need for any further act, irrevocably appoints Target and all of its directors, secretaries and officers (jointly and severally) as its attorney and agent for the purposes of:
 - (i) executing any document necessary to give effect to this Scheme including, a proper instrument of transfer of its Scheme Shares for the purposes of section 1071B of the Corporations Act which may be a master transfer of all the Scheme Shares; and
 - (ii) enforcing the Deed Poll against the Bidder and Bidder Guarantor, and Target accepts such appointment.

8.7 Appointment of sole proxy

Subject to this Scheme becoming Effective, immediately after the payment by Target of the Scheme Consideration in the manner contemplated by **clauses 5.2(b) and 5.2(c)**, and until Target registers Bidder as the holder of all Scheme Shares in the Register, each Scheme Participant:

- (a) is deemed to have irrevocably appointed Bidder as its attorney and agent (and directed Bidder in such capacity) to appoint an officer or agent nominated by Bidder as its sole proxy and, where applicable, corporate representative to attend shareholders' meetings of Target, exercise the votes attaching to the Scheme Shares registered in its name and sign any shareholders' resolution;
- (b) undertakes not to otherwise attend shareholders' meetings, exercise the votes attaching to Scheme Shares registered in their names or sign or vote on any resolutions (whether in person, by proxy or by corporate representative) other than as under **clause 8.7(a)**;
- (c) must take all other actions in the capacity of a registered holder of Scheme Shares as Bidder reasonably directs; and
- (d) acknowledges and agrees that in exercising the powers referred to in **clause 8.7(a)**, Bidder and any officer or agent nominated by Bidder under **clause 8.7(a)** may act in the best interests of Bidder as the intended registered holder of the Scheme Shares.

8.8 Instructions and elections

If not prohibited by law, all instructions, notifications or elections by a Scheme Participant to Target binding or deemed binding between the Scheme Participant and Target relating to Target or Target Shares (including any email addresses, instructions relating to communications from Target, whether dividends are to be paid by cheque or into a specific bank account, notices of meetings or other communications from Target) will be deemed from the Implementation Date (except to the extent determined otherwise by Bidder in its sole discretion), by reason of this Scheme, to be made by the Scheme Participant to Bidder until that instruction, notification or election is revoked or amended in writing addressed to Bidder at its registry.



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9 General

9.1 Stamp duty

Bidder must pay, and Bidder's Guarantor must procure that Bidder pays, all stamp duty payable in connection with the transfer of the Scheme Shares to Bidder.

9.2 Notices

- (a) If a notice, transfer, transmission application, direction or other communication referred to in this document 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 a notice by any Shareholder may not, unless so ordered by the Court, invalidate the Scheme Meeting or the proceedings of the Scheme Meeting.

9.3 Further assurances

- (a) Target must do anything necessary (including executing agreements and documents) or incidental to give full effect to this Scheme and the transactions contemplated by it.
- (b) Each Scheme Participant consents to Target doing all things necessary or incidental to give full effect to this Scheme and the transactions contemplated by it.

9.4 Governing law and jurisdiction

- (a) This Scheme is governed by the laws of Victoria, Australia.
- (b) The parties irrevocably submit to the non-exclusive jurisdiction of courts exercising jurisdiction in Victoria and courts which have jurisdiction to hear appeals from any of them in respect of any proceedings arising out of or in connection with this Scheme.

9.5 Listing requirements included in law

A listing rule or business rule of a financial market will be regarded as a law, and a reference to such a rule is to be taken to be subject to any waiver or exemption granted to the compliance of those rules by a party.

9.6 Construction

Unless expressed to the contrary, in this Scheme:

- (a) words in the singular include the plural and vice versa;
- (b) if a word or phrase is defined its other grammatical forms have corresponding meanings;
- (c) 'includes' means includes without limitation;



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- (d) no rule of construction will apply to a clause to the disadvantage of a party merely because that party put forward the clause or would otherwise benefit from it;
- (e) words and phrases have the same meaning (if any) given to them in the Corporations Act;
- (f) a reference to:
 - (i) a holder includes a joint holder;
 - (ii) a person includes a partnership, joint venture, unincorporated association, corporation and a government or statutory body or authority;
 - (iii) a person includes the person's legal personal representatives, successors, assigns and persons substituted by novation;
 - (iv) any legislation includes subordinate legislation under it and includes that legislation and subordinate legislation as modified or replaced;
 - (v) an obligation includes a warranty or representation and a reference to a failure to comply with an obligation includes a breach of warranty or representation;
 - (vi) a right includes a benefit, remedy, discretion or power;
 - (vii) time is to local time in Melbourne, Australia;
 - (viii) '\$' or 'dollars' is a reference to Australian currency;
 - (ix) this or any other document includes the document as novated, varied or replaced and despite any change in the identity of the parties;
 - (x) writing includes any mode of representing or reproducing words in tangible and permanently visible form, and includes fax or email transmissions; and
 - (xi) a clause or schedule is a reference to a clause or schedule of this Scheme;
- (g) if the date on or by which any act must be done under this Scheme is not a Business Day, the act must be done on or by the next Business Day; and
- (h) where time is to be calculated by reference to a day or event, that day or the day of that event is excluded.

9.7 Headings

Headings do not affect the interpretation of this document.