

26th September 2014

ASX announcement



ACQUISITION OF DIVERSIFIED MINING SERVICES

Mastermyne Group Limited (“**MYE**” or “**the Company**”) today announced that it has taken a significant step in expanding its service offering.

The Company has agreed to acquire Diversified Mining Services Ltd (“**DMS**”), a leading maintenance, engineering and contract mining services provider for \$20.0 million¹ on cash free / debt free basis and including payments required to restructure the business.

Key points:

- **\$20.0 million¹ acquisition of Diversified Mining Services, a leading Queensland based maintenance, engineering and contract mining services company providing a niche suite of services to a range of sectors.**
- **Acquisition consideration structured as \$9.7 million of MYE shares issued to DMS shareholders and \$10.3 million of cash to payout DMS’s debt and restructure the business.**
- **Cash consideration to be funded through existing debt facilities.**
- **DMS will affect the restructure of the business operations prior to implementation with any residual restructuring payments required following implementation to be made by MYE.**
- **Pro-forma FY2015 forecasts for DMS business of approximately \$5.5 million EBIT (on a full year basis) after taking into account cost savings as a result of the restructure of the business and combination with MYE.²**
- **Acquisition expected to EPS accretive in FY2015 and on a full year pro-forma basis.²**

DMS is an unlisted public company and MYE and DMS have entered into a Scheme Implementation Deed (“**SID**”) under which it is proposed that MYE will acquire all outstanding DMS shares by way of a scheme of arrangement (“**Scheme**”).

Implementation is subject to DMS shareholder approval and customary conditions precedent. The Scheme has received the unanimous recommendation of the DMS board and has the support of DMS’ major shareholder Maui Capital which through two funds managed by Maui Capital owns approximately 40% of DMS’ outstanding shares.

An overview of DMS, details of the acquisition and the SID are released with this announcement.

Diversified Mining Services

DMS is a leading provider of services to a range of industries, primarily focussed on maintenance and mining services in Queensland and NSW. DMS was established in 2009 by experienced industry professionals and private equity investors through the aggregation of several well respected businesses in the mining services sector focussed on the coal industry.

¹ \$9.7 million of MYE shares and \$10.3 million of cash used to payout DMS’s debt and restructure the business.

² MYE Management forecast for DMS for FY2015 on a full year, pro-forma basis and before one off transaction and restructuring costs.

From this base DMS has expanded and now operates through three business units:

- Maintenance – Scaffolding and rigging, protective coatings, poly welding, scheduled maintenance and on-site repairs;
- Engineering – Specialist fabrication, machining and line boring, design and consulting; and
- Mining Operations – Ventilation services, outbye services, gas drainage and secondary support.

DMS operates throughout the Bowen Basin, Gladstone, Mackay and the Hunter Valley for a range of blue chip clients in the mining, downstream metalliferous processing, prime contracting and mining infrastructure industries. In addition, DMS is a specialist in overwater scaffolding, and in April 2014 was awarded a five year, multi-million dollar contract for the provision of scaffolding services at the Dalrymple Bay Coal Terminal.

A major recurring revenue stream for DMS is generated by shut-down maintenance works through major contractors and directly through Tier 1 mining operators.

DMS has approximately 300 employees.

Rationale for acquisition of DMS

The acquisition of DMS is in keeping with MYE's strategy of expanding its service offering through its Services Division and to compliment and leverage from the very strong position that the Company has in the underground coal sector. The acquisition will also provide some diversification from coal and will leverage MYE to the forecast growth in ongoing maintenance works across a range of industries.

DMS's strengths include:

- Diversified service offering;
- Significant presence in the coal sector;
- Recurring revenue streams;
- High quality customer base; and
- Right-sized business positioned for growth.

MYE management believe there is a compelling strategic rationale for the DMS acquisition:

- ✓ **Diversification of services; providing growth opportunities.**
- ✓ **Business operations on similar commercial and operational terms as the Company currently operates.**
- ✓ **Enhances Mastermyne's current capabilities and specialities to existing customers.**
- ✓ **Provides a platform for Mastermyne to pursue new opportunities in maintenance.**
- ✓ **Low capital intensity.**
- ✓ **Attractive valuation.**
- ✓ **Synergy benefits.**

The restructured DMS business will consist of DMS's Maintenance, Engineering and Mining business units, their required facilities and staff. MYE plans to actively grow each of the DMS business units and is not planning for any staffing changes, other than rationalisation of head office employees which would otherwise create unnecessary duplication. The DMS management team have put in place the required restructurings and payments will be made by MYE on completion of the transaction.

Acquisition funding and structure

The acquisition will be funded as follows:

- 15.6 million MYE shares with a total value of \$9.7 million issued to the shareholders of DMS.³
- \$10.3 million of cash from MYE's debt facilities which will be applied to DMS debt and restructuring costs.

DMS shareholders will receive 15.6 million MYE shares representing approximately 17% of the combined shares on issue. The acquisition is expected to earn approximately \$6.7 million in EBITDA and \$5.5 million in EBIT on a full year pro-forma basis after taking into account cost savings as a result of the restructure of the business and combination with MYE, and is expected to be EPS accretive in FY2015 and on a full year pro-forma basis.²

The entire cash consideration will be used to repay DMS's debt and fund certain other amounts required to right size the DMS business and achieve the required level of working capital to carry on the business.

MYE's Chief Executive and Managing Director Tony Caruso said the acquisition followed extensive due diligence and was consistent with the strategy the Company has been flagging to the market for some time of expanding the scale and service offering provided by MYE's Services Division.

"DMS is a well respected service provider which will significantly increase the range of services that the Mastermyne Group can offer to the mining and other industries", Mr Caruso said.

"DMS has a dedicated and well respected management team and workforce, all of which are highly regarded in their respective areas. We look forward to them joining the Mastermyne team and we are very confident that this acquisition will not only bring major benefits to the Company but will also provide ongoing opportunities for the DMS and Mastermyne management and workforce.

"The DMS business will provide us with a key suite of services that complement our current offering, are timely in the current market and importantly are very niche to a number of sectors.

"In addition to DMS's record of success, we intend to leverage DMS's customer base and maintenance expertise to the benefit of the entire Mastermyne Group and ultimately to create significant value for our shareholders."

Terms and conditions of the proposal

The Scheme is subject to certain customary conditions precedent, including DMS shareholders and the Court approving the Scheme, the Independent Expert forming and continuing to hold the opinion that the Scheme is in the best interests of DMS shareholders and other customary conditions.

The SID contains certain exclusivity arrangements, including no shop, no-talk and notification obligations (with customary fiduciary carve outs) and matching right obligations.

The SID is contained in Annexure A.

It is currently anticipated that a Scheme booklet, containing information related to the acquisition, the Independent Expert's report and details of the Scheme meeting will be sent to DMS shareholders in early November 2014 with implementation expected to occur in December 2014.

³ MYE shares to be issued at an implied price of 62.17 cents per share

Timetable

Event	Date
Announcement of the transaction	26 September 2014
First Court hearing	Early November
Despatch of Scheme booklet	Early November
DMS Scheme Meeting	Late November
Second Court hearing	Early December
Implementation	Mid December

Advisers

MYE was advised by Ironstone Capital (financial) and Clayton Utz (legal).

Further information:

Tony Caruso – Chief Executive and Managing Director: (07) 4963 0400

Or visit www.mastermyne.com.au

About Mastermyne

Mastermyne Group Limited (ASX:MYE) was established in 1996 and is a leading provider of specialised services to the Australian coal mining industry. Mastermyne listed on the ASX on 7 May 2010.

It has three operating divisions, Mastermyne Underground (underground roadway development, installation of conveyors and longwall relocation), Mastermyne Engineering (design and engineering of specialised mining equipment and consumables) and Mastermyne Services (electrical, mechanical and maintenance services).

Based in Mackay Queensland, Mastermyne has operations in Queensland's Bowen Basin and the Illawarra and Hunter Valley regions in New South Wales.

Scheme Implementation Deed

Diversified Mining Services Limited
(DMS)

Mastermyne Group Limited
(Mastermyne)

Table of Contents

1.	Definitions and Interpretation	1
1.1	Definitions	1
1.2	Reasonable endeavours	14
1.3	Business days.....	14
1.4	Interpretation.....	14
2.	Agreement to implement the Scheme	15
2.1	Implementation of Scheme	15
2.2	DMS to propose and implement Scheme	15
2.3	Mastermyne to assist.....	15
2.4	Scheme Consideration	15
2.5	Payment of Scheme Consideration	15
2.6	Fractional elements	15
2.7	Foreign DMS Securityholders.....	16
2.8	New Mastermyne Shares to rank equally	16
2.9	Variations to timetable	16
3.	Conditions precedent.....	16
3.1	Conditions.....	16
3.2	Obligations in relation to Conditions	18
3.3	Waiver of Conditions.....	19
3.4	Notification of certain events.....	19
3.5	Scheme voted down	19
3.6	Consultation if Conditions not met	20
4.	DMS Obligations	20
5.	Mastermyne Obligations	23
6.	General obligations	25
6.1	Mutual obligations	25
6.2	DMS's general obligations	25
6.3	Mastermyne's general obligations	25
6.4	Transaction Implementation Committee	25
6.5	Preparation of the Scheme Booklet	26
6.6	Court proceedings	28
6.7	Right to separate representation.....	28
6.8	Access to people and Information	28
6.9	DMS Board changes.....	29
6.10	Director's access, indemnity and insurance deeds.....	29
7.	Conduct of business	30
7.1	Prohibited actions	30
7.2	Overview	30
7.3	Specific obligations	30
7.4	DMS Permitted Events	31
8.	Exclusivity.....	31
8.1	No existing discussions	31
8.2	No-shop	31
8.3	No-talk and no due diligence	31
8.4	Notification	32
8.5	Exceptions to no talk/no due diligence restrictions	32

8.6	Response to Competing Proposal	33
9.	Break Fee	33
9.1	Background.....	33
9.2	Payment of Break Fee	34
9.3	Payment conditions	34
9.4	Timing of payment	35
9.5	Compliance with law	35
9.6	Other claims.....	35
10.	Confidentiality.....	36
10.1	DMS Confidentiality Deed.....	36
10.2	Mastermyne Confidentiality Deed	37
10.3	Disclosure by recipient of Confidential Information.....	37
10.4	Accuracy	37
10.5	Termination.....	38
11.	Public announcements and Communications.....	38
11.1	Announcement of Scheme	38
11.2	Other public announcements.....	38
11.3	Agreement on Communications	39
11.4	Announcements and Communications when there is a Competing Proposal	39
12.	Representations and warranties	39
12.1	Preliminary	39
12.2	DMS representations and warranties	40
12.3	Mastermyne representations and warranties.....	40
12.4	Notifications	40
12.5	Status of representations and warranties	40
12.6	DMS Warranty Certificate	40
12.7	Mastermyne Warranty Certificate	41
13.	Indemnity and liability.....	41
13.1	DMS indemnity	41
13.2	Mastermyne indemnity.....	41
13.3	No action by DMS against Mastermyne officers.....	42
13.4	No action by Mastermyne against DMS officers.....	42
13.5	Limitation on claims against Mastermyne	42
13.6	Limitation on claims against DMS	43
14.	Termination	44
14.1	Termination by any party	44
14.2	Termination by Mastermyne	44
14.3	Termination by DMS	44
14.4	Exercise of termination right	45
14.5	Effect of termination	45
15.	GST	45
15.1	Interpretation.....	45
15.2	Reimbursements and similar payments.....	45
15.3	GST payable.....	46
15.4	Variation to GST payable.....	46
16.	Notices.....	46
16.1	How notice to be given	46

16.2	When notice taken to be received	47
17.	Entire agreement	47
18.	General	47
18.1	Amendments.....	47
18.2	Assignment	47
18.3	Consents.....	47
18.4	Costs.....	47
18.5	Counterparts	48
18.6	Further acts and documents	48
18.7	No merger	48
18.8	Severance.....	48
18.9	Stamp duties	48
18.10	Waivers.....	48
19.	Governing law, jurisdiction and service of process	49
19.1	Governing law.....	49
19.2	Jurisdiction.....	49
	Schedule 1—DMS’s representations and warranties	51
	Schedule 2—Mastermyne’s representations and warranties	53
	Schedule 3—Timetable	56
	Schedule 4—Deed Poll	57
	Schedule 5—Scheme	58

Scheme Implementation Deed made on 25 September 2014

Parties

Diversified Mining Services Limited ACN 126 482 282 of Level 10,
9 Sherwood Road, Toowong, Queensland, 4066 (**DMS**)

Mastermyne Group Limited ACN 142 490 579 of Level 1, Riverside Plaza,
45 River Street, Mackay, Queensland, 4740 (**Mastermyne**).

Recitals

- A. Mastermyne has offered to acquire all of the issued share capital in DMS.
- B. It is proposed that the acquisition be implemented by a members' scheme of arrangement under Part 5.1 of the Corporations Act whereby the shareholders of DMS will exchange their DMS Shares for the Scheme Consideration.
- C. The Scheme is conditional on, amongst other things, approval by the Court and by DMS Shareholders.
- D. As at the date of this deed, Mastermyne has 75,517,514 ordinary shares on issue, which are traded on the ASX.
- E. Subject to the terms of this deed, DMS and Mastermyne have agreed to carry into effect the Scheme and all steps required to implement the Scheme.

Operative provisions

1. Definitions and Interpretation

1.1 Definitions

In this deed:

Advisers means, in relation to an entity, its financiers, and any legal adviser, financial adviser, corporate adviser or other expert adviser or consultant who provides advisory services in a professional capacity and who has been engaged by that entity.

Announcement Date means the date on which Mastermyne makes the Mastermyne Public Announcement.

ANZ means Australia and New Zealand Banking Group Limited.

ANZ Outstanding Liability means the amount payable to ANZ in order to procure the grant of the ANZ Releases by ANZ which amount is not to exceed:

- (a) the amounts drawn down as advised by DMS prior to the date of this deed plus interest and charges accruing between the date of this deed and the Implementation Date in respect of all ANZ facilities other than the ANZ overdraft facility; plus
- (b) the amount owing under the ANZ overdraft facility as advised by DMS prior to the date of this deed plus interest and charges accruing between the date of this deed and the Implementation Date and further reasonable amounts drawn down by DMS which are necessary for DMS to continue operations in the ordinary course and which do not increase the total amount drawn down under the ANZ overdraft facility above \$2.5 million.

ANZ Releases means releases of each of the ANZ Securities, duly executed by ANZ.

ANZ Securities means each of the Encumbrances granted over any DMS Group Member or over the whole or any part of the assets of the DMS Group in favour of ANZ.

ASIC means the Australian Securities and Investments Commission.

Associate has the meaning given in section 12 of the Corporations Act.

ASX means ASX Limited ACN 008 624 691 or, as the context requires, the financial market operated by it.

ASX Listing Rules means the official listing rules of ASX.

ATO means the Australian Taxation Office.

Break Fee means \$500,000 (inclusive of GST).

Business Day means a day, not being a Saturday, Sunday or public holiday, on which banks are generally open for business in Brisbane.

Communications means all forms of communications, whether written, oral, in electronic format or otherwise, and whether direct or indirect via agents or Representatives.

Competing Proposal means any proposal (including a scheme of arrangement) or offer that if completed substantially in accordance with its terms would result in a person (other than Mastermyne or its Related Entities):

- (a) directly or indirectly acquiring a Relevant Interest in or becoming the holder of more than 50% of the issued DMS Shares;
- (b) directly or indirectly acquiring an interest in all or a material part of the business or assets of DMS; or
- (c) otherwise acquiring control of DMS within the meaning of section 50AA of the Corporations Act (including by way of reverse takeover, reverse scheme of arrangement or dual listed company structure).

Condition means a condition precedent set out in clause 3.1.

Confidentiality Deeds means the DMS Confidentiality Deed and the Mastermyne Confidentiality Deed.

Confidential Information means the Mastermyne Confidential Information or DMS Confidential Information.

Consequential Loss means any loss, damage or liability in contract, tort (including negligence) or under statute which is:

- (a) consequential loss, indirect or remote or abnormal or unforeseeable loss;
- (b) loss of revenue, loss of goodwill, loss of profits, loss of production, loss of actual or anticipated savings, loss of reputation, lost opportunities, wasted overheads, business interruptions, or loss of use;
- (c) special, exemplary or punitive damages of any kind; or
- (d) any similar loss (whether or not in the reasonable contemplation of the parties).

Corporations Act means the *Corporations Act 2001* (Cth) and the regulations made under that Act.

Court means the Supreme Court of Queensland or such other court of competent jurisdiction under the Corporations Act as DMS and Mastermyne agree in writing.

Deed Poll means the deed poll to be executed by Mastermyne in favour of Scheme Shareholders (subject to any amendments permitted by its terms) in the form as set out in Schedule 4—Deed Poll.

Disclosure has the meaning given in clause 11.2(a).

DMS Board means the board of directors of DMS from time to time.

DMS Committee Members means Darren Basford and Simon Jeffery, or such other persons appointed by DMS from time to time.

DMS Confidentiality Deed means the confidentiality deed dated on or about 13 February 2014 between DMS (as the “Company”) and Mastermyne (as the “Recipient”), as amended by a deed dated on or about 17 July 2014 between DMS and Mastermyne.

DMS Confidential Information means the confidential, non-public or proprietary Information, relating to the business or affairs of DMS and its Related Entities made available by or on behalf of DMS to Mastermyne and its Representatives before or after the date of this deed (and includes Information which is confidential information for the purposes of the DMS Confidentiality Deed).

DMS Director means a director of DMS.

DMS Disclosure Materials means all written information in connection with the Transaction or relating to the DMS Group's past, present or future operations, affairs, business and/or strategic plans, which:

- (a) is included in the electronic data room established by DMS and made available to Mastermyne and its Representatives between 21 July 2014 and the date of this deed; or
- (b) has been provided to Mastermyne or its Representatives (including any DMS Provided Information) prior to the date of this deed.

DMS Environmental Incident means the sudden and unforeseen occurrence of a major Environmental incident that:

- (a) is caused by a relevant DMS Group Member; and
- (b) has had, or will have, a material adverse effect on the business, assets, liabilities, financial or trading position or profitability of the DMS Group as a whole.

DMS Fatality Event means the death of an employee of a DMS Group Member that:

- (a) occurs while the relevant employee is performing its duties in the course of that employee's employment with the relevant DMS Group Member; and
- (b) is caused by a relevant DMS Group Member; and
- (c) has had, or will have, a material adverse effect on the business, assets, liabilities, financial or trading position or profitability of the DMS Group as a whole.

DMS Group means DMS and each of its Related Entities.

DMS Group Member means a member of the DMS Group.

DMS Indemnified Parties means each DMS Group Member and their respective directors and officers as at the date of this deed.

DMS Liability means:

- (a) the total amount of Tax outstanding and payable to the ATO on the Implementation Date under the ATO payment plan disclosed to Mastermyne in writing prior to the date of this deed (or any variation of such plan or replacement ATO payment plan that is put into place by DMS in consultation with Mastermyne); and
- (b) redundancy, notice, accrued entitlements and incentive payments to the non-transferring corporate employees in accordance with the amounts disclosed to Mastermyne in writing;

DMS Material Adverse Change means a matter, event or circumstance (other than any matter consented to in writing by Mastermyne) that occurs after the date of this deed and before 8.00 am on the Second Court Date, where that matter, event or circumstance has, has had, or could reasonably be expected to have, individually or when aggregated with all such matters, events or circumstances, the result that:

- (a) the Value of the Consolidated Net Tangible Assets of DMS Group being reduced by \$1,000,000 or more; or
- (b) the Forecasted Value of Consolidated EBIT for the DMS Group is less than \$5,500,000,

other than a DMS Permitted Event or any other matter, event or circumstance:

- (c) required or permitted to be done or procured by DMS pursuant to this deed or the Transaction;
- (d) which has been publicly announced by DMS prior to the date of this deed;
- (e) to the extent that it is known by Mastermyne or any of their directors or officers prior to the date of this deed; or
- (f) caused by any changes in interest rates or law (including any changes in laws relating to Taxes or changes to accounting policy required by law); or
- (g) which is, and to the extent that it is, disclosed:
 - (i) in the DMS Disclosure Materials; or
 - (ii) on any Public Register on or before the date of this deed.

DMS Option means an option to subscribe for a DMS Share that was issued by DMS on or before the date of this deed.

DMS Permitted Event means the occurrence of any of the following:

- (a) the deregistration of DMS Plan 1 Pty Ltd, DMS Field Maintenance Pty Ltd and Tinoak Pty Ltd;
- (b) the incurring of, or payment of, Implementation Costs by any DMS Group Member;

- (c) the issue of DMS Shares by DMS as a result of the exercise of DMS Options (if any);
- (d) any matter, event or circumstance consented to in writing by Mastermyne; and
- (e) entering into any agreement or arrangement in relation to, or otherwise taking any steps to give effect to, any of the matters referred to in paragraphs (a) to (e) inclusive.

DMS Prescribed Event means the occurrence of any of the following between the date of this deed and 8.00 am on the Second Court Date:

- (a) DMS converts all or any of its securities into a larger or smaller number of securities;
- (b) DMS or a Subsidiary of DMS disposes of, or agrees to dispose of, shares in a Subsidiary of that entity;
- (c) DMS or a Subsidiary of DMS resolves to reduce its share capital in any way or reclassifies, combines, splits, redeems or repurchases directly or indirectly any of its shares;
- (d) DMS or a Subsidiary of DMS enters into a buy-back agreement or resolves to approve the terms of a buy-back agreement under the Corporations Act;
- (e) DMS declares any dividend or pays, makes or incurs any liability to pay or make any distribution whether by way of dividend, capital distribution, bonus or other share of its profits or assets;
- (f) DMS or a Related Entity of DMS issues or authorises the issue of shares or other instruments convertible into, in lieu of or in substitution for shares, or grants an option over its shares, or agrees to make such an issue or grant such an option;
- (g) DMS or a Subsidiary of DMS creates, or agrees to create, any mortgage, charge, lien or other Encumbrance over the whole or a substantial part of the business, assets or property of the DMS Group;
- (h) an Insolvency Event occurs in relation to DMS or a Subsidiary of DMS;
- (i) DMS or a Subsidiary of DMS states its intention to or makes any change to its constitution;
- (j) DMS or a Subsidiary of DMS disposing, or agreeing to dispose, of the whole, or a substantial part, of its business or property;
- (k) DMS or a Subsidiary of DMS enters into any contract with a Third Party with a value of \$250,000 or more;
- (l) DMS or a Subsidiary of DMS purchases any individual asset or assets with a value of \$50,000 (individually) or more or \$100,000 (in the aggregate) or more from a Third Party;
- (m) a DMS Fatality Event occurs;
- (n) a DMS Environmental Incident occurs; or
- (o) ANZ terminates, withdraws or reduces the credit limit of any finance facility provided by ANZ to any DMS Group Member other than the scheduled repayment of asset

finance facility or a reduction in a credit limit as agreed with Mastermyne in writing (such agreement not to be withheld unreasonably),

other than a DMS Permitted Event or any other matter, event or circumstance required or permitted to be done or procured by DMS pursuant to this deed or the Transaction.

DMS Provided Information means all information contained in the Scheme Booklet and all information provided by or on behalf of DMS to the Independent Expert to enable the Independent Expert's Report to be prepared and completed and any updates to that Information prepared by or on behalf of DMS in accordance with clause 4(f), other than the Mastermyne Provided Information and the Independent Expert's Report.

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

DMS Share Register means the register of members of DMS maintained under the Corporations Act.

DMS Shareholder means a person registered on the DMS Share Register as the holder of DMS Shares.

EBIT means earnings before interest and tax expense.

Effective means the coming into effect, pursuant to section 411(10) of the Corporations Act, of the Court order approving the Scheme under section 411(4)(b) of the Corporations Act.

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

Encumbrance means any mortgage, lien, charge, pledge, assignment by way of security, security interest (including any "security interest" as defined in section 12 of the Personal Property Securities Act 2009 (Cth)), title retention, preferential right or trust arrangement, claim, covenant, profit a prendre, easement or any other security arrangement or any other arrangement having the same effect.

End Date means the date which is 5 months after the date of this deed or such other date agreed in writing by the parties.

Environment means all components of the earth, atmosphere, ecosystems and biosphere including land, air, water, sound, odour, climate, organic matter, inorganic matter, living organisms and natural and human made features wherever located (and "Environmental" has a corresponding meaning).

First Court Date means the first day of hearing of an application made to the Court for an order pursuant to section 411(1) of the Corporations Act convening the Scheme Meeting or, if the hearing of such application is adjourned for any reason, means the first day of the adjourned hearing.

Forecasted Value of Consolidated EBIT means:

- (a) in respect of the DMS Group - the forecasted EBIT for the DMS Group for the financial year ending 30 June 2015, before non-continuing corporate costs as provided by DMS prior to the date of this deed; and
- (b) in respect of the Mastermyne Group - the forecasted EBIT for the Mastermyne Group for the financial year ending 30 June 2015.

Foreign DMS Securityholder means a DMS Shareholder:

- (a) who is (or is acting on behalf of) a citizen or resident of a jurisdiction other than residents of Australia (and its external territories) or New Zealand; or
 - (b) whose address shown in the DMS Share Register is a place outside Australia (and its external territories) or New Zealand or who is acting on behalf of such a person,
- unless the parties (acting reasonably) agree:
- (c) it is lawful and not unduly onerous or unduly impracticable to issue that DMS Shareholder with Mastermyne Shares on implementation of the Scheme; and
 - (d) it is lawful for that DMS Shareholder to participate in the Scheme by the law of the relevant place outside Australia (and its external territories) or New Zealand.

GST has the meaning given in the GST Act.

GST Act means the *A New Tax System (Goods and Services) Act 1999* (Cth).

Headcount Test means the requirement under section 411(4)(a)(ii)(A) of the Corporations Act that the resolution to approve the Scheme at the Scheme Meeting is passed by a majority in number of Scheme Shareholders present and voting, either in person or by proxy.

Implementation Costs means all costs and expenses incurred, owing or payable by any DMS Group Member in connection with the Transaction including without limitation break fees in connection with asset finance facilities, fees and other amounts payable to Advisers and Third Parties.

Implementation Date means the date which is the third Business Day after the Record Date or such other date as ordered by the Court or agreed between the parties in writing.

Implementation Period means the period commencing on the date of this deed and ending on the first to occur of:

- (a) termination of this deed in accordance with its terms;
- (b) the End Date; and
- (c) the Implementation Date.

Indemnified Losses means, in relation to any fact, matter or circumstance, all losses, costs, damages, expenses and other liabilities arising out of or in connection with that fact, matter or circumstance including all legal and other professional expenses on a solicitor-client basis incurred in connection with investigating, disputing, defending or settling any claim, action, demand or proceeding relating to that fact, matter or circumstance including any claim, action, demand or proceeding based on the terms of this deed.

Independent Expert means the independent expert engaged by DMS to express an opinion as to whether the Scheme is in the best interests of DMS Shareholders.

Independent Expert's Report means the report to be prepared by the Independent Expert in respect of the Scheme in accordance with the Corporations Act and Policy Statements for inclusion in the Scheme Booklet.

Information means information of any kind in any form or medium, whether formal or informal, written or unwritten (including, for example, computer software or programs, concepts, data, drawings, ideas, knowledge, procedures, source codes or object codes, technology or trade secrets).

Insolvency Event means any of the following:

- (a) a person is or states that the person is unable to pay from the person's own money all the person's debts as and when they become due and payable;
- (b) a person is taken or must be presumed to be insolvent or unable to pay the person's debts under any applicable legislation;
- (c) an application or order is made for the winding up or dissolution or a resolution is passed or any steps are taken to pass a resolution for the winding up or dissolution of a corporation;
- (d) an administrator, provisional liquidator, liquidator or person having a similar or analogous function under the laws of any relevant jurisdiction is appointed in respect of a corporation or any action is taken to appoint any such person and the action is not stayed, withdrawn or dismissed within seven days;
- (e) a controller is appointed in respect of any property of a corporation;
- (f) a corporation is deregistered under the Corporations Act or notice of its proposed deregistration is given to the corporation;
- (g) a distress, attachment or execution is levied or becomes enforceable against any property of a person;
- (h) a person enters into or takes any action to enter into an arrangement (including a scheme of arrangement (other than the Scheme) or deed of company arrangement), composition or compromise with, or assignment for the benefit of, all or any class of the person's creditors or members or a moratorium involving any of them; or
- (i) anything analogous to or of a similar effect to anything described above under the law of any relevant jurisdiction occurs in respect of a person,

other than a DMS Permitted Event.

Mastermyne Committee Members means Tony Caruso and Chris Kneipp, or such other persons appointed by Mastermyne from time to time.

Mastermyne Confidential Information means the confidential, non-public or proprietary Information, relating to the business or affairs of Mastermyne and its Related Entities made available by or on behalf of Mastermyne to DMS and its Representatives before or after the date of this deed (and includes Information which is confidential information for the purposes of the Mastermyne Confidentiality Deed).

Mastermyne Confidentiality Deed means the confidentiality deed dated on or about 30 July 2014 between DMS (as the "Recipient") and Mastermyne (as the "Company").

Mastermyne Counter Proposal has the meaning given to it in clause 8.6(a)(iv).

Mastermyne Director means a director of Mastermyne.

Mastermyne Disclosure Materials means all written information in connection with the Transaction or relating to the Mastermyne Group's past, present or future operations, affairs, business and/or strategic plans, which has been provided to DMS or its Representatives (including any Mastermyne Provided Information) prior to the date of this deed.

Mastermyne Environmental Incident means the sudden and unforeseen occurrence of a major Environmental incident that:

- (a) is caused by a relevant Mastermyne Group Member; and
- (b) has had, or will have, a material adverse effect on the business, assets, liabilities, financial or trading position or profitability of the Mastermyne Group as a whole.

Mastermyne Fatality Event means the death of an employee of a Mastermyne Group Member that:

- (a) occurs while the relevant employee is performing its duties in the course of that employee's employment with the relevant Mastermyne Group Member; and
- (b) is caused by a relevant Mastermyne Group Member; and
- (c) has had, or will have, a material adverse effect on the business, assets, liabilities, financial or trading position or profitability of the Mastermyne Group as a whole.

Mastermyne Group means Mastermyne and each of its Related Entities.

Mastermyne Group Member means a member of the Mastermyne Group.

Mastermyne Indemnified Parties means each member of the Mastermyne Group and their respective directors and officers.

Mastermyne Material Adverse Change means a matter, event or circumstance (other than any matter consented to in writing by DMS) that occurs after the date of this deed and before 8.00 am on the Second Court Date, where that matter, event or circumstance has, has had, or could reasonably be expected to have, individually or when aggregated with all such matters, events or circumstances, the result that:

- (a) the Value of the Consolidated Net Tangible Assets of Mastermyne Group being reduced by \$4,000,000 or more; or
- (b) the Forecasted Value of Consolidated EBIT for the Mastermyne Group having a reduction of 20% or more relative to the consensus forecasted value of consolidated EBIT for the Mastermyne Group for the financial year ending 30 June 2015 by Wilson HTM Ltd's research analyst as at the date of this deed,

other than a matter, event or circumstance:

- (c) required to be done or procured by Mastermyne pursuant to this deed or the Transaction;
- (d) which has been publicly announced by Mastermyne prior to the date of this deed;
- (e) to the extent that it is actually known by DMS or any of their directors or officers prior to the date of this deed;
- (f) which is, and to the extent that it is, disclosed:
 - (i) in the Mastermyne Disclosure Materials; or
 - (ii) on any Public Register on or before the date of this deed; or
- (g) caused by any changes in interest rates or law (including any changes in laws relating to Taxes or changes to accounting policy required by law).

Mastermyne Prescribed Event means the occurrence of any of the following between the date of this deed and 8.00 am on the Second Court Date:

- (a) Mastermyne converts all or any of its securities into a larger or smaller number of securities;
- (b) Mastermyne or a Subsidiary of Mastermyne disposes of, or agrees to dispose of, shares in a Subsidiary of that entity;
- (c) Mastermyne or a Subsidiary of Mastermyne resolves to reduce its share capital in any way or reclassifies, combines, splits, redeems or repurchases directly or indirectly any of its shares;
- (d) Mastermyne or a Subsidiary of Mastermyne enters into a buy-back agreement or resolves to approve the terms of a buy-back agreement under the Corporations Act;
- (e) Mastermyne declares any dividend or pays, makes or incurs any liability to pay or make any distribution whether by way of dividend, capital distribution, bonus or other share of its profits or assets (other than the dividend of 1.4 cents per Mastermyne Share declared by Mastermyne prior to the date of this deed, with a record date of 26 September 2014 and a payment date of 16 October 2014);
- (f) Mastermyne or a Related Entity of Mastermyne issues or authorises the issue of shares or other instruments convertible into, in lieu of or in substitution for shares, or grants an option over its shares, or agrees to make such an issue or grant such an option;
- (g) Mastermyne or a Subsidiary of Mastermyne creates, or agrees to create, any mortgage, charge, lien or other Encumbrance over the whole or a substantial part of the business, assets or property of the Mastermyne Group;
- (h) an Insolvency Event occurs in relation to Mastermyne or a Subsidiary of Mastermyne;
- (i) Mastermyne or a Subsidiary of Mastermyne states its intention to or makes any change to its constitution;
- (j) Mastermyne or a Subsidiary of Mastermyne disposing, or agreeing to dispose, of the whole, or a substantial part, of its business or property;
- (k) a Mastermyne Fatality Event occurs; or
- (l) a Mastermyne Environmental Incident occurs,

other than a matter, event or circumstance consented to in writing by DMS or required to be done or procured by Mastermyne pursuant to this deed or the Transaction.

Mastermyne Provided Information means the Information regarding Mastermyne Group provided by or on behalf of Mastermyne to DMS or the Independent Expert in accordance with clauses 5(a), 5(b) and 5(c).

Mastermyne Public Announcement means the public announcement in relation to the Transaction to be made by Mastermyne in the form determined by Mastermyne in consultation with DMS.

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

Maui Capital means Maui Capital Limited and each of its Subsidiaries.

New Mastermyne Share Component means the aggregate number of New Mastermyne Shares which a Scheme Shareholder is entitled to receive as part of the Scheme Consideration,

being 0.1126 New Mastermyne Shares for each Scheme Share held by the relevant Scheme Shareholder as at the Record Date.

New Mastermyne Shares means fully paid ordinary shares in the capital of Mastermyne to be issued under the Scheme and, to the extent applicable, as consideration for a Scheme Share.

Policy Statements means all policy statements, regulatory guides and practice notes published by ASIC and in force at the date of this deed.

Proforma Consolidated Financial Statements means proforma consolidated financial statements and other relevant financial information showing the effect of the Scheme on Mastermyne and the combined group following the Implementation Date.

Public Register means the following registers maintained:

- (a) by ASIC;
- (b) by ASX;
- (c) by the High Court of Australia, Federal Court of Australia, and the Supreme Courts in each of Queensland, New South Wales and Victoria;
- (d) under the Personal Property Securities Act 2009; and
- (e) by IP Australia.

Record Date means 5.00pm on the fifth Business Day after the Effective Date or such other date as agreed in writing by the parties.

Regulator's Draft means the draft of the Scheme Booklet in a form reasonably acceptable to DMS, which is, or is proposed to be, provided to ASIC for review pursuant to section 411(2) of the Corporations Act.

Regulatory Approval means:

- (a) any approval, consent, authorisation, registration, filing, lodgement, permit, franchise, agreement, notarisation, certificate, permission, licence, direction, declaration, authority or exemption from, by or with a Regulatory Authority; or
- (b) in relation to anything that would be fully or partly prohibited or restricted by law if a Regulatory Authority intervened or acted in any way within a specified period after lodgement, filing, registration or notification, the expiry of that period without intervention or action.

Regulatory Authority means:

- (a) any government or representative of a government or any governmental, semi-governmental, administrative, fiscal, regulatory or judicial body, local authority and any department, minister or agency of any government within Australia; and
- (b) any other authority, tribunal, agency, commission or similar entity having powers or jurisdiction under any law or regulation of Australia,

and includes any minister, ASIC, ATO, ASX, and any regulatory organisation established under statute or any stock exchange.

Regulatory Review Period means the period from the date on which DMS provides the Regulator's Draft to ASIC in accordance with clause 4(j) to the date on which ASIC provides a

letter indicating whether or not it proposes to appear to make submissions, or will intervene to oppose the Scheme at the Court hearing for orders under section 411(1) of the Corporations Act.

Related Body Corporate has the meaning it has in the Corporations Act.

Related Entity means:

- (a) in relation to DMS, any other entity:
 - (i) which is a Subsidiary of DMS; or
 - (ii) which DMS controls; and
- (b) in relation to Mastermyne, any other entity:
 - (i) which is a Related Body Corporate of Mastermyne;
 - (ii) which is in any consolidated entity which contains Mastermyne; and
 - (iii) which Mastermyne controls, other than the DMS Group.

Relevant Interest has the same meaning as given by sections 608 and 609 of the Corporations Act.

Representative means, in relation to a party:

- (a) each of the party's Related Entities; and
- (b) each of the officers, employees and Advisers of the party or of any of its Related Entities.

Scheme means the proposed scheme of arrangement between DMS and the Scheme Shareholders under Part 5.1 of the Corporations Act in respect of all Scheme Shares, substantially in the form set out in Schedule 5—Scheme (including any amendments agreed between Mastermyne and DMS in writing, and any new or replacement scheme of arrangement that is agreed between Mastermyne and DMS in writing in connection with a Mastermyne Counter Proposal), 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 each party.

Scheme Booklet means the booklet (incorporating the Scheme, explanatory statement in relation to the Scheme issued pursuant to section 412 of the Corporations Act and registered with ASIC, the Independent Expert's Report, the Deed Poll, a summary of this deed and a notice convening the Scheme Meeting) to be prepared by DMS in respect of the Scheme in accordance with the terms of this deed and to be dispatched to the Scheme Shareholders.

Scheme Consideration means the consideration to be provided by Mastermyne to each of the Scheme Shareholders for the Scheme Shares (held by such Scheme Shareholders respectively) under the Scheme and in accordance with clause 2.5.

Scheme Meeting means the meeting to be convened by the Court in relation to the Scheme pursuant to section 411(1) of the Corporations Act.

Scheme Order means the order of the Court made for the purposes of section 411(4)(b) of the Corporations Act in relation to the Scheme.

Scheme Principle means the principle that, following the Scheme, DMS and Mastermyne intend that DMS will be a wholly owned subsidiary of Mastermyne and that the Scheme Shareholders will receive the Scheme Consideration in exchange for their Scheme Shares.

Scheme Share means a DMS Share on issue on the Record Date and for the avoidance of doubt includes any DMS Shares issued on or before the Record Date, including upon the exercise of any DMS Option.

Scheme Shareholder means each person who holds Scheme Shares.

Second Court Date means the first day of hearing of an application made to the Court for an order pursuant to section 411(4)(b) of the Corporations Act approving the Scheme or, if the hearing of such application is adjourned for any reason, means the first day of the adjourned hearing.

Share Splitting means a DMS Shareholder splitting its holding of Scheme Shares into 2 or more parcels, or a number of affiliated persons acquiring a number of parcels in different names or other manipulative conduct resulting in an increased number of shareholdings in DMS.

Subsidiary has the meaning given in the Corporations Act.

Superior Proposal means Competing Proposal which the DMS Directors determine (acting in good faith and in order to satisfy what the DMS Directors believe to be their fiduciary or statutory duties or other obligations at law):

- (a) is reasonably capable of being completed, taking into account both the nature of the Competing Proposal and the person making it, and
- (b) would, if completed substantially in accordance with its terms, reasonably be expected to be more favourable to DMS Shareholders than the Scheme.

Takeovers Panel means the body established under section 171 of the Australian Securities and Investments Commission Act 2001 (Cth) as the primary forum for resolving disputes about takeovers.

Tax means all forms of taxes, duties, imposts, charges, withholdings, rates, levies, clawbacks or other governmental impositions of whatever nature and by whatever authority imposed, assessed or charged together with all costs, charges, interest, penalties, fines and other additional statutory charges incidental or related to the imposition, assessment or charge of those amounts.

Third Party means a person other than Mastermyne or DMS or any of their respective Representatives.

Timetable means the indicative timetable for the implementation of the Scheme is set out in the table in schedule 3 to this deed or such other timetable as may be agreed in writing by Mastermyne and DMS.

Trading Day has the meaning given to it in the ASX Listing Rules.

Transaction means the acquisition by Mastermyne of all of the issued DMS Shares, through the implementation of the Scheme and other transactions contemplated by this deed.

Transaction Documents means:

- (a) this deed;

- (b) the Confidentiality Deed;
- (c) the Scheme Booklet (including the Independent Expert's Report); and
- (d) the Deed Poll.

Transaction Implementation Committee means the committee established under clause 6.4.

Value of the Consolidated Net Tangible Assets means the value of net assets as reported in the monthly management accounts of DMS or Mastermyne (as the case may be) prepared in accordance with the accounting policies of that party in place as at 30 June 2014 reduced by the value of intangible assets as reported in such accounts.

1.2 Reasonable endeavours

Any provision of this deed which requires a party to use reasonable endeavours or all reasonable endeavours to procure that something is performed or occurs or does not occur does not include any obligation to commence any legal action or proceeding against any person.

1.3 Business days

If the day on which any act to be done under this deed is a day other than a Business Day, that act must be done on or by the next Business Day except where this deed expressly specifies otherwise.

1.4 Interpretation

In this deed:

- (a) headings are for convenience only and do not affect interpretation;
- and unless the context indicates a contrary intention:
- (b) "**person**" includes an individual, the estate of an individual, a corporation, an authority, an association or a joint venture (whether incorporated or unincorporated), a partnership and a trust;
 - (c) a reference to a party includes that party's executors, administrators, successors and permitted assigns, including persons taking by way of novation;
 - (d) a reference to a document (including this deed) is to that document as varied, novated, ratified or replaced from time to time;
 - (e) a reference to a statute includes its delegated legislation and a reference to a statute or delegated legislation or a provision of either includes consolidations, amendments, re-enactments and replacements;
 - (f) a reference to a time and date is a reference to the time and date in Queensland;
 - (g) a word importing the singular includes the plural (and vice versa);
 - (h) a word indicating a gender includes every other gender;
 - (i) a reference to a party, clause, schedule, exhibit, attachment or annexure is a reference to a party, clause, schedule, exhibit, attachment or annexure to or of this deed, and a reference to this deed includes all schedules, exhibits, attachments and annexures to it;

- (j) if a word or phrase is given a defined meaning, any other part of speech or grammatical form of that word or phrase has a corresponding meaning;
- (k) “for example” and “includes” in any form are not words of limitation; and
- (l) a reference to “\$” or “dollar” is to Australian currency.

2. Agreement to implement the Scheme

2.1 Implementation of Scheme

Each of DMS and Mastermyne agrees to take all steps reasonably required to give effect to the Scheme by the End Date including the steps required by the terms of this deed, in a manner consistent with the Scheme Principle.

2.2 DMS to propose and implement Scheme

DMS must propose and implement the Scheme in accordance with Part 5.1 of the Corporations Act on and subject to the terms and conditions of this deed, and must use its reasonable endeavours to do so as soon as is reasonably practicable and substantially in accordance with the Timetable.

2.3 Mastermyne to assist

Mastermyne must assist DMS to propose and implement the Scheme in accordance with Part 5.1 of the Corporations Act on and subject to the terms and conditions of this deed, and must use its reasonable endeavours to do so as soon as is reasonably practicable and substantially in accordance with the Timetable.

2.4 Scheme Consideration

Pursuant to the Scheme, Scheme Shareholders will receive the Scheme Consideration for each DMS Share held by them respectively at the Record Date in accordance with the Scheme and the Deed Poll.

2.5 Payment of Scheme Consideration

- (a) Mastermyne covenants in favour of DMS (in its own right and on behalf of each Scheme Shareholder) that in consideration of the transfer to Mastermyne of each Scheme Share held by each Scheme Shareholder, Mastermyne will accept that transfer and, on the Implementation Date, issue to each Scheme Shareholder the New Mastermyne Share Component to which they are entitled.
- (b) DMS acknowledges that the undertakings by Mastermyne in clause 2.5(a) are given to DMS in its own right and in its capacity as trustee or agent for each Scheme Shareholder.

2.6 Fractional elements

If the number of DMS Shares held by a Scheme Shareholder means that their aggregate entitlement to New Mastermyne Shares is not a whole number, then any fractional entitlement will be rounded up to the nearest whole number of New Mastermyne Shares.

2.7 Foreign DMS Securityholders

Mastermyne will issue the New Mastermyne Shares to which a Foreign DMS Securityholder would otherwise become entitled to a nominee appointed by Mastermyne and DMS who will sell those New Mastermyne Shares and pay to that Foreign DMS Securityholder the proceeds received in accordance with the Scheme.

2.8 New Mastermyne Shares to rank equally

Mastermyne covenants in favour of DMS (in its own right and on behalf of each Scheme Shareholder) that:

- (a) all New Mastermyne Shares issued pursuant to clause 2.5(a) will, upon their issue:
 - (i) rank equally with all other Mastermyne Shares then on issue;
 - (ii) be duly authorised and validly issued;
 - (iii) be fully paid and non-assessable; and
 - (iv) be free of all security interests, third party rights and other Encumbrances; and
- (b) Mastermyne will do everything reasonably necessary to ensure that:
 - (i) the New Mastermyne Shares are admitted to the official list of ASX and are approved for official quotation on the ASX by 8.00am on the Second Court Date; and
 - (ii) trading in the New Mastermyne Shares on the ASX commences by the first Business Day after the Implementation Date.

2.9 Variations to timetable

DMS and Mastermyne may at any time extend the End Date by agreement in writing.

3. Conditions precedent

3.1 Conditions

Subject to this clause 3, the obligations of Mastermyne under clauses 5(i), 5(j) and 5(k) and of DMS under clauses 4(o) and 4(p) do not become binding on the parties and have no force or effect, and the Scheme must not become Effective, until each of the conditions listed in the first column of the following table has been either satisfied or waived in accordance with clause 3.3:

Condition	Right to waive
(a) before 8.00 am on the Second Court Date, all consents, approvals, waivers and modifications from a Regulatory Authority that are reasonably necessary or desirable to implement the Scheme are obtained on terms acceptable to the parties (acting reasonably) and none of those approvals, waivers and modifications have been withdrawn, cancelled or revoked;	None
(b) between the date of this deed and 8.00 am on the Second Court	None

Condition	Right to waive
<p>Date (each inclusive):</p> <p>(i) there is not in effect any preliminary or final decision, order or decree issued by a Regulatory Authority;</p> <p>(ii) no action or investigation is announced, commenced or threatened by any Regulatory Authority; and</p> <p>(iii) no application is made to any Regulatory Authority,</p> <p>in consequence of or in connection with the Transaction which restrains, prohibits or impedes, or threatens to restrain, prohibit or impede, the implementation of the Transaction or any part of it or the acquisition of Scheme Shares or the issue of New Mastermyne Shares under the Scheme;</p>	
<p>(c) no temporary restraining order, preliminary or permanent injunction or other order issued by any court of competent jurisdiction within Australia, no preliminary or final decision, determination, notice of objection, or order issued by any Regulatory Authority and no other legal restraint preventing any of the transactions contemplated by this deed is in effect as at 8.00 am on the Second Court Date;</p>	None
<p>(d) the Independent Expert issues the Independent Expert's Report which concludes that the Scheme is in the best interests of Scheme Shareholders and the Independent Expert does not change its conclusions or withdraw the Independent Expert's Report prior to 8.00 am on the Second Court Date;</p>	DMS
<p>(e) before 8.00 am on the Second Court Date, the DMS Shareholders approve the Scheme by the majorities required under section 411(4)(a)(ii) of the Corporations Act;</p>	None
<p>(f) on or before the End Date, the Court approves the Scheme in accordance with section 411(4)(b) of the Corporations Act either unconditionally or on conditions that do not impose unduly onerous obligations on either party (acting reasonably) and an office copy of the Scheme Order is lodged with ASIC as contemplated by section 411(10) of the Corporations Act;</p>	None
<p>(g) between the date of this deed and the date of the Scheme Meeting, no DMS Director withdraws or modifies their recommendation or voting intention described in clause 4(m) unless the recommendations of the DMS Directors are withdrawn or modified because of a Superior Proposal emerging or because the Independent Expert concludes that the Scheme is not in the best interests of Scheme Shareholders;</p>	Mastermyne
<p>(h) no DMS Prescribed Event occurs between the date of this deed and 8.00 am on the Second Court Date;</p>	Mastermyne
<p>(i) no DMS Material Adverse Change occurs between the date of</p>	Mastermyne

Condition	Right to waive
this deed and 8.00 am on the Second Court Date;	
(j) subject to clause 12.1, the representations and warranties of DMS as set out in Schedule 1 are materially true and correct as at the date of this deed and as at 8.00 am on the Second Court Date;	Mastermyne
(k) no Mastermyne Prescribed Event occurs between the date of this deed and 8.00 am on the Second Court Date;	DMS
(l) no Mastermyne Material Adverse Change occurs between the date of this deed and 8.00 am on the Second Court Date;	DMS
(m) the representations and warranties of Mastermyne as set out in Schedule 2 are materially true and correct as at the date of this deed and as at 8.00 am on the Second Court Date;	DMS
(n) the New Mastermyne Shares to be issued pursuant to the Scheme have, before 8.00 am on the Second Court Date, been approved for official quotation on the ASX;	DMS
(o) Mastermyne validly executes and delivers the Deed Poll to DMS prior to or on the First Court Date.	DMS
(p) Prior to 8.00 am on the Second Court Date, Mastermyne obtains directors' and officers' run-off insurance cover for DMS and each member of the DMS Group (on terms acceptable to DMS) in favour of their respective directors and officers from time to time, such insurance to take effect no later than the Implementation Date (and provides evidence of such insurance to DMS).	DMS
(q) All of the DMS Options are either exercised or cancelled before 8.00 am on the Second Court Date.	Both
(r) All other approvals or consents of a third party (other than ASIC or ASX) that both DMS and Mastermyne agree in writing are necessary or desirable to implement the Transaction are obtained.	Mastermyne

3.2 Obligations in relation to Conditions

Each party must:

- (a) use all reasonable endeavours to ensure that each Condition:
 - (i) is satisfied as soon as practicable after the date of this deed and in any event by the time or date specified in this deed for its satisfaction; or
 - (ii) continues to be satisfied at all times until the last time it is to be satisfied, as the case requires; and
- (b) co-operate with, and comply with all reasonable requests of, the other party for the purposes of procuring the satisfaction of any Condition.

3.3 Waiver of Conditions

The breach or non-fulfilment of a Condition:

- (a) may not be waived if the word "None" appears in the second column of the table in clause 3.1 opposite that Condition;
- (b) may not be waived if the word "Both" appears in the second column of the table in clause 3.1 opposite that Condition unless both parties agree in writing to waive that Condition; and
- (c) may be waived and may only be waived by the party specified in the second column of the table in clause 3.1 opposite that Condition.

A party entitled to waive or to agree to waive the breach or non-fulfilment of a Condition under this clause 3.3 may do so in its absolute discretion.

3.4 Notification of certain events

Each party must:

- (a) promptly inform the other either directly or through its Advisers of the steps it has taken and of its progress towards satisfaction of the Conditions;
- (b) promptly notify the other if it becomes aware that any Condition has been satisfied;
- (c) promptly notify the other if it becomes aware that any Condition has failed to be satisfied or has become incapable of being satisfied or is not reasonably capable of being satisfied or of any circumstances which may reasonably be expected to lead to such a state of affairs; and
- (d) after having given or received a notice in accordance with clause 3.4(c) in relation to a Condition that it is entitled under clause 3.3 to waive, give notice to the other party as soon as reasonably practicable (and in any event no later than five Business Days before, or such shorter time to ensure that notice is given before, 8.00 am on the Second Court Date) as to whether or not it waives the breach or non-fulfilment of the relevant Condition, specifying the Condition in question.

3.5 Scheme voted down

If the Scheme is not approved by DMS Shareholders at the Scheme Meeting by reason only of the non-satisfaction of the Headcount Test, and Mastermyne or DMS considers, acting reasonably, that Share Splitting or other conduct or circumstances may have caused or materially contributed to the Headcount Test not having been satisfied then:

- (a) DMS may (or must, if requested by Mastermyne):
 - (i) seek the Scheme Order, notwithstanding that the Headcount Test has not been satisfied;
 - (ii) make such submissions to the Court and file such evidence as counsel engaged by DMS to represent it in all Court proceedings related to the Scheme, in consultation with Mastermyne, considers is reasonably required to seek to persuade the Court to exercise its discretion under section 411(4)(a)(ii)(A) of the Corporations Act to disregard the Headcount Test; and

- (iii) if the Court agrees to exercise its discretion under section 411(4)(a)(ii)(A) of the Corporations Act to disregard the Headcount Test, the parties acknowledge that it will not be necessary to meet the Headcount Test in order to satisfy the Condition in clause 3.1(e);
- (b) Mastermyne must do all things reasonably requested by DMS in relation to the matters referred to in clause 3.5(a); and
- (c) any costs incurred as a result of the operation of this clause 3.5 are to be borne equally by the parties.

3.6 Consultation if Conditions not met

If:

- (a) there is a breach or non-fulfilment of a Condition which is not waived in accordance with this deed by the time or date specified in this deed for its satisfaction; or
- (b) there is an act, failure to act, event or occurrence which will prevent a Condition being satisfied by the time or date specified in this deed for its satisfaction (and the breach or non-fulfilment of the Condition which would otherwise occur has not already been waived),

then the parties must consult in good faith with a view to determining whether:

- (c) the Transaction may proceed by way of alternative means or methods and, if so, to agree on the terms of such alternative means or methods;
- (d) to extend the relevant time or date for satisfaction of the Conditions;
- (e) to change the date of the application to be made to the Court for the Scheme Order or adjourning that application (as applicable) to a later date agreed by the parties; or
- (f) to extend the End Date.

4. DMS Obligations

DMS must take all steps reasonably necessary to propose and implement the Scheme as soon as practicable after the date of this deed, and in particular DMS must:

- (a) **DMS Provided Information:** ensure that the DMS Provided Information included in the Scheme Booklet:
 - (i) complies with the Corporations Act, the Policy Statements and ASIC Regulatory Guide 60; and
 - (ii) is not false, misleading or deceptive in any material respect (including because of any material omission);
- (b) **Proforma Consolidated Financial Statements:** prepare and provide to Mastermyne such information in relation to DMS Group as Mastermyne reasonably requires to prepare the Proforma Consolidated Financial Statements or other required information for inclusion in the Scheme Booklet;

- (c) **Court Documentation:** to consult in good faith with Mastermyne in respect of all documentation to be filed by DMS with the Court in connection with the Transaction;
- (d) **Maui Support:** use its reasonable endeavours to procure that Maui Capital:
 - (i) confirms its intention to vote any Scheme Shares in which it has a Relevant Interest in favour of the Scheme;
 - (ii) votes any Scheme Shares in which it has a Relevant Interest in favour of the Scheme; and
 - (iii) does not change its voting intentions, or make any public statement or take any action which qualifies its support for the Scheme or contradicts, or subsequently changes or withdraws or modifies the recommendation in favour of the Scheme,
 unless:
 - (iv) a Superior Proposal emerges or the Independent Expert expresses an opinion that the Scheme is not in the best interests of the Scheme Shareholders;
 - (v) the DMS Directors have determined after the date of this deed, in good faith, after having obtained written advice from their outside legal advisers that compliance or continued compliance with this clause 4(d) may reasonably be expected to involve a breach of the DMS Board's fiduciary or statutory obligations or would otherwise be unlawful;
 - (vi) there is a Mastermyne Prescribed Event or Mastermyne Material Adverse Change; or
 - (vii) there is an event giving rise to a right of termination of this deed by DMS;
- (e) **Scheme Booklet:** finalise the Scheme Booklet in accordance with the requirements of the Corporations Act and the Policy Statements;
- (f) **Further DMS Provided Information:** provide to Mastermyne and DMS Shareholders all further or new Information as may arise after the Scheme Booklet has been sent to DMS Shareholders until the date of the Scheme Meeting as may be necessary to ensure that the DMS Provided Information contained in the Scheme Booklet:
 - (i) complies with the Corporations Act, the Policy Statements and ASIC Regulatory Guide 60; and
 - (ii) is not, having regard to applicable disclosure requirements, false, misleading or deceptive in any material respect (including because of any material omission);
- (g) **Apply to Court:** apply to the Court for the First Court Date and Second Court Date hearings and:
 - (i) take all other reasonable steps to ensure that an application is heard by the Court for an order under section 411(1) of the Corporations Act directing DMS to convene the Scheme Meeting; and

- (ii) if the DMS Shareholders approve the Scheme and the condition in clause 3.1(c) is satisfied, apply to the Court for orders approving the Scheme under section 411(4)(b) of the Corporations Act;
 - (h) **Independent Expert:** promptly appoint the Independent Expert and provide all assistance and information reasonably requested by the Independent Expert in connection with the preparation of the Independent Expert's Report;
 - (i) **Provide a copy of the Independent Expert's Report:** use its reasonable endeavours to provide Mastermyne with an advanced draft of the Independent Expert's Report (or any available part of the draft of the Independent Expert's Report) received by DMS from the Independent Expert from time to time for review;
 - (j) **provide Regulator's Draft to ASIC:** as soon as reasonably practicable but no later than 18 days before the First Court Date, provide the Regulator's Draft to ASIC for its review for the purposes of section 411(2) of the Corporations Act and liaise with ASIC as necessary during the Regulatory Review Period;
 - (k) **registration of Scheme Booklet:** request ASIC to register the explanatory statement included in the Scheme Booklet in relation to the Scheme in accordance with section 412(6) of the Corporations Act;
 - (l) **Convene the Scheme Meeting:** if the Court has made an order under section 411(1) of the Corporations Act directing DMS to convene the Scheme Meeting, convene and hold the Scheme Meeting;
 - (m) **DMS Directors' recommendations and intentions:**
 - (i) state in the Scheme Booklet (on the basis of statements made to DMS by each of the DMS Directors) that each of the DMS Directors recommends to Scheme Shareholders that the Scheme be approved in the absence of a Superior Proposal and subject to the Independent Expert expressing an opinion that the Scheme is in the best interests of the Scheme Shareholders; and
 - (ii) use its reasonable endeavours to procure that each DMS Director:
 - A. confirms his or her intention to vote any Scheme Shares in which he or she has a Relevant Interest in favour of the Scheme;
 - B. votes any Scheme Shares in which he or she has a Relevant Interest in favour of the Scheme; and
 - C. does not change his or her voting intentions, or make any public statement or take any action which qualifies their support for the Scheme or contradicts, or subsequently changes or withdraws or modifies the recommendation in favour of the Scheme,
- unless:
- (iii) a Superior Proposal emerges or the Independent Expert expresses an opinion that the Scheme is not in the best interests of the Scheme Shareholders;

- (iv) the DMS Directors have determined after the date of this deed, in good faith, after having obtained written advice from their outside legal advisers that compliance or continued compliance with this clause 4(m) may reasonably be expected to involve a breach of the DMS Board's fiduciary or statutory obligations or would otherwise be unlawful;
 - (v) there is a Mastermyne Prescribed Event or Mastermyne Material Adverse Change; or
 - (vi) there is an event giving rise to a right of termination of this deed by DMS;
- (n) **section 411(17)(b) statement:** apply to ASIC for the production of a statement in writing pursuant to section 411(17)(b) of the Corporations Act stating that ASIC has no objection to the Scheme;
 - (o) **lodge copy of Court orders:** if the Court makes the Scheme Order approving the Scheme, promptly lodge with ASIC an office copy of those orders in accordance with section 411(10) of the Corporations Act;
 - (p) **registration:** if the Court makes the Scheme Order approving the Scheme:
 - (i) close the DMS Share Register as at the Record Date and determine the identity of the Scheme Shareholders and their entitlements to the Scheme Consideration in accordance with the Scheme;
 - (ii) execute proper instruments of transfer of and effect and register the transfer of the Scheme Shares in the name of Mastermyne in accordance with the Scheme; and
 - (iii) do all other things contemplated by or necessary to give effect to the Scheme and the orders of the Court approving the Scheme;
 - (q) **Compliance with laws:** do everything reasonably within its power to ensure that the Transaction is effected in accordance with all laws and regulations applicable in relation to the Transaction; and
 - (r) **Other steps:** subject to the terms of this deed, do all other things reasonably necessary to give effect to the Scheme and the Scheme Orders.

5. Mastermyne Obligations

Mastermyne must take all steps reasonably necessary to assist DMS to propose and implement the Scheme as soon as is reasonably practicable after the date of this deed, and in particular Mastermyne must:

- (a) **Mastermyne Provided Information:** prepare and promptly provide to DMS for inclusion in the Scheme Booklet all Mastermyne Provided Information that DMS reasonably requires to prepare and issue the Scheme Booklet (including any Proforma Consolidated Financial Statements and all other information required under the Corporations Act, the Policy Statements, ASX Listing Rules and ASIC Regulatory Guide 60) and ensure that the Mastermyne Provided Information contained in the Scheme Booklet:
 - (i) complies with the Corporations Act, the Policy Statements, ASX Listing Rules and ASIC Regulatory Guide 60; and

- (ii) is not false, misleading or deceptive in any material respect (including because of any material omission);
- (b) **Independent Expert information:** provide any assistance or information reasonably requested by the Independent Expert in connection with the preparation of the Independent Expert's Report to be included in the Scheme Booklet (including any Proforma Consolidated Financial Statements and all other information required under the Corporations Act, the Policy Statements, ASX Listing Rules and ASIC Regulatory Guide 60);
- (c) **Further Mastermyne Provided Information:** promptly provide to DMS such further or new Information as may arise after the Scheme Booklet has been sent until the date of the Scheme Meeting as may be necessary to ensure that the Mastermyne Provided Information contained in the Scheme Booklet:
 - (i) complies with the Corporations Act, the Policy Statements, ASX Listing Rules and ASIC Regulatory Guide 60; and
 - (ii) is not, having regard to applicable disclosure requirements, false, misleading or deceptive in any material respect (including because of any material omission);
- (d) **Court Documentation:** provide such assistance as is reasonably required by DMS in respect of all documentation to be filed by DMS with the Court in connection with the Transaction;
- (e) **Representation:** procure that it is represented by counsel at the court hearings convened for the purposes of seeking the Scheme Order, at which, through its counsel Mastermyne must undertake (if requested by the Court) to do all such things and take all such steps within its power as may be necessary in order to ensure the fulfilment of its obligations under this deed and the Scheme;
- (f) **Deed Poll:** prior to or on the First Court Date, execute the Deed Poll and deliver it to DMS;
- (g) **Share transfer:** if the Scheme becomes Effective, accept a transfer of the DMS Shares as contemplated by this deed and the Scheme;
- (h) **Funding:** ensure that it will have available to it sufficient cash amounts (whether from internal cash resources or external funding arrangements or a combination of both) to satisfy its obligations under this deed, the Deed Poll and the Scheme, and on request must provide DMS with reasonable evidence of such cash resources or external funding arrangements (as the case may be);
- (i) **ANZ Outstanding Liability:** in exchange for the ANZ Releases, pay to ANZ the ANZ Outstanding Liability on or before the Implementation Date;
- (j) **DMS Liabilities:** pay all DMS Liabilities in full on or before the Implementation Date;
- (k) **Scheme Consideration:** if the Scheme becomes Effective, provide the Scheme Consideration to the Scheme Shareholders in accordance with this deed, the Scheme and the Deed Poll;
- (l) **Compliance with laws:** do everything reasonably within its power to ensure that the Transaction is effected in accordance with all laws and regulations applicable in relation to the Transaction; and

- (m) **Other steps:** subject to the terms of this deed, do all other things reasonably necessary to give effect to the Scheme and the Scheme Orders.

6. General obligations

6.1 Mutual obligations

Each party must:

- (a) apply in a timely manner for all relevant Regulatory Approvals, providing a copy to the other party of all such applications, and take all steps it is responsible for as part of the approval process for the Scheme, including responding to requests for information at the earliest practicable time;
- (b) use reasonable endeavours to consult with the other in advance in relation to all material Communications with any Regulatory Authority relating to any Regulatory Approval and provide the other party with all information reasonably requested in connection with the application for any Regulatory Approval from a Regulatory Authority;
- (c) subject to the satisfaction and/or waiver of the Conditions (other than the Condition requiring Court approval of the Scheme), provide the Court on the Second Court Date with a certificate signed by at least one of its directors in accordance with a resolution of its board of directors confirming that all of the Conditions (other than the Condition requiring Court approval of the Scheme) are satisfied, or if not satisfied, are waived. A draft of such certificate must be provided by each party to the other party by not later than 5.00pm on the Business Day before the Second Court Date;
- (d) consult with each other regularly in relation to the Timetable for performing their respective obligations; and
- (e) use all reasonable endeavours and utilise all necessary resources (including management resources and the resources of external Advisers) so as to implement the Transaction as soon as reasonably practicable and substantially in accordance with the Timetable.

6.2 DMS's general obligations

DMS agrees that it will, and will procure its subsidiaries from time to time to, perform all of its obligations under the Scheme and, subject to the terms of the Scheme, do all things necessary or expedient to be done by it to implement each of this deed and the Scheme.

6.3 Mastermyne's general obligations

Mastermyne agrees it will, and will procure its subsidiaries from time to time to, perform all of its obligations under the Deed Poll and, subject to the terms of the Deed Poll do all things necessary or expedient to be done by it to implement and give effect to this deed and the Scheme which relate to it.

6.4 Transaction Implementation Committee

- (a) As soon as practicable after the date of this deed, the parties are to establish the Transaction Implementation Committee comprising the DMS Committee Members and the Mastermyne Committee Members and such other persons as the parties may agree.

- (b) The role of the Transaction Implementation Committee will be to act as a forum for consultation and planning by the parties to:
 - (i) facilitate satisfaction of the Conditions;
 - (ii) produce the Scheme Booklet; and
 - (iii) implement the Scheme.
- (c) The Transaction Implementation Committee is to meet at such times and with such frequency as agreed by the members of the Transaction Implementation Committee (each acting reasonably).

6.5 Preparation of the Scheme Booklet

- (a) Subject to the provisions of this clause 6.5, DMS is generally responsible for the preparation of the Scheme Booklet but will provide drafts to and consult with Mastermyne in accordance with clause 6.5(b).
- (b) Without limiting clause 4, DMS must:
 - (i) consult with Mastermyne regarding the Scheme Booklet, including:
 - A. as soon as reasonably practicable after it has been prepared, provide to Mastermyne an initial draft of the Scheme Booklet for the purpose of enabling Mastermyne to review and comment on that draft document;
 - B. provide to Mastermyne amended drafts of the Scheme Booklet as reasonably agreed for the purpose of enabling Mastermyne to review and comment on those draft documents;
 - C. take Mastermyne's reasonable comments into account in good faith when producing revised drafts of the Scheme Booklet; and
 - D. provide to Mastermyne a revised penultimate draft of the Regulator's Draft to enable Mastermyne to review it at least two Business Days before its submission;
 - (ii) implement such changes to those parts of the Scheme Booklet relating to Mastermyne which are provided in accordance with clause 6.5(b)(i) as reasonably requested by Mastermyne and prior to finalising the Regulator's Draft;
 - (iii) as soon as reasonably practicable after finalisation of an advanced draft of the Regulator's Draft suitable for review by ASIC, procure that a meeting of the DMS Directors is convened to consider approving the Regulator's Draft as being in a form appropriate for provision to ASIC for review;
 - (iv) during the Regulatory Review Period:
 - A. promptly provide to Mastermyne, and include in a revised draft of the Scheme Booklet, any new information not

included in the Regulator's Draft which is required by the Corporations Act to be included in the Scheme Booklet; and

- B. keep Mastermyne informed of any material matters raised by ASIC in relation to the Scheme Booklet and use reasonable endeavours, in co-operation with Mastermyne, to resolve any such matters; and
- (v) obtain approval from Mastermyne for the form and context in which the Mastermyne Provided Information appears in the Scheme Booklet, which approval must not be unreasonably delayed or withheld.
- (c) Without limiting clause 5, Mastermyne:
 - (i) consents to the inclusion of the Mastermyne Provided Information in the Scheme Booklet in the form and context approved by it; and
 - (ii) acknowledges that:
 - A. it is responsible for ensuring that the Mastermyne Provided Information is not misleading or deceptive in any material respect (whether by omission or otherwise) and that DMS will not verify or edit the final form of that information in the Scheme Booklet; and
 - B. the Scheme Booklet will state that Mastermyne is responsible for the Mastermyne Provided Information.
- (d) If Mastermyne and DMS disagree on the form or content of the Scheme Booklet:
 - (i) they must consult in good faith to try to settle an agreed form of the Scheme Booklet; and
 - (ii) if complete agreement is not reached after reasonable consultation, then:
 - A. if the disagreement relates to the form or content of the Mastermyne Provided Information contained in the Scheme Booklet, DMS will make such amendments as Mastermyne reasonably requires, and
 - B. if the disagreement relates to the form or content of any other part of the Scheme Booklet, the DMS Directors will decide the final form or content of the disputed part of the Scheme Booklet.
- (e) Mastermyne and DMS agree that each party must undertake appropriate verification processes for the information supplied by that party for the Scheme Booklet and must provide each other with full and free access to, and on request (acting reasonably), copies of all materials and documents used or created in connection with their respective verification processes, and must maintain those materials and documents for at least 7 years from the date of this deed for that purpose.
- (f) The Scheme Booklet will include a responsibility statement, in a form to be agreed by the parties, that will contain words to the following effect:
 - (i) that, to the maximum extent possible at law, DMS will not be responsible for any Mastermyne Provided Information or any statements

directly derived from Mastermyne Provided Information and will disclaim any liability for Mastermyne Provided Information or such statements appearing in the Scheme Booklet; and

- (ii) that, to the maximum extent possible at law, Mastermyne will not be responsible for any information appearing in the Scheme Booklet other than the Mastermyne Provided Information and will disclaim any liability for any information appearing in the Scheme Booklet other than the Mastermyne Provided Information.
- (g) Each of DMS and Mastermyne must procure that its officers and Advisers work (including by attending meetings and providing information) in good faith and in a timely and co-operative manner with the other party to prepare the Scheme Booklet in accordance with the reasonable directions of the Transaction Implementation Committee.

6.6 Court proceedings

- (a) If the Court refuses to make an order convening the Scheme Meeting or approving the Scheme, at Mastermyne's request DMS must appeal the Court's decision to the fullest extent possible, except to the extent that:
 - (i) DMS and Mastermyne agree otherwise; or
 - (ii) an independent senior counsel indicates that, in their view, an appeal would have a less than 50% prospect of success; or
 - (iii) there is, in the bona-fide view of the DMS Board a Superior Proposal which should be recommended in preference to the Scheme,in which case either party may terminate this deed.
- (b) Each of the parties must vigorously defend, or must cause to be vigorously defended, any lawsuits or other claims or proceedings (including any Takeovers Panel proceedings) brought against it (or any member of the Mastermyne Group or DMS Group) challenging this deed or the completion of the Transaction. Neither Mastermyne nor DMS may settle or compromise (or permit any member of the Mastermyne Group or DMS Group to settle or compromise) any claim brought in connection with this deed without the prior written consent of the other, such consent not to be unreasonably withheld.
- (c) Any costs reasonably incurred by DMS and Mastermyne as a result of the operation of clause 6.6(a) are to be borne equally by the parties.

6.7 Right to separate representation

Each party is entitled to separate representation at all Court proceedings relating to the Scheme. Nothing in this deed is to be taken to give DMS or Mastermyne (as applicable) any right or power to make or give undertakings to the Court for or on behalf of the other party.

6.8 Access to people and Information

- (a) During the Implementation Period, DMS must provide Mastermyne and its officers and Advisers with any documents, records, and other information reasonably requested by them in good faith, and reasonable access to DMS's officers and Advisers which Mastermyne reasonably requires, for the purposes of implementing

the Scheme (including to satisfy the Conditions), provided that nothing in this clause 6.8(a) requires DMS to provide Mastermyne with information:

- (i) which may not be released due to:
 - A. applicable privacy laws, or
 - B. existing confidentiality obligations owed to Third Parties, and
 - (ii) concerning DMS's consideration of the Transaction or assessment of Mastermyne.
- (b) During the Implementation Period, Mastermyne must provide DMS and its officers and Advisers with any documents, records, and other information reasonably requested by them in good faith, and reasonable access to Mastermyne's officers and Advisers which DMS reasonably requires, for the purposes of implementing the Scheme (including to satisfy the Conditions), provided that nothing in this clause 6.8(b) requires Mastermyne to provide DMS with information:
- (i) which may not be released due to:
 - A. applicable privacy laws, or
 - B. existing confidentiality obligations owed to Third Parties, and
 - (ii) concerning Mastermyne's consideration of the Transaction or assessment of DMS.

6.9 DMS Board changes

On the Implementation Date (but with effect from the time the Scheme Consideration has been provided to Scheme Shareholders in accordance with this deed, the Scheme and the Deed Poll), DMS must:

- (a) cause the appointment as directors of each DMS Group Member of the persons nominated by Mastermyne and notified to DMS prior to the Implementation Date; and
- (b) ensure that the directors of each DMS Group Member which Mastermyne has requested resign, resign as directors, with each such director providing written notice to the effect that they have no claim outstanding for loss of office, remuneration or otherwise against any member of the DMS Group.

6.10 Director's access, indemnity and insurance deeds

- (a) From the Implementation Date, Mastermyne must procure that DMS and each member of the DMS Group preserve and comply with the indemnities and other rights under the director's access, indemnity and insurance deeds (or similar agreements) in favour of their respective directors and officers from time to time, including that each member of the DMS Group must not take any action which would prejudice or adversely affect any directors' or officers' run-off insurance cover taken out prior to the Implementation Date.
- (b) The undertakings in clause 6.10(a) are subject to any restriction in the Corporations Act or any other applicable legislation.

- (c) DMS receives and holds the benefit of this clause 6.10 to the extent it relates to the directors and officers of DMS and other members of the DMS Group, as trustee for them.

7. Conduct of business

7.1 Prohibited actions

- (a) Other than with the prior written approval of Mastermyne or as required by this deed, DMS must not, from the date of this deed up to and including the Implementation Date, take any action which would be reasonably expected to give rise to a DMS Prescribed Event.
- (b) Other than with the prior written approval of DMS or as required by this deed, Mastermyne must not, from the date of this deed up to and including the Implementation Date, take any action which would be reasonably expected to give rise to a Mastermyne Prescribed Event.

7.2 Overview

- (a) From the date of this deed up to and including the Implementation Date, each of Mastermyne and DMS must conduct their respective businesses:
 - (i) in the ordinary and usual course and substantially consistent with the manner in which each such business is conducted prior to the date of this deed;
 - (ii) materially in accordance with applicable laws; and
 - (iii) consistent with the most recent business plans and budgets for:
 - A. the Mastermyne Group disclosed to DMS; and
 - B. the DMS Group disclosed to Mastermyne,prior to the date of this deed,except:
 - (iv) as approved otherwise in advance by DMS or Mastermyne (as applicable) in writing; or
 - (v) which is necessary for DMS or Mastermyne (or their Subsidiaries) to meet their respective legal or contractual obligations.
- (b) DMS or Mastermyne (as applicable) must not unreasonably withhold any approval sought under clause 7.2(a).

7.3 Specific obligations

Without limiting clause 7.2(a) and other than with the prior approval of DMS or Mastermyne as applicable (which approval must not be unreasonably withheld or delayed) or as required by this deed, each of DMS and Mastermyne must, during the period contemplated by clause 7.2(a), use all reasonable endeavours to:

- (a) maintain its business and assets;

- (b) keep available the services of its officers and employees;
- (c) preserve its relationships with customers, suppliers, licensors, licensees, joint venturers, Regulatory Authorities and others with whom it has business dealings; and
- (d) maintain all material required regulatory permits, and obtain all material required Regulatory Approvals, which are necessary for the conduct of the operations of the business in each jurisdiction in which any member of the Mastermyne Group or DMS Group (as applicable) operates.

7.4 DMS Permitted Events

Despite any provision of this deed to the contrary, Mastermyne acknowledges and agrees that:

- (a) DMS is entitled to (and nothing in this agreement in any way limits or restricts its ability to) do, procure, cause to be done, or otherwise give effect to any DMS Permitted Event; and
- (b) the occurrence of any DMS Permitted Event will not:
 - (i) constitute a DMS Prescribed Event;
 - (ii) constitute a DMS Material Adverse Change;
 - (iii) constitute a breach by DMS of this deed or any other Transaction Document; or
 - (iv) otherwise, of itself, entitle Mastermyne to terminate this deed.

8. Exclusivity

8.1 No existing discussions

DMS warrants that as at the date of this deed:

- (a) neither it nor any of its Representatives is in discussions or negotiations with any party which may reasonably be expected to lead to a Competing Proposal; and
- (b) it has, and its Representatives have, ceased any existing discussions or negotiations with any party which may reasonably be expected to lead to a Competing Proposal.

8.2 No-shop

During the Implementation Period, DMS must use reasonable endeavours to ensure that neither it nor any of its Representatives, directly or indirectly solicits, invites, facilitates, encourages or initiates any enquiries, negotiations or discussions, or communicates any intention to do any of these things, with a view to obtaining any expression of interest, offer or proposal from any person in relation to a Competing Proposal.

8.3 No-talk and no due diligence

- (a) Subject to clauses 8.3(b) and 8.5, during the Implementation Period, DMS must use reasonable endeavours to ensure that neither it nor any of its Representatives, directly or indirectly:

- (i) participates in any negotiations in relation to a Competing Proposal or which may reasonably be expected to lead to a Competing Proposal; or
 - (ii) provides any information to a third party for the purposes of enabling that party to make a Competing Proposal; or
 - (iii) communicates any intention to do any of the things listed in paragraph (i) or (ii).
- (b) Nothing in this clause 8.3:
- (i) prevents DMS from continuing to make normal presentations to, and to respond to enquiries from shareholders and funders in the ordinary course in relation to the Scheme or its business generally;
 - (ii) prevents DMS from communicating with a third party for the purpose of informing the third party that DMS will not enter into any discussions or negotiations in relation to a Competing Proposal; or
 - (iii) prevents DMS from providing information to any Regulatory Authority or to DMS's auditors and Advisers in the ordinary course of business or to otherwise effect the negotiation and entry into this deed.

8.4 Notification

During the Implementation Period, DMS must:

- (a) promptly notify Mastermyne if it or any of its Representatives receives any inquiry or proposal which may reasonably be expected to lead to a Competing Proposal;
- (b) as soon as reasonably practicable provide written notice of the identity of the party or parties involved in the inquiry or proposal, and details of the inquiry or proposal; and
- (c) provide the Company with regular updates on the status of the inquiry or proposal,

unless the DMS Board has determined, in good faith, after having obtained written advice from its legal and, if appropriate, its financial advisers that complying with the obligations under this clause 8.4 would be likely to constitute a breach of the DMS Directors' fiduciary or statutory obligations or would otherwise be unlawful.

8.5 Exceptions to no talk/no due diligence restrictions

Clause 8.3 does not apply if the DMS Board, acting in good faith, after having obtained written advice from its legal and, if appropriate, its financial advisers, determines that:

- (a) where there is a Competing Proposal, the Competing Proposal is a Superior Proposal or, where there is not yet a Competing Proposal, the steps which the board proposes to take may reasonably be expected to lead to a Competing Proposal which is a Superior Proposal; and
- (b) failing to respond to the Competing Proposal would reasonably be expected to constitute a breach of the DMS Directors' fiduciary or statutory obligations or would otherwise be unlawful.

Nothing in this clause affects DMS's obligations under clause 8.6.

8.6 Response to Competing Proposal

- (a) DMS must not, and must procure that its Representatives do not:
- (i) enter into any legally binding agreement, arrangement or understanding to implement a Competing Proposal; or
 - (ii) withdraw its recommendation in favour of the Transaction or publicly recommend a Competing Proposal,
- unless DMS has provided Mastermyne with:
- (iii) all material terms of the Competing Proposal in writing (including the identity of the Third Party making the Competing Proposal), and
 - (iv) three Business Days after the provision of that information to propose an amendment to the Scheme or propose a new scheme of arrangement which is no less favourable to DMS Shareholders than the Competing Proposal (**Mastermyne Counter Proposal**).
- (b) If the DMS Board determines in good faith that a Mastermyne Counter Proposal is no less favourable to DMS Shareholders than the Competing Proposal, then:
- (i) DMS and Mastermyne must use their reasonable endeavours to, as soon as reasonably practicable, agree and enter into such documentation as is necessary to give effect to and implement the Mastermyne Counter Proposal subject to any Superior Proposal; and
 - (ii) in the absence of a Superior Proposal, DMS must use its reasonable endeavours to procure that the DMS Board unanimously recommends the Mastermyne Counter Proposal to DMS Shareholders and not recommend the applicable Competing Proposal.
- (c) This clause 8.6 applies in respect of each new Competing Proposal and any material variation or amendment to a Competing Proposal.
- (d) Despite anything else in this clause 8, this clause 8.6 does not apply if the DMS Board has determined, in good faith, after having obtained written advice from its legal and, if appropriate, its financial advisers that complying with the obligations under this clause 8.6 would be likely to constitute a breach of the DMS Directors' fiduciary or statutory obligations or would otherwise be unlawful.

9. Break Fee

9.1 Background

This clause has been agreed to in circumstances where:

- (a) DMS believes the implementation of the Scheme will provide significant benefits to it and DMS Shareholders, and acknowledges that, if Mastermyne enters into this deed and the Scheme is subsequently not implemented, Mastermyne will have incurred significant costs, including significant opportunity costs;
- (b) Mastermyne requested provision be made for the payment outlined in this clause 9, without which it would not have entered into this deed;

- (c) the DMS Board believes that it is appropriate to agree to the payment referred to in clause 9.2 to secure Mastermyne's entry into this deed; and
- (d) DMS has received separate legal advice in relation to this deed and the operation of this clause 9.

The parties acknowledge and agree that the costs actually incurred by Mastermyne under clause 9.1(a) will be of such nature that they cannot be accurately ascertained, but that the Break Fee is a genuine and reasonable pre-estimate of the cost and loss that would actually be suffered by Mastermyne if the Scheme is subsequently not implemented.

9.2 Payment of Break Fee

Subject to clauses 9.3 and 9.5(e), DMS must pay Mastermyne the Break Fee if:

- (a) a Competing Proposal is announced during the Implementation Period (whether or not such proposal is stated to be subject to any pre-conditions) and within 12 months of such announcement, the Third Party proposing the Competing Proposal or any Associate of that Third Party implements or consummates the Competing Proposal or enters into an agreement, arrangement or understanding with DMS or the DMS Directors with respect to such Competing Proposal; or
- (b) at any time before the Scheme Meeting or the date this deed is validly terminated under clause 14 (whichever is earlier), any DMS Director makes a public statement:
 - (i) withdrawing or adversely changing or modifying their recommendation that DMS Shareholders vote in favour of the Scheme at the Scheme Meeting; or
 - (ii) that they will not vote all Scheme Shares in which he or she has a Relevant Interest in favour of the Scheme at the Scheme Meeting, other than in circumstances where the Independent Expert concludes that the Scheme is not in the best interests of DMS Shareholders (except in circumstances where the Independent Expert reaches that conclusion as a result of a Competing Proposal having been announced or made public which the Independent Expert may reasonably regard to be on more favourable terms than the Transaction); or
- (c) Maui Capital withdraws its support for the Scheme or fails to vote all Scheme Shares in which it has a Relevant Interest in favour of the Scheme at the Scheme Meeting other than in circumstances where the Independent Expert concludes that the Scheme is not in the best interests of DMS Shareholders (except in circumstances where the Independent Expert reaches that conclusion as a result of a Competing Proposal having been announced or made public which the Independent Expert may reasonably regard to be on more favourable terms than the Transaction).

9.3 Payment conditions

- (a) Notwithstanding the occurrence of any event under clause 9.2, if:
 - (i) the Scheme becomes Effective; or
 - (ii) this deed is validly terminated by DMS under clause 14.3(b); or
 - (iii) this deed is validly terminated by DMS under clause 14.1(c) because any Condition in clause 3.1(k), 3.1(l), 3.1(m), 3.1(n), 3.1(o) or 3.1(p) has

failed to be satisfied or has become incapable of being satisfied or is not reasonably capable of being satisfied on or before the End Date (and has not been waived),

then DMS's obligation to pay the Break Fee does not apply and if Mastermyne has received any part of the Break Fee, it must reimburse all or part of the Break Fee (as the case may be) within five Business Days of receipt of a demand for reimbursement from DMS.

- (b) DMS can only ever be liable to pay the Break Fee once.

9.4 Timing of payment

If the Break Fee is payable under clause 9.2, DMS must pay the Break Fee without set-off or withholding within 5 Business Days of receipt of a demand for payment from Mastermyne.

9.5 Compliance with law

If it is finally determined following the exhaustion of all reasonable avenues of appeal to the Takeovers Panel or a Court that all or any part of the amount payable under clause 9.2 (**Impugned Break Fee**):

- (a) constitutes unacceptable circumstances as declared by the Takeovers Panel;
- (b) involve a breach of the fiduciary or statutory duties of the DMS Board; or
- (c) is otherwise unlawful or held to be unenforceable by a Court,

then:

- (d) DMS's obligation to pay the Break Fee does not apply to the extent of the Impugned Break Fee and if Mastermyne has received any part of the Impugned Break Fee, it must reimburse it within five Business Days of receipt of a demand for reimbursement from DMS; and
- (e) all other rights and obligations of the parties under this deed remain unaffected.

9.6 Other claims

- (a) Despite any other provision of this deed but subject to clause 9.6(b):
 - (i) if DMS becomes liable to pay the Break Fee to Mastermyne:
 - A. DMS will, upon making payment, have no further liability for any breach of this deed or otherwise (other than a breach of clauses 10 and 11) other than the payment of any interest that may be awarded for late payment of the Break Fee; and
 - B. the Break Fee will be reduced by any amounts previously paid by DMS to Mastermyne under this deed, and
 - (ii) subject to clause 9.6(a)(i), the liability of DMS for any breach of this deed or otherwise (other than a breach of clauses 10 and 11) is limited to the payment of an amount equal to the Break Fee and any interest that may be awarded on that amount.
- (b) Nothing in clause 9.6(a) in any way:

- (i) prevents DMS or Mastermyne (in its own right or as trustee for any person contemplated by this deed) from seeking orders from a court of competent jurisdiction for the specific performance by any other party of any obligations under this deed; or
- (ii) extinguishes or limits the liability of a party for any breach of this deed arising from wilful misconduct, criminal acts or fraud by the other party or a Representative of the other party.

10. Confidentiality

10.1 DMS Confidentiality Deed

- (a) The parties acknowledge that the DMS Confidentiality Deed imposes confidentiality restrictions on Mastermyne relating to information provided by or on behalf of DMS to Mastermyne and its Authorised Persons (as defined in the DMS Confidentiality Deed) in relation to the Transaction.
- (b) Subject to clause 10.1(c), for the purposes of the DMS Confidentiality Deed, DMS consents to Mastermyne using the DMS Confidential Information for the following purposes:
 - (i) due diligence and assessing the Transaction;
 - (ii) negotiating the terms of this deed and other documents contemplated by this deed;
 - (iii) to satisfy the Conditions;
 - (iv) to perform its obligations in relation to the Transaction and under this deed;
 - (v) to prepare the Scheme Booklet;
 - (vi) preparing any public disclosure required to be made in connection with the Transaction by Mastermyne to comply with law or ASX Listing Rules; and
 - (vii) enforcing its rights in relation to the Transaction, including making any claim not prohibited by this deed and defending any claim against Mastermyne, a member of the Mastermyne Group or any of its officers, employees or advisers,and for no other purpose.
- (c) Notwithstanding any other provision of this deed, Mastermyne must not use the DMS Confidential Information for the purposes of any publicly disclosed document without the prior written consent of DMS (such consent not to be unreasonably withheld or delayed).
- (d) Without limiting clause 10.1(b), Mastermyne must not make any use of any DMS Confidential Information to the competitive disadvantage of DMS or any of its Related Entities.
- (e) For the avoidance of doubt, this deed prevails in the event of any inconsistency between the DMS Confidentiality Deed and this deed.

10.2 Mastermyne Confidentiality Deed

- (a) The parties acknowledge that the Mastermyne Confidentiality Deed imposes confidentiality restrictions on DMS relating to information provided by or on behalf of Mastermyne to DMS and its Authorised Persons (as defined in the Mastermyne Confidentiality Deed) in relation to the Transaction.
- (b) Subject to clause 10.2(c), for the purposes of the Mastermyne Confidentiality Deed, Mastermyne consents to DMS using the Mastermyne Confidential Information for the purposes of implementing the Transaction including for the following purposes:
 - (i) due diligence and assessing the Transaction;
 - (ii) negotiating the terms of this deed and other documents contemplated by this deed;
 - (iii) to satisfy the Conditions;
 - (iv) to perform its obligations in relation to the Transaction and under this deed;
 - (v) to prepare the Scheme Booklet;
 - (vi) preparing any public disclosure required to be made by a member of the DMS Group to comply with law; and
 - (vii) enforcing its rights in relation to the Transaction, including making any claim not prohibited by this deed and defending any claim against DMS, a member of the DMS Group or any of its officers, employees or advisers,and for no other purpose.
- (c) Notwithstanding any other provision of this deed, DMS must not use the Mastermyne Confidential Information for the purposes of the Scheme Booklet or any other publicly disclosed document without the prior written consent of Mastermyne (such consent not to be unreasonably withheld or delayed).
- (d) Without limiting clause 10.2(b), DMS must not make any use of any Mastermyne Confidential Information to the competitive disadvantage of Mastermyne or any of its Related Entities.
- (e) For the avoidance of doubt, this deed prevails in the event of any inconsistency between the Mastermyne Confidentiality Deed and this deed.

10.3 Disclosure by recipient of Confidential Information

Any party disclosing Confidential Information to its Authorised Persons (as defined in the Confidentiality Deeds) must use reasonable endeavours to ensure that its Representatives do not use or disclose the information except in the circumstances permitted in, or authorised under, this clause 10 or the Confidentiality Deeds.

10.4 Accuracy

- (a) Mastermyne acknowledges that, except as expressly set out in this deed, DMS has made no representation or warranty as to the accuracy or completeness of the DMS

Confidential Information except to the extent it is subject to the representations and warranties given by DMS under this deed.

- (b) DMS acknowledges that, except as expressly set out in this deed, Mastermyne has made no representation or warranty as to the accuracy or completeness of the Mastermyne Confidential Information except to the extent it is subject to the representations and warranties given by Mastermyne under this deed.

10.5 Termination

The parties agree that:

- (a) on termination of this deed:
 - (i) the rights and obligations of the parties under the DMS Confidentiality Deed survive and the Confidentiality Deed will continue to apply to the DMS Confidential Information for a period of one year after the end of the Implementation Period; and
 - (ii) the rights and obligations of the parties under the Mastermyne Confidentiality Deed survive and the Confidentiality Deed will continue to apply to the Mastermyne Confidential Information for a period of one year after the end of the Implementation Period; and
- (b) the parties to the Confidentiality Deeds continue to be bound by the Confidentiality Deeds after the date of this deed if the Scheme is not implemented; and
- (c) the Confidentiality Deeds will terminate on the Implementation Date, if the Scheme becomes Effective.

11. Public announcements and Communications

11.1 Announcement of Scheme

As soon as practicable after the execution of this deed, Mastermyne will make the Mastermyne Public Announcement.

11.2 Other public announcements

- (a) Subject to clauses 11.2(b) and 11.4, prior to making any other public announcement or disclosure in connection with the Transaction or any major public announcement regarding its business (in any such case in this clause a “**Disclosure**”), each party must use its reasonable endeavours to consult with the other party as to, and seek to agree with the other party (each party acting reasonably and in good faith), the form and content of that announcement or disclosure.
- (b) Subject to clause 11.4, where a party is required by applicable law or regulation, the ASX Listing Rules, or any other applicable stock exchange regulation to make any Disclosure, it may do so only after it has given the other party as much notice as is reasonably practicable in the context of any deadlines imposed by law or applicable requirements, but in any event prior notice, and has, to the extent reasonably practicable in the context of such deadlines, consulted with the other party as to (and has given the other party a reasonable opportunity to comment on) the form and content of that Disclosure.

11.3 Agreement on Communications

Except in relation to Communications regulated by clauses 11.1 and 11.2 and to the extent permitted by applicable law, and subject to clause 11.4:

- (a) Mastermyne and DMS must in good faith consult with each other and agree in advance on all aspects (including the timing, form, content and manner) of:
 - (i) any Communications with any Regulatory Authority; and
 - (ii) any press release,in relation to the conduct of the Transaction, whether or not such Communications are for the purposes of satisfying a Condition;
- (b) each of Mastermyne and DMS must ensure that any other Communications with Third Parties and employees, shareholders, contract counterparties or with the media in relation to the Transaction other than by way of press release must be in accordance with the communication protocols and messages agreed between the parties (and if branded with the name or logo of the other party, must be consented to by that party);
- (c) each party must provide copies to the other party of any written Communications sent to or received from a person referred to in clause 11.3(b) promptly upon despatch or receipt (as the case may be); and
- (d) each party will have the right to be present and make submissions at or in relation to any proposed meeting with any Regulatory Authority in relation to the Transaction.

11.4 Announcements and Communications when there is a Competing Proposal

The requirements of clauses 11.2 and 11.3 do not apply to either party if a Competing Proposal or a Superior Proposal has been announced and publicly recommended, promoted or otherwise endorsed by any DMS Directors and has not been publicly withdrawn.

12. Representations and warranties

12.1 Preliminary

- (a) Each of the representations and warranties of DMS under this deed is to be read subject to and qualified by any matter:
 - (i) which is, and to the extent that it is, disclosed:
 - A. in the DMS Disclosure Materials; or
 - B. on any Public Register on or before the date of this deed;
 - (ii) which has been publicly announced prior to the date of this deed;
 - (iii) known by Mastermyne or any of its Representatives prior to the date of this deed; or
 - (iv) contemplated by this deed.

- (b) Each of the representations and warranties of Mastermyne under this deed is to be read subject to and qualified by any matter:
 - (i) which is, and to the extent that it is, disclosed:
 - A. in the Mastermyne Disclosure Materials; or
 - B. on any Public Register on or before the date of this deed;
 - (ii) which has been publicly announced prior to the date of this deed;
 - (iii) known by DMS or any of its Representatives prior to the date of this deed; or
 - (iv) contemplated by this deed.
- (c) Each party acknowledges that no other party (nor any person acting on that party's behalf) has made any warranty, representation or other inducement to it to enter into this deed, except for the representations and warranties expressly set out in this deed.

12.2 DMS representations and warranties

Subject to clause 12.1, DMS represents and warrants to Mastermyne that each of the statements set out in Schedule 1 is true and correct in all material respects as at the date of this deed.

12.3 Mastermyne representations and warranties

Subject to clause 12.1, Mastermyne represents and warrants to DMS that each of the statements set out in Schedule 2 is true and correct in all material respects as at the date of this deed.

12.4 Notifications

Each party will promptly advise the other party in writing if it becomes aware of any fact, matter or circumstance which constitutes or may constitute a breach of any of the representations or warranties given by it under clause 12.2 or 12.3 or may constitute a breach of any of the representations or warranties if given on the Second Court Date.

12.5 Status of representations and warranties

Each representation and warranty given under clauses 12.2 and 12.3 is severable.

12.6 DMS Warranty Certificate

DMS must provide to Mastermyne by 8.00 am on the Second Court Date a certificate signed by a director of DMS and made in accordance with a resolution of the DMS Board containing representations and warranties that (subject to clause 12.1), as at that date, each of the statements set out in Schedule 1 remains true and correct in all material respects as at that date or, if any such statement is not true and correct in any material respects as at that date, providing complete particulars of the facts and matters which make the statement untrue or inaccurate.

12.7 Mastermyne Warranty Certificate

Mastermyne must provide to DMS by 8.00 am on the Second Court Date a certificate signed by a director of Mastermyne and made in accordance with a resolution of the Mastermyne Board containing representations and warranties that, as at that date, each of the statements set out in Schedule 2 remains true and correct in all material respects as at that date or, if any such statement is not true and correct in any material respects as at that date, providing complete particulars of the facts and matters which make the statement untrue or inaccurate.

13. Indemnity and liability

13.1 DMS indemnity

- (a) Subject to clauses 13.4 and 13.6:
 - (i) DMS acknowledges and agrees that it is responsible for all information contained in the Scheme Booklet (other than the Mastermyne Provided Information) and must pay to Mastermyne on demand an amount equal to all Indemnified Losses suffered or incurred by the Mastermyne Indemnified Parties arising out of or in connection with any failure of such information to comply with the Corporations Act or the Policy Statements in connection with its inclusion in the Scheme Booklet;
 - (ii) DMS indemnifies the Mastermyne Indemnified Parties against all Indemnified Losses incurred directly or indirectly as a result of any breach of this deed by DMS; and
 - (iii) DMS indemnifies the Mastermyne Indemnified Parties against all Indemnified Losses incurred directly or indirectly as a result of any of the representations and warranties given or made under clause 12.2 or clause 12.7 not being true and correct in any material respect.
- (b) Mastermyne receives and holds the benefit of clause 13.1(a) to the extent it relates to Mastermyne Indemnified Parties (other than Mastermyne).

13.2 Mastermyne indemnity

- (a) Subject to clauses 13.3 and 13.5:
 - (i) Mastermyne acknowledges and agrees that it is responsible for all Mastermyne Provided Information included in the Scheme Booklet and must pay to DMS on demand an amount equal to all Indemnified Losses suffered or incurred by the DMS Indemnified Parties arising out of or in connection with any failure of such information to comply with the Corporations Act or the Policy Statements in connection with its inclusion in the Scheme Booklet;
 - (ii) Mastermyne indemnifies the DMS Indemnified Parties against all Indemnified Losses incurred directly or indirectly as a result of any breach of this deed by Mastermyne; and
 - (iii) Mastermyne indemnifies the DMS Indemnified Parties against all Indemnified Losses incurred directly or indirectly as a result of any of the representations and warranties given or made under clause 12.3 or clause 12.6 not being true and correct in any material respect.

- (b) DMS receives and holds the benefit of clause 13.2(a) to the extent it relates to DMS Indemnified Parties (other than DMS).

13.3 No action by DMS against Mastermyne officers

- (a) Subject to any Corporations Act restriction, DMS waives and must procure that each other DMS Indemnified Party waives all rights and claims that they may have against the current or former directors, officers or employees of any member of the Mastermyne Group in relation to any matter arising directly or indirectly in connection with the Transaction Documents, except to the extent that the director, officer or employee has not acted in good faith or such rights or claims arise out of the fraud, wilful misconduct or wilful default of such person or such waiver is not permitted by law. For the avoidance of doubt, nothing in this clause 13.3(a) limits DMS's termination rights (if any).
- (b) Mastermyne receives and holds the benefit of clause 13.3(a) to the extent it relates to each director, officer or employee as trustee for each of them.

13.4 No action by Mastermyne against DMS officers

- (a) Subject to clause 13.6 and any Corporations Act restriction, Mastermyne waives and must procure that each other Mastermyne Indemnified Party waives all rights and claims that they may have against the current or former directors, officers or employees of any member of the DMS Group in relation to any matter arising directly or indirectly in connection with the Transaction Documents, except to the extent that the director, officer or employee has not acted in good faith or such rights or claims arise out of the fraud, wilful misconduct or wilful default of such person or such waiver is not permitted by law. For the avoidance of doubt, nothing in this clause 13.4(a) limits Mastermyne's termination rights (if any).
- (b) DMS receives and holds the benefit of clause 13.4(a) to the extent it relates to each director, officer or employee as trustee for each of them.

13.5 Limitation on claims against Mastermyne

- (a) The liability of Mastermyne and any current or former directors, officers or employees of any member of the Mastermyne Group for claims under or in connection with this deed or the Transaction (including for breach of any provision, warranty or covenant, or for indemnity or for misrepresentation, negligent or not) is limited to \$1,000,000 in aggregate.
- (b) DMS acknowledges and agrees that:
 - (i) neither Mastermyne nor any current or former directors, officers or employees of any member of the Mastermyne Group will be liable for any Consequential Loss suffered by any DMS Indemnified Party under or in connection with this deed or the Transaction (including for breach of any provision, warranty or covenant, or for indemnity or for misrepresentation, negligent or not); and
 - (ii) any claim by any DMS Indemnified Party against Mastermyne or current or former directors, officers or employees of any member of the Mastermyne Group under or in connection with this deed or the Transaction (including for breach of any provision, warranty or covenant, or for indemnity or for misrepresentation, negligent or not) is excluded to the extent that it is for Consequential Loss.

- (c) No DMS Indemnified Party can make any claim against Mastermyne or any current or former directors, officers or employees of any member of the Mastermyne Group under or in connection with this deed or the Transaction (including for breach of any provision, warranty or covenant, or for indemnity or for misrepresentation, negligent or not) that is otherwise permitted by this deed:
 - (i) for less than \$100,000; and
 - (ii) unless and until the aggregate amount of all claims of the DMS Indemnified Parties that are otherwise permitted by this deed (not counting any such claim for less than \$100,000) exceeds \$500,000.
- (d) This clause 13.5 operates to the fullest extent permitted by law.

13.6 Limitation on claims against DMS

- (a) The liability of DMS and any current or former directors, officers or employees of any member of the DMS Group for claims under or in connection with this deed or the Transaction (including for breach of any provision, warranty or covenant, or for indemnity or for misrepresentation, negligent or not) is limited to \$1,000,000 in aggregate.
- (b) Mastermyne acknowledges and agrees that:
 - (i) neither DMS nor any current or former directors, officers or employees of any member of the DMS Group will be liable for any Consequential Loss suffered by any Mastermyne Indemnified Party under or in connection with this deed or the Transaction (including for breach of any provision, warranty or covenant, or for indemnity or for misrepresentation, negligent or not); and
 - (ii) any claim by any Mastermyne Indemnified Party against DMS or any current or former directors, officers or employees of any member of the DMS Group under or in connection with this deed or the Transaction (including for breach of any provision, warranty or covenant, or for indemnity or for misrepresentation, negligent or not) is excluded to the extent that it is for Consequential Loss.
- (c) No Mastermyne Indemnified Party can make any claim against DMS or any current or former directors, officers or employees of any member of the DMS Group under or in connection with this deed or the Transaction (including for breach of any provision, warranty or covenant, or for indemnity or for misrepresentation, negligent or not) that is otherwise permitted by this deed:
 - (i) for less than \$100,000; and
 - (ii) unless and until the aggregate amount of all claims of the Mastermyne Indemnified Parties that are otherwise permitted by this deed (not counting any such claim for less than \$100,000) exceeds \$500,000.
- (d) This clause 13.6 operates to the fullest extent permitted by law.

14. Termination

14.1 Termination by any party

Without limiting any other provision of this deed, Mastermyne or DMS may terminate this deed:

- (a) if the resolution to approve the Scheme submitted to the Scheme Meeting is not approved by the requisite majorities of Scheme Shareholders (except where the Court agrees to exercise its discretion under section 411(4)(a)(ii)(A) of the Corporations Act to disregard the Headcount Test under clause 3.4);
- (b) if the party is entitled to terminate the document in accordance with clause 6.6(a);
- (c) any Condition has failed to be satisfied or has become incapable of being satisfied or is not reasonably capable of being satisfied on or before the End Date (and has not been waived); or
- (d) if the Effective Date for the Scheme has not occurred on or before the End Date.

14.2 Termination by Mastermyne

Without limiting any other provision of this deed, Mastermyne may terminate this deed:

- (a) at any time prior to 8.00 am on the Second Court Date if any DMS Director changes his or her recommendation or ceases or fails to recommend to Scheme Shareholders that they vote in favour of the resolution to approve the Scheme, including any adverse modification to their recommendation, or otherwise make a public statement indicating that they no longer support the Scheme;
- (b) at any time prior to 8.00 am on the Second Court Date if Maui Capital withdraws its support for the Scheme or fails to vote all Scheme Shares in which it has a Relevant Interest in favour of the Scheme at the Scheme Meeting;
- (c) at any time prior to 8.00 am on the Second Court Date if DMS is in material breach of its obligations under clause 8;
- (d) at any time prior to 8.00 am on the Second Court Date, if DMS is in material breach of any clause of this deed, taken in the context of the Transaction as a whole, provided that Mastermyne, has, if practicable given notice to DMS setting out the relevant circumstances and stating an intention to terminate, and the relevant circumstances continue to exist five Business Days (or any shorter period ending at 5.00pm on the last Business Day before Second Court Date) after the time such notice is given; or
- (e) if an Insolvency Event has occurred in relation to DMS or any DMS Group Member (other than a DMS Permitted Event).

14.3 Termination by DMS

Without limiting any other provision of this deed, DMS may terminate this deed:

- (a) at any time prior to 8.00 am on the Second Court Date if any DMS Director changes his or her recommendation or ceases or fails to recommend to Scheme Shareholders that they vote in favour of the resolution to approve the Scheme (including any adverse modification to their recommendation), or otherwise make a public statement indicating that they no longer support the Scheme where the DMS Board

determines that a Superior Proposal has emerged or the Independent Expert concludes that the Scheme is not in the best interests of Scheme Shareholders;

- (b) at any time prior to 8.00 am on the Second Court Date if Mastermyne is in material breach of any clause of this deed, taken in the context of the Transaction as a whole, provided that DMS has, if practicable given notice to Mastermyne setting out the relevant circumstances and stating an intention to terminate, and the relevant circumstances continue to exist five Business Days (or any shorter period ending at 5.00pm on the last Business Day before Second Court Date) after the time such notice is given; or
- (c) an Insolvency Event has occurred in relation to Mastermyne or any member of the Mastermyne Group.

14.4 Exercise of termination right

Where a party has a right to terminate this deed, that right for all purposes will be validly exercised if the party delivers a notice in writing to the other party stating that it terminates this deed.

14.5 Effect of termination

In the event of termination of this deed by either Mastermyne or DMS pursuant to this clause 14, this deed will have no further force or effect and the parties will have no further obligations under this deed, provided that:

- (a) clauses 1 (Definitions and Interpretation), 9 (Break Fee), 10 (Confidentiality), 12 (Representations and warranties), 13 (Indemnity and liability) 15 (GST), 16 (Notices), 17 (Entire agreement), 18 (General), and 19 (Governing law, jurisdiction and service of process) will survive termination, and
- (b) each party will retain any accrued rights and remedies, including any rights and remedies it has or may have against the other party in respect of any past breach of this deed.

15. GST

15.1 Interpretation

The parties agree that:

- (a) except where the context suggests otherwise, terms used in this clause 15 have the meanings given to those terms by the GST Act (as amended from time to time);
- (b) any part of a supply that is treated as a separate supply for GST purposes (including attributing GST payable to tax periods) will be treated as a separate supply for the purposes of this clause 15; and
- (c) any consideration that is specified to be inclusive of GST must not be taken into account in calculating the GST payable in relation to a supply for the purpose of this clause 15.

15.2 Reimbursements and similar payments

Any payment or reimbursement required to be made under this deed or any other Transaction Document that is calculated by reference to a cost, expense, or other amount paid or incurred

will be limited to the total cost, expense or amount less the amount of any input tax credit to which an entity is entitled for the acquisition to which the cost, expense or amount relates.

15.3 GST payable

If GST is payable in relation to a supply made under or in connection with this deed or any other Transaction Document then any party (**Recipient**) that is required to provide consideration to another party (**Supplier**) for that supply must pay an additional amount to the Supplier equal to the amount of that GST at the same time as other consideration is to be provided for that supply or, if later, within 5 Business Days of the Supplier providing a valid tax invoice to the Recipient.

15.4 Variation to GST payable

If the GST payable in relation to a supply made under or in connection with this deed or any other Transaction Document varies from the additional amount paid by the Recipient under clause 15.3 then the Supplier will provide a corresponding refund or credit to, or will be entitled to receive the amount of that variation from, the Recipient. Any ruling, advice, document or other information received by the Recipient from the ATO in relation to any supply made under this deed or any other Transaction Document will be conclusive as to the GST payable in relation to that supply. Any payment, credit or refund under this clause 15 is deemed to be a payment, credit or refund of the additional amount payable under clause 15.3.

16. Notices

16.1 How notice to be given

Each communication (including each notice, consent, approval, request and demand) under or in connection with this deed:

- (a) may be given by personal service, post, or facsimile;
- (b) must be in writing;
- (c) must be addressed as follows (or as otherwise notified by that party to each other party from time to time):
 - (i) if to DMS:
 - Address: Level 10, 9 Sherwood Road, Toowong,
Queensland, 4066
 - Fax number: +61 7 3870 2288
 - For the attention of: Company Secretary
 - (ii) if to Mastermyne:
 - Address: Level 1, Riverside Plaza, 45 River Street, Mackay,
Queensland, 4740
 - Fax number: +61 7 4944 0822
 - For the attention of: Company Secretary
- (d) must be signed by the party making it or (on that party's behalf) by the solicitor for, or any attorney, director, secretary or authorised agent of, that party; and

- (e) must be delivered by hand or posted by prepaid post to the address, sent by fax to the number, of the addressee, in accordance with clause 16.1(c).

16.2 When notice taken to be received

Each communication (including each notice, consent, approval, request and demand) under or in connection with this deed is taken to be received by the addressee:

- (a) (in the case of prepaid post sent to an address in the same country) on the third day after the date of posting;
- (b) (in the case of prepaid post sent to an address in another country) on the fifth day after the date of posting by airmail;
- (c) (in the case of fax) at the time in the place to which it is sent equivalent to the time shown on the transmission confirmation report produced by the fax machine from which it was sent; and
- (d) (in the case of delivery by hand) on delivery,

but if the communication would otherwise be taken to be received on a day that is not a working day or after 5.00 pm, it is taken to be received at 9.00 am on the next working day ("working day" meaning a day that is not a Saturday, Sunday or public holiday and on which banks are open for business generally, in the place to which the communication is posted, sent or delivered).

17. Entire agreement

The Transaction Documents constitute the entire agreement between the parties in relation to their subject matter and supersede all previous agreements and understandings between the parties in relation to their subject matter.

18. General

18.1 Amendments

This deed may only be varied by a document signed by or on behalf of each party.

18.2 Assignment

A party cannot assign or otherwise transfer any of its rights under this deed without the prior consent of each other party.

18.3 Consents

Unless this deed expressly provides otherwise, a consent under this deed may be given or withheld in the absolute discretion of the party entitled to give the consent and to be effective must be given in writing.

18.4 Costs

Each party must bear their own costs in connection with negotiating, preparing, executing and performing each Transaction Document.

18.5 Counterparts

This deed may be executed in any number of counterparts and by the parties on separate counterparts. Each counterpart constitutes an original of this deed, and all together constitute one deed.

18.6 Further acts and documents

Each party must promptly do all further acts and execute and deliver all further documents (in form and content reasonably satisfactory to that party) required by law or reasonably requested by another party to give effect to this deed.

18.7 No merger

A party's rights and obligations do not merge on completion of any transaction under this deed.

18.8 Severance

If any provision or part of a provision of this deed is held or found to be void, invalid or otherwise unenforceable (whether in respect of a particular party or generally), it will be deemed to be severed to the extent that it is void or to the extent of violability, invalidity or unenforceability, but the remainder of that provision will remain in full force and effect.

18.9 Stamp duties

Mastermyne:

- (a) must pay all stamp duties and any related fines and penalties in respect of this deed, the performance of this deed and each transaction effected by or made under this deed;
- (b) must pay to DMS on demand the amount of any Indemnified Loss suffered or incurred by DMS arising out of or in connection with any failure to comply with clause 18.9(a); and
- (c) is authorised to apply for and retain the proceeds of any refund due in respect of stamp duty paid under this clause.

18.10 Waivers

Without limiting any other provision of this deed, the parties agree that:

- (a) failure to exercise or enforce, or a delay in exercising or enforcing, or the partial exercise or enforcement of, a right, power or remedy provided by law or under this deed by a party does not preclude, or operate as a waiver of, the exercise or enforcement, or further exercise or enforcement, of that or any other right, power or remedy provided by law or under this deed;
- (b) a waiver given by a party under this deed is only effective and binding on that party if it is given or confirmed in writing by that party; and
- (c) no waiver of a breach of a term of this deed operates as a waiver of another breach of that term or of a breach of any other term of this deed.

19. Governing law, jurisdiction and service of process

19.1 Governing law

This deed is governed by the law applying in Queensland, Australia.

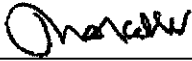
19.2 Jurisdiction

Each party irrevocably:

- (a) submits to the non-exclusive jurisdiction of the courts of Queensland, Commonwealth courts having jurisdiction in that state and the courts competent to determine appeals from those courts, with respect to any proceedings that may be brought at any time relating to this deed; and
- (b) waives any objection it may now or in the future have to the venue of any proceedings, and any claim it may now or in the future have that any proceedings have been brought in an inconvenient forum, if that venue falls within clause 19.2(a).

Executed as a deed.

Executed by Diversified Mining Services Limited in accordance with section 127 of the Corporations Act 2001 (Cth):



Signature of director

Rodney Keller

Full name of director

Executed by Mastermyne Group Limited in accordance with section 127 of the Corporations Act 2001 (Cth):

Signature of director

Full name of director



Signature of company secretary/director

Darren Basford

Full name of company secretary/director

Signature of company secretary/director

Full name of company secretary/director

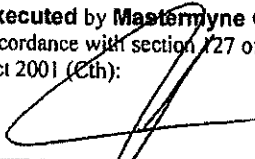
Executed as a deed.

Executed by **Diversified Mining Services Limited** in accordance with section 127 of the Corporations Act 2001 (Cth):

Signature of director

Full name of director

Executed by **Mastemynne Group Limited** in accordance with section 127 of the Corporations Act 2001 (Cth):




Signature of director

ANTHONY SALVATORE CARUSO
Full name of director

Signature of company secretary/director

Full name of company secretary/director



Signature of company secretary/director

CHRISTOPHER JAMES KWEIPP
Full name of company secretary/director

Schedule 1—DMS’s representations and warranties

- (a) **Incorporation:** DMS is a valid existing corporation registered under the laws of its place of incorporation.
- (b) **Execution:** The execution and delivery of this deed has been properly authorised by all necessary corporate action of DMS.
- (c) **Corporate power:** DMS has full corporate power and lawful authority to execute and deliver this deed and to consummate and perform or cause to be performed its obligations under this deed in accordance with its terms.
- (d) **Binding obligations:** (Subject to laws generally affecting creditors' rights and the principles of equity) this deed constitutes legal, valid and binding obligations on DMS.
- (e) **DMS Provided Information:** To the best of the knowledge of each DMS Director as at the date of this deed, the DMS Provided Information provided in accordance with this deed and included in the Scheme Booklet:
 - (i) as at the date of the Scheme Booklet, will not contain any material statement which is misleading or deceptive nor contain any material omission having regard to applicable disclosure requirements and will comply in all material respects with the requirements of the Corporations Act, the Policy Statements and ASIC Regulatory Guide 60; and
 - (ii) will be included in good faith and on the understanding that the Independent Expert will rely on that Information for the purposes of preparing the Independent Expert’s Report;
- (f) **DMS Disclosure Materials:** To the best of the knowledge of each DMS Director as at the date of this deed, all DMS Disclosure Materials were prepared in good faith with due care, skill and diligence, and DMS has not knowingly:
 - (i) omitted any information reasonably requested by Mastermyne or its Representatives for the purposes of the Transaction;
 - (ii) omitted anything from the DMS Disclosure Materials that is material to the financial position or performance of the DMS Group’s business;
 - (iii) omitted anything from the DMS Disclosure Materials such as to make any part of the information materially false or misleading;
 - (iv) included information that is materially false or misleading in the DMS Disclosure Materials; or
 - (v) withheld any information from the DMS Disclosure Materials because DMS believed that the provision of that information would affect Mastermyne’s willingness to enter into this deed;
- (g) **Compliance:** As at the date of this deed and to the best of the knowledge of each DMS Director, DMS and its Subsidiaries:
 - (i) have complied in all material respects with all laws applicable to them and orders of Australian and foreign Regulatory Authorities having jurisdiction over them, where failure to comply with any such laws and regulations would result in a DMS Material Adverse Change; and

- (ii) have all material licenses, permits and franchises necessary for them to conduct their respective businesses as presently being conducted, where a failure to hold any such licenses, permits and franchises would result in a DMS Material Adverse Change.
- (h) **Insolvency:** No member of the DMS Group is subject to an Insolvency Event (other than a DMS Permitted Event).
- (i) **Securities:** DMS's issued securities as at the date of this deed are 136,926,369 ordinary shares and 1,350,528 DMS Options and the DMS Group has not issued, or agreed to issue, any other securities or instruments which are still in force and may convert into DMS Shares or any other securities in DMS.
- (j) **Complete and accurate:** To the best of the knowledge of each DMS Director as at the date of this deed, all the information provided to Mastermyne by DMS in connection with this deed, whether under due diligence or not:
 - (i) is materially complete and accurate; and
 - (ii) has been collated with all reasonable care and skill.
- (k) **Opinion:** Any statement of opinion or belief contained in the DMS Provided Information is honestly held and there are reasonable grounds for holding the opinion or belief.
- (l) **Encumbrances:** Other than as set out in the DMS Disclosure Materials, there is no material encumbrance over all of any of its (or any of its Subsidiaries) material assets or revenues.
- (m) **Contracts:** Other than as set out in the DMS Disclosure Materials, to the best of the knowledge of each DMS Director no DMS Group Member is in default under any of its material contracts.
- (n) **Assets:** Other than as set out in the DMS Disclosure Materials, to the best of the knowledge of each DMS Director a DMS Group Member owns all rights, title and interest in and to, or has valid and continuing rights to use, all of the material assets and intellectual property rights used in the conduct of the DMS Group's business.
- (o) **Financial Statement:** The DMS Group financial statements provided to Mastermyne present fairly, in all material respects, the combined balance sheets and combined statements of income, equity and cash flows of the DMS Group as of the date thereof, or for the periods covered thereby, and have been prepared in accordance with Australian Accounting Standards, as issued by the Australian Accounting Standards Board, and International Financial Reporting Standards as issued by the International Accounting Standards Board, consistently applied, based on the historical practice and accounting policies of the DMS Group.
- (p) **Reliance:** The DMS Provided Information has and will be provided in good faith and on the understanding that Mastermyne and its directors will rely on that information in relation to the Transaction.

Schedule 2—Mastermyne’s representations and warranties

- (a) **Incorporation:** Mastermyne is a valid existing corporation registered under the laws of its place of incorporation.
- (b) **Execution:** The execution and delivery of this deed has been properly authorised by all necessary corporate action of Mastermyne.
- (c) **Corporate power:** Mastermyne has full corporate power and lawful authority to execute and deliver this deed and to consummate and perform or cause to be performed its obligations under this deed in accordance with its terms.
- (d) **Binding obligations:** (Subject to laws generally affecting creditors' rights and the principles of equity) this deed constitutes legal, valid and binding obligations on Mastermyne.
- (e) **Mastermyne Provided Information:**
 - (i) To the best of the knowledge of each Mastermyne Director as at the date of this deed, the Mastermyne Provided Information provided in accordance with this deed and included in the Scheme Booklet:
 - A. as at the date of the Scheme Booklet, will not contain any material statement which is misleading or deceptive nor contain any material omission having regard to applicable disclosure requirements and will comply in all material respects with the requirements of the Corporations Act, the Policy Statements, the ASX Listing Rules and ASIC Regulatory Guide 60; and
 - B. will be included in good faith and on the understanding that the Independent Expert will rely on that Information for the purposes of preparing the Independent Expert’s Report;
 - (ii) Mastermyne will, as a continuing obligation, provide to DMS all such further or new information which may arise after the date of the Scheme Booklet until the date of the Scheme Meeting which may be necessary to ensure that there would be no breach of the warranty in paragraph (i) above if it applied as at the date upon which that information arose.
- (f) **Mastermyne Disclosure Materials:** To the best of the knowledge of each Mastermyne Director as at the date of this deed, all Mastermyne Disclosure Materials were prepared in good faith with due care, skill and diligence, and Mastermyne has not knowingly:
 - (i) omitted any information reasonably requested by DMS or its Representatives for the purposes of the Transaction;
 - (ii) omitted anything from the Mastermyne Disclosure Materials that is material to the financial position or performance of the Mastermyne Group’s business;
 - (iii) omitted anything from the Mastermyne Disclosure Materials such as to make any part of the information materially false or misleading;
 - (iv) included information that is materially false or misleading in the Mastermyne Disclosure Materials; or

- (v) withheld any information from the Mastermyne Disclosure Materials because Mastermyne believed that the provision of that information would affect DMS's willingness to enter into this deed;
- (g) **Reliance:** The Mastermyne Provided Information provided to DMS for inclusion in the Scheme Booklet will be provided in good faith and on the understanding that DMS and its directors will rely on that information in relation to the Transaction.
- (h) **Provision of information to Independent Expert:** All information provided by or on behalf of Mastermyne to the Independent Expert to enable the Independent Expert's report to be included in the Scheme Booklet to be prepared and completed will be provided in good faith and on the understanding that the Independent Expert will rely on that information for the purpose of preparing an Independent Expert's Report.
- (i) **Continuous Disclosure:** Mastermyne is not in breach of its continuous disclosure obligations under the ASX Listing Rules and is not relying on the carve-out in ASX Listing Rule 3.1A to withhold any information from disclosure other than the Scheme.
- (j) **Complete and accurate:** To the best of the knowledge of each Mastermyne Director as at the date of this deed, all the information provided to DMS by Mastermyne in connection with this deed, whether under due diligence or not:
 - (i) is materially complete and correct; and
 - (ii) has been collated with all reasonable care and skill.
- (k) **Opinion:** Any statement of opinion or belief contained in the Mastermyne Provided Information is honestly held and there are reasonable grounds for holding the opinion or belief.
- (l) **Compliance:** As at the date of this deed and to the best of the knowledge of each Mastermyne Director, Mastermyne and its Subsidiaries:
 - (i) have complied in all material respects with all laws applicable to them and orders of Australian and foreign Regulatory Authorities having jurisdiction over them, where failure to comply with any such laws and regulations would result in a Mastermyne Material Adverse Change; and
 - (ii) have all material licenses, permits and franchises necessary for them to conduct their respective businesses as presently being conducted, where a failure to hold any such licenses, permits and franchises would result in a Mastermyne Material Adverse Change.
- (m) **Securities:** Mastermyne's issued securities as at the date of this deed are 75,517,514 ordinary shares and 1,050,000 performance rights and the Mastermyne Group has not issued, or agreed to issue, any other securities or instruments which are still in force and may convert into Mastermyne Shares or any other securities in Mastermyne other than in accordance with its Employee Performance Rights Plan.
- (n) **New Mastermyne Shares:** The New Mastermyne Shares will, upon their issue:
 - (i) rank equally with all other Mastermyne Shares then on issue;
 - (ii) be duly authorised and validly issued;

- (iii) be fully paid and non-assessable; and
 - (iv) be free of all security interests, third party rights and other Encumbrances.
- (o) **Insolvency:** No member of the Mastermyne Group is subject to an Insolvency Event.
- (p) **Funding:** On and from 5.00pm on the Business Day before the Second Court Date and at all times up to and including the Implementation Date, it will have available to it sufficient cash amounts (whether from internal cash resources or external funding arrangements or a combination of both) to satisfy its obligations under this deed, the Deed Poll and the Scheme.
- (q) **Encumbrances:** Other than as set out in the Mastermyne Disclosure Materials, there is no material encumbrance over all of any of its (or any of its Subsidiaries) material assets or revenues.
- (r) **Contracts:** Other than as set out in the Mastermyne Disclosure Materials, to the best of the knowledge of each Mastermyne Director no Mastermyne Group Member is in default under any of its material contracts.
- (s) **Assets:** Other than as set out in the Mastermyne Disclosure Materials, to the best of the knowledge of each Mastermyne Director a Mastermyne Group Member owns all rights, title and interest in and to, or has valid and continuing rights to use, all of the material assets and intellectual property rights used in the conduct of the Mastermyne Group's business.
- (t) **Financial Statement:** The Mastermyne Group financial statements provided to DMS present fairly, in all material respects, the combined balance sheets and combined statements of income, equity and cash flows of the Mastermyne Group as of the date thereof, or for the periods covered thereby, and have been prepared in accordance with Australian Accounting Standards, as issued by the Australian Accounting Standards Board, and International Financial Reporting Standards as issued by the International Accounting Standards Board, consistently applied, based on the historical practice and accounting policies of the Mastermyne Group.

Schedule 3—Timetable

Action	Date
Announcement Date	25 September 2014
Draft Scheme Booklet lodged with ASIC	Mid October 2014
Deed Poll executed by Mastermyne	Early November 2014
First Court Date	Early November 2014
Scheme Booklet registered by ASIC and released on ASX by Mastermyne	Early November 2014
Scheme Booklet despatched to Scheme Shareholders	Early November 2014
Scheme Meeting	Late November 2014
Second Court Date	Early December 2014
Effective Date: Scheme Order lodged with ASIC	Early December 2014
Record Date	Mid December 2014
Implementation Date	Mid December 2014

Schedule 4—Deed Poll

Deed Poll

Relating to a Scheme of Arrangement for
Diversified Mining Services Limited

Contents

Deed Poll	3
1. Definitions and interpretation	3
1.1 Definitions	3
1.2 Terms defined in Scheme	3
1.3 Reasonable endeavours	3
1.4 Business days	3
1.5 Interpretation	4
1.6 Nature of this deed poll	4
2. Condition precedent	4
2.1 Condition	4
2.2 Termination	5
2.3 Consequences of termination	5
3. Payment of the Scheme Consideration	5
3.1 Undertaking	5
4. Warranties	5
5. Continuing obligations	6
6. Further assurances	6
7. General	6
7.1 Notices	6
7.2 Governing law	7
7.3 Jurisdiction	7
7.4 Amendments	7
7.5 Waiver	7
7.6 Further acts and documents	7
7.7 Assignment	7
7.8 Stamp duties	7
7.9 Cumulative rights	8

Deed Poll made on

2014

Parties **Mastermyne Group Limited ACN 142 490 579** of Level 1, Riverside Plaza, 45 River Street, Mackay, Queensland, 4740 (**Mastermyne**)

In favour of **Each person registered as a holder of fully paid ordinary shares in the capital of Diversified Mining Services Limited ACN 126 482 282 (DMS) on issue as at the Record Date (Scheme Shareholders)**

Background

- A. On 25 September 2014, DMS and Mastermyne entered into a Scheme Implementation Deed (**Implementation Deed**) to provide for the implementation of the Scheme.
- B. The effect of the Scheme will be to transfer all of the Scheme Shares from the Scheme Shareholders to Mastermyne in exchange for the Scheme Consideration.
- C. In accordance with the Implementation Deed, Mastermyne enters into this deed poll to covenant in favour of the Scheme Shareholders to pay or procure the payment of the Scheme Consideration in accordance with the Scheme and to otherwise undertake all other actions attributed to it under the Scheme.

It is declared as follows

1. Definitions and interpretation

1.1 Definitions

In this deed poll:

Scheme means the proposed scheme of arrangement under Part 5.1 of the Corporations Act between DMS and its shareholders, a copy of which is attached to the Implementation Deed, 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 Mastermyne and DMS.

1.2 Terms defined in Scheme

Capitalised words and phrases defined in the Scheme or in the Implementation Deed and not in this deed poll have the same meaning in this deed poll as in the Scheme unless the context requires otherwise.

1.3 Reasonable endeavours

Any provision of this deed which requires a party to use reasonable endeavours or all reasonable endeavours to procure that something is performed or occurs or does not occur does not include any obligation to commence any legal action or proceeding against any person.

1.4 Business days

If the day on which any act to be done under this deed is a day other than a Business Day, that act must be done on or by the next Business Day except where this deed expressly specifies otherwise.

1.5 Interpretation

In this deed:

- (a) headings are for convenience only and do not affect interpretation; and unless the context indicates a contrary intention:
- (b) "**person**" includes an individual, the estate of an individual, a corporation, an authority, an association or a joint venture (whether incorporated or unincorporated), a partnership and a trust;
- (c) a reference to a party includes that party's executors, administrators, successors and permitted assigns, including persons taking by way of novation;
- (d) a reference to a document (including this deed) is to that document as varied, novated, ratified or replaced from time to time;
- (e) a reference to a statute includes its delegated legislation and a reference to a statute or delegated legislation or a provision of either includes consolidations, amendments, re-enactments and replacements;
- (f) a reference to a time and date is a reference to the time and date in Queensland;
- (g) a word importing the singular includes the plural (and vice versa), and a word indicating a gender includes every other gender;
- (h) a reference to a party, clause, schedule, exhibit, attachment or annexure is a reference to a party, clause, schedule, exhibit, attachment or annexure to or of this deed, and a reference to this deed includes all schedules, exhibits, attachments and annexures to it;
- (i) if a word or phrase is given a defined meaning, any other part of speech or grammatical form of that word or phrase has a corresponding meaning;
- (j) "**includes**" in any form is not a word of limitation; and
- (k) a reference to "\$" or "**dollar**" is to Australian currency.

1.6 Nature of this deed poll

Mastermyne acknowledges and agrees that:

- (a) this deed poll may be relied on and enforced by any Scheme Shareholder in accordance with its terms even though the Scheme Shareholders are not a party to it; and
- (b) under the Scheme, each Scheme Shareholder irrevocably appoints DMS and each of its directors, officers and secretaries (jointly and each of them severally) as its agent and attorney to enforce this deed poll against Mastermyne.

2. Condition precedent

2.1 Condition

The obligations of Mastermyne under clause 3 are subject to the Scheme becoming Effective.

2.2 Termination

The obligations of Mastermyne under this deed poll will automatically terminate and this deed poll will be of no further force or effect if:

- (a) the Implementation Deed is terminated in accordance with its terms; or
- (b) the Scheme is not Effective by the End Date,

unless Mastermyne and DMS otherwise agree in writing.

2.3 Consequences of termination

If this deed poll terminates under clause 2.2, then in addition to and without prejudice to any other rights, powers or remedies available to it:

- (a) Mastermyne is released from its obligations to further perform this deed poll except those obligations contain in clause 7.8; and
- (b) each Scheme Shareholder retains the rights they have against Mastermyne in respect of any breach of this deed poll by Mastermyne which occurs before this deed poll was terminated.

3. Payment of the Scheme Consideration

3.1 Undertaking

Subject to clause 2, Mastermyne undertakes in favour of each Scheme Shareholder to:

- (a) procure the issue of the Scheme Consideration to each Scheme Shareholder; and
- (b) undertake all other actions attributed to it under the Scheme,

subject to and in accordance with the terms of the Scheme.

4. Warranties

Mastermyne represents and warrants to each Scheme Shareholder that:

- (a) **Incorporation:** Mastermyne is a valid existing corporation registered under the laws of its place of incorporation.
- (b) **Execution:** the execution and delivery of this Deed Poll has been properly authorised by all necessary corporate action of Mastermyne.
- (c) **Corporate Power:** Mastermyne has full corporate power and lawful authority to execute and deliver this Deed Poll and to consummate and perform or cause to be performed its obligations under this Deed Poll in accordance with its terms, and to carry out or cause to be carried out the transactions contemplated by this Deed Poll.
- (d) **Binding Obligations:** (Subject to laws generally affecting creditors' rights and the principles of equity) this Deed Poll contains legal, valid and binding obligations on Mastermyne.

5. Continuing obligations

This deed poll is irrevocable and, subject to clause 2, remains in full force and effect until Mastermyne has fully performed its obligations under it or the earlier termination of this deed poll under clause 2.

6. Further assurances

Mastermyne will do all things and execute all deeds, instruments, transfers or other documents and do all acts or things as may be necessary or desirable to give full effect to the provisions of this deed poll and the transactions contemplated by it.

7. General

7.1 Notices

Each communication (including each notice, consent, approval, request and demand) under or in connection with this deed poll:

- (a) must be in writing;
- (b) must be addressed as follows:
 - if to Mastermyne:
 - Attention: Company Secretary
 - Address: Level 1, Riverside Plaza, 45 River Street, Mackay, Queensland, 4740
 - Fax number: +61 7 4944 0822
- (c) must be signed by the party making it or (on that party's behalf) by the solicitor for, or any attorney, director, secretary or authorised agent of, that party;
- (d) must be delivered by hand or posted by prepaid post to the address, or sent by fax to the number, of the addressee, in accordance with clause 7.1(b); and
- (e) is taken to be received by the addressee:
 - (i) (in the case of prepaid post sent to an address in the same country) on the third day after the date of posting;
 - (ii) (in the case of prepaid post sent to an address in another country) on the fifth day after the date of posting by airmail;
 - (iii) (in the case of fax) at the time in the place to which it is sent equivalent to the time shown on the transmission confirmation report produced by the fax machine from which it was sent; and
 - (iv) (in the case of delivery by hand) on delivery,

but if the communication is taken to be received on a day that is not a working day or after 5.00 pm, it is taken to be received at 9.00 am on the next working day ("working day" meaning a day that is not a Saturday, Sunday or public holiday and on which banks are open for business generally, in the place to which the communication is posted, sent or delivered).

7.2 Governing law

This deed poll is governed by and must be construed according to the law applying in Queensland.

7.3 Jurisdiction

Mastermyne irrevocably:

- (a) submits to the non-exclusive jurisdiction of the courts of Queensland, Commonwealth courts having jurisdiction in that state and the courts competent to determine appeals from those courts, with respect to any proceedings that may be brought at any time relating to this deed poll; and
- (b) waive any objection it may now or in the future have to the venue of any proceedings, and any claim it may now or in the future have that any proceedings have been brought in an inconvenient forum, if that venue falls within clause 7.3(a).

7.4 Amendments

This deed poll may be amended only by another deed poll entered into by Mastermyne and then only if the amendment is agreed to by DMS in writing and, if on or after the Second Court Date, only if it is approved by the Court.

7.5 Waiver

- (a) Failure to exercise or enforce, or a delay in exercising or enforcing, or the partial exercise or enforcement of, a right, power or remedy provided by law or under this deed poll by a party does not preclude, or operate as a waiver of, the exercise or enforcement, or further exercise or enforcement, of that or any other right, power or remedy provided by law or under this deed poll.
- (b) A waiver or consent given by a party under this deed poll is only effective and binding on that party if it is given or confirmed in writing by that party.
- (c) No waiver of a breach of a term of this deed poll operates as a waiver of another breach of that term or of a breach of any other term of this deed poll.

7.6 Further acts and documents

Mastermyne must do all further acts and execute and deliver all further documents required by law or necessary to give effect to this deed poll and the transactions contemplated by it.

7.7 Assignment

The rights of each Scheme Shareholder under this deed poll are personal and cannot be assigned, novated or otherwise transferred without the prior written consent of Mastermyne.

7.8 Stamp duties

Mastermyne must pay all stamp duties and any related fines and penalties in respect of this deed poll, the performance of this deed poll and each transaction effected by or made under this deed poll and are authorised to apply for and retain the proceeds of any refund due in respect of stamp duty paid under this clause.

7.9 Cumulative rights

The rights, powers and remedies of Mastermyne and each Scheme Shareholder under this deed poll are cumulative and do not exclude any other rights, powers or remedies provided by the law independently of this deed poll.

Executed and delivered as a deed poll

Executed by Mastermyne Group Limited
in accordance with section 127 of the
Corporations Act 2001 (Cth):

Signature of director

Signature of company secretary/director

Full name of director

Full name of company secretary/director

Schedule 5—Scheme

Scheme of Arrangement for Diversified Mining Services Limited

Contents

Scheme of Arrangement	4
1. Definitions and interpretation	4
1.1 Definitions	4
1.2 Business days.....	6
1.3 General rules of interpretation	6
2. Preliminary matters	7
2.1 DMS	7
2.2 Mastermyne	7
2.3 Implementation Deed.....	7
2.4 Deed Poll	7
3. Conditions precedent	7
3.1 Conditions	7
3.2 Certificate.....	8
3.3 Termination of Implementation Deed.....	8
4. Scheme	8
4.1 Effective Date of the Scheme	8
4.2 End Date	8
5. Implementation	8
5.1 Lodgement of Court orders	8
5.2 Consequences of this Scheme becoming Effective.....	8
5.3 Transfer of Scheme Shares	9
5.4 Ineligible Foreign Shareholders	9
6. Scheme Consideration	11
6.1 Scheme Consideration	11
6.2 Issue of Scheme Consideration	11
6.3 Joint holders	11
6.4 Rank equally	11
7. Dealings in DMS Shares	12
7.1 Dealings in DMS Shares by Scheme Shareholders	12
7.2 DMS Share Register.....	12
7.3 Information to be made available.....	12
7.4 Effect of share certificates and holding statements	12
8. General Scheme Provisions	13
8.1 Alterations and Conditions.....	13
8.2 Agreement of Scheme Shareholders.....	13
8.3 Warranties by Scheme Shareholders	13
8.4 Authority given to DMS	13
8.5 Appointment of sole proxy	14
8.6 Scheme Shareholders' Consent	14
8.7 Title to Scheme Shares	14
9. General	14
9.1 Stamp duties	14
9.2 Notices.....	14

9.3	Further acts and documents	15
10.	Governing law and jurisdiction	15
10.1	Governing law	15
10.2	Jurisdiction	15

Scheme of Arrangement

Parties **Diversified Mining Services Limited ACN 126 482 282** of Level 10, 9
Sherwood Road, Toowong, Qld 4066 (DMS)

Each person registered as a holder of fully paid ordinary shares in the capital of DMS on issue as at the Record Date

Background

- A. DMS and Mastermyne have entered into the Implementation Deed, pursuant to which, amongst other things, DMS has agreed to propose this Scheme to DMS Shareholders and each of the parties hereto have agreed to take certain steps to give effect to this Scheme.
- B. If this Scheme becomes Effective, Mastermyne will procure the issue of the Scheme Consideration to the Scheme Shareholders and Mastermyne will acquire all Scheme Shares in accordance with the provisions of this Scheme, and DMS will enter the name and address of Mastermyne in the DMS Share Register as the holder of all of the Scheme Shares.

Operative provisions

1. **Definitions and interpretation**

1.1 **Definitions**

In this Scheme:

ASIC means the Australian Securities and Investments Commission.

ASX means ASX Limited ACN 008 624 691 or, as the context requires, the financial market operated by it known as the Australian Securities Exchange.

Business Day means a day other than a Saturday, Sunday or public holiday in the State of Queensland.

Corporations Act means the Corporations Act 2001 (Cth).

Court means Supreme Court of Queensland or such other court of competent jurisdiction as DMS and Mastermyne agree in writing.

Deed Poll means the deed poll executed by Mastermyne in accordance with the Implementation Deed in favour of the Scheme Shareholders (subject to any amendments permitted by its terms).

DMS Option means an option to subscribe for a DMS Share that was issued by DMS on or before the date of the Implementation Deed.

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

DMS Shares means fully paid ordinary shares in the capital of DMS.

DMS Share Register means the register of members of DMS maintained by or on behalf of DMS in accordance with section 168(1) of the Corporations Act.

DMS Share Registry means Link Market Services Limited ACN 083 214 537.

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

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

End Date means the date which is 5 months after the date of the Implementation Deed or such other date agreed in writing between DMS and Mastermyne.

Implementation Deed means the Scheme Implementation Deed entered into between DMS and Mastermyne on 25 September 2014.

Implementation Date means the 3rd Business Day after the Record Date or such other date as is ordered by the Court or agreed between DMS and Mastermyne in writing.

Ineligible Foreign Holder means a Scheme Shareholder:

- (a) who is (or is acting on behalf of) a citizen or resident of a jurisdiction other than residents of Australia (and its external territories) or New Zealand; or
- (b) whose address shown in the DMS Share Register is a place outside Australia (and its external territories) or New Zealand or who is acting on behalf of such a person,

unless the parties (acting reasonably) agree:

- (c) it is lawful and not unduly onerous or unduly impracticable to issue that Scheme Shareholder with Scheme Consideration when the Scheme becomes Effective; and
- (d) it is lawful for that Scheme Shareholder to participate in the Scheme by the law of the relevant place outside Australia (and its external territories) or New Zealand.

Mastermyne means Mastermyne Group Limited ACN 142 490 579.

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

Mastermyne Share Register means the register of members of Mastermyne maintained by or on behalf of Mastermyne in accordance with section 168(1) of the Corporations Act.

Record Date means 5.00 pm on the 5th Business Day following the Effective Date or such other date as DMS and Mastermyne may agree in writing.

Registered Address means, in relation to a Scheme Shareholder, the address of the Scheme Shareholder as recorded in the DMS Share Register.

Scheme means the scheme of arrangement under part 5.1 of the Corporations Act between DMS and the Scheme Shareholders as set out in this document, subject to any alterations or conditions made or required by the Court pursuant to section 411(6) of the Corporations Act and approved in writing by Mastermyne and DMS.

Scheme Consideration means 0.1126 Mastermyne Shares for each Scheme Share.

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

Scheme Share means a DMS Share on issue on the Record Date and for the avoidance of doubt includes any DMS Shares issued on or before the Record Date, including upon the exercise of any DMS Option.

Scheme Shareholder means each person who holds Scheme Shares.

Second Court Date means the first day of hearing of an application made to the Court for an order pursuant to section 411(4)(b) of the Corporations Act approving this Scheme or, if the hearing of such application is adjourned for any reason, means the first day of the adjourned hearing.

Subsidiary has the meaning given in section 9 of the Corporations Act.

1.2 Business days

If the day on which any act to be done under this Scheme is a day other than a Business Day, that act must be done on or by the next Business Day except where this Scheme expressly specifies otherwise.

1.3 General rules of interpretation

In this Scheme headings are for convenience only and do not affect interpretation and, unless the contrary intention appears:

- (a) a word importing the singular includes the plural and vice versa, and a word of any gender includes the corresponding words of any other gender;
- (b) the word including or any other form of that word is not a word of limitation;
- (c) if a word or phrase is given a defined meaning, any other part of speech or grammatical form of that word or phrase has a corresponding meaning;
- (d) a reference to a person includes an individual, the estate of an individual, a corporation, an authority, an association or parties in a joint venture, a partnership and a trust;
- (e) a reference to a party includes that party's executors, administrators, successors and permitted assigns, including persons taking by way of novation and, in the case of a trustee, includes any substituted or additional trustee;
- (f) a reference to a document (including this Scheme) is to that document as varied, novated, ratified or replaced from time to time;
- (g) a reference to a party, clause, schedule, exhibit, attachment or annexure is a reference to a party, clause, schedule, exhibit, attachment or annexure to or of this Scheme, and a reference to this Scheme includes all schedules, exhibits, attachments and annexures to it;
- (h) a reference to an agency or body if that agency or body ceases to exist or is reconstituted, renamed or replaced or has its powers or function removed (obsolete body), means the agency or body which performs most closely the functions of the obsolete body;
- (i) a reference to a statute includes any regulations or other instruments made under it (delegated legislation) and a reference to a statute or delegated legislation or a

provision of either includes consolidations, amendments, re-enactments and replacements;

- (j) a reference to \$ or dollar is to Australian currency;
- (k) a reference to time is to Brisbane, Australia time; and
- (l) this Scheme must not be construed adversely to a party just because that party prepared it or caused it to be prepared.

2. Preliminary matters

2.1 DMS

DMS is a public company limited by shares, incorporated in Australia and registered in the State of Queensland.

2.2 Mastermyne

Mastermyne is:

- (a) a public company limited by shares, incorporated in Australia and registered in the State of Queensland; and
- (b) admitted to the official list of the ASX and Mastermyne Shares are quoted on ASX.

2.3 Implementation Deed

Mastermyne and DMS have agreed, by executing the Implementation Deed, to implement this Scheme.

2.4 Deed Poll

Mastermyne has agreed, by executing the Deed Poll, to perform its obligations under this Scheme, including the obligation to procure the issue of the Scheme Consideration to the Scheme Shareholders.

3. Conditions precedent

3.1 Conditions

This Scheme is conditional on, and will have no force and effect until, the satisfaction of each of the following conditions, and the provisions of clauses 4, 5 and 6 will not come into effect unless and until each of these conditions have been satisfied:

- (a) all the conditions precedent in clause 3.1 of the Implementation Deed (other than the condition relating to the approval of the Court set out in clause 3.1(f)) having been satisfied or waived in accordance with the terms of the Implementation Deed before 8.00 am on the Second Court Date;
- (b) the Implementation Deed and Deed Poll not 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 section 411(4)(b) of the Corporations Act, including with such other conditions imposed by the Court under section

411(6) of the Corporations Act as are acceptable to DMS and Mastermyne, having been satisfied; and

- (d) the orders of the Court made under section 411(4)(b) (and if applicable, section 411(6)) of the Corporations Act approving this Scheme coming into effect under section 411(10) of the Corporations Act.

3.2 Certificate

- (a) DMS and Mastermyne must each provide to the Court on the Second Court Date a certificate authorised by each of their respective boards and signed by at least one of their respective directors (or such other evidence as the Court may request) stating (to the best of each of their knowledge) whether or not all the conditions precedent in clauses 3.1(a) and 3.1(b) have been satisfied or waived (subject to the terms of the Implementation Deed) as at 8.00am on the Second Court Date.
- (b) The giving of a certificate by each of DMS and Mastermyne in accordance with clause 3.2(a) will, in the absence of manifest error, be conclusive evidence of the matters referred to in the certificate.

3.3 Termination of Implementation Deed

Without limiting the rights under, and subject to the terms of, the Implementation Deed, if the Implementation Deed is terminated in accordance with its terms before 8.00am on the Second Court Date, Mastermyne and DMS are each released from:

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

4. Scheme

4.1 Effective Date of the Scheme

Subject to clause 4.2, the Scheme will take effect on and from the Effective Date.

4.2 End Date

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

5. Implementation

5.1 Lodgement of Court orders

DMS must lodge with ASIC an office copy of any Court orders under section 411(10) of the Corporations Act approving this Scheme as soon as possible after the approval of the Scheme or entry of the Court orders, and in any event no later than by 5.00 pm on the first Business Day after the date the Court approves this Scheme or by 5.00 pm on the first Business Day after the date on which the Court orders are entered, whichever is later, or such other Business Day as Mastermyne and DMS agree in writing.

5.2 Consequences of this Scheme becoming Effective

If this Scheme becomes Effective:

- (a) it will override the constitution of DMS, to the extent of any inconsistency;
- (b) Mastermyne must (subject to clause 5.4) procure the issue of the Scheme Consideration to the Scheme Shareholders;
- (c) subject to the issue of the Scheme Consideration under clause 5.2(b):
 - (i) all the Scheme Shares (together with all rights and entitlements attaching to the Scheme Shares) will be transferred to Mastermyne; and
 - (ii) DMS will enter the name of Mastermyne in the DMS Share Register in respect of all the Scheme Shares.

5.3 Transfer of Scheme Shares

On the Implementation Date, subject to the issue of the Scheme Consideration in the manner contemplated by clause 6.2(a) and Mastermyne providing DMS with written confirmation of that issue:

- (a) the Scheme Shares, together with all rights and entitlements attaching to the Scheme Shares at the Implementation Date, will be transferred to Mastermyne, without the need for any further act by any Scheme Shareholder (other than acts performed by DMS or its officers as agent and attorney of the Scheme Shareholders under clause 8.4 or otherwise) by:
 - (i) DMS delivering to Mastermyne a duly completed and executed share transfer form to transfer all the Scheme Shares to Mastermyne; and
 - (ii) Mastermyne duly executing such transfer form and delivering it to the DMS for registration; and
- (b) immediately after receipt of the transfer form in accordance with clause 5.3(a)(ii), DMS must enter the name of Mastermyne in the DMS Share Register as the holder of all of the Scheme Shares; and
- (c) the transfer of Scheme Shares will be deemed to be effective on the Implementation Date.

5.4 Ineligible Foreign Shareholders

- (a) Mastermyne will be under no obligation to issue Scheme Consideration to any Ineligible Foreign Shareholder. If there are Ineligible Foreign Shareholders, Mastermyne must, before 12.00pm on the Implementation Date, issue the Scheme Consideration (in accordance with clause 6.2) to which that Ineligible Foreign Shareholder would have been entitled (were they not an Ineligible Foreign Shareholder) (**Sale Shares**) to a nominee agent appointed by Mastermyne and DMS (the **Sale Nominee**) who must hold the Scheme Consideration for the benefit of the Ineligible Foreign Shareholder pending a sale under clause 5.4(b).
- (b) Mastermyne must procure that on, or as soon as reasonably practicable after, the Implementation Date and at its cost, the Sale Nominee uses its best endeavours to:
 - (i) in the ordinary course of trading on the ASX, sell for the benefit of the Ineligible Foreign Shareholders, all Sale Shares it holds in accordance with the Mastermyne Constitution; and

- (ii) remit to Mastermyne any net proceeds of sale received after deducting any applicable brokerage, stamp duty and other selling costs, taxes and charges.
- (c) Promptly after the last sale of Sale Shares in accordance with clause 5.4(b), Mastermyne will pay to each Ineligible Foreign Shareholder the proportion of the net proceeds of sale received by Mastermyne pursuant to clause 5.4(b)(ii) as is equal (subject to rounding) to the number of Mastermyne Shares that would have been issued pursuant to the Scheme to that Ineligible Foreign Shareholder (were they not an Ineligible Foreign Shareholder) divided by the total number of Mastermyne Shares issued to the Sale nominee pursuant to clause 5.4(a).
- (d) Ineligible Foreign Shareholders agree that the amount referred to in clause 5.4(c) may be paid by Mastermyne doing any of the following at Mastermyne's election:
 - (i) sending by pre-paid post (or pre-paid airmail if the address is outside Australia) a cheque for the proceeds to the Ineligible Foreign Shareholder's address as shown in the DMS Share Register on the Record Date (the **Registered Address**);
 - (ii) depositing the proceeds into an account with any Australian bank as notified to DMS or the DMS Share Registry by an appropriate authority from the Ineligible Foreign Shareholder;
 - (iii) in the event that an Ineligible Foreign Shareholder does not have a Registered Address or Mastermyne believes an Ineligible Foreign Shareholder is not known at its Registered Address, and no account has been notified in accordance with clause 5.4(d)(ii) or a deposit into such account is rejected or refunded, Mastermyne may credit the amount payable to that Ineligible Foreign Shareholder to a separate bank account of Mastermyne to be held until the Ineligible Foreign Shareholder claims the amount or the amount is dealt with in accordance with unclaimed money legislation. Mastermyne must hold the amount on trust, but any benefit accruing from the amount will be to the benefit of Mastermyne. An amount credited to the account is to be treated as having been paid to the Ineligible Foreign Shareholder. Mastermyne must maintain records of the amount paid, the people who are entitled to the amounts and any transfers of the amounts.
- (e) Payment by Mastermyne to an Ineligible Foreign Shareholder in accordance with clause 5.4(c) satisfies in full the Ineligible Foreign Shareholder's right to Scheme Consideration.
- (f) Neither Mastermyne nor DMS gives any assurance as to the price that will be achieved for the sale of the Sale Shares described in clause 5.4(b). The sale of the Sale Shares under this clause 5.4 will be at the risk of the Ineligible Foreign Shareholder.
- (g) Each Ineligible Foreign Shareholder appoints Mastermyne as its agent to receive on its behalf any financial services guide or other notices which may be given by Mastermyne to that that Ineligible Foreign Shareholder.

6. Scheme Consideration

6.1 Scheme Consideration

On the Implementation Date, in consideration for the transfer to Mastermyne of each Scheme Share under the terms of the Scheme, each Scheme Shareholder is entitled to receive the Scheme Consideration in respect of each Scheme Share held by that Scheme Shareholder.

6.2 Issue of Scheme Consideration

Mastermyne must at or before 12.00pm on the Implementation Date, in consideration for the transfer to Mastermyne of the Scheme Shares, procure the issue of the Scheme Consideration to all Scheme Shareholders by:

- (a) passing a resolution of the directors of Mastermyne and doing all things necessary to validly issue the Scheme Consideration due to each Scheme Shareholder; and
- (b) entering the name and registered address of the Scheme Shareholder (or in the case of Ineligible Foreign Shareholders, the name and address of the Sale Nominee appointed under clause 5.4) in the Mastermyne Share Register as the holder of the Scheme Consideration issued to that Scheme Shareholder.

Within 5 Business Days after the Implementation Date, Mastermyne must dispatch, or procure the dispatch of, a holding statement or share certificate for the Scheme Consideration issued to that Scheme Shareholder (or Sale Nominee) by pre-paid post to the Registered Address of the Scheme Shareholder (or Sale Nominee).

6.3 Joint holders

In the case of Scheme Shares held in joint names, the Scheme Consideration must be issued in the names of those joint holders.

6.4 Rank equally

- (a) New Mastermyne Shares issued to Scheme Shareholders under this Scheme will rank equally with all existing Mastermyne Shares.
- (b) On issue, each new Mastermyne Share issued to Scheme Shareholders under this Scheme will be fully paid and free from all mortgages, charges, liens, encumbrances and interests of third parties of any kind, whether legal or otherwise, and restrictions on transfer of any kind.
- (c) Mastermyne will do everything reasonably necessary to ensure that the new Mastermyne Shares to be issued to Scheme Shareholders under this Scheme:
 - (i) are admitted to the official list of ASX and are approved for official quotation on the ASX by 8.00am on the Second Court Date; and
 - (ii) commence trading on the ASX by the first Business Day after the Implementation Date.

7. Dealings in DMS Shares

7.1 Dealings in DMS Shares by Scheme Shareholders

To establish the identity of the Scheme Shareholders, dealings in DMS Shares or other alterations to the DMS Share Register will only be recognised if registrable transmission applications or transfers in respect of those dealings are received on or before 5:00pm on the Record Date at the place where the DMS Share Register is kept (in which case DMS must register such transfers by 5:00pm on that day), and DMS will not accept for registration, nor recognise for the purpose of establishing the persons who are Scheme Shareholders, any transfer or transmission application in respect of the DMS Shares received after such times or received prior to such times but not in registrable form.

7.2 DMS Share Register

- (a) DMS must maintain the DMS Share Register in accordance with the provisions of this clause 7 until the Scheme Consideration has been issued to the Scheme Shareholders and Mastermyne has been entered in the DMS Share Register as the holder of all of the Scheme Shares, and the DMS Share Register in this form and the terms of the Scheme will solely determine entitlements to the Scheme Consideration.
- (b) DMS must register registrable transmission applications or transfers of the kind referred to in clause 7.1 by 5:00pm on the Record Date.
- (c) DMS will not accept for registration or recognise for any purpose any transmission application or transfer in respect of DMS Shares received after 5:00pm on the Record Date.
- (d) If this Scheme becomes Effective, from the Record Date until the earlier of registration of Mastermyne as the holder of all Scheme Shares under clause 5.3(b) or the End Date, no Scheme Shareholder nor any person claiming through that Scheme Shareholder may deal with Scheme Shares in any way (or attempt or agree to do so) except as set out in this Scheme and any attempt to do so will have no effect and DMS will be entitled to disregard any such dealing or purported dealing.

7.3 Information to be made available

As soon as practicable after the Record Date, DMS will ensure that details of the names, Registered Addresses and holdings of Scheme Shares for each Scheme Shareholder shown in the DMS Share Register at the Record Date are available to Mastermyne in a form as Mastermyne may reasonably require.

7.4 Effect of share certificates and holding statements

Subject to the issue of the Scheme Consideration in the manner contemplated by clause 6.2(a):

- (a) all statements of holding or share certificates for DMS Shares will cease to have effect from the Record Date as documents of title in respect of those shares (other than statements of holding in favour of Mastermyne and its successors in title); and
- (b) as from the Record Date, each entry current at that date on the DMS Share Register (other than entries in respect of Mastermyne and its successors in title) will cease to have effect except as evidence of entitlement to the Scheme Consideration in respect of the DMS Shares relating to that entry.

8. General Scheme Provisions

8.1 Alterations and Conditions

If the Court proposes to approve this Scheme subject to any alterations or conditions, DMS may, by its counsel or solicitors, consent on behalf of all persons concerned, including a Scheme Shareholder, to those alterations or conditions to which Mastermyne has consented in writing.

8.2 Agreement of Scheme Shareholders

Each Scheme Shareholder:

- (a) agrees to the transfer of their Scheme Shares to Mastermyne, together with all rights and entitlements attaching to those Scheme Shares, in accordance with terms of this Scheme and agrees to the variation, cancellation or modification of the rights attached to their Scheme Shares constituted by or resulting from this Scheme; and
- (b) acknowledges that this Scheme binds DMS and all Scheme Shareholders including those who do not attend the Scheme Meeting or do not vote at that meeting or vote against this Scheme at that Scheme Meeting.

8.3 Warranties by Scheme Shareholders

Each Scheme Shareholder is deemed to have warranted to Mastermyne:

- (a) all their Scheme Shares (including any rights and entitlements attaching to those Scheme Shares) which are transferred to Mastermyne under this Scheme will, at the date they are transferred to Mastermyne, be fully paid and free from all mortgages, charges, security interests, liens, encumbrances and interests of third parties of any kind, whether legal or otherwise, and restrictions on transfer of any kind; and
- (b) they have full power and capacity to sell and to transfer their Scheme Shares (including any rights and entitlements attaching to those Scheme Shares) to Mastermyne.

8.4 Authority given to DMS

Upon this Scheme becoming Effective, each Scheme Shareholder without the need for any further act:

- (a) irrevocably appoints DMS and all of its directors, secretaries and officers (jointly and severally) as its attorney and agent for the purpose of:
 - (i) enforcing the Deed Poll against Mastermyne (as applicable); and
 - (ii) executing any document necessary to give effect to this Scheme including, the execution of the share transfer to be delivered under clause 5.3(a)(i),and DMS accepts such appointment; and
- (b) will be deemed to have authorised DMS to do and execute all acts, matters, things and documents on the part of each Scheme Shareholder necessary to implement this Scheme, including executing, as agent and attorney of each Scheme Shareholder, a

share transfer or transfers in relation to Scheme Shares as contemplated by clause 8.4(a).

8.5 Appointment of sole proxy

On this Scheme becoming Effective, and until DMS registers Mastermyne as the holder of all Scheme Shares in the DMS Share Register, each Scheme Shareholder:

- (a) is deemed to have irrevocably appointed Mastermyne as its attorney and agent (and directed Mastermyne in such capacity) to appoint any director, officer, secretary or agent nominated by Mastermyne as its sole proxy and, where applicable or appropriate, corporate representative to attend shareholders' meetings of DMS, exercise the votes attaching to the Scheme Shares registered in their name and sign any DMS Shareholders' resolutions, whether in person, by proxy or by corporate representative;
- (b) undertakes not to otherwise attend or vote at any of those meetings or sign or vote on any resolutions (whether in person, by proxy or by corporate representative) other than as pursuant to clause 8.5(a);
- (c) must take all other actions in the capacity of a registered holder of Scheme Shares as Mastermyne reasonably directs; and
- (d) acknowledges and agrees that in exercising the powers referred to in clause 8.5(a), Mastermyne and any director, officer, secretary or agent nominated by Mastermyne under clause 8.5(a) may act in the best interests of Mastermyne as the intended registered holder of the Scheme Shares.

8.6 Scheme Shareholders' Consent

Subject to the Scheme becoming Effective, each Scheme Shareholder irrevocably consents to Mastermyne and DMS doing all things and executing all deeds, instruments, transfers or other documents as may be necessary, incidental or expedient to the implementation and performance of the Scheme.

8.7 Title to Scheme Shares

Mastermyne will be beneficially entitled to the Scheme Shares transferred to it under this Scheme pending registration by DMS of Mastermyne in the DMS Share Register as the holder of the Scheme Shares.

9. General

9.1 Stamp duties

Mastermyne must pursuant to their obligations under the Deed Poll pay all stamp duties and any related fines and penalties in respect of the transfer of the Scheme Shares to Mastermyne and are authorised to apply for and retain the proceeds of any refund due in respect of stamp duty paid under this clause.

9.2 Notices

- (a) If a notice, transfer, transmission application, direction or other communication referred to in this Scheme is sent by post to DMS, 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 the place where the DMS Share Registry is kept.

- (b) The accidental omission to give notice of the Scheme Meeting or the non receipt of such a notice by any DMS Shareholder may not, unless so ordered by the Court, invalidate the Scheme Meeting or the proceedings of the Scheme Meeting.

9.3 Further acts and documents

DMS must promptly do all further acts and execute and deliver all further documents required by law or reasonably requested by another party to give effect to this Scheme and the transactions contemplated by it.

10. Governing law and jurisdiction

10.1 Governing law

This Scheme is governed by the law applying in Queensland.

10.2 Jurisdiction

Each party irrevocably:

- (a) submits to the non-exclusive jurisdiction of the courts of Queensland, Commonwealth courts having jurisdiction in that state and the courts competent to determine appeals from those courts, with respect to any proceedings that may be brought at any time relating to this Scheme; and
- (b) waives any objection it may have now or in the future to the venue of any proceedings, and any claim it may have now or in the future that any proceedings have been brought in an inconvenient forum, if that venue falls within clause 10.2(a).