



**Patties Foods Ltd**  
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18 July 2016

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### **Release of Explanatory Booklet for Pacific Equity Partners acquisition proposal**

Patties Foods Limited (ASX:PFL) (**Patties**) announces that the Australian Securities and Investments Commission (**ASIC**) has today registered the Explanatory Booklet in relation to the previously announced scheme of arrangement for the proposed acquisition of Patties by Australasian Foods Bidco Pty Ltd (**Scheme**).

A copy of the Explanatory Booklet accompanies this announcement.

The terms of the proposed Scheme are as announced to ASX on 2 June 2016, except that those Patties shareholders who wish to elect the alternative scrip consideration can now make that election for at least 40% of their shareholding (rather than at least 50%, as previously announced).

The Explanatory Booklet includes a notice of Scheme meeting and an independent expert's report, prepared by Deloitte Corporate Finance Pty Limited (**Deloitte**). Deloitte has concluded that, in the absence of a superior proposal, the proposed Scheme is fair and reasonable and therefore is in the best interests of Patties shareholders.

### **Directors' recommendation**

Your Directors continue to unanimously recommend that Patties shareholders vote in favour of the Scheme at the upcoming Scheme Meeting, in the absence of a superior proposal. Subject to that same qualification, each Patties Director intends to vote all Patties shares held or controlled by him in favour of the Scheme.

### **Despatch of Explanatory Booklet, proxy form and scrip election form**

A copy of the Explanatory Booklet will be emailed to those Patties Shareholders who have previously elected to receive notices of meeting and other shareholder communications by email.

Printed copies of the Explanatory Booklet will be posted to other Patties shareholders shortly.



**Patties**



**Nanna's**



All shareholders (including those who have previously elected to receive notices of meeting and other shareholder communications by email) will receive by post their proxy form for the Scheme meeting and an Election Form.

The Election Form is relevant only for those shareholders who wish to make a scrip election for at least 40% of their Patties shares. Shareholders who do not wish to make a scrip election for any of their Patties shares should disregard the Election Form.

### **Meeting details**

The Scheme meeting will be held at 10:00am on Friday, 26 August 2016 at Minter Ellison, Level 23, 525 Collins Street, Melbourne, Victoria.

All shareholders are encouraged to vote either by attending the Scheme Meeting in person, or by lodging a proxy vote by 10.00am on Wednesday, 24 August 2016.

### **Cut-off date for receipt of Election Forms**

Those shareholders who wish to make a scrip election for between 40% and 100% of their Patties shares must ensure that their Election Form is received by Computershare by 5:00pm on Monday 22 August 2016. Please note that this cut-off date is before the Scheme Meeting.

For details on how to complete and lodge the Election Form, please refer to the instructions on your Election Form.

Shareholders who do not wish to make a scrip election for any of their shares should disregard the Election Form.

ENDS

For further information please contact:

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Patties Foods Limited  
ABN 62 007 157 182

# Explanatory Booklet

For the scheme of arrangement in relation to the proposed acquisition of all of your Patties Shares by Australasian Foods Bidco Pty Limited, an entity owned by funds managed or advised by Pacific Equity Partners

The Notice of Scheme Meeting is included in Appendix 3 to this Explanatory Booklet. The proxy form for the Scheme Meeting accompanies this Explanatory Booklet. The Scheme Meeting will be held at 10:00am on Friday, 26 August 2016 at Minter Ellison, Level 23, 525 Collins Street, Melbourne, Victoria.

## VOTE IN FAVOUR

YOUR VOTE IS IMPORTANT IN DETERMINING WHETHER THE SCHEME PROCEEDS  
YOUR DIRECTORS **UNANIMOUSLY RECOMMEND** THAT YOU VOTE **IN FAVOUR OF THE SCHEME**, IN THE ABSENCE OF A SUPERIOR PROPOSAL



### THIS IS AN IMPORTANT DOCUMENT AND REQUIRES YOUR URGENT ATTENTION.

If you are in any doubt as to how to deal with this Explanatory Booklet, please consult your legal, financial, taxation or other professional adviser immediately. If after reading this Explanatory Booklet you have any questions about the Scheme, please call the Shareholder Information Line on 1300 782 058 (within Australia)

or +61 3 9415 4109 (outside Australia) Monday to Friday between 8.30am and 5.00pm (Melbourne time).

If you have recently sold all of your Patties Shares, please disregard all enclosed documents.

LEGAL ADVISER TO PATTIES

FINANCIAL ADVISER TO PATTIES

MinterEllison

Greenhill

# Overview of this Explanatory Booklet

## What is this Explanatory Booklet for?

This Explanatory Booklet has been sent to you to help you understand the terms of a proposed scheme of arrangement between Patties and its Shareholders (**Scheme**) under which all of your Patties Shares will be acquired in exchange for \$1.65 cash for each Patties Share you hold on the Scheme Record Date (**Cash Consideration**), less a dividend of up to \$0.25 per Patties Share that Patties may declare and pay before the Scheme is implemented (**Special Dividend**). The proposed acquirer of your shares under the Scheme is Australasian Foods Bidco Pty Ltd (**Bidder**), an entity owned by funds managed or advised by Pacific Equity Partners Pty Limited (**PEP**).

There is also a Scrip Consideration alternative to the Cash Consideration under the Scheme which provides Patties Shareholders an opportunity to acquire a continuing indirect minority interest in the Patties business in addition to the Special Dividend, if declared. The Scrip Consideration consists of one Class B Share in Australasian Foods Holdco Pty Limited (**HoldCo**) per Patties Share in respect of which a Patties Shareholder makes a valid Election. HoldCo is a newly incorporated unlisted company. Bidder is an indirect wholly owned subsidiary of HoldCo.

If you do not make a valid Election to receive the Scrip Consideration, you will receive the Cash Consideration for all of your Patties Shares.

If the Scheme is implemented, Bidder will acquire 100% ownership and control of Patties, following which Patties will be delisted from ASX.

The Scheme is subject to the approval of Patties Shareholders, so this Explanatory Booklet includes information relevant to your decision as a Patties Shareholder whether to approve the Scheme.

## Special Dividend

The payment and amount of the Special Dividend is at the discretion of the Patties Board.

If the maximum permitted fully franked Special Dividend of \$0.25 per Share is paid, Australian resident Patties Shareholders who are able to realise the full benefit of the franking credit attached to the Special Dividend will receive, subject to their marginal tax rate, an additional benefit valued at up to \$0.107 per Share. Whether or not you will be in a position to derive the full benefit of the franking credit will depend on your individual taxation circumstances.

If Patties does not declare a Special Dividend or declares a Special Dividend of less than \$0.25 per Patties Share, the Scheme Consideration (being either the Cash Consideration and/or the Scrip Consideration) will be increased by the corresponding amount, such that the total payments received by Patties Shareholders who participate in the Scheme remain \$1.65 per Patties Share. For example:

- if you do not make a valid Election and receive the Cash Consideration for all of your Patties Shares, the Cash Consideration will be increased by the amount that the Special Dividend declared by the Patties Board is less than \$0.25 per Patties Share; or
- if you make a valid Election to receive the Scrip Consideration and are issued the Scrip Consideration for all of your Patties Shares, the notional issue price of the Class B Shares issued to you will be increased by the amount that the Special Dividend declared by the Patties Board is less than \$0.25 per Patties Share. In that case, the notional issue price of the Class A Shares issued to the PEP Shareholders would be increased by the same amount.

Patties Shareholders considering whether or not to make an Election to receive the Scrip Consideration should note that the notional issue price of a Class B Share does not equal or otherwise reflect the underlying economic value of that Class B Share. The notional issue price of a Class B Share is a function of a range of factors including the amount of any Special Dividend (if declared by the Patties Board) and the corresponding effect on the level of Patties' debt as a result of the payment of any Special Dividend. Please refer to the illustrative examples in Section 1.4 of this Explanatory Booklet which sets out how the notional issue price of a Class B Share varies based on different scenarios and the Independent Expert's valuation range for Class B Shares in those scenarios.

## Why should you vote?

As a Patties Shareholder, you have a say in whether or not the Scheme proceeds. The Scheme will not proceed unless it is approved by the requisite majority of Patties Shareholders – this is your opportunity to play a role in deciding the future of the business in which you have a stake.

## What you should do next

### Step 1 – Read this Explanatory Booklet

This Explanatory Booklet contains information that is material to your decision whether or not to vote in favour of the Scheme. Accordingly, you should read and carefully consider the information in this Explanatory Booklet to help you make an informed voting decision.

Patties Shareholders should refer in particular to Section 4 for guidance on the advantages, disadvantages and other considerations relevant to the Scheme. Answers to some frequently asked questions are included in Section 2.

This Explanatory Booklet does not take into account the financial situation, investment objectives and particular needs of any Patties Shareholder. If you have any queries in relation to how the Scheme may affect your specific financial situation, investment objectives or other particular needs, you should consult your legal, financial, taxation or other professional adviser before making any decision in relation to your Patties Shares and how to vote at the Scheme Meeting referred to below.

### Step 2 – Consider whether to elect to receive the Scrip Consideration

Under the Scheme, Patties Shareholders will receive the Cash Consideration for all of their Patties Shares but may elect to receive the Scrip Consideration for between 40% to 100% of their Patties Shares. Only those Patties Shareholders with a Registered Address in Australia may elect to receive Scrip Consideration. Elections to receive the Scrip Consideration from Patties Shareholders who are Foreign Scheme Shareholders will not be valid. Eligible Patties Shareholders may:

- receive the total value of their Scheme Consideration as the Cash Consideration – no Election is required for this; or
- make an Election to receive some or all of the value of their Scheme Consideration as Scrip Consideration in the form of Class B Shares.

The Scrip Consideration is subject to a Minimum Holding Threshold and a Minimum Elections Threshold and is also subject to a potential Scrip Scale Back, each of which is explained in Section 1.2. The rights attached to Class B Shares in the capital of HoldCo are described in Section 7.2. Bidder is an indirectly wholly-owned subsidiary of HoldCo.

Before making any Election to receive the Scrip Consideration, Patties Shareholders should carefully read Sections 6, 7 and 8 of this Explanatory Booklet and the Independent Expert's Report in Appendix 1. The Independent Expert has assessed the current value of the total payments under the Scrip Consideration to be between:

- **\$1.04** and **\$1.31** for each Class B Share (inclusive of a Special Dividend of \$0.25 per Patties Share) – if a Patties Shareholder makes a valid Election to receive the Scrip Consideration for 100% of their Patties Shares; or
- **\$1.40** and **\$1.52** for each Class B Share (inclusive of a Special Dividend of \$0.25 per Patties Share) – if a Patties Shareholder makes a valid Election to receive the Scrip Consideration for 40% of their Patties Shares (being the Minimum Elections Threshold) and receives the Cash Consideration in respect of 60% of their Patties Shares.

In both scenarios, the Independent Expert has assumed that Patties declares a Special Dividend of \$0.25 per Patties Share, that Patties Shareholders making an Election receive that dividend (i.e. that they hold their Shares on the Special Dividend Record Date) and that a Patties Shareholder's Election is satisfied in full (i.e. that no Scrip Scale Back applies). In both scenarios, the Independent Expert's valuation of the Scrip Consideration is lower than the Independent Expert's valuation range of \$1.53 to \$1.71 for each Patties Share. It is also lower than the total cash payments of \$1.65 per Share (currently expected to comprise the Special Dividend and the Cash Consideration).

Please refer to the Independent Expert's Report in Appendix 1 to this Explanatory Booklet for further information. There is no assurance that the future value of the Scrip Consideration will be higher than the value of the Cash Consideration.

In addition, Patties Shareholders should consider the risks associated with an investment in HoldCo set out in Section 7.3. In summary:

- Patties Shareholders will be subject to a different regulatory regime when compared to their current investment in Patties;
- Patties Shareholders will receive less information about Patties than they currently receive;
- Patties Shareholders will face a lack of liquidity in respect of their Class B Shares given there will be no active market for the sale and purchase of Class B Shares;
- Patties Shareholders will become shareholders in a company that is highly leveraged with a gearing ratio that is significantly greater than the gearing ratio of Patties and other similar ASX listed companies;
- Patties Shareholders may be subject to dilution of their interests or have some or all of their interests compulsorily sold or 'dragged' if Class A Shareholders determine to transfer their shares to a third party, each under certain circumstances as set out in the Shareholders' Deed (see Appendix 6);
- Patties Shareholders may not receive any dividends for at least the two year period following the Effective Date of the Scheme (which is currently expected to be Monday, 5 September 2016) – the Shareholders' Deed notes that the board of HoldCo does not intend to declare or pay any dividends for two years following the Effective Date;
- Patties Shareholders, as Class B Shareholders, will have limited voting rights under the Shareholders' Deed. This means that the Class A Shareholders will be able to exercise majority voting power, and will be in a position to determine the outcome of most decisions relating to HoldCo, and therefore also most decisions relating to Patties, including in relation to the timing of an exit of their investment in HoldCo; and

- Patties Shareholders will be subject to other provisions in the Shareholders' Deed the effect of which may result in an outcome that is not aligned with their interests or expectations.

Before making any Election to receive the Scrip Consideration, Patties Shareholders should also consider obtaining professional advice appropriate to their specific circumstances.

If you do not make a valid Election to receive the Scrip Consideration, you will receive the Cash Consideration for all Patties Shares that you hold on the Scheme Record Date.

It is a matter for each eligible Patties Shareholder to decide whether or not to make an Election to receive the Scrip Consideration, having regard to their individual circumstances, financial situation, taxation position, investment objectives and risk profile. This Explanatory Booklet contains information that is material to your decision whether or not to make an Election to receive the Scrip Consideration. Before making a decision on this aspect of the Scheme you should:

- consider the expected benefits of an investment in HoldCo;
- consider the risks associated with an investment in HoldCo as summarised above and set out more fully in Section 7.3; and
- carefully read Sections 6, 7 and 8 of this Explanatory Booklet and the Independent Expert's Report in Appendix 1.

### **Step 3 – Lodge an Election Form (only if you Elect to receive the Scrip Consideration)**

If you wish to receive the Scrip Consideration for some or all of your Patties Shares, you must validly complete and return the Election Form which accompanies this Explanatory Booklet. There is no need to lodge an Election Form if you wish to receive the Cash Consideration for all of your Patties Shares. Election Forms must be received by the Share Registry by 5:00pm (Melbourne time) on the Election Date (being Monday, 22 August 2016). The Minimum Holding Threshold and the application of any Scrip Scale Back will be determined as at the Election Date. Patties will announce to ASX on Tuesday, 23 August 2016 the results of the Election process, including whether the Minimum Holding Threshold has been satisfied and whether the Scrip Scale Back applies. As to these matters, see Section 1.2(b) of this Explanatory Booklet.

Note that the Election Date is before the date of the Scheme Meeting, so if you want to make an Election you must do so before you vote at the Scheme Meeting. For details on how to complete and lodge the Election Form, please refer to the instructions on your Election Form.

### **Step 4 – Vote on the Scheme**

As a Patties Shareholder, it is your right to vote on whether or not the Scheme proceeds. Your vote is important and you are strongly encouraged to vote on the Scheme.

You can vote on the Scheme:

- by personally attending the Scheme Meeting to be held on Friday, **26 August 2016**, commencing at 10:00am (Melbourne time) at Minter Ellison, Level 23, 525 Collins Street, Melbourne, Victoria; or
- by appointing a proxy, attorney or, in the case of a corporate Patties Shareholder or proxy, a corporate representative to attend the Scheme Meeting and vote on your behalf.

If you wish to appoint a proxy to vote on your behalf, you can either:

- complete and return the proxy form which accompanies this Explanatory Booklet; or
- lodge a proxy online via [www.investorvote.com.au](http://www.investorvote.com.au) using the control number noted on the front of your proxy form which accompanies this Explanatory Booklet along with your SRN/HIN number (as applicable) and your postcode and by following the instructions on that website or if you are

a custodian (for intermediary online subscribers only), via [www.intermediaryonline.com](http://www.intermediaryonline.com), and following the instructions on that website. Your proxy form must be received by the Share Registry (whether in person, by mail or by lodging your proxy online) by 10:00am (Melbourne time) on **Wednesday, 24 August 2016**, for your vote to be counted.

Further information relating to voting is contained in Section 3, in the notice of meeting in Appendix 3 to this Explanatory Booklet and in the proxy form for the Scheme Meeting which accompanies this Explanatory Booklet.

### **What if you have questions in relation to the Scheme?**

If you have questions in relation to the Scheme, you should refer to the Frequently Asked Questions section of this Explanatory Booklet or contact the Shareholder Information Line on 1300 782 058 (within Australia) or +61 3 9415 4109 (outside Australia) Monday to Friday between 8.30am and 5.00pm (Melbourne time). Alternatively, you may consult your legal, financial, taxation or other professional adviser.

### **Is the Scheme in the best interest of Patties Shareholders?**

- The Independent Expert has concluded that, in the absence of a Superior Proposal, the Scheme is **FAIR AND REASONABLE** and therefore in the **BEST INTERESTS** of Patties Shareholders.

The Independent Expert's Report is included in Appendix 1 to this Explanatory Booklet.

### **What do the Patties Directors recommend?**

- Your Directors **UNANIMOUSLY RECOMMEND** that you vote **IN FAVOUR OF** the Scheme, in the absence of a Superior Proposal. Subject to that same qualification, your Directors unanimously intend to vote all Patties Shares they hold or control **IN FAVOUR OF** the Scheme.

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## Important Dates and Times

All references to time in this Explanatory Booklet are references to the time in Melbourne, Australia unless otherwise stated.

Event	Date (and time)
First Court Hearing at which the Court made orders convening the Scheme Meeting	10:00am on Friday 15 July 2016
Last time and date by which Election Forms must be received by the Share Registry (whether in person or by mail) ( <b>Election Date</b> )	5:00pm on Monday 22 August 2016
ASX announcement of Election results, including whether the Scrip Consideration will be issued and, if so, whether the Scrip Scale Back applies	Tuesday 23 August 2016
Last time and date by which proxy forms or powers of attorney for the Scheme Meeting must be received by the Share Registry (whether in person, by mail or by lodging your proxy online)	10:00am on Wednesday 24 August 2016
Time and date for determining eligibility to vote at the Scheme Meeting ( <b>Voting Entitlement Time</b> )	7:00pm on Wednesday 24 August 2016
Scheme Meeting	10:00am on Friday 26 August 2016
<b>If the Scheme is approved by Patties Shareholders</b>	
Second Court Hearing to obtain orders approving the Scheme	10:00am on Friday 2 September 2016
Special Dividend declared <sup>1</sup>	Friday 2 September 2016
Lodgement by Patties with ASIC of the Court orders approving the Scheme ( <b>Effective Date</b> )	10:00am on Monday 5 September 2016
Suspension of trading in Patties Shares on ASX	4:00pm on Monday 5 September 2016
Time and date for determining entitlements to the Special Dividend ( <b>Special Dividend Record Date</b> )	7:00pm on Thursday 8 September 2016
Payment of the Special Dividend ( <b>Special Dividend Payment Date</b> )	4:00pm on Wednesday 14 September 2016
Time and date for determining entitlements to the Scheme Consideration ( <b>Scheme Record Date</b> )	7:00pm on Thursday 15 September 2016
Implementation Date	Thursday 22 September 2016
Date on which the Cash Consideration is paid to Patties Shareholders and the Scrip Consideration is issued to those Patties Shareholders who have made a valid Election to receive the Scrip Consideration (assuming the Minimum Holding Threshold, Minimum Elections Threshold are met and subject to the Scrip Scale Back)	Thursday 22 September 2016

All dates and times following the date of the Scheme Meeting are indicative only and, among other things, are subject to all necessary approvals from the Court and Government Agencies. Any changes to this timetable (which may include an earlier or later date for the Second Court Hearing) will be announced through ASX and notified on Patties' website at [www.pattiesfoods.com.au](http://www.pattiesfoods.com.au).

1. Declaration of the Special Dividend is at the discretion of and subject to resolution of the Patties Directors



# Important Notices

## General

You should read the whole of this Explanatory Booklet before making a decision on how to vote on the resolution to be considered at the Scheme Meeting. The notice convening the Scheme Meeting is contained in Appendix 3 to this Explanatory Booklet. The proxy form for the Scheme Meeting accompanies this Explanatory Booklet. An Election Form also accompanies this Explanatory Booklet.

## Defined terms

Capitalised terms in this Explanatory Booklet are defined either in the Glossary in Section 12 of this Explanatory Booklet or where the relevant term is first used.

## Purpose of this Explanatory Booklet

The purposes of this Explanatory Booklet are to:

- explain the terms and effect of the Scheme to Patties Shareholders;
- explain the manner in which the Scheme will be considered and, if approved, implemented;
- state any material interests of the Directors, whether as directors, members or creditors of Patties or otherwise, and the effect on those interests of the Scheme as far as that effect is different from the effect on similar interests of other persons; and
- provide the information as is prescribed by the Corporations Act and the Corporations Regulations or as is otherwise material to the decision of Patties Shareholders whether or not to vote in favour of the Scheme.

This Explanatory Booklet (other than Appendix 3) constitutes the explanatory statement for the Scheme as required by section 412(1) of the Corporations Act.

## No financial product advice

The information contained in this Explanatory Booklet is not financial product or investment advice. This Explanatory Booklet has been prepared without taking into account your investment objectives, financial situation, taxation position or other particular needs. Before deciding how to vote or act, Patties Shareholders and others should consider the appropriateness of the information having regard to their own investment objectives, financial situation, taxation position and other particular needs and seek legal, taxation and financial advice appropriate to their jurisdiction and circumstances. Neither Patties nor Bidder is licensed to provide financial product advice in respect of Patties Shares, Class B Shares or any other financial products. No cooling off regime applies in relation to the acquisition of Class B Shares if an Election is made to receive the Scrip Consideration.

## Responsibility for information

The Bidder Information contained in this Explanatory Booklet has been prepared by and is the responsibility of Bidder. Patties has not independently verified any of the Bidder Information and does not make any representation or warranty (express or implied) as to, and does not assume any responsibility for, the accuracy, relevance or completeness of, the Bidder Information.

Minter Ellison has prepared the general outline of taxation implications of the Scheme in Section 8 and takes responsibility for that Section.

Deloitte Corporate Finance Pty Limited has prepared the Independent Expert's Report in relation to the Scheme in Appendix 1 and takes responsibility for that report.

Other than in respect of the information identified above, the information contained in the remainder of this Explanatory Booklet has been prepared by Patties and its advisers and is the responsibility of Patties. Bidder does not assume responsibility for the accuracy or completeness of any part of this Explanatory Booklet other than the Bidder Information.

## Patties Shareholders outside Australia

This Explanatory Booklet has been prepared having regard to Australian disclosure requirements. These requirements may be different from those in other jurisdictions. Accordingly, the release, publication or distribution of this Explanatory Booklet in jurisdictions other than Australia may be restricted by law or regulation in those other jurisdictions, and persons outside Australia who come into possession of this Explanatory Booklet should seek advice on and observe any applicable restrictions. This Explanatory Booklet and the Scheme do not in any way constitute an offer to buy securities in any place in which, or to any person to whom, it would not be lawful to make such an offer.

Restrictions in jurisdictions outside Australia may make it impractical or unlawful for the Scrip Consideration to be issued under the Scheme to, or to be received under the Scheme by, Patties Shareholders in those jurisdictions. Any Patties Shareholder whose address shown in the Patties Register at 7.00pm (Melbourne time) on the Scheme Record Date is a place outside of Australia and its external territories will be a "Foreign Scheme Shareholder" for the purposes of the Scheme. Patties Shareholders who are Foreign Scheme Shareholders will not receive Scrip Consideration if they make an Election. Please see Section 7.1(c) for more information.

Patties Shareholders resident outside Australia for tax purposes should also seek specific taxation advice in relation to the Australian and overseas taxation implications of their participation in the Scheme.

## ASIC and ASX

A draft of this Explanatory Booklet was provided to ASIC for the purpose of section 411(2) of the Corporations Act, and a copy of this Explanatory Booklet has been registered by ASIC for the purpose of section 412(6) of the Corporations Act.

ASIC has examined a copy of this Explanatory Booklet. ASIC has been requested to provide a statement, in accordance with section 411(17)(b) of the Corporations Act, that ASIC has no objection to the Scheme. If ASIC provides that statement, it will be produced to the Court at the time of the Court hearing to approve the Scheme.

Neither ASIC nor any of its officers takes any responsibility for the contents of this Explanatory Booklet.

A copy of this Explanatory Booklet has been provided to ASX. Neither ASX nor any of its officers takes any responsibility for the contents of this Explanatory Booklet.

## Important notice associated with Court order under section 411(1) of the Corporations Act

A copy of this Explanatory Booklet has been submitted to the Court to obtain an order of the Court under section 411(1) of the Corporations Act directing Patties to convene the Scheme Meeting. That order was obtained at the First Court Hearing

on Friday, 15 July 2016. The fact that the Court has ordered that a meeting of Patties Shareholders be convened by Patties to consider and vote on the Scheme and directed that an explanatory statement accompany the notice of meeting does not mean that the Court:

- has formed any view as to the merits of the proposed Scheme or as to how Patties Shareholders should vote (on this matter Patties Shareholders must reach their own decision); or
- has prepared, or is responsible for, the content of this Explanatory Booklet.

### Forward looking statements

Certain statements in this Explanatory Booklet are about future matters, including forward looking statements. These forward looking statements and information, including statements and information relating to Patties and the transactions contemplated by the Scheme Implementation Deed, are not based solely on historical facts, but rather reflect the current expectations of Patties or, in relation to the Bidder Information, Bidder, concerning future results, events or other matters. These statements may sometimes be identified by the use of forward looking words or phrases such as *if, when, believe, aim, will, expect, anticipate, intend, foresee, likely, should, could, plan, may, estimate, budget, forecast, envisage, target, potential* or other similar words or phrases. Similarly, statements that describe Patties or Bidder's objectives, plans, goals or expectations, estimates of future costs, and expenditure are or may be forward looking statements.

The statements contained in this Explanatory Booklet about the impact that the Scheme may have on the results of Patties operations and the advantages and disadvantages of the Scheme are also forward looking statements.

These forward looking statements involve known and unknown risks, uncertainties, assumptions and other important factors that could cause the actual results of Patties to be materially different from future results, performance or achievements expressed or implied by such statements. These statements and information are based on numerous assumptions regarding present and future business strategies and the environment in which Patties will operate in the future, including anticipated costs and ability to achieve goals. Therefore forward looking statements and information should be construed in light of those limitations and undue reliance should not be placed on them.

None of Patties, Bidder, their respective Related Entities, their respective directors, nor any other person gives any representation, assurance or guarantee that the occurrence of the results or events expressed or implied in any forward looking statements and information in this Explanatory Booklet will actually occur.

The forward looking statements and information in this Explanatory Booklet reflect views held only at the date of this Explanatory Booklet.

Subject to any continuing obligations under law, Patties, Bidder, their respective Related Entities, and their respective directors disclaim any obligation or undertaking to disseminate after the date of this Explanatory Booklet any updates or revisions to any forward looking statements and information to reflect any change in expectations in relation to them or any change in the events, conditions or circumstances on which they are based.

### Rounding of numerical information

Any discrepancies between totals in tables and sums of components contained in this Explanatory Booklet and between those figures and figures referred to in other parts of this Explanatory Booklet are due to rounding. Except as otherwise

stated, all rounded numbers have been rounded either to one decimal place or to the nearest whole number.

### Privacy and personal information

Patties will need to collect personal information to implement the Scheme. This information may include the name, contact details and security holding of Patties Shareholders, and the name of persons appointed by Patties Shareholders to act as proxy, attorney, or in the case of a corporate Patties Shareholder or proxy, corporate representative at the Scheme Meeting. The primary purpose of collection of the personal information is to assist Patties in the conduct of the Scheme Meeting and to enable the Scheme to be implemented by Patties in the manner described in this Explanatory Booklet. Without this information, Patties may be hindered in its ability to carry out these purposes to full effect. The collection of certain personal information is authorised by the Corporations Act.

Personal information may be disclosed to the Share Registry, print and mail service providers, authorised securities brokers and to Related Entities of Patties and the parties to the Scheme Implementation Deed.

Patties Shareholders have certain rights to access their personal information that has been collected. Patties Shareholders should contact Patties' company secretary in the first instance if they wish to request access to their personal information.

Patties Shareholders who appoint a named person to act as their proxy, attorney, or in the case of a corporate Patties Shareholder or proxy, corporate representative at the Scheme Meeting should ensure that they inform that person of the matters outlined above.

### Charts and diagrams

Any diagrams, charts, graphs or tables appearing in this Explanatory Booklet are illustrative only and may not be drawn to scale. Unless stated otherwise, all data contained in diagrams, charts, graphs and tables is based on information available as at the Last Practicable Date.

### No internet site is part of this Explanatory Booklet

Patties maintains its internet site at [www.pattiesfoods.com.au](http://www.pattiesfoods.com.au). Any references in this Explanatory Booklet to that site or any other internet site (including [www.pep.com.au](http://www.pep.com.au)) are for information purposes only and do not form part of this Explanatory Booklet.

### Date of Explanatory Booklet

This Explanatory Booklet is dated 15 July 2016.

# Letter from the Chairman of Patties



15 July 2016

Dear Patties Shareholder

I am pleased to provide you with this Explanatory Booklet in relation to the proposal announced by Patties on 2 June 2016 under which Australasian Foods Bidco Pty Limited (**Bidder**), an entity owned by funds managed or advised by Pacific Equity Partners Pty Limited (**PEP**), is making an offer to acquire 100% control of Patties. Bidder's proposed acquisition of Patties is being structured as a members' scheme of arrangement between Patties and its Shareholders (referred to in this Explanatory Booklet as the **Scheme**).

For the Scheme to proceed, it must be approved by the requisite majorities of Patties Shareholders and by the Supreme Court of Victoria. This Explanatory Booklet contains full details of the Scheme. The Patties Board encourages you to consider the information in this Explanatory Booklet to help you determine whether or not to vote in favour of the Scheme.

## Overview

If the Scheme is approved and implemented, you will receive total cash payments of \$1.65 for each Patties Share you hold on the Scheme Record Date. This is currently expected to comprise:

- a fully franked dividend of up to \$0.25 for each Patties Share you hold on the Special Dividend Record Date that Patties may declare and pay before the Scheme is implemented (**Special Dividend**); plus
- \$1.65 per Patties Share less the amount per Share of any Special Dividend, payable in cash (**Cash Consideration**).

Alternatively, Patties Shareholders may elect to receive the Scrip Consideration instead of the Cash Consideration for between 40% and 100% of their Patties Shares by completing and returning the Election Form which accompanies this Explanatory Booklet. Elections from Patties Shareholders who are Foreign Scheme Shareholders will not be valid.

The Scrip Consideration consists of one Class B Share in Australasian Foods Holdco Pty Limited (**HoldCo**) per Patties Share for which a valid Election is made. This is subject to the Minimum Elections Threshold, the Minimum Holding Threshold and the Scrip Scale Back. HoldCo is a newly incorporated unlisted Australian company. Bidder is an indirect wholly owned subsidiary of HoldCo.

## Scrip Consideration alternative

The alternative to elect to receive the Scrip Consideration formed part of PEP's initial proposal to the Patties Board. It has been included as a feature of the Scheme to give all Patties Shareholders with a registered address in Australia an equal opportunity to retain an ongoing investment in Patties' business during PEP's ownership, if they wish. The notional issue price of the Scrip Consideration will be equal to the value of the Cash Consideration. If Patties does not declare a Special Dividend, or declares a Special Dividend of less than \$0.25 per Patties Share, the notional issue price of the Scrip Consideration will be increased by the corresponding amount, such that the total notional value received by Patties Shareholders who elect to receive the Scrip Consideration remains \$1.65 per Patties Share.

Patties Shareholders considering whether or not to make an Election to receive the Scrip Consideration should note that the notional issue price of a Class B Share does not equal or otherwise reflect the underlying economic value of that Class B Share. The notional issue price of a Class B Share is a function of a range of factors including the amount of any Special Dividend (if declared by the Patties Board) and the corresponding effect on the level of Patties' debt as a result of the payment of any Special Dividend. Please refer to the illustrative examples in Section 1.4 of this Explanatory Booklet which sets out how the notional issue price of a Class B Share varies based on different scenarios and the Independent Expert's valuation range for Class B Shares in those scenarios.

You should form your own view as to whether you wish to make an Election to receive the Scrip Consideration based on your individual circumstances, financial situation, taxation position, investment objectives and risk profile. You should also consider obtaining professional advice appropriate to your specific circumstances before making any Election.

It is important to understand that any investment in unlisted Class B Shares would represent a fundamentally different investment than your current investment in Patties. In particular, your continuing exposure to Patties would have materially different risks and a different investment and financial profile to your existing investment in Patties as an ASX listed company. Accordingly, you should carefully read Sections 6, 7 and 8 and consider obtaining appropriate professional advice before making any Election to receive the Scrip Consideration. In particular, you should consider the risks associated with an investment in HoldCo set out in Section 7.3.

It is also important to understand that there is no guarantee that the Scrip Consideration will eventuate. It requires Shareholders in aggregate to make valid scrip Elections that meet the Minimum Holding Threshold (being approximately 5.5 million shares in HoldCo). If that minimum threshold is not met, no Shareholder who makes an Election will receive the Scrip Consideration. Further, if Shareholders in aggregate make valid Elections to receive the Scrip Consideration in excess of 50 million shares in HoldCo, they will be scaled back on a pro rata basis.

## Special Dividend

The payment and amount of the Special Dividend is at the discretion of the Patties Board. The Special Dividend is expected to be fully franked. If Patties does not declare a Special Dividend, or declares a Special Dividend of less than \$0.25 per Patties Share, the Scheme Consideration will be increased by the corresponding amount, such that the total payments received by Patties Shareholders who participate in both the Special Dividend and the Scheme remain \$1.65 per Patties Share. Please refer to the illustrative examples in Section 1.4 of this Explanatory Booklet.

If Patties Shareholders or the Court do not approve the Scheme, the Patties Board does not intend to declare or authorise any Special Dividend.

Importantly, to be eligible to receive both the Special Dividend and the Scheme Consideration, you must be registered as a Patties Shareholder on the Special Dividend Record Date (currently expected to be 7.00pm (Melbourne time) on 8 September 2016) and also the Scheme Record Date (currently expected to be 7.00pm (Melbourne time) on 15 September 2016). If you buy (additional) Patties Shares after the Special Dividend Record Date and before the Scheme Record Date, those Shares will not carry any right to the Special Dividend.

## Value of the Cash Consideration

The total cash payments of \$1.65 per Patties Share values Patties' fully diluted equity<sup>2</sup> at approximately \$231.8 million and represents a:

- 31.3% premium to Patties' 1 month VWAP up to and including 27 May 2016 of \$1.26, being the trading day prior to Patties' announcement on 30 May 2016 that it had received a non-binding, conditional and incomplete proposal from PEP;
- 38.6% premium to Patties' 3 month VWAP up to and including 27 May 2016 of \$1.19;
- 42.4% premium to Patties' 6 month VWAP up to and including 27 May 2016 of \$1.16; and
- 9.5x EV / FY2015 Underlying EBITDA.<sup>3</sup>

The Cash Consideration under the Scheme provides you with an opportunity to immediately realise a value for your investment in Patties at a premium to Patties trading prices in the period prior to the announcement on 30 May 2016 of a non-binding, conditional and incomplete proposal from PEP.

If a Special Dividend of \$0.25 per Patties Share is declared and paid, Australian resident Patties Shareholders who are able to realise the full benefit of the franking credits attached to the Special Dividend will receive, subject to their marginal tax rate, an additional benefit valued at up to \$0.107 per Patties Share. Whether or not you will be in a position to derive the full benefit of the franking credits will depend on your individual taxation circumstances.

## Board Recommendation

The Board **unanimously recommends that Patties Shareholders vote in favour of the Scheme**, in the absence of a Superior Proposal. Subject to the same qualification, each Patties Director intends to vote all Patties Shares held or controlled by them in favour of the Scheme. As at the date of this Explanatory Booklet, your Directors hold or control in aggregate approximately 15.40% of all Patties Shares on issue.

Your Directors believe that the Scheme provides an opportunity for Patties Shareholders to realise immediate and certain value for their Patties Shares.

The Patties Board remains positive about the outlook for Patties as an independent ASX listed company, including its capacity to deliver growth for Patties Shareholders into the future. However, the Patties Board has also had regard to the general and specific risks that Patties faces which may impede the delivery of that potential future growth. The Patties Board was unanimous in its decision to recommend the Scheme, in the absence of a Superior Proposal, for the following reasons:

- the premium and overall terms of Bidder's offer present an opportunity to realise immediate, attractive and certain value for Patties Shareholders;
- subject to their marginal tax rate, eligible Patties Shareholders may receive up to \$0.107 per Share of additional benefit from franking credits attached to the Special Dividend;
- the Cash Consideration provides some Patties Shareholders with access to full liquidity in circumstances where they presently face limited opportunities to achieve full liquidity in respect of their Patties Shares; and
- the Scrip Consideration allows Patties Shareholders to maintain an indirect interest in the privatised Patties, if a valid Election is made and they receive the Scrip Consideration.

Since the announcement of the Scheme on 2 June 2016 and up to the date of this Explanatory Booklet, no Superior Proposal has emerged.

In forming their view that the Scheme is in the best interests of Patties Shareholders, your Directors considered the potential disadvantages of the Scheme proceeding. In particular:

- you will lose the ability to participate in any potential upside that may result from maintaining your direct investment in Patties, unless you make a valid Election to receive the Scrip Consideration (and the pre-conditions to the Scrip Consideration being issued are satisfied);
- you will forego the possibility of receiving the benefit of any future, potentially more favourable, proposal for your Patties Shares; and
- the tax consequences of the Scheme may not be suitable to your financial position.

Your Directors unanimously believe that the benefits of the Scheme outweigh its potential disadvantages and risks.

If the Scheme does not proceed, Patties will continue as an independent entity listed on ASX and Patties Shareholders will not receive the Scheme Consideration or the Special Dividend. In addition, if the Scheme does not proceed and no Superior Proposal emerges, your Directors currently anticipate that the market price of Patties Shares on ASX may fall below current trading levels, all other things remaining equal.

## Rijs Family Voting Intentions

Members of Patties' founding Rijs family, which together hold 36.6% of the total issued Patties Shares (including the interests of Mr Harry Rijs and Mr Richard Rijs, who are Directors of Patties), have each indicated they intend to vote in favour of the Scheme, in the absence of the Board recommending a Superior Proposal.

## Independent Expert

Your Directors' unanimous recommendation of the Scheme is supported by the conclusion of Deloitte Corporate Finance Pty Limited, the Independent Expert engaged by the Patties Board, to opine on whether the Scheme is in the best interests of Patties Shareholders.

2. Fully diluted shares on issue expected to be approximately 140.5 million upon implementation of the Scheme.

3. EV calculated using fully diluted shares on issue and net debt of \$74.6 million as at 31 December 2015. FY15 Underlying EBITDA of \$32.3 million.

The Independent Expert has assessed the fair market value of a Patties Share, on a fully diluted controlling interest basis, to be between **\$1.53** and **\$1.71**. The total cash payments of \$1.65 per Patties Share (currently expected to comprise the Special Dividend and the Cash Consideration) are within the Independent Expert's valuation range. The Independent Expert has concluded that in the absence of a Superior Proposal, the Scheme is fair and reasonable and therefore in the best interests of Patties Shareholders. The Patties Board encourages you to read and consider the Independent Expert's Report, which is contained in Appendix 1 to this Explanatory Booklet.

The Independent Expert has assessed the current value of the total payments under the Scrip Consideration to be between:

- **\$1.04** and **\$1.31** for each Class B Share (inclusive of a Special Dividend of \$0.25 per Patties Share) – if a Patties Shareholder makes a valid Election to receive the Scrip Consideration for 100% of their Patties Shares; or
- **\$1.40** and **\$1.52** for each Class B Share (inclusive of a Special Dividend of \$0.25 per Patties Share) – if a Patties Shareholder makes a valid Election to receive the Scrip Consideration for 40% of their Patties Shares (being the Minimum Elections Threshold) and receives the Cash Consideration in respect of 60% of their Patties Shares.

In both scenarios, the Independent Expert has assumed that Patties declares a Special Dividend of \$0.25 per Patties Share, that Patties Shareholders making an Election receive that dividend (i.e. that they hold their Shares on the Special Dividend Record Date) and that a Patties Shareholder's Election is satisfied in full (i.e. that no Scrip Scale Back applies). In both scenarios, the Independent Expert's valuation of the Scrip Consideration is lower than the Independent Expert's valuation range of \$1.53 to \$1.71 for each Patties Share. It is also lower than the total cash payments of \$1.65 per Share (currently expected to comprise the Special Dividend and the Cash Consideration).

Please refer to the Independent Expert's Report in Appendix 1 to this Explanatory Booklet for further information. There is no assurance that the future value of the Scrip Consideration will be higher than the value of the Cash Consideration.

### Scheme Meeting

Your vote is important and on behalf of the Board, I encourage you to vote on this significant transaction. You may vote by personally attending the Scheme Meeting to be held at 10:00am on Friday, 26 August 2016 at Minter Ellison, Level 23, 525 Collins Street, Melbourne, Victoria or by appointing a proxy, attorney or, in the case of a corporate Patties Shareholder or proxy, a corporate representative to attend the Scheme Meeting and to vote on your behalf. For information on how you can vote, please see Section 3.

### Further information

I encourage you to read this Explanatory Booklet which contains important information in relation to the Scheme. If you have any questions in relation to the Scheme, please call the Shareholder Information Line on 1300 782 058 (within Australia) or +61 3 9415 4109 (outside Australia) Monday to Friday between 8.30am and 5.00pm (Melbourne time) or contact your legal, financial, taxation or other professional adviser.

On behalf of the Patties Board, I recommend the Scheme to you and would like to take this opportunity once again to thank you for your support of Patties.

Yours sincerely



**Mark Smith**  
Chairman



## Reasons to vote in favour of the Scheme

The Board unanimously recommends that you vote in favour of the Scheme, in the absence of a Superior Proposal, for the following reasons:

- ✓ The total cash payments of \$1.65 per Share (currently expected to comprise the Special Dividend and the Cash Consideration) represent an attractive premium to the market price of Patties Shares in the months leading up to Patties' announcement on 30 May 2016 that it had received a non-binding, conditional and incomplete proposal from PEP
- ✓ The Cash Consideration provides you with certainty of value for your Patties Shares and a high degree of certainty on timing for receipt of the Cash Consideration
- ✓ Subject to their marginal tax rate, eligible Patties Shareholders may receive up to \$0.107 per Share of additional benefit from franking credits attached to the Special Dividend
- ✓ The total cash payments of \$1.65 per Share (currently expected to comprise the Special Dividend and the Cash Consideration) exceed the highest closing trading price of Patties Shares in over 3 years up to the date the Scheme was announced
- ✓ The Cash Consideration provides all Patties Shareholders with access to full liquidity in circumstances where some Patties Shareholders presently face limited opportunities to achieve full liquidity in respect of their Patties Shares
- ✓ The Independent Expert has concluded that, in the absence of a Superior Proposal, the Scheme is fair and reasonable and therefore in the best interests of Patties Shareholders
- ✓ The Scrip Consideration allows you to maintain an indirect interest in the privatised Patties
- ✓ Members of Patties' founding Rijs family, which together hold 36.6% of the total issued Patties Shares (including the interest of Mr Harry Rijs and Mr Richard Rijs, who are Directors of Patties), have each indicated they intend to vote in favour of the Scheme, in the absence of the Board recommending a Superior Proposal
- ✓ No Superior Proposal has emerged as at the date of this Explanatory Booklet
- ✓ If the Scheme does not proceed and no Superior Proposal emerges, the Patties Share price is likely to fall
- ✓ If the Scheme does not proceed, and no Superior Proposal emerges, Patties Shareholders will continue to be subject to the specific risks associated with Patties business and general market risks
- ✓ There are no brokerage or other transaction costs on the disposal of your Patties Shares under the Scheme

## Potential reasons to vote against the Scheme

- ✗ You may disagree with the reasons for the Patties Directors' recommendation and/or the conclusion of the Independent Expert
- ✗ You may believe that there is potential for a Superior Proposal to be made in the foreseeable future (noting that no Superior Proposal from another party has been received as at the date of this Explanatory Booklet)
- ✗ You will lose the ability to participate in any potential upside that may result from maintaining your investment in Patties (unless you elect to receive the Scrip Consideration and the pre-conditions to the Scrip Consideration being issued are satisfied)
- ✗ If the Scheme proceeds, this precludes the possibility of receiving the benefit of any future, potentially more favourable, proposal for your Patties Shares
- ✗ The tax consequences of the Scheme may not suit your financial position

**YOUR DIRECTORS UNANIMOUSLY RECOMMEND THAT YOU VOTE IN FAVOUR OF THE SCHEME, IN THE ABSENCE OF A SUPERIOR PROPOSAL**

You should read this Explanatory Booklet in full before making any decision on the Scheme. In particular, you should refer to Section 4 for guidance on the advantages and disadvantages of the Scheme. This Explanatory Booklet does not take into account the financial situation, investment objectives and particular needs of any Patties Shareholder. You should consult your legal, financial, taxation or other professional adviser concerning the impact your decision may have on your own circumstances.

## Potential reasons to elect to receive the Scrip Consideration

### ✓ You might wish to retain an indirect investment that has exposure to Patties

By electing to receive the Scrip Consideration, you will receive Class B Shares in an unlisted company that will provide an ongoing financial exposure to Patties and you will become a party to the Shareholders' Deed. However, your exposure to Patties will have different risks and a different investment and financial profile than your existing investment in Patties as an ASX listed company. Please refer to Section 1.1 which sets out a summary of the Shareholders' Deed which contains the rights attaching to Class B Shares. A copy of the Shareholders' Deed is included as Appendix 6 to this Explanatory Booklet.

### ✓ Flexibility to choose the form of Scheme Consideration that best suits you

The flexibility of being able to choose between receiving Scheme Consideration in the form of the Cash Consideration and/or the Scrip Consideration (assuming the Minimum Elections Threshold and Minimum Holding Threshold are satisfied and subject to the Scrip Scale Back (see Section 1.2)) allows you to choose the form of Scheme Consideration that best suits your personal circumstances, taxation position and investment profile. This flexibility permits you to elect to retain an indirect interest in, and financial exposure to, Patties following the implementation of the Scheme. However, your exposure to Patties will have different risks and a different investment and financial profile than your existing investment in Patties as an ASX listed company.

### ✓ Subject to the Shareholders' Deed, Class B Shares will be entitled to distributions from HoldCo which will in turn receive distributions made by Patties

However, HoldCo Shareholders may not receive any dividends for at least two years after the date the Scheme becomes legally effective. Under the Shareholders' Deed,

the board of HoldCo does not intend to declare or pay any dividends for two years following that time.

### ✓ You may be eligible for CGT roll-over relief

Patties Shareholders who would make a capital gain on the disposal of particular Patties Shares in exchange for Class B Shares (i.e. Patties Shareholders who elect to receive the Scrip Consideration) should be eligible to make a choice whether or not to apply CGT roll-over relief. Where a Patties Shareholder elects to apply CGT roll-over relief, the capital gain that they would otherwise make on the disposal of those particular Patties Shares will be disregarded. In these circumstances the cost base and reduced cost base of those particular Patties Shares will be transferred to the Class B Shares exchanged for those Patties Shares. The Commissioner is expected to confirm the availability of CGT roll-over relief.

### ✓ You may benefit from a future exit by PEP

You may be in a position to participate in any future exit by the Bidder of its investment in Patties if you hold Class B Shares at the time of that exit.

If the future value of Patties at the time of exit is higher than the value of Patties today, you may be able to participate in the benefit of the exit at that higher value. In those circumstances, you may realise greater value over the longer term through electing to receive Scrip Consideration than receiving Cash Consideration under the Scheme.

However, if the future value of Patties at the time of exit is lower than the value of Patties today, you would realise a lower value over the longer term through electing to receive Scrip Consideration than receiving Cash Consideration under the Scheme.

As at the date of this Explanatory Booklet the Bidder has not determined the timing of any potential exit or the exit mechanism. Any future value of Patties will only be known at the time of any future exit.



## Potential reasons not to elect to receive the Scrip Consideration

### ✘ The current and future value of the Scrip Consideration may be materially less than the value of the Cash Consideration

The Independent Expert has assessed the current value of the total payments under the Scrip Consideration to be between:

- **\$1.04** and **\$1.31** for each Class B Share (inclusive of a Special Dividend of \$0.25 per Patties Share) – if a Patties Shareholder makes a valid Election to receive the Scrip Consideration for 100% of their Patties Shares; or
- **\$1.40** and **\$1.52** for each Class B Share (inclusive of a Special Dividend of \$0.25 per Patties Share) – if a Patties Shareholder makes a valid Election to receive the Scrip Consideration for 40% of their Patties Shares (being the Minimum Elections Threshold) and receives the Cash Consideration in respect of 60% of their Patties Shares.

In both scenarios, the Independent Expert has assumed that Patties declares a Special Dividend of \$0.25 per Patties Share, that Patties Shareholders making an Election receive that dividend (i.e. that they hold their Shares on the Special Dividend Record Date) and that a Patties Shareholder's Election is satisfied in full (i.e. that no Scrip Scale Back applies). In both scenarios, the Independent Expert's valuation of the Scrip Consideration is lower than the Independent Expert's valuation range of \$1.53 to \$1.71 for each Patties Share. It is also lower than the total cash payments of \$1.65 per Share (currently expected to comprise the Special Dividend and the Cash Consideration).

See the Independent Expert's Report for more information in relation to the valuation of the Scrip Consideration. There is no assurance that the future value of the Scrip Consideration will be higher than the value of the Cash Consideration.

### ✘ Restrictions on transferring Class B Shares

HoldCo is not publicly listed on a financial market and there will be no active market for the sale of Class B Shares. No disposal or transfer of Class B Shares is permitted except in very limited circumstances as set out in the Shareholders' Deed. For more information, see the summary of the Shareholders' Deed in Section 7. A copy of the Shareholders' Deed is included as Appendix 6 to this Explanatory Booklet.

### ✘ There is no guarantee that there will be distributions

HoldCo Shareholders may not receive any dividends or other distributions for at least the two year period after the Scheme becomes legally effective. Under the Shareholders' Deed, the board of HoldCo does not intend to declare or pay any dividends for two years following that time.

### ✘ There are significant risks associated with holding Class B Shares

Section 7 which sets out the rights afforded to the holders of Class B Shares should be carefully considered. In particular, you should consider the risks associated with an investment in HoldCo set out in Section 7.3, specifically:

- you will be subject to a different regulatory regime when compared to your current investment in Patties;
- you will receive less information about Patties than you currently receive;
- you will face a lack of liquidity in respect of your Class B Shares given there will be no active market for the sale and purchase of Class B Shares;
- you will become a shareholder in a company that is highly leveraged with a gearing ratio that is significantly greater than the gearing ratio of Patties and other similar ASX listed companies;
- you may be subject to dilution of your interests or have some or all of your interests compulsorily sold or 'dragged' if Class A Shareholders determine to transfer their shares to a third party, each under certain circumstances as set out in the Shareholders' Deed;
- you may not receive any dividends for at least the two year period following the date that the Scheme becomes legally effective;
- you will be a Class B Shareholder and will have limited voting rights under the Shareholders' Deed. This means that the Class A Shareholders will be able to exercise majority voting power, and will be in a position to determine the outcome of most decisions relating to HoldCo, and therefore also most decisions relating to Patties, including in relation to the timing of an exit of your investment in HoldCo; and
- you will be subject to other provisions in the Shareholders' Deed the effect of which may result in an outcome that is not aligned with your interests or expectations.



## Scrip Consideration – Important points

- To make an Election to receive the Scrip Consideration instead of the Cash Consideration for between 40% to 100% of your Patties Shares, you must complete and return the Election Form which accompanies this Explanatory Booklet. An Election will only be valid if it is made using the Election Form and is received by the Share Registry no later than 5:00pm on the Election Date (being Monday, 22 August 2016).
- An Election to receive the Scrip Consideration is only open to Patties Shareholders with a registered address in Australia. Foreign Scheme Shareholders who make an Election will not receive the Scrip Consideration.
- Elections are subject to the Scheme proceeding, as well as to the satisfaction of the Minimum Elections Threshold and the Minimum Holding Threshold.
- The Election Form requires a Patties Shareholder to make an Election to receive the Scrip Consideration instead of the Cash Consideration for between 40% to 100% of their Patties Shares. A Patties Shareholder who makes an Election may subsequently vary or withdraw it by lodging a replacement Election Form so that it is received before 5.00pm (Melbourne time) on the Election Date. The last valid Election Form received by the Share Registry before 5.00pm (Melbourne time) on the Election Date will be used to determine that Patties Shareholders' Election and will also apply to the total number of Patties Shares held by that Patties Shareholder on the Scheme Record Date (currently proposed to be 7:00pm on Thursday, 15 September 2016).
- The Scrip Consideration is also subject to the Scrip Scale Back if the maximum acceptance threshold is exceeded. Therefore, even if the Minimum Elections Threshold and Minimum Holding Threshold are satisfied and you have validly elected to receive the Scrip Consideration for all your Patties Shares, you may still receive the Cash Consideration for some of your Patties Shares. The extent of the Scrip Scale Back will depend on the number of Patties Shareholders who make a valid Election to receive the Scrip Consideration. The Minimum Holding Threshold and the application of the Scrip Scale Back is calculated as at the Election Date and Patties will announce to ASX on Tuesday, 23 August 2016 the results of the Election process and whether the Minimum Holding Threshold has been satisfied and whether and Scrip Scale Back applies. As to these matters, see Section 1.2(b) of this Explanatory Booklet.
- Therefore, even if you elect to receive the Scrip Consideration, there is no guarantee that you will receive any or all of it.

You should read this Explanatory Booklet in full before electing to receive the Scrip Consideration for some or all of your Patties Shares. In particular, you should carefully read Sections 6, 7 and 8 of this Explanatory Booklet and the Independent Expert's Report in Appendix 1. You should also consider obtaining appropriate professional advice before making any Election to receive the Scrip Consideration.

# 1. Summary of the Scheme

## 1.1 Background

On 2 June 2016, the Patties Board announced that it had entered into a Scheme Implementation Deed with Australasian Foods Bidco Pty Limited (**Bidder**), an entity owned by funds managed or advised by a group of companies which includes Pacific Equity Partners Pty Limited (**PEP**). This followed an earlier announcement on 30 May 2016 noting the receipt of a non-binding, conditional and incomplete proposal from PEP. The Scheme Implementation Deed sets out a framework for Patties to propose a scheme of arrangement between itself and its Shareholders under which Bidder will acquire all of the Patties Shares on issue. A copy of the Scheme Implementation Deed (without its schedules) is included as Appendix 4 to this Explanatory Booklet.

If the Scheme proceeds, Patties will be delisted from ASX and will become a wholly owned subsidiary of Bidder.

For the Scheme to proceed, it must be approved by the requisite majorities of Patties Shareholders at the Scheme Meeting and approved by the Court. There are also other conditions that need to be satisfied before the Scheme proceeds. The key conditions are summarised in Section 1.7 and Section 9.3.

If all of the conditions for the Scheme are satisfied or waived (as applicable), the Scheme will constitute a binding arrangement between Patties and all holders of Patties Shares as at the Scheme Record Date (currently proposed to be 7:00pm on 15 September 2016) to undertake the steps required to:

- transfer all of their Patties Shares to Bidder on the Implementation Date in exchange for the Scheme Consideration; and
- otherwise give effect to the Scheme.

If all of the conditions for the Scheme are satisfied or waived (as applicable), all holders of Patties Shares as at the Scheme Record Date will be bound by the Scheme whether or not they:

- attend the Scheme Meeting;
- vote in favour of the Scheme;
- vote against the Scheme; or
- abstain from voting on the Scheme.

This Section provides a summary of the key commercial elements of the Scheme. This summary should be read in conjunction with the additional detailed information in this Explanatory Booklet.

## 1.2 What you will receive under the Scheme

If the Scheme is approved and implemented:

- the Scheme Consideration will be provided to each person who is recorded in the Register at 7:00pm on the Scheme Record Date as a holder of Patties Shares (**Scheme Shareholder**); and
- all Patties Shares held by each Scheme Shareholder will be transferred to Bidder.

Further information in respect of implementation of the Scheme is set out in Section 10. Your Directors unanimously recommend that Patties Shareholders vote in favour of the Scheme, in the absence of a Superior Proposal.

The Scheme Consideration comprises the Cash Consideration or may comprise or include the Scrip Consideration if you make a valid Election.

### (a) Cash Consideration

The Cash Consideration is \$1.65 cash per Patties Share you hold on the Scheme Record Date less a dividend of up to \$0.25 per Patties Share (**Special Dividend**) that Patties may declare and pay before the Scheme is implemented. Scheme Shareholders are not required to make any election to receive the Cash Consideration. Under the Scheme, a Scheme Shareholder will receive the Cash Consideration for all the Scheme Shareholder's Patties Shares in the absence of a valid Election to receive the Scrip Consideration.

The payment and amount of the Special Dividend is at the discretion of the Patties Board. If Patties does not declare a Special Dividend, or declares a Special Dividend of less than \$0.25 per Patties Share, the Cash Consideration will be increased by the corresponding amount, such that the total cash payments received by Patties Shareholders who receive the Cash Consideration remain \$1.65 per Patties Share.

### (b) Scrip Consideration

As an alternative to receiving the Cash Consideration for all of your Patties Shares, you may make an election to receive the Scrip Consideration for between 40% to 100% of your Patties Shares (**Election**) by completing and returning the Election Form which accompanies this Explanatory Booklet. An Election will only be valid if it is made using the Election Form and is received by the Share Registry no later than 5:00pm on the Election Date (being Monday, 22 August 2016). Patties Shareholders who are Foreign Scheme Shareholders will not receive Scrip Consideration even if they make an Election.

The Scrip Consideration is one Class B Share in HoldCo, a newly incorporated unlisted company, for each Patties Share in respect of which you make a valid Election. Elections are subject to the Minimum Elections Threshold and Minimum Holding Threshold being satisfied. Elections are also subject to the Scrip Scale Back if the maximum acceptance threshold is exceeded.

The Independent Expert has assessed the current value of the total payments under the Scrip Consideration to be between:

- **\$1.04** and **\$1.31** for each Class B Share (inclusive of a Special Dividend of \$0.25 per Patties Share) – if a Patties Shareholder makes a valid Election to receive the Scrip Consideration for 100% of their Patties Shares; or
- **\$1.40** and **\$1.52** for each Class B Share (inclusive of a Special Dividend of \$0.25 per Patties Share) – if a Patties Shareholder makes a valid Election to receive the Scrip Consideration for 40% of their Patties Shares (being the Minimum Elections Threshold) and receives the Cash Consideration in respect of 60% of their Patties Shares.

In both scenarios, the Independent Expert has assumed that Patties declares a Special Dividend of \$0.25 per Patties Share, that Patties Shareholders making an Election receive that dividend (i.e. that they hold their Shares on the Special Dividend Record Date) and that a Patties Shareholder's Election is satisfied in full (i.e. that no Scrip Scale Back applies). In both scenarios, the Independent Expert's valuation of the Scrip Consideration is lower than the Independent Expert's valuation range of \$1.53 to \$1.71 for each Patties Share. It is also lower than the total cash payments of \$1.65 per Share (currently expected to comprise the Special Dividend and the Cash Consideration).

Please refer to the Independent Expert's Report in Appendix 1 to this Explanatory Booklet for further information. There is no assurance that the future value of the Scrip Consideration will be higher than the value of the Cash Consideration.

Patties Shareholders who receive the Scrip Consideration for some or all of their Patties Shares will become parties to the Shareholders' Deed in respect of HoldCo. Under the terms of the Shareholders' Deed, Class B Shareholders will have different rights to those currently applicable to Patties Shares. A summary of the Shareholders' Deed and a summary of the rights attaching to Class B Shares (including risks associated with an investment in HoldCo) is set out in Section 7. A copy of the Shareholders' Deed is included as Appendix 6 to this Explanatory Booklet.

The notional issue price of the Scrip Consideration will be equal to the value of the Cash Consideration. If Patties does not declare a Special Dividend, or declares a Special Dividend of less than \$0.25 per Patties Shares, the notional issue price of the Scrip Consideration will be increased by the corresponding amount, such that the total notional value received by Patties Shareholders who elect to receive the Scrip Consideration remains \$1.65 per Patties Share. For example:

- if no Special Dividend is declared, the Cash Consideration payable under the Scheme would be \$1.65 per Scheme Share and the notional issue price of the Scrip Consideration will be \$1.65 per Class B Share; or
- if a Special Dividend is declared and it is set at the maximum of \$0.25 per Patties Share, the notional issue price of the Scrip Consideration will be \$1.40 per Class B Share and you will also be eligible to receive that Special Dividend.

Patties Shareholders considering whether or not to make an Election to receive the Scrip Consideration should note that the notional issue price of a Class B Share does not equal or otherwise reflect the underlying economic value of that Class B Share. The notional issue price of a Class B Share is a function of a range of factors including the amount of any Special Dividend (if declared by the Patties Board) and the corresponding effect on the level of Patties' debt as a result of the payment of any Special Dividend. Please refer to the illustrative examples in Section 1.4 of this Explanatory Booklet which sets out how the notional issue price of a Class B Share varies based on different scenarios and the Independent Expert's valuation range for Class B Shares in those scenarios.

You should carefully read Sections 6, 7 and 8 of this Explanatory Booklet and the Independent Expert's Report in Appendix 1 before making any Election to receive the Scrip Consideration. You should also consider obtaining professional advice that is appropriate to your specific circumstances.

#### (i) Minimum Elections Threshold

The Minimum Elections Threshold requires that an Election to receive the Scrip Consideration will only be valid if it relates to at least 40% of the Patties Shares that you hold on the Scheme Record Date. Unless the Minimum Elections Threshold is satisfied, you will not receive the Scrip Consideration and will receive the Cash Consideration for each of your Patties Shares.

#### (ii) Minimum Holding Threshold

The Minimum Holding Threshold requires that the total number of Class B Shares for which Scheme Shareholders in aggregate have made valid Elections equals or exceeds 5,555,555 Class B Shares in the capital of HoldCo following implementation of the Scheme.

Unless the Minimum Holding Threshold is satisfied, the Scrip Consideration will not be available and all Scheme Shareholders who made Elections for Scrip Consideration will receive the Cash Consideration for each of their Patties Shares. The Minimum Holding Threshold is calculated as at the Election Date and Patties will announce to ASX on Tuesday, 23 August 2016 the results of the Election process and whether the Minimum Holding Threshold has been satisfied.

#### (iii) Scrip Scale Back

The Scrip Scale Back applies if the total number of Class B Shares for which Scheme Shareholders in aggregate have made valid Elections exceeds 50,000,000 Class B Shares in the capital of HoldCo following implementation of the Scheme. If that is the case, there will be a scale back applied on a pro rata basis such that the total number of issued Class B Shares does not exceed 50,000,000 Class B Shares on issue immediately after implementation of the Scheme.

The extent of the Scrip Scale Back will depend on the number of Patties Shares that are subject to valid Elections and will be calculated as at the Election Date. Patties will announce to ASX on Tuesday, 23 August 2016 the results of the Election process and whether the Scrip Scale Back applies.

Where the Scrip Scale Back applies, each Scheme Shareholder who made a valid Election will receive the number of Class B Shares as reduced by the pro rata scale back (with any fractions rounded down to the nearest whole number of Class B Shares) and will receive the Cash Consideration for each Patties Share in respect of which Scrip Consideration is not issued.

#### (iv) How to make an Election to receive the Scrip Consideration

To make an Election to receive the Scrip Consideration instead of the Cash Consideration for between 40% to 100% of your Patties Shares, you must complete and return the Election Form which accompanies this Explanatory Booklet. An Election will only be valid if it is made using the Election Form and is received by the Share Registry no later than 5:00pm on the Election Date (being Monday, 22 August 2016). Patties Shareholders who are Foreign Scheme Shareholders will not receive Scrip Consideration even if they make an Election.

A Patties Shareholder who makes an Election may subsequently vary or withdraw it by lodging a replacement Election Form so that it is received before 5.00pm (Melbourne time) on the Election Date. The last valid Election Form received by the Share Registry before 5.00pm (Melbourne time) on the Election Date will be used to determine that Patties Shareholders' Election and will also apply to the total number of Patties Shares held by that Patties Shareholder on the Scheme Record Date (currently proposed to be 7:00pm on Thursday, 15 September 2016). Patties Shareholders who do not submit a valid Election Form to the Share Registry, or who submit an Election Form to the Share Registry after 5:00pm on the Election Date (being Monday, 22 August 2016), will automatically receive the Cash Consideration. Election Forms, duly completed in accordance with the instructions set out on the Election Form, may be returned to the Share Registry by:

- **posting your Election Form in the reply paid envelope provided to:**

Computershare Investor Services Pty Limited  
GPO Box 242  
Melbourne Victoria Australia 3001

- **hand delivering your Election Form to:**

Computershare Investor Services Pty Limited  
Yarra Falls, 452 Johnston Street  
Abbotsford Victoria 3067

You may withdraw an Election by giving notice in writing to the Share Registry before 5:00pm on the Election Date by post or in person as set out above.

### 1.3 The Special Dividend

If a Special Dividend of up to \$0.25 per Patties Share is declared, it will be paid to all persons registered as Patties Shareholders as at the Special Dividend Record Date (expected to be 7:00pm on Thursday, 8 September 2016), being the fifth Business Day prior to the Scheme Record Date (currently proposed to be 7:00pm Thursday, 15 September 2016). The Special Dividend is expected to be fully franked.

Although the exact value of the Special Dividend is not known at the date of this Explanatory Booklet, if Patties does not declare a Special Dividend, or declares a Special Dividend of less than \$0.25 per Patties Shares, the Scheme Consideration will be increased by the corresponding amount, such that the total payments received by Patties Shareholders who participate in the Scheme remain \$1.65 per Patties Share. For example:

- if you do not make a valid Election and receive the Cash Consideration in respect of all of your Patties Shares, the Cash Consideration will be increased by the amount that the Special Dividend declared by the Patties Board is less than \$0.25 per Patties Share; or
- if you make a valid Election to receive the Scrip Consideration and are issued the Scrip Consideration in respect of all of your Patties Shares, the notional issue price of the Class B Shares issued to you will be increased by the amount that the Special Dividend declared by the Patties Board is less than \$0.25 per Patties Share. In this case, the notional issue price of Class A shares issued to the PEP shareholders will be increased by the same amount.

Patties Shareholders considering whether or not to make an Election to receive the Scrip Consideration should note that the notional issue price of a Class B Share does not equal or otherwise reflect the underlying economic value of that Class B Share. The notional issue price of a Class B Share is a function of a range of factors including the amount of any Special Dividend (if declared by the Patties Board) and the corresponding effect on the level of Patties' debt as a result of the payment of any

Special Dividend. Please refer to the illustrative examples in Section 1.4 of this Explanatory Booklet which sets out how the notional issue price of a Class B Share varies based on different scenarios and the Independent Expert's valuation range for Class B Shares in those scenarios.

Patties Shareholders should note the following important points in relation to the Special Dividend and the Scheme:

- if Patties Shareholders or the Court do not approve the Scheme, the Patties Board does not intend to declare or authorise any Special Dividend;
- the expected record date for determining entitlements to participate in the Special Dividend (**Special Dividend Record Date**) is 7:00pm on Thursday, 8 September 2016;
- the expected record date for determining entitlements to participate in the Scheme (**Scheme Record Date**) is 7:00pm on Thursday, 15 September 2016;
- due to the different record dates that apply to the Special Dividend, on the one hand, and the Scheme, on the other, only those persons registered as a Patties Shareholder on *both* the Special Dividend Record Date and the later Scheme Record Date will be entitled to receive the Special Dividend and participate in the Scheme;
- if you buy (additional) Patties Shares after the Special Dividend Record Date and before the Scheme Record Date, those Shares will not carry any right to the Special Dividend;
- therefore, Patties Shareholders should take careful note of the key dates applying to the Special Dividend and the Scheme as set out in the section entitled 'Important Dates and Times' at the beginning of this Explanatory Booklet. Any acquisitions or disposals of Patties Shares before or during these key dates will affect your entitlement to receive the Special Dividend and participate in the Scheme; and
- if the Scheme becomes Effective, the Special Dividend will be paid on the Special Dividend Payment Date (currently proposed to be Wednesday, 14 September 2016).

### 1.4 Illustrative examples

#### (a) Cash Consideration – outcomes under different scenarios

The table below illustrates the outcomes for those Patties Shareholders who do not make an Election under different scenarios, assuming the Scheme is approved and implemented:

Scenario	What you receive	Total (ignoring the potential further value of any franking credit benefits)
No Special Dividend is declared	\$1.65 cash for each Share you hold at the Scheme Record Date (paid by Bidder)	<b>\$1.65</b> Cash Consideration for each Share
A Special Dividend of \$0.25 per Share is declared	\$0.25 cash for each Share you hold at the Special Dividend Record Date (paid by Patties) <i>Plus</i> \$1.40 cash for each Share you hold at the Scheme Record Date (paid by Bidder)	\$0.25 Special Dividend + \$1.40 Cash Consideration = <b>\$1.65</b> cash for each Share
A Special Dividend of \$0.18 per Share is declared	\$0.18 cash for each Share you hold at the Special Dividend Record Date (paid by Patties) <i>Plus</i> \$1.47 cash for each Share you hold at the Scheme Record Date (paid by Bidder)	\$0.18 Special Dividend + \$1.47 Cash Consideration = <b>\$1.65</b> for each Share

**(b) 100% Scrip Consideration – outcomes under different scenarios**

The notional issue price of the Scrip Consideration will be equal to the value of the Cash Consideration. If Patties does not declare a Special Dividend, or declares a Special Dividend of less than \$0.25 per Patties Share, the notional issue price of the Scrip Consideration will be increased by the corresponding amount, such that the total notional value received by Patties Shareholders who elect to receive the Scrip Consideration remains \$1.65 for each Patties Share.

The table below shows the outcomes for those Patties Shareholders who make an Election for 100% of their Patties Shares, assuming the Minimum Holding Threshold is satisfied, no Scrip Scale Back applies and the Scheme is approved and implemented:

Scenario	What you receive	Total
Shareholder makes a 100% Election <i>and</i> A Special Dividend of \$0.25 per Share is declared	\$0.25 cash for each Share you hold at the Special Dividend Record Date (paid by Patties) <i>Plus</i> One Class B Share for each Share you hold at the Scheme Record Date (issued by HoldCo)	Special Dividend of \$0.25 cash + notional issue price of Class B Share of \$1.40 = <b>\$1.65</b> for each Share
Shareholder makes a 100% Election <i>and</i> A Special Dividend of \$0.18 per Share is declared	\$0.18 cash for each Share you hold at the Special Dividend Record Date (paid by Patties) <i>Plus</i> One Class B Share for each Share you hold at the Scheme Record Date (issued by HoldCo)	Special Dividend of \$0.18 cash + notional issue price of Class B Share of \$1.47 = <b>\$1.65</b> for each Share
Shareholder makes a 100% Election <i>and</i> No Special Dividend is declared	One Class B Share for each Share you hold at the Scheme Record Date (issued by HoldCo)	Notional issue price of Class B Share = <b>\$1.65</b> for each Share

You should note that the notional issue price of a Class B Share does not equal or otherwise reflect the underlying economic value of that Class B Share. In particular, Patties Shareholders should note that although the notional issue price of the Class B Shares may vary, the Independent Expert has assessed the current value of the total payments under the Scrip Consideration to be between **\$1.04** and **\$1.31** for each Class B Share (inclusive of a Special Dividend of \$0.25 per Patties Share) where, as in the illustrative table above, a Patties Shareholder makes a valid Election to receive the Scrip Consideration for 100% of their Patties Shares. In its valuation of the Scrip Consideration, the Independent Expert states<sup>4</sup>:

*Notwithstanding that Class B shares have the same economic interest as shares in PFL, as a result of the limitations on both the marketability of Class B shares and the possibility of control over HoldCo, we are of the opinion that the value of a Class B share (which entitles a holder to a minority interest in HoldCo) will be less than the value of a share in PFL on a control basis. This premise of value underlies our assessment of the value of the Scrip Consideration.*

**(c) Partial Scrip Consideration and Cash Consideration – outcomes under different scenarios**

The notional issue price of the Scrip Consideration will be equal to the value of the Cash Consideration. If Patties does not declare a Special Dividend, or declares a Special Dividend of less than \$0.25 per Patties Share, the notional issue price of the Scrip Consideration will be increased by the corresponding amount, such that the total notional value received by Patties Shareholders who elect to receive the Scrip Consideration remains \$1.65 per Patties Share.

The table below shows the outcomes for those Patties Shareholders who make a partial Election, assuming the Minimum Holding Threshold is satisfied, no Scrip Scale Back applies and the Scheme is approved and implemented. This example is based on a partial Election to receive 40% Scrip Consideration with the remainder of the Scheme Consideration being in the form of Cash Consideration.

Scenario	What you receive	Total
Shareholder makes a partial Election (e.g. 40%) <i>and</i> A Special Dividend of \$0.25 per Share is declared	\$0.25 cash for each Share you hold at the Special Dividend Record Date (paid by Patties) <i>Plus</i> \$1.40 cash for 60% of that number of Shares you hold at the Scheme Record Date (paid by Bidder) <i>Plus</i> One Class B Share for 40% of that number of Shares you hold at the Scheme Record Date (issued by HoldCo)	Special Dividend of \$0.25 cash + \$1.40 Cash Consideration = <b>\$1.65</b> cash for each Share (for 60% of your holding)  Special Dividend of \$0.25 cash + notional issue price of Class B Share of \$1.40 = <b>\$1.65</b> for each Share (for 40% of your holding)

4. Independent Expert's Report, Introduction

Scenario	What you receive	Total
Shareholder makes a partial Election (e.g. 40%) <i>and</i> A Special Dividend of \$0.18 per Share is declared	\$0.18 cash for each Share you hold at the Special Dividend Record Date (paid by Patties)  <i>Plus</i> \$1.47 cash for 60% of that number of Shares you hold at the Scheme Record Date (paid by Bidder)  <i>Plus</i> One Class B Share for 40% of that number of Shares you hold at the Scheme Record Date (issued by HoldCo)	Special Dividend of \$0.18 cash + \$1.47 Cash Consideration = <b>\$1.65</b> cash for each Share (for 60% of your holding)  Special Dividend of \$0.18 cash + notional issue price of Class B Share of \$1.47 = <b>\$1.65</b> for each Share (for 40% of your holding)
Shareholder makes a partial Election (e.g. 40%) <i>and</i> No Special Dividend is declared	\$1.65 cash for 60% of that number of Shares you hold at the Scheme Record Date (paid by Bidder)  <i>Plus</i> One Class B Share for 40% of that number of Shares you hold at the Scheme Record Date (issued by HoldCo)	<b>\$1.65</b> Cash Consideration for each Share (for 60% of your holding)  Notional issue price of Class B Share of \$1.65 = <b>\$1.65</b> for each share (for 40% of your holding)

You should note that the notional issue price of a Class B Share does not equal or otherwise reflect the underlying economic value of that Class B Share. In particular, Patties Shareholders should note that although the notional issue price of the Class B Shares may vary, the Independent Expert has assessed the current value of the total payments under the Scrip Consideration to be between **\$1.40** and **\$1.52** for each Class B Share (inclusive of a Special Dividend of \$0.25 per Patties Share) where, as in the illustrative table above, a Patties Shareholder makes a valid Election to receive the Scrip Consideration for 40% of their Patties Shares (being the Minimum Elections Threshold) and receives the Cash Consideration in respect of 60% of their Patties Shares. In its valuation of the Scrip Consideration, the Independent Expert states<sup>5</sup>:

*Notwithstanding that Class B shares have the same economic interest as shares in PFL, as a result of the limitations on both the marketability of Class B shares and the possibility of control over HoldCo, we are of the opinion that the value of a Class B share (which entitles a holder to a minority interest in HoldCo) will be less than the value of a share in PFL on a control basis. This premise of value underlies our assessment of the value of the Scrip Consideration.*

## 1.5 Provision of Scheme Consideration and Special Dividend

### (i) Cash Consideration

The Cash Consideration will be paid to those eligible Patties Shareholders<sup>6</sup> who do not make a valid Election to receive Scrip Consideration or, having made a valid Election, do not receive the Scrip Consideration in respect of all of their Elections as a result of either the Minimum Elections Threshold or the Minimum Holding Threshold not having been met or as a result of the operation of the Scrip Scale Back.

The Cash Consideration will be paid on the Implementation Date, which is currently proposed to be 22 September 2016. Patties Shareholders who have validly registered their bank account details with the Share Registry (by the Scheme Record Date) will have the Cash Consideration credited directly to their registered bank account. Patties Shareholders who have not registered their bank account details with the Share Registry (by the Scheme Record Date) will have their Cash Consideration sent by cheque to the address shown on the Share Register. See clause 5.4 of the Scheme contained in Appendix 2 for further details.

### (ii) Scrip Consideration

Assuming the Minimum Elections Threshold and the Minimum Holding Threshold are met and subject to the Scrip Scale Back, Shareholders who have validly elected to receive the Scrip Consideration will be issued Class B Shares in respect of their Patties Shares that are the subject of the valid Election.

The Class B Shares will be issued on the Implementation Date. Shareholders who make an Election will receive notification of their holding of Class B Shares shortly after that date.

### (iii) Special Dividend

Subject to the Scheme being approved by the Court, the Special Dividend (if declared) will be paid to each person who is registered on the Share Register as a Patties Shareholder as at the Special Dividend Record Date (7.00pm on Tuesday, 8 September 2016). The Special Dividend will be paid on the Special Dividend Payment Date (currently proposed to be 14 September 2016).

## 1.6 Taxation implications

If the Scheme proceeds, all holders of Patties Shares as at the Scheme Record Date (currently proposed to be 7:00pm on 15 September 2016) will transfer all of their Patties Shares to Bidder on the Implementation Date (currently proposed to be 22 September 2016), in exchange for payment of the Scheme Consideration.

A general outline of the taxation implications for Australian resident Patties Shareholders in relation to receiving the Special Dividend and disposing of their Patties Shares under the Scheme is provided in Section 8. The information in that Section is general in nature and should not be relied on by Patties Shareholders as tax advice. Patties Shareholders should obtain their own professional advice on the taxation implications relevant to them arising from the Special Dividend and the Scheme.

5. Independent Expert's Report, Introduction

6. Being those persons registered as Patties Shareholders on the Scheme Record Date.

## 1.7 Scheme Conditions

The Scheme is subject to a number of conditions, including:

- the Scheme being approved by Patties Shareholders at the Scheme Meeting by:
  - unless the Court orders otherwise, a majority in number of the Patties Shareholders present and voting at the Scheme Meeting (in person or by proxy, attorney, or, in the case of a corporate Patties Shareholder or proxy, corporate representative); and
  - at least 75% of the total number of votes which are cast at the Scheme Meeting (in person or by proxy, attorney, or, in the case of a corporate Patties Shareholder or proxy, corporate representative);
- the Scheme being approved by the Court;
- the receipt of regulatory approval from FIRB necessary for the implementation of the Scheme; and
- there being no Material Adverse Change, no Patties Prescribed Occurrence, no breach of any Patties Warranties and no breach of any Bidder Warranties.

The Scheme Conditions are discussed in more detail in Section 9.3. They are set out in clause 3 of the Scheme Implementation Deed, included as Appendix 4 to this Explanatory Booklet, and in clause 3 of the Scheme in Appendix 2 to this Explanatory Booklet.

At the date of this Explanatory Booklet, neither Patties nor any of the Patties Directors are aware of any circumstances that would cause any of the Scheme Conditions not to be satisfied or which could result in termination of the Scheme Implementation Deed.

Patties will make a statement regarding the status of all of the Scheme Conditions at the commencement of the Scheme Meeting.

## 1.8 Directors' recommendation and intentions

The Patties Directors unanimously recommend that Patties Shareholders vote in favour of the Scheme, in the absence of a Superior Proposal. Subject to that same qualification, each Director intends to vote all Patties Shares held or controlled by them in favour of the Scheme. As at the date of this Explanatory Booklet, your Directors hold or control in aggregate approximately 15.40% of all Patties Shares on issue.

In forming their unanimous recommendation your Directors have carefully considered the conditions, advantages, disadvantages and risks of the Scheme. These matters are described in more detail in Section 4 and in the Independent Expert's Report in Appendix 1. Your Directors consider that the advantages of the Scheme outweigh its disadvantages and risks.

## 1.9 Independent Expert's conclusion

Patties engaged the Independent Expert, Deloitte Corporate Finance Pty Limited, to prepare a report expressing an opinion on whether the Scheme is fair and reasonable and in the best interests of Patties Shareholders.

The Independent Expert has assessed the fair market value of a Patties Share, on a fully diluted controlling interest basis, to be between \$1.53 and \$1.71. The total cash payments of \$1.65 per Share (currently expected to comprise the Special Dividend and the Cash Consideration) are within this range.

The Independent Expert has concluded that, in the absence of a Superior Proposal, the Scheme is fair and reasonable and therefore in the best interests of the Patties Shareholders.

The Independent Expert has assessed the current value of the total payments under the Scrip Consideration to be between:

- **\$1.04** and **\$1.31** for each Class B Share (inclusive of a Special Dividend of \$0.25 per Patties Share) – if a Patties Shareholder makes a valid Election to receive the Scrip Consideration for 100% of their Patties Shares; or
- **\$1.40** and **\$1.52** (inclusive of a Special Dividend of \$0.25 per Patties Share) – if a Patties Shareholder makes a valid Election to receive the Scrip Consideration for 40% of their Patties Shares (being the Minimum Elections Threshold) and receives the Cash Consideration in respect of 60% of their Patties Shares.

In both scenarios, the Independent Expert has assumed that Patties declares a Special Dividend of \$0.25 per Patties Share, that Patties Shareholders making an Election receive that dividend (i.e. that they hold their Shares on the Special Dividend Record Date) and that a Patties Shareholder's Election is satisfied in full (i.e. that no Scrip Scale Back applies). In both scenarios, the Independent Expert's valuation of the Scrip Consideration is lower than the Independent Expert's valuation range of \$1.53 to \$1.71 for each Patties Share. It is also lower than the total cash payments of \$1.65 per Share (currently expected to comprise the Special Dividend and the Cash Consideration).

Please refer to the Independent Expert's Report in Appendix 1 to this Explanatory Booklet for further information. There is no assurance that the future value of the Scrip Consideration will be higher than the value of the Cash Consideration. The Independent Expert's Report is included as Appendix 1. You should read that report as part of your assessment of the Scheme. Section 4 contains a summary of the key conclusions of the Independent Expert in relation to the Scheme.

## 1.10 Warranties provided by Patties Shareholders

The Scheme provides that Patties Shareholders who hold Patties Shares as at the Scheme Record Date (currently proposed to be 7:00pm on 15 September 2016) are taken to have warranted to Patties and Bidder that as at the Implementation Date:

- all of their Patties Shares (including any rights and entitlements attaching to those shares) transferred to Bidder under the Scheme will, at the date of transfer, be fully paid and free from mortgages, charges, liens, encumbrances, pledges, security interests (including any *security interests* within the meaning of section 12 of the *Personal Property Securities Act 2009* (Cth)) and other interests of third parties of any kind, whether legal or otherwise, and restrictions of transfer of any kind;
- they have full power and capacity to sell and transfer their Patties Shares (including any rights and entitlements attaching to those shares) to Bidder under the Scheme;
- all of the Patties Shares transferred to Bidder under the Scheme are fully paid; and
- they have no existing right to be issued any Patties Shares, options exercisable into Patties Shares, Patties Performance Rights, Patties convertible notes or any other Patties securities, other than, in the case of any Scheme Shareholder who is also the holder of Patties Performance Rights, the right to be issued Patties Shares on the exercise of those Patties Performance Rights before the Scheme Record Date in accordance with their terms.

## 1.11 Exclusivity and break fee arrangements

Under the Scheme Implementation Deed:

- Patties has agreed to certain exclusivity arrangements in favour of Bidder;

- Patties has agreed in certain circumstances to pay Bidder a break fee of \$2,300,000 (plus GST) (**Patties Break Fee**); and
- Bidder has agreed in certain circumstances to pay Patties a break fee of \$2,300,000 (plus GST) (**Reverse Break Fee**).

The Patties Break Fee triggers do not include a situation where the Scheme does not proceed simply because Patties Shareholders do not approve the Scheme at the Scheme Meeting to be held on Friday, 26 August 2016.

Please refer to Sections 4.5(d) for further information on these exclusivity and break fee arrangements and to clauses 14, 15 and 16 of the Scheme Implementation Deed in Appendix 4 for the complete terms of these arrangements.

## 1.12 Competing proposals

Your Directors' recommendation of the Scheme is qualified as applying in the absence of a Superior Proposal. As at the date of this Explanatory Booklet, no Superior Proposal has been received and your Directors are not aware of any approach that may result in a Superior Proposal emerging. As part of the exclusivity arrangements described in Section 4.5(d), Patties has agreed not to solicit, invite or encourage any Competing Proposal. However, these restrictions do not prevent Patties from considering an unsolicited Competing Proposal.

If a Competing Proposal for Patties emerges prior to the Scheme Meeting, your Directors will carefully consider the proposal to determine whether it is a Superior Proposal and will inform you of any material developments which may affect your Directors' view that the Scheme is presently the most favourable proposal for all your Patties Shares. If a Superior Proposal is announced, Patties may be obliged to pay a break fee of \$2,300,000 (plus GST) to Bidder.

Please see Section 4.4(c) for further discussion about the implications of any Competing Proposal that may emerge.

## 1.13 Implementation timetable

If all necessary approvals and conditions for the Scheme are satisfied or waived (as applicable), it is proposed that the Scheme will be implemented on the Implementation Date (currently proposed to be 22 September 2016). The Scheme will apply to and bind all persons registered as Patties Shareholders as at the Scheme Record Date (currently proposed to be 7:00pm on 15 September 2016). These persons are referred to in the Scheme and in this Explanatory Booklet as **Scheme Shareholders**. Importantly, the Scheme provides that Scheme Shareholders will not have their Patties Shares transferred to Bidder unless:

- on the Business Day before the Implementation Date (currently proposed to be 22 September 2016), Bidder has deposited in cleared funds an amount equal to the aggregate amount of cash comprised in the Scheme Consideration payable to Scheme Shareholders into a trust account operated by the Share Registry (**Trust Account**);
- before 12 noon (or such later time as Bidder and Patties may agree) on the Implementation Date, Bidder and HoldCo have procured that the name of each Scheme Shareholder (if any) entitled to receive Class B Shares under the Scheme is entered in HoldCo's register of members as the holder of those Class B Shares; and
- on the Implementation Date and subject to the funds having been deposited by Bidder into the Trust Account, Patties has paid or procured the payment of the cash component of the Scheme Consideration to each Scheme Shareholder from the Trust Account.

Only once these three steps have occurred will all Patties Shares be transferred to Bidder under the Scheme.

Within five Business Days after the Implementation Date, Bidder must send or procure the sending of a certificate to each Scheme Shareholder entitled to receive Class B Shares under the Scheme, reflecting the issue of such Class B Shares.

In addition Bidder and HoldCo have executed a deed poll in favour of all Scheme Shareholders under which, subject to the Scheme becoming Effective, Bidder and HoldCo undertake to provide the Scheme Consideration in accordance with the Scheme (a copy of the Deed Poll is contained in Appendix 5 to this Explanatory Booklet).

On 1 June 2016, Bidder, HoldCo and FinCo entered into binding commitment letters (**Equity Commitment Letters**) with the shareholders of PEP, under which the shareholders of PEP agree to invest in ordinary shares in HoldCo having an aggregate subscription price that is sufficient to fund:

- the payment of transaction costs in connection with the Scheme as contemplated by the Scheme Implementation Deed;
- the payment of the cash component of the Scheme Consideration; and
- repayment of selected indebtedness of Patties,

less any amounts which are the subject of the Debt Commitment Letters.

On 1 June 2016, Bidder entered into commitment letters with certain banks under which the banks agree to arrange and provide facilities of up to \$201,000,000 to ensure that Bidder can satisfy its obligations to complete the acquisition of Patties, subject to the Scheme becoming Effective (**Debt Commitment Letters**).

Having regard to the above matters, the Patties Board considers that Scheme Shareholders are not exposed to any risk that their Shares will be transferred to Bidder without first receiving the Scheme Consideration due to them.

The key dates and times in relation to the Scheme are set out in the 'Important Dates and Times' section at the beginning of this Explanatory Booklet. Sections 9 and 10 describe in further detail the procedural aspects of the Scheme and how it will be implemented.



## 2. Frequently asked questions

Set out below are summary answers to some frequently asked questions about the Scheme. This information is a summary only and is not intended to address all relevant issues for Patties Shareholders. This Section 2 should be read subject to, and in conjunction with, the remainder of this Explanatory Booklet.

### A. QUESTIONS ABOUT THE SCHEME

Question	Answer	Further information
<b>What are Patties Shareholders being asked to consider?</b>	<p>Patties Shareholders are being asked to consider and vote on a proposal to transfer all of their Patties Shares to Bidder, in exchange for Bidder paying \$1.65 cash for each Patties Share they hold on the Scheme Record Date less a Special Dividend of up to \$0.25 per Share that Patties may declare and pay before the Scheme is implemented.</p> <p>There is also a Scrip Consideration alternative to the Cash Consideration under the Scheme which provides Patties Shareholders an opportunity to acquire a continuing indirect minority interest in the Patties business in addition to the Special Dividend.</p> <p>The proposal is structured as a members' scheme of arrangement between Patties and all persons who hold Patties Shares as at the Scheme Record Date (currently proposed to be 7:00pm on 15 September 2016). The proposal is referred to in this Explanatory Booklet as the <b>Scheme</b>.</p> <p>If the Scheme proceeds, Patties will become a wholly owned subsidiary of Bidder and delisted from ASX.</p>	<b>Section 1</b>
<b>Am I entitled to receive the Scheme Consideration?</b>	If you remain a Patties Shareholder as at the Scheme Record Date (currently proposed to be 7:00pm on 15 September 2016), you will be entitled to receive the Scheme Consideration.	<b>Section 1.1(b)</b>
<b>What is a members' scheme of arrangement?</b>	A members' scheme of arrangement is a statutory procedure that is commonly used for corporate reconstructions of solvent companies or to enable one company to acquire or merge with another. In this case, the Scheme is the mechanism by which Bidder proposes to acquire all Patties Shares. The Scheme requires the approval of Patties Shareholders by the majorities described in Section 9.2(e) and also the approval of the Court.	<b>Sections 9 and 10</b>
<b>Is this a takeover offer?</b>	<p>No. However if the Scheme is approved by Patties Shareholders and the Court and if all of the other conditions are satisfied or waived (as applicable) the outcome will be equivalent to a successful 100% takeover bid in that:</p> <ul style="list-style-type: none"> <li>• all of your Patties Shares will be transferred to Bidder; and</li> <li>• you will be entitled to receive the Scheme Consideration in exchange for the transfer of your Patties Shares,</li> </ul> <p>whether or not you were present at the Scheme Meeting and whether or not you voted in favour of or against the resolution to agree to the Scheme or abstained from voting.</p>	<b>Sections 9 and 10</b>
<b>Why has this proposed transaction been structured as a scheme of arrangement?</b>	<p>The Bidder's proposal was predicated on the transaction being structured as a members' scheme of arrangement.</p> <p>This structure provides the greatest certainty that if the Scheme is approved by Patties Shareholders and by the Court and proceeds to implementation, 100% ownership and control of Patties will be acquired by Bidder within a specific timeframe that meets the commercial objectives of both Bidder (as the intended acquirer) and Patties (as the target company).</p>	<b>Sections 9 and 10</b>

Question	Answer	Further information
<b>What are the key conditions that need to be satisfied before the Scheme can proceed?</b>	<p>The key remaining Scheme Conditions that must be satisfied or waived (as applicable) are:</p> <ul style="list-style-type: none"> <li>• Patties Shareholders agreeing to the Scheme by the requisite majorities at the Scheme Meeting;</li> <li>• the Court approving the Scheme;</li> <li>• there being no Patties Prescribed Occurrence and no breach of any Patties Warranties;</li> <li>• there being no breach of any Bidder Warranties; and</li> <li>• the receipt of regulatory approval from FIRB.</li> </ul> <p>Patties will make a statement at the commencement of the Scheme Meeting regarding the status of these conditions.</p>	<b>Sections 1.7 and 9.3</b>
<b>If the Scheme proceeds, what will be the effect?</b>	<p>If the Scheme proceeds, Patties will become a wholly owned subsidiary of Bidder and Bidder will control Patties. Patties will be de-listed from ASX. Scheme Shareholders will receive their Scheme Consideration on the Implementation Date (currently proposed to be 22 September 2016).</p>	<b>Sections 9.2 and 10.5</b>
<b>Who is Bidder and what are its intentions regarding Patties?</b>	<p>Australasian Foods Bidco Pty Limited is an entity owned by funds managed or advised by Pacific Equity Partners Pty Limited (<b>PEP</b>). See Section 6.5 for a summary of Bidder's intention regarding Patties if the Scheme is approved and implemented.</p>	<b>Section 6</b>
<b>If the Scheme is not approved, what will be the effect?</b>	<p>If the Scheme is not approved by Patties Shareholders or is not approved by the Court:</p> <ul style="list-style-type: none"> <li>• Bidder will not acquire any Patties Shares under the Scheme;</li> <li>• you will not receive the Special Dividend;</li> <li>• you will not receive the Scheme Consideration;</li> <li>• Patties will remain listed on ASX;</li> <li>• you will retain your current investment in Patties Shares and in doing so will continue to retain the benefits of an investment in Patties Shares and continue to be exposed to the risks presently associated with this investment. These include general risks of holding shares and risks that are specific to Patties business as described in Section 5.10;</li> <li>• the advantages of the Scheme, as outlined in Section 4.3, will not be realised;</li> <li>• equally, the disadvantages of the Scheme identified in Section 4.4 will no longer be relevant;</li> <li>• Patties will have incurred substantial costs and expended management time and resources for a proposed change of control transaction that does not proceed; and</li> <li>• your Directors currently anticipate that the price of Patties Shares on ASX may fall below their current trading levels, in the absence of a Superior Proposal, and all other things remaining equal.</li> </ul>	<b>Sections 5.10, 4.3 and 4.4</b>
<b>What happens if a Competing Proposal for Patties emerges?</b>	<p>Although no Competing Proposal has emerged as at the date of this Explanatory Booklet, it is possible that one could emerge, noting that Patties has agreed not to solicit Competing Proposals. If an unsolicited Competing Proposal for Patties is received before the Scheme Meeting, your Directors will carefully consider it to determine whether it is a Superior Proposal and will inform you of any material developments which may affect your Directors' view that the Scheme is presently the most favourable proposal for all of your Patties Shares.</p> <p>Bidder has a right to match any unsolicited Competing Proposal if one is received by Patties. Any change of your Directors' current recommendation in response to a Competing Proposal that is announced, may result in Patties being obliged to pay a break fee of \$2.3 million (plus GST) to Bidder.</p>	<b>Sections 1.12 and 9.4</b>

Question	Answer	Further information
<b>Can I sell my Patties Shares now?</b>	<p>Yes. Patties Shareholders may sell their Patties Shares on ASX at the prevailing market price at any time before the close of trading on ASX on the Effective Date (which is currently proposed to be 5 September 2016). You will not be able to sell your Patties Shares on market after the Effective Date, as this will be the last day of trading in Patties Shares on ASX before trading in Patties Shares on ASX is suspended.</p> <p>You may however seek to sell your Patties Shares off-market after the Effective Date but before the Scheme Record Date (currently proposed to be 7:00pm on 15 September 2016).</p> <p>If you sell your Patties Shares before the Scheme Record Date you:</p> <ul style="list-style-type: none"> <li>• will receive the proceeds from the sale of your Patties Shares sooner than you would receive payment under the Scheme (noting that your sale proceeds may vary from the Scheme Consideration);</li> <li>• may incur a brokerage charge if you sell your Patties Shares on market;</li> <li>• will not be able to participate in the Scheme or a Superior Proposal, if one emerges; and</li> <li>• you may not be eligible to receive the Special Dividend (if it is declared), noting that the Special Dividend Record Date is expected to be 5 Business Days before the Scheme Record Date.</li> </ul>	<b>Section 4.6</b>
<b>Will I be giving any warranties in respect of my Patties Shares?</b>	<p>Each Scheme Shareholder will be taken to have warranted to Patties, and appointed and authorised Patties as its attorney and agent to warrant to Bidder, that all of their Patties Shares (including any rights and entitlements attaching to the Shares) which are transferred under the Scheme will, at the date of transfer, be fully paid and free from all mortgages, charges, liens, encumbrances, pledges, security interests and interests of third parties of any kind, whether legal or otherwise, and restrictions on transfer of any kind, and that they have full power and capacity to transfer the Scheme Shares to Bidder together with any rights attaching to the Scheme Shares.</p>	<b>Section 9.2(f)</b>
<b>Under what circumstances can Bidder terminate the Scheme Implementation Deed?</b>	<p>The Scheme Implementation Deed will automatically terminate if Patties Shareholders do not approve the Scheme at the Scheme Meeting.</p> <p>Bidder may terminate the Scheme Implementation Deed if:</p> <ul style="list-style-type: none"> <li>• a Material Adverse Change occurs up to the Delivery Time on the Second Court Date; or</li> <li>• any director of Patties withdraws or adversely modifies their recommendation of the Scheme or recommends or supports a Competing Proposal.</li> </ul> <p>In addition, there are also other circumstances where either Bidder or Patties may terminate the Scheme Implementation Deed, including where:</p> <ul style="list-style-type: none"> <li>• Bidder or Patties is in material breach of its respective obligations under the Scheme Implementation Deed and has failed to remedy the breach within five Business Days of notice in writing requesting the party to remedy the breach;</li> <li>• a condition precedent is not capable of being fulfilled and Patties and the Bidder are unable to reach an outcome within five Business Days;</li> <li>• the Court refuses to make an order directing Patties to convene the Scheme Meeting at the First Court Hearing; or</li> <li>• the Scheme is not Effective by the End Date.</li> </ul>	<b>Section 9.4</b>
<b>I also hold Patties Performance Rights. How will these be dealt with?</b>	<p>All Patties Performance Rights will vest and be exercised by the Performance Rights Holder (or by Patties as attorney for the Performance Rights Holder) and Patties Shares will, on exercise of the Patties Performance Rights, be issued to each Performance Rights Holder prior to the Special Dividend Record Date. The effect of this is that the new Patties Shares issued to holders of Performance Rights will be eligible to receive the Special Dividend and the Scheme Consideration.</p>	<b>Sections 1.1 and 9.6</b>

## B. QUESTIONS ABOUT THE SPECIAL DIVIDEND

Question	Answer	Further Information
What is the Special Dividend?	The Special Dividend is intended to be a fully franked dividend of up to \$0.25 per Patties Share that the Patties Directors may declare, if the Scheme is approved by Shareholders and the Court.	Section 1.3
Am I eligible to receive the Special Dividend?	If you hold Patties Shares on the Special Dividend Record Date, you will be eligible to receive the Special Dividend.	Section 1.3
When will I receive the Special Dividend?	If the Scheme becomes Effective, the Special Dividend will be paid on the Special Dividend Payment Date and the Scheme Consideration will be provided on the Implementation Date.  If the Scheme is not approved by the required majorities of Patties Shareholders at the Scheme Meeting or by the Court, the Special Dividend (and the Scheme Consideration) will not be provided.	Section 1.3
Will I receive any further dividends from Patties?	Under the Scheme Implementation Deed, Patties is permitted to pay a fully franked special dividend up to and including \$0.25 per Patties Share. No further dividends will be paid by Patties if the Scheme is implemented.	N/A
What is the Class Ruling?	Patties has applied to the ATO requesting a Class Ruling to confirm to Patties the key taxation implications of the Scheme and that the impact of the Special Dividend on Patties Shareholders is in accordance with the general description in Section 8 of this Explanatory Booklet.  The Class Ruling has not been finalised as at the date of this Explanatory Booklet. The expected taxation implications for Patties Shareholders are summarised in Section 8.2 of this booklet.	Section 8.2
Will the Special Dividend be franked?	The Special Dividend is intended to be fully franked.	Section 8
Will I get the benefit of franking credits?	To benefit from franking credits attached to the Special Dividend, the requirements as specified in Section 8 will need to be satisfied. These include that the Patties Shareholder is a 'qualified person' in relation to the Special Dividend (requiring that the Patties Shareholder acquired their Patties Shares on or before 31 July 2016 and held them at-risk up until the Scheme Record Date) and that the Commissioner of Taxation does not apply the franking integrity rules. These requirements are expected to be confirmed in the Class Ruling.  If a Special Dividend of \$0.25 per Patties Share is declared and paid, Australian resident Patties Shareholders who are able to realise the full benefit of the franking credits attached to the Special Dividend will receive, subject to their marginal tax rate, an additional benefit valued at up to \$0.107 per Patties Share. Whether or not you will be in a position to derive the full benefit of the franking credits will depend on your individual taxation circumstances.	Section 8

## C. QUESTIONS ABOUT THE SCHEME CONSIDERATION

Question	Answer	Further Information
What is the Scheme Consideration?	The default Scheme Consideration is the Cash Consideration. Alternatively, if you make a valid Election and the Minimum Elections Threshold and Minimum Holding Threshold are met, the Scheme Consideration is the Scrip Consideration (subject to the Scrip Scale Back).	Section 1.2
What is the Cash Consideration?	The Cash Consideration is \$1.65 cash for each Patties Share you hold on the Scheme Record Date less the amount of any Special Dividend that Patties may declare and pay before the Scheme is implemented of up to \$0.25 per Patties Share.	Section 1.2
What is the Scrip Consideration?	The Scrip Consideration consists of one Class B Share in HoldCo for each Patties Share in respect of which you make a valid Election. The Scrip Consideration is only available if the Minimum Elections Threshold and Minimum Holding Thresholds are met and is subject to the Scrip Scale Back.	Section 1.2
Do I need to elect to receive the Cash Consideration?	No. If the Scheme is approved and implemented, Patties Shareholders will automatically receive the Cash Consideration unless they have made a valid Election to receive the Scrip Consideration.	Section 1.2

Question	Answer	Further Information
<b>Who is HoldCo?</b>	Australasian Foods Holdco Pty Limited ACN 612 640 329, the holding company of Bidder and the company that will issue the Scrip Consideration.	<b>Section 7</b>
<b>What is the Shareholders' Deed?</b>	Patties Shareholders who receive the Scrip Consideration for some or all of their Patties Shares will become parties to the Shareholders' Deed. This will occur by automatic operation of the Scheme, without the need for any action on their part. The Shareholders' Deed sets out the rights and obligations of shareholders (including the holders of Class B Shares) in HoldCo. A copy of the Shareholders' Deed is contained in Appendix 6 to this Explanatory Booklet.	<b>Section 7, Appendix 2 and Appendix 6</b>
<b>What are the taxation consequences of receiving the Scheme Consideration and the Special Dividend?</b>	Taxation consequences will depend on your personal taxation and financial circumstances, as well as whether you receive the Cash Consideration and/or the Scrip Consideration. General information about the likely taxation implications is set out in Section 8. However, you should seek your own professional taxation advice about your particular circumstances.	<b>Section 8</b>
<b>Is there a minimum percentage of Patties Shares to which my Election to receive the Scrip Consideration must relate?</b>	Yes, this is the Minimum Elections Threshold. An Election to receive the Scrip Consideration will not be valid if it relates to less than 40% of the Patties Shares that you hold on the Scheme Record Date. If that is the case, you will receive the Cash Consideration for all of your Patties Shares.	<b>Section 1.2</b>
<b>Is the Scrip Consideration subject to a Minimum Holding Threshold?</b>	Yes, this is the Minimum Holding Threshold. If valid Elections to receive the Scrip Consideration are not made by Scheme Shareholders in aggregate in respect of at least 5,555,555 Class B Shares in the capital of HoldCo following implementation of the Scheme, then the Scrip Consideration will not be issued and every Scheme Shareholder will receive the Cash Consideration for all of their Patties Shares whether or not they have made an Election. The Minimum Holding Threshold is calculated as at the Election Date and Patties will announce to ASX on Tuesday, 23 August 2016 the results of the Election process. That announcement will state whether the Minimum Holding Threshold has been satisfied and, if so, whether any Scrip Scale Back will apply.	<b>Section 1.2</b>
<b>What is the Scrip Scale Back?</b>	<p>The Scrip Scale Back applies if the maximum acceptance threshold is exceeded, that is valid Elections made by Scheme Shareholders collectively relate to more than 50,000,000 Class B Shares in the capital of HoldCo following implementation of the Scheme.</p> <p>If that is the case, there will be a scale back applied on a pro rata basis, and you will receive the Cash Consideration for the scaled back portion of your Patties Shares.</p> <p>The extent of the Scrip Scale Back will be calculated as at the Election Date.</p>	<b>Section 1.2</b>
<b>Is CGT roll-over relief available if I elect to receive the Scrip Consideration?</b>	<p>CGT roll-over relief is available for those Patties Shareholders who would make a capital gain from the disposal of any Patties Shares in exchange for Class B Shares (i.e. Scrip Consideration).</p> <p>CGT roll-over relief is therefore not available to non-resident Patties Shareholders unless they hold their Patties Shares in the course of carrying on business in Australia at or through a permanent establishment in Australia and make a capital gain.</p>	<b>Section 8</b>
<b>What are the potential advantages and disadvantages of the Scrip Consideration?</b>	<p>There are a number of potential advantages and disadvantages of the Scrip Consideration. These are summarised at page 11 and page 12 respectively.</p> <p>Please refer to Section 7 for a summary of the key features and risks of the Scrip Consideration and the details of HoldCo and to Section 8 for a description of the tax implications of receiving the Scrip Consideration. Note that in addition to the risks that apply to your current investment in Patties, there are other risks that apply to an investment in HoldCo. You should carefully read Section 7 (which sets out the risks associated with an investment in HoldCo) and Section 8 and consider obtaining appropriate professional advice before making any Election to receive the Scrip Consideration.</p>	<b>Pages 11 and 12, and Sections 7.3 and 8</b>

Question	Answer	Further Information
Do the Directors have any specific views or recommendations for Shareholders on the Scrip Consideration?	<p>No. Your Directors consider that it is a matter for each eligible Patties Shareholder to decide whether or not to make an Election to receive the Scrip Consideration, having regard to their individual circumstances, financial situation, taxation position, investment objectives and risk profile.</p> <p>This Explanatory Booklet contains information that is material to your decision whether or not to make an Election to receive the Scrip Consideration. In particular, you should carefully read Sections 6, 7 and 8 of this Explanatory Booklet and the Independent Expert's Report in Appendix 1. The Independent Expert has assessed the current value of the total payments under the Scrip Consideration to be between:</p> <ul style="list-style-type: none"> <li>• <b>\$1.04 and \$1.31</b> for each Class B Share (inclusive of a Special Dividend of \$0.25 per Patties Share) – if a Patties Shareholder makes a valid Election to receive the Scrip Consideration for 100% of their Patties Shares; or</li> <li>• <b>\$1.40 and \$1.52</b> (inclusive of a Special Dividend of \$0.25 per Patties Share) – if a Patties Shareholder makes a valid Election to receive the Scrip Consideration for 40% of their Patties Shares (being the Minimum Elections Threshold) and receives the Cash Consideration in respect of 60% of their Patties Shares.</li> </ul> <p>In both scenarios, the Independent Expert has assumed that Patties declares a Special Dividend of \$0.25 per Patties Share, that Patties Shareholders making an Election receive that dividend (i.e. that they hold their Shares on the Special Dividend Record Date) and that a Patties Shareholder's Election is satisfied in full (i.e. that no Scrip Scale Back applies). In both scenarios, the Independent Expert's valuation of the Scrip Consideration is lower than the Independent Expert's valuation range of \$1.53 to \$1.71 for each Patties Share. It is also lower than the total cash payments of \$1.65 per Share (currently expected to comprise the Special Dividend and the Cash Consideration).</p> <p>The Independent Expert considers that the current value of the Scrip Consideration is less than the Cash Consideration due in part to discounts for holding an indirect, unlisted minority interest in Patties and to reflect the inherently lower level of liquidity of Class B Shares relative to Patties Shares.</p> <p>You should also consider obtaining professional advice that is appropriate to your specific circumstances before making any Election to receive the Scrip Consideration.</p>	Sections 6, 7 and 8 and the Independent Expert's Report in Appendix 1
How do I make an Election to receive the Scrip Consideration?	<p>Only those Patties Shareholders with a Registered Address in Australia are eligible to receive Scrip Consideration. Patties Shareholders who are Foreign Scheme Shareholders will not receive Scrip Consideration even if they make an Election. You can elect to receive the Scrip Consideration by completing the Election Form which accompanies this Explanatory Booklet in accordance with the instructions set out in the form and returning it to the Share Registry no later than 5:00pm on the Election Date (being Monday 22 August 2016). An Election must be for at least 40% of your Patties Shares on the Scheme Record Date. Due to the Minimum Elections Threshold, there is no guarantee that any Patties Shareholders will be issued any Scrip Consideration. If the Minimum Elections Threshold is not met, each Scheme Shareholder will receive the Cash Consideration.</p>	Section 1.2 and the Election Form
Can I elect to receive the Scrip Consideration for some but not all of my Patties Shares?	<p>Yes. Scheme Shareholders can elect to receive the Scrip Consideration in exchange for between 40% and 100% of the Patties Shares that they hold at the Scheme Record Date.</p> <p>If you make a partial Election (that is, an Election for more than 40% but less than 100% of the Patties Shares that you hold at the Scheme Record Date), you will receive the Cash Consideration for the remainder of your Patties Shares.</p>	Section 1.2

Question	Answer	Further Information
<b>If I make an Election, can I later vary or withdraw it?</b>	Yes. A Patties Shareholder who makes an Election may subsequently vary or withdraw it by lodging a replacement Election Form so that it is received before 5.00pm (Melbourne time) on the Election Date. The last valid Election Form received by the Share Registry before 5.00pm (Melbourne time) on the Election Date will be used to determine that Patties Shareholders' Election and will also apply to the total number of Patties Shares held by that Patties Shareholder on the Scheme Record Date (currently proposed to be 7:00pm on Thursday, 15 September 2016).	
<b>Do I need to elect to receive the Scrip Consideration even if I want to vote against the Proposal?</b>	Yes. If the Scheme is approved by the requisite majorities of Patties Shareholders (notwithstanding your individual vote) and is also approved by the Court, the Scheme will proceed to be implemented. In those circumstances, you will on implementation of the Scheme receive the Cash Consideration unless you validly elect to receive the Scrip Consideration.	<b>Section 1.2</b>
<b>When will I receive the Scheme Consideration?</b>	The Cash Consideration will be paid to you on the Implementation Date (currently proposed to be Thursday, 22 September 2016) by cheque to your registered address or by direct credit to your nominated account (as applicable).  The Scrip Consideration (if applicable) will be issued to you on the Implementation Date, with share certificates to be sent you within five Business Days of that date.	<b>Sections 1.5 and 10.5</b>

## D. QUESTIONS ABOUT YOUR DIRECTORS' RECOMMENDATIONS AND INTENTIONS

Question	Answer	Further Information
<b>What do the Patties Directors recommend?</b>	The Patties Directors unanimously recommend that you vote in favour of the Scheme, in the absence of a Superior Proposal.	<b>Section 4.2</b>
<b>How are the Patties Directors going to vote?</b>	Each Patties Director intends to vote all Patties Shares they hold or control in favour of the Scheme, in the absence of a Superior Proposal. As at the date of this Explanatory Booklet, your Directors hold or control in aggregate approximately 15.40% of all Patties Shares on issue.	<b>Section 4.2</b>
<b>What is the opinion of the Independent Expert?</b>	The Independent Expert has concluded that the Scheme is fair and reasonable and therefore in the best interests of the Patties Shareholders, in the absence of a Superior Proposal.	<b>Sections 1.9 and 4.3(c)</b> <b>Appendix 1</b>

## E. QUESTIONS ABOUT VOTING

Question	Answer	Further Information
<b>When and where will the Scheme Meeting be held?</b>	The Scheme Meeting will be held at Minter Ellison, Level 23, 525 Collins Street, Melbourne, Victoria on Friday, 26 August 2016 at 10:00am (Melbourne time).	<b>Section 3</b> <b>Appendix 3</b>
<b>What am I being asked to vote on?</b>	You are being asked to vote on whether to approve the Scheme.	<b>Section 1.1</b>
<b>What voting majority is required to approve the Scheme?</b>	For the Scheme to proceed, votes in favour of the Scheme must be received from: <ul style="list-style-type: none"> <li>a simple majority in number (more than 50%) of the Patties Shareholders present and voting at the Scheme Meeting (in person or by proxy, attorney or, in the case of a corporate Patties Shareholder or proxy, corporate representative); and</li> <li>at least 75% of the total number of votes which are cast at the Scheme Meeting (in person or by proxy, attorney or, in the case of a corporate Patties Shareholder or proxy, corporate representative).</li> </ul> <p>The Court has the power to approve the Scheme even if the first requirement for a simple majority of the Patties Shareholders by number to vote in favour of the Scheme is not satisfied. For example, the Court may do so if there is evidence that the result of the vote has been unfairly influenced by activities such as Share Splitting.</p> <p>If the Scheme is not approved by Patties Shareholders and approved by the Court, the Scheme will not proceed.</p>	<b>Section 9.2</b>

Question	Answer	Further Information
<b>How is the Rijs family going to vote?</b>	Members of Patties' founding Rijs family, which together hold 36.6% of the total issued Patties Shares (including the interest of Mr Harry Rijs and Mr Richard Rijs, who are Directors of Patties), have each indicated they intend to vote in favour of the Scheme, in the absence of the Board recommending a Superior Proposal.	<b>Section 11.10</b>
<b>Am I entitled to vote?</b>	If you are recorded as a member on the Patties Share Register as at 7:00pm on Wednesday, 24 August 2016 (and are not an Excluded Shareholder) you are entitled to vote at the Scheme Meeting.	<b>Sections 3.3 and 9.2(d)</b>
<b>Is voting compulsory?</b>	No, voting is not compulsory. However, your vote is important in deciding whether the Scheme proceeds. The Patties Directors strongly encourage all Patties Shareholders to vote at the Scheme Meeting.  If you cannot personally attend the Scheme Meeting, you are encouraged to appoint a proxy to vote on your behalf by either completing and returning the proxy form accompanying this Explanatory Booklet or by lodging your proxy online via <a href="http://www.investorvote.com.au">www.investorvote.com.au</a> or <a href="http://www.intermediaryonline.com">www.intermediaryonline.com</a> (for custodian subscribers only) by no later than 10:00am on Wednesday, 24 August 2016. Alternatively, you can appoint an attorney or, in the case of a corporate Patties Shareholder or proxy, a corporate representative to vote on your behalf.	<b>Section 4.6</b>
<b>How do I vote?</b>	You may vote: <ul style="list-style-type: none"> <li>• in person, by personally attending the Scheme Meeting, appointing an attorney or in the case of a corporate Patties Shareholder or proxy, by a corporate representative; or</li> <li>• by proxy, by completing and returning the proxy form accompanying this Explanatory Booklet or by lodging your proxy online via <a href="http://www.investorvote.com.au">www.investorvote.com.au</a> or <a href="http://www.intermediaryonline.com">www.intermediaryonline.com</a> (for custodian subscribers only).</li> </ul>	<b>Section 3.3</b>
<b>How do I vote if I'm unable to attend the Scheme Meeting or if I don't wish to attend them in person?</b>	You may complete the personalised proxy/voting form accompanying this Explanatory Booklet in accordance with the instructions and return it in person or by mail using the enclosed reply paid envelope (or the self-addressed envelope, for Shareholders whose Registered Address is outside Australia). You can also lodge your proxy online via <a href="http://www.investorvote.com.au">www.investorvote.com.au</a> or <a href="http://www.intermediaryonline.com">www.intermediaryonline.com</a> (for custodian subscribers only).  Your proxy form must be received by the Share Registry (whether in person, by mail, or by lodging your proxy online) by 10:00am (Melbourne time) on Wednesday, 24 August 2016, for your vote to be counted.  Alternatively, you can appoint an attorney or, in the case of a corporate Patties Shareholder or proxy, a corporate representative, to attend the Scheme Meeting on your behalf.	<b>Section 3.3</b>
<b>When will the results of the Scheme Meeting be known?</b>	The results of the Scheme Meeting will be made publicly available during or shortly after the conclusion of the Scheme Meeting on Friday, 26 August 2016 and will be announced to ASX as soon as practicable.	
<b>What should I do if I wish to support the Scheme?</b>	You should attend the Scheme Meeting, in person or by proxy, attorney or, in the case of a corporate Patties Shareholder or proxy, corporate representative and vote in favour of the Scheme.	<b>Section 3.3</b>
<b>What should I do if I wish to oppose the Scheme?</b>	If, despite the Patties Directors' unanimous recommendation and the conclusion of the Independent Expert, you do not support the Scheme, you may vote against the Scheme at the Scheme Meeting in person, by proxy, by attorney or, in the case of a corporate Patties Shareholder or proxy, by appointing a corporate representative.	<b>Section 3.3</b>
<b>Can I be bound by the Scheme if I do not vote or if I vote against its approval?</b>	Yes, if the Scheme proceeds, any Patties Shares held by you on the Scheme Record Date (currently proposed to be 7:00pm on Thursday, 15 September 2016) will be transferred to Bidder and you will be entitled to receive the Scheme Consideration, even if you were not present at the Scheme Meeting, voted against the resolution to agree to the Scheme, or did not vote.	<b>Section 9.2</b>



Question	Answer	Further Information
<b>What are my options?</b>	<p>As a Patties Shareholder, your principal options are as follows:</p> <ul style="list-style-type: none"> <li>• vote in favour of the Scheme and, subject to your views on the Scrip Consideration, do not make an Election and instead receive the Cash Consideration under the Scheme;</li> <li>• vote in favour of the Scheme and, subject to your views on the Scrip Consideration, make an Election to receive the Scrip Consideration in respect of between 40% and 100% of your Patties Shares by completing and returning the Election Form which accompanies this Explanatory Booklet;</li> <li>• vote against the Scheme and, subject to your views on the Scrip Consideration, do not make an Election. You should note that if you decide to vote against the Scheme, the Scheme will nevertheless proceed if it is approved by the requisite majority of Patties Shareholders, approved by the Court and if the other conditions are satisfied or waived (see Sections 9 and 1.7) – if the Scheme proceeds and you have not made an Election, you will receive the Cash Consideration under the Scheme in respect of each of your Patties Shares);</li> <li>• vote against the Scheme and make an Election to receive the Scrip Consideration for between 40% and 100% of your Patties Shares by completing and returning the Election Form which accompanies this Explanatory Booklet (you should note that if you decide to vote against the Scheme, the Scheme will nevertheless proceed if it is approved by the requisite majority of Patties Shareholders, approved by the Court and if the other conditions are satisfied or waived (see Sections 9 and 1.7) – if the Scheme proceeds and you have made an Election, you will receive (assuming the Minimum Holding Threshold and the Minimum Elections Threshold have been met and subject to the Scrip Scale Back) Scrip Consideration in respect of each of your Patties Shares subject to a valid Election);</li> <li>• seek to sell your Patties Shares on market at any time prior to the Effective Date (currently proposed to be 5 September 2016);</li> <li>• seek to sell your Patties Shares after the Effective Date but before the Scheme Record Date (currently proposed to be 7.00pm on 15 September 2016); or</li> <li>• do nothing: that is, neither vote in favour of nor against the Scheme, but if you do nothing and the Scheme proceeds, any Patties Shares held by you on the Scheme Record Date will be transferred to Bidder and you will be entitled to receive the Cash Consideration (assuming you have not made a valid Election).</li> </ul>	<b>Section 4.6</b>

## F. GENERAL QUESTIONS

Question	Answer	Further Information
<b>Do I have to sign anything in relation to the Scheme?</b>	No. If the Scheme proceeds and you are registered as a Patties Shareholder on the Scheme Record Date, the Scheme Consideration will be provided to you, and then Patties will have authority to sign and deliver a transfer of your Patties Shares on your behalf and to the extent you have made a valid Election, bind you to the Shareholders' Deed and any nominee arrangements for your Class B Shares to be held on your behalf.	<b>Section 10.5</b>
<b>What will happen if the Scheme is approved by the Court?</b>	<p>If the Scheme is approved by the Court, Patties will lodge an office copy of the Court's orders with ASIC. On that date (currently proposed to be 5 September 2016), the Scheme will become Effective.</p> <p>Patties will apply to ASX to suspend trading in Patties Shares on ASX from the close of trading on the Effective Date. Shortly after the implementation of the Scheme (which is proposed to take place on 22 September 2016), Patties will be delisted from ASX and become a wholly owned subsidiary of Bidder.</p>	<b>Section 10.5</b>

Question	Answer	Further Information
<p><b>What happens on the Implementation Date?</b></p>	<p>On the Implementation Date:</p> <ul style="list-style-type: none"> <li>• subject to Bidder transferring the aggregate amount of the cash component of the Scheme Consideration to the Trust Account, the Cash Consideration will be paid to Scheme Shareholders;</li> <li>• Bidder will confirm in writing to Patties that each Scheme Shareholder entitled to receive Class B Shares has been entered into HoldCo's register of members as the holder of those Class B Shares; and</li> <li>• Bidder will become the owner of all Patties Shares.</li> </ul> <p>The Implementation Date is currently proposed to be 22 September 2016.</p>	<p><b>Section 10.5</b></p>
<p><b>What other information is available and who can help answer my questions about the Scheme?</b></p>	<p>If you have any questions, you should contact your broker, financial or legal advisor immediately. Alternatively you can call Shareholder Information Line on 1300 782 058 (within Australia) or +61 3 9415 4109 (outside Australia) Monday to Friday between 8.30am and 5.00pm (Melbourne time) or visit Patties website at <a href="http://www.pattiesfoods.com.au">www.pattiesfoods.com.au</a>.</p>	



## 3. How to vote

### 3.1 Scheme Meeting

The notice convening the Scheme Meeting is contained in Appendix 3 to this Explanatory Booklet. A personalised proxy form for the Scheme Meeting accompanies this Explanatory Booklet. The proxy form contains a control number that you will need if you wish to lodge your proxy online.

The Scheme Meeting will be held at Minter Ellison, Level 23, 525 Collins Street, Melbourne, Victoria on Friday, 26 August 2016 at 10:00am (Melbourne time).

For the Scheme to be approved by Patties Shareholders, votes in favour of the Scheme must be received from:

- a majority in number (more than 50%) of the holders of Patties Shares (other than Excluded Shareholders) voting at the Scheme Meeting (**Headcount Test**); and
- the holders of Patties Shares (other than Excluded Shareholders) who together hold at least 75% of the total number of Patties Shares voted at the Scheme Meeting.

The Court has a statutory discretion to disregard the Headcount Test for the purpose of the Scheme Meeting.

The purpose and effect of the Scheme are as summarised earlier and are more particularly described in Section 9 of this Explanatory Booklet.

### 3.2 Your vote is important

Your Directors urge all Patties Shareholders to vote on the Scheme at the Scheme Meeting. The Scheme affects your Shareholding and your vote at the Scheme Meeting is important in determining whether the Scheme proceeds.

Your Directors encourage all Patties Shareholders to vote in favour of the Scheme either by personally attending the Scheme Meeting to be held at Minter Ellison, Level 23, 525 Collins Street, Melbourne, Victoria on Friday, 26 August 2016 at 10:00am (Melbourne time) or by appointing a proxy, an attorney or, in the case of a corporate Patties Shareholder or proxy, a corporate representative to attend the Scheme Meeting and vote on your behalf.

You may appoint a proxy to vote on your behalf by either:

- completing and returning the proxy form which accompanies this Explanatory Booklet; or
- lodging a proxy online via [www.investorvote.com.au](http://www.investorvote.com.au) using the control number noted on the front of your Proxy Form which accompanies this Explanatory Booklet along with your SRN/HIN number (as applicable) and your postcode and by following the instructions on that website or if you are a custodian (for intermediary online subscribers only), via [www.intermediaryonline.com](http://www.intermediaryonline.com), and following the instructions on that website.

Further information on your voting alternatives are provided in Section 3.3.

### 3.3 How to vote

#### (a) Voting entitlements

If you are registered as a Patties Shareholder by the Share Registry at the Voting Entitlement Time (7:00pm (Melbourne time) on Wednesday, 24 August 2016) and are not an Excluded Shareholder, you will be entitled to vote at the Scheme Meeting.

Voting at the Scheme Meeting will be conducted by poll.

#### (b) Voting in person

Patties Shareholders wishing to vote in person or their attorneys or, in the case of a corporate Patties Shareholder or proxy, corporate representatives should attend the Scheme Meeting and bring a form of personal identification (such as their driver's licence).

Patties Shareholders, their attorneys or, in the case of corporate Patties Shareholders or proxies, corporate representatives who plan to attend the Scheme Meeting in person are asked to arrive at the venue 30 minutes prior to the time designated for the commencement of the Scheme Meeting, if possible, so that their shareholding or the shareholding they represent may be checked against the Share Register and attendances noted. Attorneys should bring with them the original or a certified copy of the power of attorney under which they have been authorised to attend and vote at the meeting.

To vote in person at the Scheme Meeting, you, your attorney or, in the case of a corporate Patties Shareholder or proxy, your corporate representative must attend the Scheme Meeting to be held at Minter Ellison, Level 23, 525 Collins Street, Melbourne, Victoria on Friday, 26 August 2016 at 10:00am (Melbourne time).

#### Voting by attorney

If a Patties Shareholder executes or proposes to execute any document, or do any act, by or through an attorney which is relevant to that Patties Shareholder's shareholding in Patties, that Patties Shareholder must deliver the instrument appointing the attorney to the Share Registry for notation.

Patties Shareholders wishing to vote by attorney at the Scheme Meeting must, if they have not already presented an appropriate power of attorney to Patties for notation, deliver to the Share Registry (at the address provided in Section 3.3(c) of this Explanatory Booklet) the original instrument appointing the attorney or a certified copy of it by 10:00am (Melbourne time) on Wednesday, 24 August 2016.

Any power of attorney granted by a Patties Shareholder will, as between Patties and that Patties Shareholder, continue in force and may be acted on, unless express notice in writing of its revocation or the death of the relevant Patties Shareholder is lodged with Patties.

#### Voting by corporate representative

To vote in person at the Scheme Meeting, a corporate Patties Shareholder or proxy may appoint an individual to act as its representative.

To vote by corporate representative at the Scheme Meeting, a corporate Patties Shareholder or proxy should obtain an *appointment of corporate representative* form from the Share Registry, complete and sign the form in accordance with the instructions on it. The completed appointment form should be lodged at the registration desk on the day of the Scheme Meeting.

The appointment of a representative may set out restrictions on the representative's powers.

The original form of appointment of a representative, a certified copy of the appointment, or a certificate of the body corporate evidencing the appointment of a representative is prima facie evidence of a representative having been appointed.

The chairman of the meeting may permit a person claiming to be a representative to exercise the body's powers even if they have not produced a certificate or other satisfactory evidence of their appointment.

### (c) Voting by proxy

Patties Shareholders wishing to appoint a proxy to vote on their behalf at the Scheme Meeting must either complete and sign or validly authenticate the personalised proxy form which accompanies this Explanatory Booklet or lodge their proxy online. A person appointed as a proxy may be an individual or a body corporate.

Proxies attending the Scheme Meeting should bring a form of personal identification (such as their driver's licence) and are asked to arrive at the venue 30 minutes prior to the time designated for the commencement of the Scheme Meeting, if possible, so that their shareholding may be checked against the Share Register and attendances noted.

Completed proxy forms must be delivered to Share Registry by 10:00am (Melbourne time) on Wednesday, 24 August 2016 in any of the following ways:

**By post** in the enclosed reply paid envelope (or the self-addressed envelope, for Shareholders whose registered address is outside Australia) provided to the Share Registry:

Computershare Investor Services Pty Limited  
GPO Box 242  
Melbourne Victoria Australia 3001

**By hand delivery**<sup>7</sup> to the Share Registry at:  
Computershare Investor Services Pty Limited  
Yarra Falls, 452 Johnston Street  
Abbotsford Victoria 3067

**Online:** if you wish to lodge your proxy online, you should do so by logging onto [www.investorvote.com.au](http://www.investorvote.com.au) using the control number noted on the front of your proxy form which accompanies this Explanatory Booklet along with your SRN/HIN number (as applicable) and your postcode and by following the instructions on that website. If you are a custodian (for intermediary online subscribers only) and wish to lodge a proxy online you should log onto [www.intermediaryonline.com](http://www.intermediaryonline.com), and follow the instructions on that website. Online lodgement of proxy forms must be done by 10:00am (Melbourne time) on Wednesday, 24 August 2016.

### Undirected proxies

If a Patties Shareholder nominates the chairman of the Scheme Meeting as that Patties Shareholder's proxy, the person acting as chairman of the Scheme Meeting must act as proxy under the appointment in respect of any or all items of business to be considered at the Scheme Meeting.

If a proxy appointment is signed or validly authenticated by that Patties Shareholder but does not name the proxy or proxies in whose favour it is given, the chairman of the Scheme Meeting may at his election (a) act as proxy in respect of any or all items of business to be considered at the Scheme Meeting or (b) complete the proxy appointment by inserting the name or names of one or more Patties Directors or the company secretary to act as proxy under the appointment, in respect of any or all items of business to be considered at the Scheme Meeting.

Proxy appointments in favour of the Chairman of the Scheme Meeting, the company secretary or any Patties Director which do not contain a direction as to how to vote will be voted in support of the Scheme Resolution at the Scheme Meeting (in the absence of a Superior Proposal from another party prior to the date of the Scheme Meeting).

The Chairman intends to vote undirected proxies of which he is appointed as proxy in favour of the resolution to approve the Scheme (in the absence of a Superior Proposal from another party prior to the date of the Scheme Meeting).

## 3.4 Further information

Please refer to the notice of Scheme Meeting in Appendix 3 to this Explanatory Booklet for further information on voting procedures and details of the resolutions to be voted on at the Scheme Meeting.

7. Please note that hand deliveries may only be made Monday to Friday between the hours of 9.00am to 5.00pm (Melbourne time).

## 4. Relevant considerations for Patties Shareholders

### 4.1 Introduction

This Section sets out relevant considerations for Patties Shareholders in their evaluation of the Scheme.

Before deciding how to vote at the Scheme Meeting, Patties Shareholders should carefully consider the matters set out below as well as the other information contained in this Explanatory Booklet.

Your Directors recommend that you consult your legal, financial, taxation or other professional adviser concerning the impact your decision may have on your individual circumstances.

### 4.2 Directors' recommendation and intentions

The Directors of Patties as at the date of this Explanatory Booklet are:

Director's name	Position
Mark Smith	Chairman
Curt Leonard	Deputy Chairman/ Non-Executive Director
Steven Chaur	Managing Director/Chief Executive Officer
John Schmoll	Non-Executive Director
Richard Rijs	Non-Executive Director
Harry Rijs	Non-Executive Director
Greg Dhnaram	Non-Executive Director

Profiles of each member of the Patties Board can be found in Patties 2015 Annual Report, which is available on ASX's website or Patties' website.

The interests of the Patties Directors are disclosed in Section 11 of this Explanatory Booklet.

For the reasons set out below, the Patties Directors unanimously believe that:

- the premium and overall terms of Bidder's cash offer present an opportunity to realise immediate, attractive and certain value for Patties Shareholders;
- on balance, the Cash Consideration of \$1.65 (less the Special Dividend amount and excluding the value of any franking credits) per Share available to Patties Shareholders under the Scheme is likely to provide a superior outcome to the risk and time adjusted returns that could be delivered from Patties continuing as an independent ASX listed company;
- the benefits of the Scheme outweigh its potential disadvantages and risks; and
- the Scheme is in the best interest of Patties Shareholders, in the absence of a Superior Proposal.

Accordingly, your Patties Directors unanimously recommend that Patties Shareholders vote in favour of the Scheme, in the absence of a Superior Proposal.

Subject to that same qualification, each Director intends to vote all Patties Shares they hold or control in favour of the Scheme. As at the date of this Explanatory Booklet, your Directors hold or control in aggregate approximately 15.40% of all Patties Shares on issue.

No Superior Proposal from another party has been received as at the date of this Explanatory Booklet.

You are not obliged to accept the Directors' recommendation. Some of the reasons why you may decide to vote against the Scheme are set out in Section 4.4.

You should note that if you decide to vote against the Scheme, the Scheme will nevertheless proceed if it is agreed to by the requisite majority of Shareholders, approved by the Court and if the other conditions are satisfied or waived (see Section 9).

### 4.3 Key reasons for Patties Directors' recommendation

In unanimously recommending the Scheme to Patties Shareholders, your Directors have carefully considered the matters below.

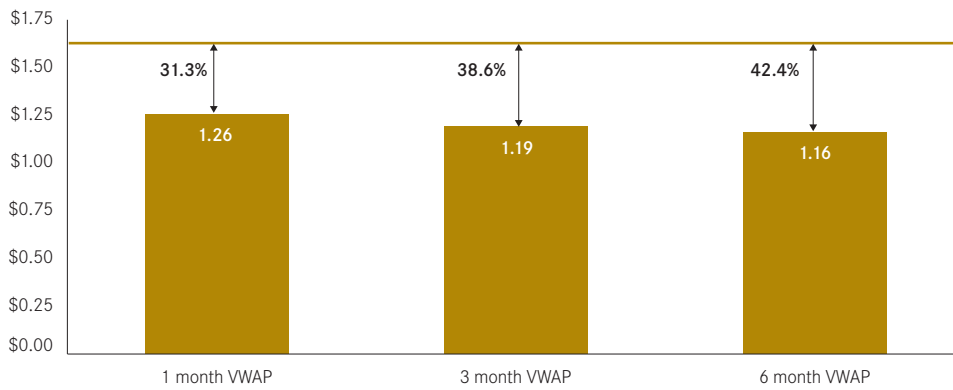
#### (a) The total cash payments of \$1.65 per Share represent an attractive premium to the market price of Patties Shares shortly before the Scheme proposal was announced on 30 May 2016

The total cash payments of \$1.65 per Patties Share (currently expected to comprise the Special Dividend and the Cash Consideration) values Patties' fully diluted equity<sup>8</sup> at approximately \$231.8 million and represents a:

- 31.3% premium to Patties' 1 month VWAP up to and including 27 May 2016 of \$1.26, being the trading day prior to Patties' announcement on 30 May 2016 that it had received a non-binding, conditional and incomplete proposal from PEP;
- 38.6% premium to Patties' 3 month VWAP up to and including 27 May 2016 of \$1.19;
- 42.4% premium to Patties' 6 month VWAP up to and including 27 May 2016 of \$1.16; and
- 9.5x EV / FY2015 Underlying EBITDA<sup>9</sup>.

8. Fully diluted shares on issue expected to be approximately 140.5 million upon implementation of the Scheme.

9. EV calculated using fully diluted shares on issue and net debt of \$74.6 million as at 31 December 2015. FY15 Underlying EBITDA of \$32.3 million.



Accordingly, the Scheme is an opportunity for Patties Shareholders to realise their investment in Patties at an attractive premium to the price at which Patties Shares traded up to and including 27 May 2016.

Shareholders under the Scheme may represent attractive value for Patties Shareholders.

**(b) The Cash Consideration provides you with certainty of value for your Patties Shares and a high degree of certainty of timing for receipt of the Cash Consideration**

The Cash Consideration offered to Patties Shareholders provides certainty of value for your Patties Shares and a high degree of certainty of timing for receipt of your Scheme Consideration. Specifically, if all of the conditions for the Scheme are satisfied or waived, as applicable (see Sections 1.7 and 9.3), you will receive \$1.65 cash for each Patties Share you hold as at the Scheme Record Date (currently proposed to be 7:00pm on 15 September 2016) less a dividend of up to \$0.25 per Patties Share that Patties may have declared and paid. Your Cash Consideration will be paid to you on the Implementation Date (currently proposed to be 22 September 2016), either by direct credit (if you have validly registered your bank account details with the Share Registry by the Scheme Record Date) or otherwise by cheque to your registered address.

In contrast, if the Scheme does not proceed, the amount which Patties Shareholders will be able to realise by retaining their current investment in Patties Shares will necessarily be uncertain, as the value of Patties Shares will continue to be subject to the general and specific risks noted in Section 5.10. The Scheme removes this uncertainty for Scheme Shareholders.

Although the Patties Board remains positive about the outlook for Patties as an independent ASX listed company, including its capacity to deliver growth for Patties Shareholders into the future, the Patties Board has concluded that, on balance, the immediate, attractive and certain value available to Patties

**(c) Subject to their marginal tax rate, eligible Patties Shareholders may receive up to \$0.107 per Share of additional benefit from franking credits attached to the Special Dividend**

If a Special Dividend of \$0.25 per Patties Share is declared and paid, Australian resident Patties Shareholders who are able to realise the full benefit of the franking credits attached to the Special Dividend will receive, subject to their marginal tax rate, an additional benefit valued at up to \$0.107 per Patties Share. Any additional benefit will be less if the Special Dividend amount is less than \$0.25 per Patties Share. Whether or not you will be in a position to derive the full benefit of the franking credits will depend on your individual taxation circumstances.

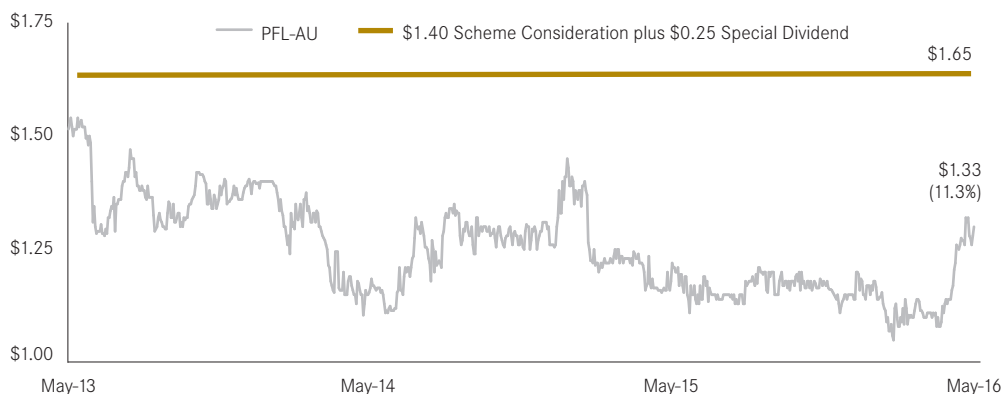
Please see Section 8.3 for further detail regarding the tax implications of the Special Dividend.

**(d) The total cash payments of \$1.65 per Share exceeds the highest closing trading price of Patties Shares in over 3 years before the Scheme proposal was announced on 30 May 2016**

The total cash payments of \$1.65 per Share (currently expected to comprise the Special Dividend and the Cash Consideration) exceed the highest closing trading price of Patties between 28 May 2013 and 27 May 2016 (being the last trading day prior to Patties' announcement that it had received a non-binding, conditional and incomplete proposal from PEP).

The chart below shows Patties Share price performance over the last three years to 27 May 2016.

**Patties Share price performance over the last three years to 27 May 2016**



The total cash payments of \$1.65 per Share do not include the value of franking credits of up to \$0.107 per Share associated with the Special Dividend. Whether a Patties Shareholder will be in a position to derive the full benefit of the franking credits will depend on their marginal tax rate and other individual taxation circumstances.

**(e) The Cash Consideration provides all Patties Shareholders with access to full liquidity**

Patties existing capital structure contains large shareholding blocks and therefore the free float of shares is thinly traded on the ASX. Consequently, some Patties Shareholders face limited opportunities to achieve full liquidity in respect of their shares in Patties. The Cash Consideration provides all Patties Shareholders with access to full liquidity at a premium to prices at which Patties Shares were trading prior to the announcement of the Scheme.

**(f) The Independent Expert has concluded that, in the absence of a Superior Proposal, the Scheme is fair and reasonable and therefore in the best interests of Patties Shareholders**

Your Directors engaged Deloitte Corporate Finance Pty Limited as the Independent Expert to prepare a report expressing an opinion as to whether or not the Scheme is fair and reasonable and therefore in the best interests of Patties Shareholders. The Independent Expert has assessed the full underlying value of Patties (including a premium for control) to be in the range of \$1.53 to \$1.71 per Patties Share. The total cash payments of \$1.65 per Share (currently expected to comprise the Special Dividend and the Cash Consideration) are within this range. Accordingly, the Independent Expert has concluded that the Scheme is fair and reasonable and therefore in the best interest of Patties Shareholders, in the absence of a Superior Proposal.

The Independent Expert states:<sup>10</sup>

*The Cash Consideration of \$1.65 per share (including the amount of a fully franked dividend of up to \$0.25 per share that is declared and paid by PFL before the Proposed Scheme is implemented) represents a premium to recent trading prices per share prior to the announcement of the Proposed Scheme.*

*The one month volume weighted average price (VWAP) of shares in PFL up to 27 May 2016 (being the day prior to PFL announcing it had received a non-binding, conditional and incomplete proposal from PEP) was \$1.26, and the three month VWAP was \$1.19. Accordingly, the Cash Consideration represents a premium to trading in PFL shares prior to the announcement of the Proposed Scheme of between 31% and 39%.*

*Australian studies indicate the premiums required to obtain control of companies range between 20% and 40% of the portfolio holding values. The control premiums implied by the offer are within the empirically observed range.*

The Independent Expert's Report is included in full in Appendix 1 to this Explanatory Booklet. That report should be read in its entirety, including the assumptions on which the conclusions are based, as part of your assessment of the Scheme and before voting on the Scheme.

**(g) The Scrip Consideration allows you to maintain an indirect interest in the privatised Patties, if you make a valid Election, subject to risks associated with an investment in HoldCo**

For those Patties Shareholders who wish to maintain an investment in Patties, they may elect to receive the Scrip Consideration and have an ongoing, indirect interest in Patties (subject to the Minimum Holding Threshold, Minimum Elections Threshold and potential Scrip Scale Back) through holding Class B Shares in HoldCo that will be provided as part of the Scrip Consideration.

The Independent Expert has assessed the current value of the total payments under the Scrip Consideration to be between:

- **\$1.04** and **\$1.31** for each Class B Share (inclusive of a Special Dividend of \$0.25 per Patties Share) – if a Patties Shareholder makes a valid Election to receive the Scrip Consideration for 100% of their Patties Shares; or
- **\$1.40** and **\$1.52** (inclusive of a Special Dividend of \$0.25 per Patties Share) – if a Patties Shareholder makes a valid Election to receive the Scrip Consideration for 40% of their Patties Shares (being the Minimum Elections Threshold) and receives the Cash Consideration in respect of 60% of their Patties Shares.

In both scenarios, the Independent Expert has assumed that Patties declares a Special Dividend of \$0.25 per Patties Share, that Patties Shareholders making an Election receive that dividend (i.e. that they hold their Shares on the Special Dividend Record Date) and that a Patties Shareholder's Election is satisfied in full (i.e. that no Scrip Scale Back applies). In both scenarios, the Independent Expert's valuation of the Scrip Consideration is lower than the Independent Expert's valuation range of \$1.53 to \$1.71 for each Patties Share. It is also lower than the total cash payments of \$1.65 per Share (currently expected to comprise the Special Dividend and the Cash Consideration).

Please refer to the Independent Expert's Report in Appendix 1 to this Explanatory Booklet for further information. There is no assurance that the future value of the Scrip Consideration will be higher than the value of the Cash Consideration.

In addition, there are risks associated with an investment in HoldCo including the following:

- you will be subject to a different regulatory regime when compared to your current investment in Patties;
- you will receive less information about Patties than you currently receive;
- you will face a lack of liquidity in respect of your Class B Shares given there will be no active market for the sale and purchase of Class B Shares;
- you will become a shareholder in a company that is highly leveraged with a gearing ratio that is significantly greater than the gearing ratio of Patties and other similar ASX listed companies;
- you may be subject to dilution of your interests or have some or all of your interests compulsorily sold or 'dragged' if Class A Shareholders determine to transfer their shares to a third party, each under certain circumstances as set out in the Shareholders' Deed;
- you may not receive any dividends for at least the two year period following the Effective Date of the Scheme;

10. Independent Expert's Report, Introduction

- you will be a Class B Shareholder and will have limited voting rights under the Shareholders' Deed. This means that the Class A Shareholders will be able to exercise majority voting power, and will be in a position to determine the outcome of most decisions relating to HoldCo, and therefore also most decisions relating to Patties, including in relation to the timing of an exit of your investment in HoldCo; and
- you will be subject to other provisions in the Shareholders' Deed the effect of which may result in an outcome that is not aligned with your interests or expectations.

These risks are fully set out in Section 7.3

It is a matter for each eligible Patties Shareholder to decide whether or not to make an Election to receive the Scrip Consideration, having regard to their individual circumstances, financial situation, taxation position, investment objectives and risk profile. This Explanatory Booklet contains information that is material to your decision whether or not to make an Election to receive the Scrip Consideration. Shareholders are referred in particular to Sections 6, 7 and 8 of this Explanatory Booklet and to the Independent Expert's Report in Appendix 1.

**(h) Members of Patties' founding Rijs family have indicated they intend to vote in favour of the Scheme, in the absence of the Board recommending a Superior Proposal**

Members of the Rijs family, which together hold 36.6% of the total issued Patties Shares (including the interest of Mr Harry Rijs and Mr Richard Rijs, who are Directors of Patties), have each indicated they intend to vote in favour of the Scheme, in the absence of the Board recommending a Superior Proposal.

**(i) No Superior Proposal has emerged as at the date of this Explanatory Booklet**

Since the announcement of the Scheme on 2 June 2016 and up to the date of this Explanatory Booklet, no Superior Proposal has been received. The Scheme Implementation Deed prohibits Patties from soliciting Competing Proposals during the Exclusivity Period. Bidder also has a right under the Scheme Implementation Deed to match an unsolicited Competing Proposal if one is received by Patties. If a Competing Proposal for Patties emerges prior to the Scheme Meeting, your Directors will carefully consider the proposal to determine whether it is a Superior Proposal and will inform you of any material developments which may affect your Directors' view that the Scheme is presently the most favourable proposal for all your Patties Shares. Any change of your Directors' current recommendation in response to a Competing Proposal that is announced may result in Patties being obliged to pay a break fee of \$2.3 million (plus GST) to Bidder.

Please see Section 4.4(c) for further discussion about the implications of any Competing Proposal that may emerge.

**(j) If the Scheme does not proceed and no Superior Proposal emerges, the Patties Share price may fall**

Patties Shares closed at \$1.33 on 27 May 2016, being the last day of trading prior to the announcement that Patties had received a non-binding, conditional and incomplete proposal from PEP. Between that date and the Last Practicable Date, Patties Shares have risen and have traded in a range between \$1.33 and \$1.68. If the Scheme does not proceed and no Superior Proposal emerges, your Directors currently anticipate that the market price of Patties Shares on ASX may fall below current trading levels, all other things remaining equal.

The Independent Expert shares this view, stating that:<sup>11</sup>

*In the absence of the Proposed Scheme or an alternative transaction, shares in PFL would likely trade below the prices achieved since the announcement of the Proposed Scheme. The current share price of PFL reflects market expectations of the Proposed Scheme proceeding and is likely to include a premium for control. In the absence of the Proposed Scheme or an alternative transaction, we would expect shares in PFL to trade at a value consistent with our valuation of a share in PFL after allowing for an appropriate discount for lack of control. However, recognising the low liquidity in the trading of PFL shares on the ASX, the trading price could fall further to levels more in line with share trading prior to the announcement of the Proposed Scheme.*

**(k) If the Scheme does not proceed and no Superior Proposal emerges, Patties Shareholders will continue to be subject to the specific risks associated with Patties business and general market risks**

If the Scheme does not proceed:

- Patties Shareholders will continue to be subject to the risks associated with Patties executing its current strategic initiatives successfully, as well as to other Patties business risks and general risks described in Section 5.10; and
- the amount which Patties Shareholders will be able to realise for their continuing investment in Patties Shares (in terms of price), and from their Patties Shares (by way of future dividends), is uncertain.

The Scheme removes these risks and uncertainties for those Shareholders who do not elect to receive Scrip Consideration for any of their Patties Shares and instead receive 100% Cash Consideration. Specifically, the Cash Consideration of \$1.65 (less the Special Dividend amount) per Share provides certainty of value for the realisation of your current investment in Patties. If all of the conditions to the Scheme are satisfied or waived (as applicable), the Cash Consideration will be paid on the Implementation Date which is currently proposed to be 22 September 2016 and prior to the transfer of any Patties Shares to Bidder.

**(l) No transaction costs on the disposal of your Patties Shares under the Scheme**

Patties Shareholders will not be required to pay any brokerage or other transaction costs on the disposal of their Patties Shares under the Scheme.

**4.4 Potential disadvantages of the Scheme**

The Scheme has some potential disadvantages and risks that Patties Shareholders should consider in deciding how they should vote at the Scheme Meeting.

Although your Directors consider that these potential disadvantages and risks are outweighed by the advantages of the Scheme and that the Scheme is in the best interest of Patties Shareholders in the absence of a Superior Proposal, Patties Shareholders should consider their individual circumstances in determining how to vote in relation to the Scheme.

11. Independent Expert's Report, Introduction



**(a) You may disagree with the recommendation of the Patties Directors and/or the Independent Expert**

You may disagree with the reasons put forward by the Patties Directors in Section 4.3 as to why they are recommending the Scheme. You may also disagree with the Independent Expert's conclusions. You are not obliged to accept the Directors' recommendation or the views of the Independent Expert. In particular, you may believe that a continuing investment in Patties as an independent ASX listed company will deliver higher returns over the long term than the total payments of \$1.65 per Share offered under the Scheme and any Special Dividend. You may consider that the future growth prospects of Patties are not fully reflected in the Scheme Consideration.

**(b) You will lose the ability to participate in any potential upside that may result from maintaining your direct investment in Patties, (unless you elect to receive the Scrip Consideration and the pre-conditions to the Scrip Consideration being issued are satisfied)**

If the Scheme proceeds, you will cease to be a shareholder of Patties as an independent ASX listed company. In these circumstances, you will lose the ability to participate in any potential upside that may result from maintaining your direct investment in Patties. However, as with all investments in securities, there can be no guarantee as to Patties' future performance if it remains an independent ASX listed company.

This potential disadvantage is attenuated to some extent by the ability of Patties Shareholders to elect to receive Scrip Consideration for between 40% and 100% of their shareholding, noting that the availability of the Scrip Consideration is subject to an aggregate Minimum Holding Threshold being met and to the operation of the Scrip Scale Back if the total number of Elections exceeds a maximum cap (being 50,000,000 Class B Shares on issue immediately after implementation of the Scheme).

**(c) If the Scheme proceeds, this precludes the possibility of receiving the benefit of any future, potentially more favourable, proposal for your Patties Shares**

It is possible that, if Patties were to continue as a stand-alone listed company, a corporate control proposal for Patties may materialise in the future which is more favourable for Patties Shareholders than the Scheme Consideration that Bidder is offering through the Scheme. Patties Shareholders are being asked to vote on the Scheme on 26 August 2016 and the currently proposed Implementation Date for the Scheme is 22 September 2016. Therefore, if the Scheme proceeds, this would preclude the possibility of Patties Shareholders obtaining the benefit of any future, potentially more favourable, proposal for their Shares that could emerge if Patties were to remain an independent listed company.

As at the date of this Explanatory Booklet, the Patties Board is not aware of any Competing Proposal. Accordingly, the Scheme is the only corporate control proposal that has been received by the Patties Board as at the date of this Explanatory Booklet. Until the date of the Scheme Meeting, there is nothing preventing other parties from making unsolicited Competing Proposals for Patties. Although Patties has agreed to certain exclusivity provisions that restrict it from soliciting or inviting, or engaging with, the proponent of a Competing Proposal, these restrictions do not prevent Patties from considering an unsolicited Competing Proposal that is or would reasonably be expected to result in a Superior Proposal. Bidder has the right, but not the obligation, to match any Competing Proposal.

If a Competing Proposal for Patties emerges prior to the Scheme Meeting, your Directors will carefully consider that proposal and will inform you of any material developments which may affect your Directors' view that the Scheme is presently the most favourable proposal for all your Patties Shares. Any change of your Directors' current recommendation in response to the emergence of a Competing Proposal may trigger a contractual obligation on Patties part to pay Bidder a break fee of \$2.3 million (plus GST): see further the discussion in Section 4.5(d).

**(d) The tax consequences of the Scheme for you may not be suitable to your financial position**

If the Scheme proceeds, it will potentially result in Australian taxation consequences (including Australian income tax consequences) for Patties Shareholders, which may arise earlier than may otherwise be the case.

You should read the general outline of the taxation implications for Patties Shareholders in relation to the Scheme in Section 8. Patties Shareholders should seek their own professional advice regarding the taxation implications relevant to them.

You should also note that even if the Scheme does not proceed, Australian taxation consequences (including Australian income tax consequences) may arise at any future time that you sell or otherwise dispose of your Patties Shares.

## 4.5 Other relevant considerations

**(a) The Scheme has a number of conditions**

In addition to the need to obtain Shareholder approval and Court approval, the Scheme is subject to a number of other conditions. These conditions are outlined in Sections 1.7 and 9.3 they are set out in full in clause 3 of the Scheme Implementation Deed in Appendix 4 to this Explanatory Booklet and in clause 3 of the Scheme in Appendix 2 to this Explanatory Booklet. All of these conditions need to be satisfied (or alternatively waived, in the case of certain conditions that are capable of being waived) in order for the Scheme to proceed.

Your Directors have reviewed the conditions and do not consider them to be unduly onerous or inconsistent with market practice for a transaction of this nature. As at the date of this Explanatory Booklet, your Directors are not aware of any matter that would result in a breach or non fulfilment of any of those conditions.

**(b) The Scheme delivers an 'all or nothing' outcome**

If all of the conditions and approvals for the Scheme are satisfied or waived (as applicable):

- it will bind all persons registered as Patties Shareholders as at the Scheme Record Date (being Scheme Shareholders), including those who were not present at the Scheme Meeting, those who did not vote on the Scheme and those who voted against it, meaning that all persons who are Scheme Shareholders will relinquish ownership of their Patties Shares and will be entitled to receive the Scheme Consideration; and
- Patties will become a wholly owned subsidiary of Bidder and will be delisted from ASX.

Conversely if all of the conditions and approvals for the Scheme are not satisfied or waived (as applicable), the status quo will be preserved, meaning that:

- Patties Shareholders will retain all of their Shares;
- Patties will remain as an independent ASX listed company;
- the existing Patties Board and management will continue to operate Patties' business;

- the advantages of the Scheme, as outlined in Section 4.3, will not be realised and equally some of the disadvantages of the Scheme, as outlined in Section 4.4, will no longer be relevant; and
- Patties Shareholders will retain their current investment in Patties Shares and in doing so will continue to retain the benefits of that investment and continue to be exposed to the risks associated with this investment. These risks include risks that are specific to Patties business (see Section 5.10).

### (c) Transaction costs

#### Patties Shareholders

If the Scheme proceeds, Patties Shareholders will not be required to pay any brokerage or other costs on the disposal of their Patties Shares under the Scheme.

#### Patties

As at the date of this Explanatory Booklet, Patties has incurred (or expects to incur) costs of approximately \$1.8 million (inclusive of GST) in developing the Scheme to the point that it is capable of being submitted to Patties Shareholders as a formal offer for their consideration. These costs include negotiations with Bidder, facilitating Bidder's due diligence investigations, the retention of advisers, engagement of the Independent Expert and preparation of this Explanatory Booklet.

If the Scheme does not proceed and no Superior Proposal is implemented, Patties results for the financial year ended 30 June 2016 will be negatively impacted by the transaction costs incurred in proposing the Scheme. Those transaction costs may also impact the capacity of Patties to pay a dividend or the amount of any dividend for the financial year ended 30 June 2016 and potentially in subsequent financial years.

### (d) Exclusivity arrangements

The following is a summary only of the exclusivity arrangements agreed to in the Scheme Implementation Deed. The full terms of these exclusivity arrangements are set out in clause 16 of the Scheme Implementation Deed which is included as Appendix 4 to this Explanatory Booklet.

#### No shop

Under the Scheme Implementation Deed, Patties has agreed that during the Exclusivity Period, it must not and must ensure that its Related Bodies Corporate and any of the Authorised Persons of Patties or any of its Related Bodies Corporate do not, except with the prior written consent of Bidder, directly or indirectly solicit, invite or initiate any Competing Proposal or any enquiries, negotiations or discussions with any third party in relation to, or that may reasonably be expected to lead to, a Competing Proposal or communicate any intention to do any of those things.

#### No talk

Under the Scheme Implementation Deed, Patties has agreed that during the Exclusivity Period, it must not and must ensure that none of its Related Bodies Corporate nor any of their Authorised Persons (whether directly or indirectly):

- negotiate or enter into or participate in negotiations or discussions with any person; or
- communicate any intention to do any of these things,

in relation to, or that may reasonably be expected to lead to, a Competing Proposal.

#### No due diligence

Under the Scheme Implementation Deed, except with the prior written consent of Bidder, Patties must not, and must ensure that its Related Bodies Corporate and their respective Authorised Persons do not, directly or indirectly:

- solicit, invite, initiate, or encourage, or facilitate or permit, any person (other than Bidder) to undertake due diligence investigations in respect of Patties or any of its businesses and operations, in connection with such person formulating, developing or finalising a Competing Proposal; or
- make available to any person (other than Bidder) or permit any such person to receive any non-public information relating to Patties any of its businesses and operations, in connection with such person formulating, developing or finalising a Competing Proposal.

#### Notice of approach

Under the Scheme Implementation Deed, Patties has agreed that, during the Exclusivity Period, Patties must promptly inform Bidder if it or any of its Related Bodies Corporate or any of their respective Authorised Persons:

- receives a Competing Proposal including all material terms (including the consideration) of the Competing Proposal and the identity of the person making the Competing Proposal;
- receives any request for information relating to Patties or any of its Related Bodies Corporate or any of their businesses or operations or any request for access to the books or records of Patties or any of its Related Bodies Corporate, which Patties has reasonable grounds to suspect may relate to a current or future Competing Proposal including the identity of the person making such request and details of the request; or
- provides any information relating to Patties or any of its Related Bodies Corporate or any of their businesses or operations to any person in connection with or for the purposes of a current or future Competing Proposal including the identity of any person provided such information and the details of the information provided.

#### Exceptions to exclusivity provisions

The *No Talk* and *No due diligence* provisions do not apply if the Patties Board determines:

- where there is a Competing Proposal, that after taking advice from its advisers, the Competing Proposal is or is reasonably likely to be a Superior Proposal; and
- after receiving legal advice, that failing to respond to that Competing Proposal would be reasonably likely to constitute a breach of the Patties Board's fiduciary or statutory duties,

provided that the Competing Proposal was not directly or indirectly solicited, invited or initiated by Patties, its Related Bodies Corporate or its Authorised Persons in a manner that would breach its obligations under the exclusivity arrangements in the Scheme Implementation Deed.

The *Notice of approach* obligation does not apply where the Patties Board determines, where there is a Competing Proposal, that after receiving legal advice, that failing to respond to that Competing Proposal or that disclosing to Bidder the material terms of the Competing Proposal or the identity of the person making the approach or provided information (or both) as the case may be, would be reasonably likely to constitute a breach of its fiduciary or statutory duties.

#### Matching right

Under the Scheme Implementation Deed, Patties has agreed that, during the Exclusivity Period, Patties:

- must not enter into any legally binding agreement or understanding to implement a Competing Proposal; and
- must use its reasonable endeavours to procure that none of the Patties directors change their recommendation, or statement of intention to vote, in favour of the Scheme to publicly recommend or support a Competing Proposal (or recommend against, or cease supporting, the Scheme),

unless:

- the Competing Proposal is a Superior Proposal;
- Patties has provided Bidder with the material terms and conditions of the Competing Proposal, including the identity of any person making the Competing Proposal, the price, conditions and proposed timing of the proposal;
- Patties has given Bidder at least three Business Days after the provision of all of the material terms and conditions of the Competing Proposal (as described above) to provide a proposal that is superior to the Competing Proposal; and
- Bidder has not provided a proposal that the Patties Board, acting in good faith, after consulting with its financial and legal advisers, determines would provide an outcome that is more favourable to Patties Shareholders as a whole than the relevant Competing Proposal.

#### **Patties break fee**

Under the Scheme Implementation Deed, Patties must, in certain circumstances pay Bidder the Patties Break Fee of \$2.3 million (exclusive of GST). The circumstances in which the Patties Break Fee must be paid are as follows:

- before the End Date (being 31 October 2016 or any extended date agreed by Patties and Bidder) a Competing Proposal is publicly announced or made and, within 9 months from the date of the public announcement of the Competing Proposal:
  - the proponent of that Competing Proposal acquires a Relevant Interest in at least 50% of Patties Shares; and
  - that Competing Proposal is (or becomes) free from any defeating conditions (or if the Competing Proposal is a scheme of arrangement, the scheme becomes effective);
- before the End Date, any Patties Director fails to recommend or withdraws or adversely modifies their support of the Scheme or their recommendation that Patties Shareholders vote in favour of the Scheme, or make a public statement indicating that they no longer support the Scheme, other than as a direct or indirect result of or following the Independent Expert opining to the effect that the Scheme is not in the best interest of Patties Shareholders except where the sole or dominant reason for the Independent Expert's opinion is the existence of a Superior Proposal, or that they support a Competing Proposal; or
- a general meeting of Patties is convened to consider and, if thought fit, approve the implementation or taking of any step that would, or would be likely to, prevent a Condition being satisfied or result in a Condition not being satisfied, and any of the Patties Directors recommend that Patties Shareholders vote in favour of implementing or taking that step.

The Patties Break Fee is not payable merely because the resolution submitted to the Scheme Meeting in respect of the Scheme is not approved by the majorities required under section 411(4)(a)(ii) of the Corporations Act. Payment of the Patties Break Fee represents the sole and exclusive remedy available to the Bidder Group.

#### **Bidder break fee**

Under the Scheme Implementation Deed, Bidder must, in certain circumstances pay Patties the Bidder Break Fee of \$2.3 million (exclusive of GST). The circumstances in which the Bidder Break Fee must be paid are as follows:

- Bidder is in material breach of any of its obligations under the Scheme Implementation Deed (including a material breach of a representation or warranty) and has failed to remedy that breach within five Business Days (or 9:00am on the Second Court Date if earlier) of receipt of a notice requesting the Bidder to remedy the breach and the Scheme Implementation Deed is terminated by Patties in accordance with clause 13.1(a) of the Scheme Implementation Deed; or

- Bidder does not pay the Scheme Consideration in accordance with the terms and conditions of the Scheme Implementation Deed and the Deed Poll.

Payment of the Bidder Break Fee represents the sole and exclusive remedy available to Patties.

## **4.6 What are your options?**

The following principal options are available to Patties Shareholders. Patties encourages you to consider your personal risk profile, portfolio strategy, tax position and financial circumstances and seek professional advice before making any decision in relation to your Patties Shares.

### **Elect to receive the Scrip Consideration regardless of whether you vote in favour of or against the Scheme**

Regardless of whether you vote in favour of or against the Scheme (or do not vote at all on the Scheme), you may elect to receive the Scrip Consideration instead of the Cash Consideration in respect of between 40% and 100% of your Patties Shares by completing and returning the Election Form which accompanies this Explanatory Booklet. Elections from Patties Shareholders who are Foreign Scheme Shareholders will not be valid and they will not receive Scrip Consideration even if they make an Election.

It is a matter for each eligible Patties Shareholder to decide whether or not to make an Election to receive the Scrip Consideration, having regard to their individual circumstances, financial situation, taxation position, investment objectives and risk profile. On those matters, Shareholders should form their own view and consider obtaining professional advice that is appropriate to their specific circumstances before making any Election to receive the Scrip Consideration.

This Explanatory Booklet contains information that is material to your decision whether or not to make an Election to receive the Scrip Consideration. In particular, you should read Sections 6, 7 and 8 of this Explanatory Booklet and the Independent Expert's Report in Appendix 1 before making any decision to elect to receive the Scrip Consideration.

### **Vote in favour of the Scheme**

**This is the course of action unanimously recommended by your Directors, in the absence of a Superior Proposal.**

To follow your Directors' unanimous recommendation, you should vote in favour of the Scheme at the Scheme Meeting. For a summary of how to vote on the Scheme, please refer to Section 3 of this Explanatory Booklet.

### **Vote against the Scheme**

If, despite your Directors' unanimous recommendation and the conclusion of the Independent Expert, you do not support the Scheme, you may vote against the Scheme at the Scheme Meeting.

However, if all of the conditions for the Scheme are satisfied or waived (as applicable), the Scheme will bind all persons registered as Patties Shareholders on the Scheme Record Date, including those who were not present at the Scheme Meeting, those who voted against the Scheme or those who did not vote.

**Vote in favour or against the Scheme and make no Election to receive Scrip Consideration**

Regardless of whether you vote in favour of or against the Scheme, you are not required to lodge an Election Form if you do not intend to receive Scrip Consideration in the event that the Scheme is approved and implemented notwithstanding your individual vote. If the Scheme is approved and implemented and you do not make such an Election, you will receive total cash payments of \$1.65 for each Patties Share you hold at the Scheme Record Date (currently expected to comprise the Special Dividend and the Cash Consideration).

**Sell your Patties Shares**

The existence of the Scheme does not preclude you from selling some or all of your Patties Shares on market for cash, if you wish, provided you do so before close of trading in Patties Shares on ASX on the Effective Date (currently proposed to be 5 September 2016), when trading in Patties Shares on ASX will be suspended.

You may also sell your Patties Shares off-market after the Effective Date but before the Scheme Record Date (currently proposed to be 7:00pm on 15 September 2016).

If you are considering selling your Patties Shares, you should have regard to the prevailing trading prices of Patties Shares and compare those to the Scheme Consideration. You may ascertain current trading prices of Patties Shares through ASX's website ([www.asx.com.au](http://www.asx.com.au)) or by contacting your stockbroker.

Patties Shareholders who sell some or all of their Patties Shares on ASX:

- will receive payment for the sale of their Patties Shares sooner than they would receive payment under the Scheme (noting that the proceeds of sale may vary from the Cash Consideration amount of \$1.65 per Share);
- may incur a brokerage charge;
- will not be able to receive the Scheme Consideration or be entitled to the benefits of any Superior Proposal, if one emerges (but only in respect of those Patties Shares they have sold, if they have chosen to sell some but not all of their Patties Shares);
- you may not be eligible to receive the Special Dividend (if it is declared), noting that the Special Dividend Record Date is expected to be 5 Business Days before the Scheme Record Date; and
- may be liable for income tax on the disposal of their Patties Shares (as may also be the case for Scheme Shareholders, as to which see Section 8).

**Do nothing**

Patties Shareholders who do not vote at the Scheme Meeting will:

- if the Scheme is implemented – have their Patties Shares compulsorily transferred to Bidder, by operation of the Scheme, and be entitled to receive the Cash Consideration (unless they have made a valid Election to receive the Scrip Consideration); and
- if the Scheme is not implemented – retain their Patties Shares.



## 5. Profile of Patties

### 5.1 Introduction

This Section contains information in relation to Patties.

The Independent Expert's Report set out in Appendix 1 to this Explanatory Booklet contains further information about Patties.

### 5.2 Background

Patties is an Australian food manufacturing company that produces, supplies and markets frozen savoury and dessert products. It is Australia's leading Australian-owned branded frozen food company that owns a portfolio of iconic Australian brands including FOUR'N TWENTY, Patties, Herbert Adams, Nanna's and Chef's Pride. Patties manufactures and markets these food products for the supermarket, petrol and convenience, catering and general foodservice channels in all parts of Australia.

The timeline below outlines the history and growth of the business.

<b>1966</b>	Peter and Annie Rijs acquire Patties Cake Shop in Lakes Entrance
<b>1976</b>	Acquires the Sunicrust bakery in Bairnsdale
<b>1984</b>	Acquires Gippsland bakery in Bairnsdale
<b>1985</b>	Constructs a new pie factory in Bairnsdale
<b>1988</b>	Consolidates its production facilities at Bairnsdale
<b>1989</b>	Acquires a major pie and cake manufacturing facility in Melbourne
<b>1994</b>	Begins distribution of products in Western Australia and South Australia
<b>1995</b>	Enters the party goods product group with the launch of the Party Pack 30's range and begins exports to New Zealand
<b>1996</b>	Sells the bread division to Sunicrust
<b>1997</b>	Sells Melbourne manufacturing facility and fresh distribution business
<b>1998</b>	Undertakes a significant upgrade and expansion of the Bairnsdale manufacturing facility
<b>1999</b>	Produces <i>Four'N Twenty</i> pie range for four months under contract for Simplot Australia
<b>2002</b>	Undertakes a significant upgrade and expansion of the Bairnsdale manufacturing facility
<b>2003</b>	Acquires Simplot Australia's bakery business assets which included <i>Four'N Twenty</i> , <i>Nanna's</i> and <i>Herbert Adams</i> brands
<b>2006</b>	Patties is listed on the Australian Stock Exchange
<b>2007</b>	Acquires frozen fruit and foodservice brands <i>Creative Gourmet</i> and <i>Chef's Pride</i>
<b>2012</b>	Undertakes a significant upgrade of the Bairnsdale manufacturing facility by commissioning the automated packing equipment
<b>2015</b>	Sells frozen fruit business and <i>Creative Gourmet</i> brand
<b>Today</b>	Patties proudly employs around 650 people and produces over 300 different sweet and savoury products. Patties' products are proudly sold through grocery and convenience stores as well as foodservice distributors who supply cafes, stadiums, caterers, schools, restaurants, hotels, clubs and even overseas markets

Patties' market capitalisation on 27 May 2016 (being the trading day immediately prior to Patties' announcement that it had received a non-binding, conditional and incomplete proposal from PEP) was approximately \$185.3 million (represented by 139,312,537 issued shares multiplied by the \$1.33 closing share price on that date).



### 5.3 Overview of operations

Patties is one of the largest Australian owned frozen food manufacturing companies, producing over 450 million meat pies per annum. It has a highly advanced production facility in the town of Bairnsdale in East Gippsland, Victoria with strong technical capabilities and systems in place.

Patties employs around 527 people, with over 400 based in Bairnsdale.

Patties’ has a stable of iconic food brands, including FOUR’N TWENTY, Patties, Herbert Adams and Nanna’s. An overview of these brands is set out below.

**Brand Overview**

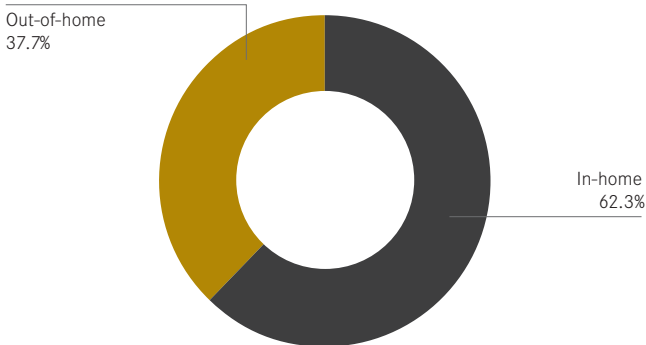
Segment	Brand	Description
Savoury		<ul style="list-style-type: none"> <li>• Bakers for over 100 years</li> <li>• Premium savoury pastry solution – frozen, chilled, deli</li> <li>• High quality, provenance of ingredients and new cooking technologies</li> </ul>
		<ul style="list-style-type: none"> <li>• “The Great Australian Taste” – an Aussie icon since 1947</li> <li>• Popular single serve savoury pie range, sausage rolls and pasties</li> <li>• In Home (grocery) and Out of Home (foodservice, petrol &amp; convenience, stadiums, HORECA)</li> </ul>
		<ul style="list-style-type: none"> <li>• Broad range of savoury finger food products for In-Home and Out of Home</li> <li>• Foodservice – popular platter pleaser, high quality snacks</li> </ul>
		<ul style="list-style-type: none"> <li>• Value price positioned range of quality savoury pastry snacks</li> <li>• Single serve and party ranges sold mainly in supermarkets</li> </ul>
Sweet Pastry		<ul style="list-style-type: none"> <li>• Range of premium frozen fruit pies, crumbles and donuts</li> <li>• Popular dessert solution for in-home consumers</li> <li>• Growing brand penetration for snacking into Out of Home sales channel</li> </ul>
Food Service		<ul style="list-style-type: none"> <li>• Range of components, ingredients and catering solutions</li> <li>• Meal solutions, bulk savoury ingredients to address today’s knifeless kitchen</li> <li>• Centre of plate protein solutions, frozen fruit and side of plate accompaniments</li> </ul>

Patties operates in two key channels:

- In-Home: Supermarkets and grocery stores
- Out of Home: Consisting of petrol and convenience, stadiums, catering and general foodservice channels

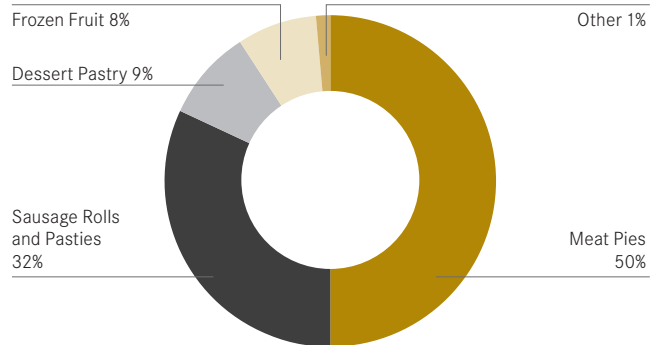
The following charts illustrate Patties’ HY2016 revenue split by product category.

**HY2016 Revenue by Channel**



Source: HY16 results presentation (page 10)

**HY2016 Revenue by Product<sup>12</sup>**



Source: HY16 results presentation (page 10)

12. On 7 December 2015, Patties announced the sale of its Creative Gourmet frozen fruit business and that it would undertake a managed exit of the Nanna’s brand of frozen fruit products sold in supermarkets, and the Chef’s Pride food service brand of frozen fruit products sold to distributors.

## 5.4 Historical financial information

The information set out below summarises certain historical financial information about Patties and does not contain all the disclosures that are usually provided in an annual report prepared in accordance with the Corporations Act. The financial information has been extracted from Patties' financial results for the half year ended 31 December 2015, and its audited financial statements for the financial years ended 30 June 2015 and 30 June 2014, and should be read in conjunction with the notes included in those financial reports.

### (a) Consolidated statement of financial performance

	Consolidated statement of comprehensive income		
	HY2016 \$'000	FY2015 \$'000	FY2014 \$'000
<b>Revenue from continuing operations</b>	125,897	256,203	247,052
Sale of goods	280	647	605
Other revenue from ordinary activities	126,177	256,850	247,657
Other income	-	8	8
Cost of sales of goods	(84,807)	(172,080)	(161,222)
Distribution	(14,221)	(29,180)	(28,587)
Sales and marketing	(10,745)	(22,625)	(22,246)
Administration	(5,397)	(12,153)	(11,545)
Other	-	(3,273)	-
Impairment loss	-	(10,300)	-
Finance costs	(2,412)	(3,738)	(3,658)
Share of net profit of associates accounted for using the equity method	1,110	1,904	1,945
Profit before income tax	9,705	5,413	22,352
Income tax expense	(2,449)	(3,358)	(5,669)
<b>Profit from continuing operations</b>	<b>7,256</b>	<b>2,055</b>	<b>16,683</b>
<b>Other comprehensive income for the year, net of tax</b>			
Cash Flow Hedges	51	519	(1,343)
Income tax relating to components of other comprehensive income	(15)	(155)	403
<b>Other comprehensive income for the year, net of tax</b>	<b>36</b>	<b>364</b>	<b>(940)</b>
<b>Total comprehensive income for the year</b>	<b>7,292</b>	<b>2,419</b>	<b>15,743</b>
Profit is attributable to:			
Owners of Patties Foods Limited	7,256	2,055	16,683
	<b>7,256</b>	<b>2,055</b>	<b>16,683</b>
Total comprehensive income for the year is attributable to:			
Owners of Patties Foods Limited	7,292	2,419	15,743
	<b>7,292</b>	<b>2,419</b>	<b>15,743</b>
<b>Earnings per share for profit attributable to the ordinary equity holders of the parent entity:</b>			
	<b>Cents</b>	<b>Cents</b>	<b>Cents</b>
Basic earnings per share	5.2	1.5	12.0
Diluted earnings per share	5.2	1.5	12.0

**(b) Consolidated statement of financial position**

	Consolidated balance sheet		
	As at 31 Dec 2015 \$'000	As at 30 Jun 2015 \$'000	As at 30 Jun 2014 \$'000
<b>ASSETS</b>			
<b>Current assets</b>			
Cash and cash equivalents	583	664	88
Receivables	47,464	52,391	46,818
Inventories	47,311	49,910	44,976
Derivative financial instruments	43	67	-
Current tax receivables	583	-	-
<b>Total current assets</b>	<b>95,984</b>	<b>103,032</b>	<b>91,882</b>
<b>Non-current assets</b>			
Investments accounted for using the equity method	13,174	12,064	10,833
Property, plant and equipment	75,721	76,505	74,415
Intangible assets	56,378	56,590	66,900
<b>Total non-current assets</b>	<b>145,273</b>	<b>145,159</b>	<b>152,148</b>
<b>Total assets</b>	<b>241,257</b>	<b>248,191</b>	<b>244,030</b>
<b>LIABILITIES</b>			
<b>Current liabilities</b>			
Payables	19,564	26,778	30,050
Borrowings	2,500	2,500	2,504
Derivative financial instruments	-	69	677
Current tax liabilities	-	356	1,247
Provisions	4,715	4,872	4,413
<b>Total current liabilities</b>	<b>26,779</b>	<b>34,575</b>	<b>38,891</b>
<b>Non-current liabilities</b>			
Borrowings	72,700	72,350	61,250
Deferred tax liabilities	6,102	6,087	5,623
Provisions	233	233	294
Derivative financial instruments	978	984	828
<b>Total non-current liabilities</b>	<b>80,013</b>	<b>79,654</b>	<b>67,995</b>
<b>Total liabilities</b>	<b>106,792</b>	<b>114,229</b>	<b>106,886</b>
<b>Net assets</b>	<b>134,465</b>	<b>133,962</b>	<b>137,144</b>
<b>EQUITY</b>			
Contributed equity	68,889	68,797	68,682
Reserves	(467)	(583)	(894)
Retained earnings	66,043	65,748	69,356
<b>Total equity</b>	<b>134,465</b>	<b>133,962</b>	<b>137,144</b>



**(c) Consolidated statement of cash flows**

	Consolidated statement of cash flows		
	HY2016 \$'000	FY2015 \$'000	FY2014 \$'000
<b>Cash flows from operating activities</b>			
Receipts from customers (inclusive of goods and services tax)	141,845	267,833	272,907
Payments to suppliers and employees (inclusive of goods and services tax)	(127,363)	(254,880)	(240,325)
Income taxes paid	(2,412)	(3,933)	(5,744)
Borrowing costs paid	(3,406)	(3,753)	(3,676)
<b>Net cash inflow/(outflow) from operating activities</b>	<b>8,664</b>	<b>5,267</b>	<b>23,162</b>
<b>Cash flows from investing activities</b>			
Payments for property, plant and equipment	(3,110)	(10,726)	(9,267)
Payments for intangibles		(425)	(800)
Proceeds from sale of property, plant and equipment		400	-
Proceeds from sale of frozen berry business	879		
Acquisition of controlled associate		(239)	-
Dividends received	-	500	1,000
Interest received	5	15	17
<b>Net cash (outflow) from investing activities</b>	<b>(2,226)</b>	<b>(10,475)</b>	<b>(9,050)</b>
<b>Cash flows from financing activities</b>			
Proceeds from issues of shares and other equity securities	92	115	111
Proceeds from borrowings	51,262	101,825	114,350
Repayment of borrowings	(50,912)	(90,725)	(116,850)
Dividends paid to group's shareholders	(6,961)	(5,427)	(9,877)
<b>Net cash inflow/(outflow) from financing activities</b>	<b>(6,519)</b>	<b>5,788</b>	<b>(12,266)</b>
<b>Net increase in cash and cash equivalents</b>	<b>(81)</b>	<b>580</b>	<b>1,846</b>
Cash and cash equivalents at the beginning of the financial year	664	84	(1,762)
<b>Cash and cash equivalents at end of period</b>	<b>583</b>	<b>664</b>	<b>84</b>

**5.5 Material changes in the financial position of Patties**

Other than:

- payment of a 100% franked dividend of \$0.027 per Patties Share on 15 April 2016;
- reduction in net working capital balances relative to 31 December 2015 and a resulting decrease in net debt, largely driven by the sell down of residual frozen fruit inventory and the unwinding of large, strategic holdings of meat raw materials;
- the accumulation of profits in the ordinary course of trading;
- as disclosed in this Explanatory Booklet or as otherwise disclosed to ASX by Patties; and
- in accordance with generally known market conditions,

within the knowledge of the Patties Board, the financial position of Patties has not materially changed since 31 December 2015, being the date of the Patties Half Year Financial Report (**HY2016**) (released to the ASX on 22 February 2016).

## 5.6 Patties Shares and capital structure

### (a) Patties Shares on issue

As at the Last Practicable Date, Patties had 139,312,537 Shares on issue. If the Scheme proceeds, all Patties Shares on issue as at the Scheme Record Date will be transferred to Bidder, with the effect that Patties will become a wholly owned subsidiary of Bidder and delisted from ASX. Please refer to Sections 9 and 10 for a description of how Patties Shares will be dealt with in the context of the Scheme.

### (b) Patties Performance Rights outstanding

As at the Last Practicable Date, Patties had 1,173,832 performance rights, issued to the following senior management employees of Patties:

Number	Number of Patties Performance Rights
Steven Chaur	448,571
Robin Donohue	40,075
Denis Gerrard	198,209
Jeff Pentney	201,734
Stuart Smyth	70,560
Bethaney George	78,459
Greg Wharton	70,408
Steve Beauchier	65,816

All Patties Performance Rights were issued under the Patties Long Term Incentive Plan. Please refer to Section 9.6 for a description of how these Patties Performance Rights are proposed to be dealt with in the context of the Scheme.

### (c) Substantial shareholders

Based on publicly available information, as at the Last Practicable Date, Patties has received notifications from the following substantial shareholders under section 671B of the Corporations Act.

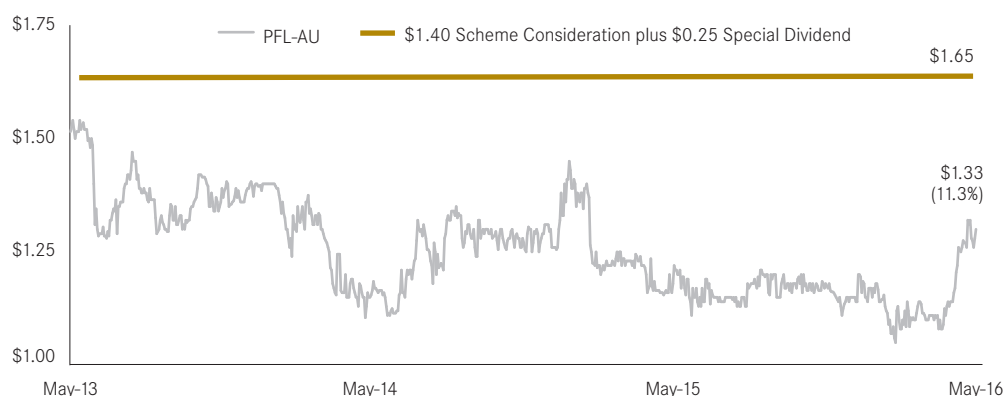
Shareholder name	Number of Patties Shares	Percentage shareholding
Adrian & Louise Rijs	11,951,051	8.58%
The Myer Family Investments Pty Ltd	11,594,449	8.32%
N & F Rijs	10,715,348	7.70%
Frank & Wilhelmina Rijs	9,834,693	7.06%
Harry Rijs	9,500,000	6.82%
Richard C Rijs	9,000,002	6.46%
	<b>62,595,543</b>	<b>44.94%</b>

## 5.7 Recent Patties Share performance

The Patties Share price closed at \$1.33 on 27 May 2016, being the last day prior to the announcement that Patties had received a non-binding, conditional and incomplete proposal from PEP.

The chart below shows Patties Share price performance over the last three years to 27 May 2016.

Patties Share price performance over the last three years to 27 May 2016



Source: Factset

## 5.8 Patties intentions if the Scheme does not proceed

If the Scheme does not proceed:

- Patties will carry on with its business in the ordinary and usual course; and
- the Patties Directors intend to continue to pay interim and final distributions, in accordance with Patties existing distribution policy.

## 5.9 Outlook

The Patties Board remains confident in management's plans for growth and innovation in Patties core brands. Patties is a company with strong growth prospects derived from a multiple sales channel business model, supported by a best-in-class automated bakery operation in East Gippsland with category leading brands. The Patties Board remains committed to driving earnings growth and building shareholder value by continuing to retain and develop a high quality management team that is focused on:

- capitalising on Patties multi-sales channel business model and growing profitable channels;
- being recognised as an innovative, strategic business partner with all our customers;
- investing in marketing and technology in our icon brands;
- growing through premium, innovative new products and packaging solutions that increase consumption and drive new distribution;
- continuing to deliver improved manufacturing efficiencies, lower conversion costs and the highest quality food products; and
- a disciplined management of overhead costs across the business.

## 5.10 Risks

There are risks relating to Patties business and an investment in Patties which will continue to be relevant to Patties Shareholders if the Scheme does not proceed. These risks include but are not limited to the following risks.

### General risks

Patties Shares carry no guarantee in respect of profitability, dividends, return of capital or the price at which they may trade on ASX. The market price of Patties Shares and future distributions made to Patties Shareholders will be influenced by a number of factors, including factors beyond the control of Patties Directors and management which may include changes in:

- consumer and business sentiment and overall performance of local and international stock markets;
- general economic outlook in Australia and internationally;
- government fiscal, monetary and regulatory policies;
- prevailing economic conditions including inflation, interest rates, foreign exchange rates and consumer demand; and
- accounting standards which affect the financial performance and position reported by Patties.

### Specific risks relating to Patties

#### (a) Reliance on key personnel

Patties is substantially reliant on the expertise, knowledge and specialist skills of its employees and contractors. Patties growth and profitability may be limited if a significant number of its key personnel leave Patties. Patties may also be adversely affected by the inability to attract new suitably qualified personnel or by increased compensation costs associated with attracting and retaining key personnel.

#### (b) Reduced product support from large retailers

Major supermarket chains are Patties largest customers and, because of their size, hold strong positions with their suppliers. Patties is exposed to the risk that the major supermarket chains may reduce purchases from Patties, delete some of Patties products from their ranges entirely, replace Patties products with competing products or put downward pressure on Patties margins. In addition, the major supermarket chains continue to increase their focus on private label brands in a number of categories. A significant increase in private label brands in the frozen savoury and dessert segments of the retail market may result in Patties losing sales of its branded products. The loss of Patties major supermarket customers or a substantial decrease in sales to those customers may have a material adverse impact on the performance of Patties.

#### (c) Competition risk

Patties operates in a highly competitive and dynamic industry. This exposes Patties to a number of risks associated with maintaining its market position. These risks include:

- there being a material adverse effect on Patties business, results of operations and financial conditions as a result of certain pricing, service or marketing decisions or acquisitions made by Patties as a strategic response to changes in the competitive environment;
- other parties developing products or services that compete with Patties or supersede or supplant products or services of Patties, or are more competitively priced than Patties products or services;
- there being unexpected changes in customer demands or expectations for Patties products or services; and
- product and other liability claims being successfully made or asserted against Patties, given that the testing, marketing, sale and implementation of technology based food products and services entails an inherent risk of liability.

#### (d) Relationship with suppliers

Patties has a number of important agreements with its key suppliers, including co-manufacturers. If Patties relationship with any of the suppliers deteriorates significantly or the supplier ceases trading due to financial difficulties and Patties inventory is depleted, Patties may not be able to source alternative products or raw materials immediately or only on less favourable terms. Any event that results in Patties incurring higher costs from suppliers that cannot be passed on to the customer may have a material adverse impact on the performance of Patties.

#### (e) Commodity pricing and raw material costs

Patties main raw material, meat, is used in the production of a number of Patties products. A material increase in meat prices (eg. as a result of drought, or a major outbreak of disease offshore which may increase demand for Australian meat) may have a material adverse impact on the performance of Patties.

#### (f) Litigation and disputes

As with any company, Patties is exposed to the risks of claims and litigation which may have a material adverse effect on the financial position of Patties. To the extent that such claims or litigation are not covered by insurance, an adverse outcome in litigation or the cost of initiating or responding to potential or

actual claims or litigation may have a material adverse impact on financial performance. Moreover, even when such claims or litigation are covered by insurance, Patties may be adversely affected by the requirement to pay the initial excess/deductible under the policy and potential increases in its future insurance premiums or deductibles.

**(g) Taxation risk**

Changes to income tax (including capital gains tax), GST, withholding tax, payroll tax, duty or other revenue legislation, case law, rulings or determinations issued by the Commissioner of Taxation or other practices of tax authorities may change or adversely affect Patties profitability, net assets and cash flow. In particular, both the level and basis of taxation may change.

**(h) Dividends**

The payment of dividends on Patties Shares depends on a range of factors including the profitability of Patties, the availability of cash, capital requirements of the business and obligations under debt instruments. Any future dividend levels will be determined by the Patties Directors having regard to its operating results and financial position at the relevant time. There is no guarantee that existing levels of dividends paid will be maintained.

**(i) Single site dependency for the manufacture of finished products**

Patties has one site from which it produces approximately 80% of its finished goods. A fire, flood or other natural disaster occurring at the site may have a material adverse impact on the ability of Patties to produce and supply products, impacting the performance of Patties.

**(j) Product liability and compliance**

Patties has procedures and policies in place to comply with Australian and New Zealand Food Standards and to ensure its products are free from contamination. Contamination, or an extortion threat on the basis of alleged or actual contamination, of any of Patties products, may lead to business interruption, product recalls or liabilities to consumers. While Patties maintains insurance cover for a certain number of these risks,

Patties may not be able to enforce its rights in respect of those policies. If Patties does recover an amount under its insurance policies for loss suffered, it may not be sufficient to offset any damage to the financial condition, reputation or prospects of Patties caused by the contamination or extortion threat. Product contamination or an extortion threat may have a material adverse impact on the operating and financial performance of Patties.

Failure to comply with Australian and New Zealand Food Standards or other laws and regulations governing the manufacturing and sale of food could result in the revocation of licences or registrations that Patties requires to conduct its business. This may have a material adverse impact on the operating and financial performance of Patties.

## 5.11 Public information available for inspection

Patties is listed on ASX. Patties is a disclosing entity for the purposes of the Corporations Act and the ASX Listing Rules and is subject to regular reporting and disclosure obligations that require Patties to immediately disclose to the market any information of which it is aware which a reasonable person may expect to have a material impact on the price or value of Patties Shares.

ASIC also maintains a record of documents lodged with it by Patties, and these may be obtained from or inspected at any office of ASIC.

Patties is required to prepare and lodge with ASIC and ASX both annual and half year financial statements accompanied by a statement and report from Patties Directors and an audit or review report.

Copies of these and other documents lodged with ASIC and ASX may be obtained from an ASIC office and are accessible from ASX's website at [www.asx.com.au](http://www.asx.com.au).



## 6. Profile of Bidder

Information contained in this Section 6 has been prepared by Bidder. The information concerning the Bidder Group and the intentions, views and opinions contained in this Section 6, are the responsibility of Bidder.

### 6.1 Profile of Bidder

#### (a) Bidder Group

The Bidder is a wholly owned subsidiary of Australasian Foods FinCo Pty Limited (ACN 612 642 145) (**FinCo**), which in turn is a wholly owned subsidiary of Australasian Foods HoldCo Pty Limited (ACN 612 640 329) (**HoldCo**) (together, the **Bidder Group**). Each member of the Bidder Group is directly or indirectly wholly-owned by the Fund as shown in Diagram 1 below.

The Bidder is a special purpose company that was incorporated on 26 May 2016 for the purpose of acquiring all of the Patties Shares. The Bidder is an unlisted private Australian company and has not undertaken any trading activities. All of the shares in the Bidder are owned by FinCo and will continue to be so held on and from the Implementation Date. If the Scheme becomes Effective, the Bidder will hold all of the Patties Shares on or shortly after the Implementation Date.

FinCo is a special purpose company that was incorporated on 26 May 2016 for the purpose of holding all of the shares in the Bidder. FinCo is an unlisted private Australian company and has not undertaken any trading activities. All of the shares in FinCo are owned by HoldCo and will continue to be so held on and from the Implementation Date.

HoldCo is a special purpose company that was incorporated on 26 May 2016 for the purposes of holding all of the shares in FinCo, issuing Class A Shares to the PEP Shareholders and issuing Scrip Consideration in the form of Class B Shares to those eligible Patties Shareholders who validly elect to receive their Scheme Consideration wholly or partly in the form of Scrip Consideration in accordance with the Scheme.

HoldCo is an unlisted private Australian company and has not undertaken any trading activities. All of the Class A Shares in HoldCo are currently owned by the entities which together comprise the Fund.

#### (b) Fund

PEP is a member of a group of companies that manages or advises a number of unit trusts and limited partnerships operating as a single fund known as Pacific Equity Partners Fund V or PEP Fund V (the **Fund**).

The following entities and funds which comprise the Fund will be indirectly participating in the Scheme and have an ownership interest in the Bidder Group:

- **Pacific Equity Partners Fund V L.P.** (a Delaware Limited Partnership) acting via its general partner Pacific Equity Partners Fund V GP (Jersey) Ltd;
- **Pacific Equity Partners Fund V-A L.P.** (a Delaware Limited Partnership) acting via its general partner Pacific Equity Partners Fund V GP (Jersey) Ltd;
- **Pacific Equity Partners Fund V-B L.P.** (a Delaware Limited Partnership) acting via its general partner Pacific Equity Partners Fund V GP (Jersey) Ltd;
- **Pacific Equity Partners Fund V-C L.P.** (a Delaware Limited Partnership) acting via its general partner Pacific Equity Partners Fund V GP (Jersey) Ltd;
- **Eagle Coinvestment Pty Limited (ACN 119 182 688)** as trustee for Pacific Equity Partners Fund V Co-investment Trust A;
- **PEP Investment Pty Limited (ACN 083 026 984)**; and
- **Pacific Equity Partners Investors Administration Pty Ltd (ACN 161 245 263)** as trustee for the Pacific Equity Partners Fund V (Australasia) Unit Trust.

Each of the above listed entities and funds comprise the Fund and have been set up to invest in business opportunities in Australia and New Zealand. The Fund has more than \$2 billion equity funds under management.

#### (c) PEP

The PEP Shareholders are advised or managed by a group of companies of which PEP is a member.

PEP was founded in 1998 and is a leading Australian based private equity advisory firm which focuses on buyouts and late stage expansion capital in Australia and New Zealand.

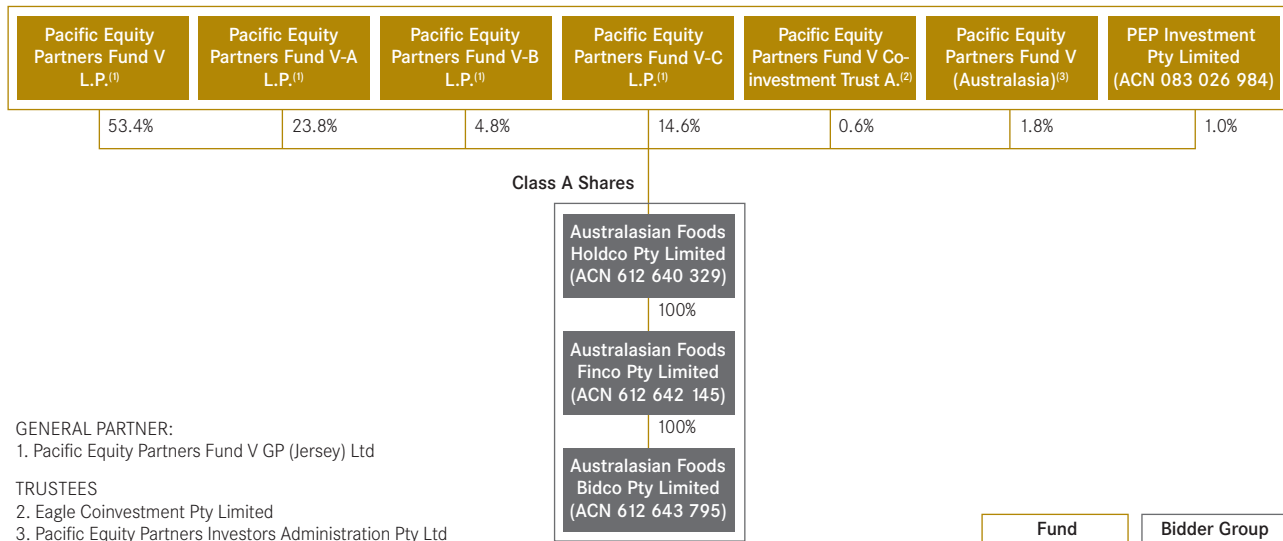
Since 1998, PEP has (either directly or as a member of a group of companies) managed or advised funds with more than \$8 billion in committed capital and has advised funds on over 25 completed transactions across a broad range of industries.

Recent investments made by funds managed or advised by PEP include:

- **Manuka Health** – a New Zealand manufacturer and distributor of manuka honey products;
- **Pinnacle Bakery & Integrated Ingredients** – an Australian manufacturer of baked products and bakery ingredients; and
- **Peters Ice Cream** – an Australian manufacturer of ice cream products.

Further information on PEP is available from its website at: [www.pep.com.au](http://www.pep.com.au).

Diagram 1: Structure Chart – the Fund, Class A Shares and the Bidder Group



## 6.2 Connection to the Scheme

The Scheme contemplates the acquisition of all Patties Shares such that from the Implementation Date, the Bidder will hold 100% of the shares in Patties. Under the Scheme, Patties Shareholders will receive the Cash Consideration for their Patties Shares but may elect the Scrip Consideration in respect of 40% to 100% of their Patties Shares. Eligible Patties Shareholders may:

- receive the total value of their Scheme Consideration as Cash Consideration; or
- subject to the Minimum Holding Threshold, the Minimum Elections Threshold and any Scrip Scale Back, elect to receive some or all of the value of their Scheme Consideration as Scrip Consideration in the form of Class B Shares, in which case:
  - where a Patties Shareholder has made a ‘Partial Election’ (that is, has made a valid Election in respect of 40% to 100% of its Patties Shares), it will receive a combination of Scrip Consideration in respect of those Patties Shares which are the subject of the valid Election and will receive the Cash Consideration in respect of the remaining Patties Shares held by that Patties Shareholder which are not the subject of a valid Election; or
  - where a Patties Shareholder has made a ‘Full Election’ by making a valid Election in respect of 100% of its Patties Shares, it will receive the entirety of its Scheme Consideration in the form of Scrip Consideration.

Subject to the Minimum Holding Threshold, Minimum Elections Threshold and the Scrip Scale Back, if an eligible Patties Shareholder makes a valid Election for Scrip Consideration and HoldCo has an obligation to issue Class B Shares to that Patties Shareholder, that Patties Shareholder will, on the Implementation Date, become a shareholder of HoldCo and thereby have an indirect interest in Patties that is proportional to their holding in HoldCo. The Patties Shareholder will also be bound by the Shareholders’ Deed.

The Fund will subscribe for Class A Shares in HoldCo to partly fund the Cash Consideration and other amounts (with the remainder of the Cash Consideration and other amounts being funded through the Debt Facilities). Following implementation of the Scheme, the Fund will hold all of the Class A Shares in HoldCo. The proportion of the total shares on issue in HoldCo made up of Class A Shares will depend on the number of Patties Shareholders who make valid Elections to receive the Scrip Consideration and operation of the Minimum Holding Threshold, Minimum Elections Threshold and potential Scrip Scale Back.

Regardless of the shareholding percentage of the Fund following implementation of the Scheme, those Class A Shares will have certain additional rights in relation to HoldCo and its subsidiaries (including Patties) because of the nature of the Class A Shares which they alone will hold and because of the terms of the Shareholders’ Deed. Section 1.1 sets out the key additional rights that the Fund has under the Shareholders’ Deed and by virtue of holding Class A Shares. Section 7.1 describes the percentage ownership of the Fund in HoldCo depending on the level of Scrip Consideration issued.

## 6.3 Directors of the Bidder Group and Patties following implementation of the Scheme

### (a) Bidder Group

The initial directors of the Bidder Group are Mr Antony Duthie, Mr David Brown and Mr Shannon Wolfers.

The Bidder Group intends to supplement these directors with additional nominees, including persons with expertise in the food manufacturing industry.

Under the Shareholders’ Deed, the CEO will be appointed as a director of HoldCo.

The Bidder Group has not identified which other persons might join the boards of the Bidder Group.

Brief profiles of the current directors of the Bidder Group are below.

#### Mr Antony Duthie

Mr Duthie is a Managing Director at PEP having joined PEP in 2006. Before joining PEP, Mr Duthie was a Partner of Bain & Company with over 12 years of consulting experience in Australia, Asia and Europe. Mr Duthie received an MBA from INSEAD (Dean’s List) and a BCom from the University of New South Wales.

#### Mr David Brown

Mr Brown is a Managing Director at PEP and joined the firm at the start of 2004. Prior to joining PEP, he spent his analyst years in the Investment Banking Division of JP Morgan. Mr Brown received a PLD from Harvard Business School and first class honours degrees (BCom and LLB) from the University of Queensland where he was awarded a University Medal.

**Mr Shannon Wolfers**

Mr Wolfers is a Director at PEP and joined the firm in 2006. Prior to joining PEP, Shannon was with Bain & Company in Australia and SE Asia. Mr Wolfers was a University of Sydney Scholarship holder where he received a first class honours degree (BEcon) and the University Medal.

**(b) Patties board following implementation of the Scheme**

If the Scheme is implemented, the Bidder intends to replace some or all members of the Patties Board with nominees of the Bidder (who are yet to be identified).

**(c) Corporate governance of the Bidder Group**

Eligible Patties Shareholders who make a valid Election will receive Class B Shares under the Scheme (assuming the Minimum Holding Threshold and Minimum Elections Threshold are both satisfied).

Under the Scheme those persons agree to become shareholders of HoldCo and be bound by the Shareholders' Deed.

The board of directors of each Bidder Group Member will be responsible for the overall corporate governance of that entity, including adopting appropriate policies and practices and seeking to ensure that its directors and employees (if any) fulfil their functions effectively and responsibly.

Following implementation of the Scheme the Bidder intends to review the existing corporate governance policies and practices of Patties.

The Bidder Group does not intend, after implementation of the Scheme, that they or Patties will have corporate governance policies and practices that are necessarily equivalent to those adopted by Patties in the past or by ASX listed companies generally. Instead, the Bidder Group expects that they and Patties will adopt corporate governance policies and practices appropriate to unlisted privately held companies.

If the Scheme becomes Effective, Patties will apply to ASX to suspend trading on the ASX in Patties Shares with effect from the close of trading on the Effective Date and, on a date after the Implementation Date to be determined by Bidder, and once the transfer of the Patties Shares have been registered in accordance with the terms of the Scheme, Patties will apply for termination of the official quotation of Patties Shares on ASX and to have itself removed from the official list of ASX. The Bidder expects that, after the Implementation Date, shareholders of HoldCo will have access to less information and reports about the Patties Group than Patties Shareholders currently receive.

Under the Shareholders' Deed, shareholders of HoldCo are entitled to receive a copy of the latest audited financial statements of the Bidder Group if requested. Members of HoldCo will not receive reports such as directors reports, remuneration reports or corporate governance reports. The Shareholders' Deed does not require HoldCo to hold any annual general meeting of members.

**6.4 Funding arrangements****(a) Maximum Scheme Consideration**

The consideration for the acquisition of the Patties Shares to which the Scheme relates will be satisfied by a combination of cash and the issuance of Class B Shares, unless the Minimum Holding Threshold and/or Minimum Elections Threshold are not satisfied, in which case all Patties Shareholders will receive the Cash Consideration irrespective of whether or not they made a valid Election.

Based on the number of Patties Shares to which the Scheme relates (being all shares on issue):

- the maximum Cash Consideration that will be payable by the Bidder (on the assumption the Minimum Holding Threshold and/or Minimum Elections Threshold are not satisfied) is approximately \$231,802,509; and
- the maximum number of Class B Shares that would be issued by HoldCo (on the assumption every Scheme Shareholder made a valid Full Election) is 50,000,000 shares given the operation of the Scrip Scale Back.

The Scheme is not subject to a financing condition.

**(b) Cash funding arrangements**

The Bidder will fund the Cash Consideration through a combination of external debt facilities (subject to meeting conditions precedent to drawdown) and funds provided by the Fund. Each of these funding sources is described below.

**External debt facilities**

One source of funding for the cash component of the Scheme Consideration is the commitments obtained by the Bidder under debt facilities (**Debt Facilities**). The commitments for the Debt Facilities have been provided by Commonwealth Bank of Australia, Coöperatieve Rabobank U.A. Australia Branch, National Australia Bank Limited and Westpac Banking Corporation. Under the Debt Facilities, the Bidder has the following commitments available:

- \$136,000,000 available for the purpose of funding the acquisition of Patties Shares pursuant to the Scheme, repaying the existing indebtedness of the Patties Group and paying related costs and expenses;
- \$40,000,000 available to fund growth capital expenditure and any future acquisitions; and
- \$25,000,000 to fund working capital and general corporate purposes of the Patties Group, including any working capital variance as at completion of the acquisition of the Patties Shares.

The Debt Facilities have been documented under a facilities agreement which contains conditions precedent to drawdown, representations and warranties, undertakings, and events of default which are customary for facilities of this nature.

The Debt Facilities may only be drawn if the conditions precedent to drawdown are satisfied, certain defaults have not occurred and are not subsisting and certain representations and warranties are true and correct.

As at the date of this Explanatory Booklet, the Bidder is not aware of any reason why the Debt Facilities will not be available to be drawn down for the purpose of the acquisition of the Patties Shares on or prior to the Implementation Date.

**Funding from the Fund**

The Bidder has a legally binding equity commitment letter from the Fund dated 1 June 2016 (**Equity Commitment Letter**) under which each of the entities constituting the Fund irrevocably commits to pay to the Bidder such amounts as are necessary to meet the Bidder's obligations under the Scheme (less any amount which are the subject of the Debt Facilities) in each entities' relevant proportion as set out in the Equity Commitment Letter and reproduced below (**Equity Funding**).

The entities constituting the Fund are severally responsible for providing the Equity Funding to the Bidder under the Equity Commitment Letter in the proportions set out in table below.

PEP Party	Respective Proportion
<b>1 Pacific Equity Partners Fund V L.P.</b> (a Delaware Limited Partnership) acting via its general partner Pacific Equity Partners Fund V GP (Jersey) Ltd	53.4%
<b>2 Pacific Equity Partners Fund V-A L.P.</b> (a Delaware Limited Partnership) acting via its general partner Pacific Equity Partners Fund V GP (Jersey) Ltd	23.8%
<b>3 Pacific Equity Partners Fund V-B L.P.</b> (a Delaware Limited Partnership) acting via its general partner Pacific Equity Partners Fund V GP (Jersey) Ltd	4.8%
<b>4 Pacific Equity Partners Fund V-C L.P.</b> (a Delaware Limited Partnership) acting via its general partner Pacific Equity Partners Fund V GP (Jersey) Ltd	14.6%
<b>5 PEP Investment Pty Limited</b> (ACN 083 026 984)	1.0%
<b>6 Eagle Coinvestment Pty Limited</b> (ACN 119 182 688) as trustee for Pacific Equity Partners Fund V Co-investment Trust A	0.6%
<b>7 Pacific Equity Partners Investors Administration Pty Ltd</b> (ACN 161 245 263) as trustee for the Pacific Equity Partners Fund V (Australasia) Unit Trust	1.8%

Each entity in the Fund has agreed to subscribe for shares in HoldCo in part to fund the Cash Consideration and other costs associated with the acquisition of Patties under the Scheme.

### (c) Class B Shares arrangement

Patties and the Bidder have entered into a Deed Poll with HoldCo under which HoldCo has unconditionally agreed to issue all the Class B Shares which are necessary for the Bidder to satisfy its obligations under the Scheme. The Deed Poll is attached as Appendix 5 to this Explanatory Booklet.

### (d) Conclusion

On the basis of the arrangements described above the Bidder Group believes they have reasonable grounds for holding the view, and hold the view, that the Bidder will be able to satisfy its obligation to pay the Scheme Consideration as and when it is due under the terms of the Scheme.

## 6.5 Bidder's intentions

### (a) Introduction

If the Scheme is implemented, Bidder will become the holder of all Patties Shares and, accordingly, Patties will become a wholly owned subsidiary of Bidder.

This Section 6.5 sets out the present intentions of Bidder in relation to the continuation of Patties' business, any major changes to the Patties' business, the future employment of the present employees of Patties and any redeployment of the fixed assets of Patties, in each case if the Scheme is implemented.

The statements made in this Section 6.5 are statements of present intention only and are based on the information concerning Patties (including certain non-public information made available by Patties to Bidder prior to the entry into the Scheme Implementation Deed) and the general business environment which is known to Bidder at the time of preparation of this Explanatory Booklet. Final decisions will only be made by Bidder after having conducted a detailed review of Patties' business after the acquisition has been finalised. Accordingly, the statements set out in this Section 6.5 may change as new information becomes available or as circumstances change.

### (b) Removal from the ASX

The Bidder intends to arrange for Patties to be removed from the official list of the ASX after the Implementation Date.

### (c) Head office

The Bidder intends for Patties to maintain its current head office in Melbourne and operations at the Bairnsdale site following implementation of the Scheme.

### (d) Employees

Patties is a people driven business. The Bidder considers that a well-trained and motivated workforce is critical to maintaining the high standards of the business, and that the retention and incentivisation of staff is an essential component of the future success of the company.

The Bidder is not planning to make changes to existing roles and intends to work with the management team to ensure the organisation is appropriately set up to pursue the growth opportunities in the market.

### (e) Changes to Patties constitution

The Bidder has no current intention to make material changes to Patties' constitution following implementation of the Scheme, other than to reflect that Patties will no longer be a publicly listed company following implementation of the Scheme.

The constitution will be considered as part of the Bidder's broader review of Patties and, if deemed appropriate, will be amended. As the sole shareholder of Patties, the Bidder will alone be able to make changes to Patties' constitution.

### (f) Business, operations and assets

It is the current intention of the Bidder to continue Patties' focus on the Australian meal solutions market and largely operate Patties in its current form while providing support to pursue organic and acquisition-based growth opportunities as appropriate. The Bidder does not intend to redeploy any of Patties' fixed assets.

The Bidder intends to continue to operate Patties under its current name. As described previously, the Bidder will undertake a full review of Patties and its operations following implementation of the Scheme to determine how best to operate and further develop and grow the company. Decisions regarding future business operations will be made following the completion of that review. However, as at the date of this Explanatory Booklet, the Bidder does not intend to dispose of any of Patties' material assets.



## 7. Profile of HoldCo and Scrip Consideration

Information contained in this Section 7 has been prepared by Bidder. The information concerning the Bidder Group and the intentions, views and opinions contained in this Section 7, are the responsibility of Bidder.

### 7.1 Transaction Overview

#### (a) Features of Class B Shares to be received as Scrip Consideration

As at the date of this Explanatory Booklet, HoldCo has 1,000 Class A Shares on issue, all of which are held by the Fund. There are no Class B Shares on issue as at the date of this Explanatory Booklet.

If Patties Shareholders are eligible to receive Scrip Consideration, make a valid Election to do so, both the Minimum Holding Threshold and Minimum Elections Threshold conditions are satisfied and subject to the Scrip Scale Back, they will receive one Class B Share in HoldCo for each Patties Share held by that Patties Shareholder which is subject to the valid Election. Class B Shares issued as consideration under the Scheme will be fully paid and will rank equally with all other Class B Shares.

Patties Shareholders who receive Scrip Consideration under the Scheme will become parties to the Shareholders' Deed as Class B Shareholders. If required to maintain the status of HoldCo as an Australian proprietary company, HoldCo will appoint a Nominee to hold all of the Class B Shares on bare trust for each Class B Shareholder pursuant to the terms of the Nominee Deed (where the terms 'Nominee' and 'Nominee Deed' have the meaning given to them in the Shareholders' Deed). A copy of the Shareholders' Deed is included as Appendix 6 to this Explanatory Booklet. A copy of the Nominee Deed is attached at Schedule 4 of the Shareholders' Deed.

Class B Shares are subject to certain restrictions which include, but are not limited to, restrictions with regards to shareholder approvals, director appointment rights and exit rights. A summary of the significant rights and liabilities attaching to Class B Shares is set out in Section 1.1. The summary is not exhaustive and should be read subject to the full terms of the Shareholders' Deed set out in Appendix 6 to this Explanatory Booklet.

Patties Shareholders should note that their investment in HoldCo will be regulated differently than their investment in Patties because HoldCo will not be admitted to the ASX and therefore the ASX Listing Rules will not apply to HoldCo or Class B Shares. In particular, a consequence of the change in regulatory regimes means that the continuous disclosure rules, takeover regime and certain minority protection rights relevant to Patties do not apply to HoldCo. Material differences between the rights and obligations of a shareholder in an ASX listed company such as Patties and in HoldCo are explained by the Bidder in Section 7.3. Because HoldCo will not be admitted to the list of a stock exchange there is unlikely to be an available market to dispose of Class B Shares.

Please refer to Section 7.3 of this Explanatory Booklet for discussion of the risks associated with the Scrip Consideration.

Patties Shareholders considering the Scrip Consideration should consult their financial adviser, accountant or stockbroker if they are uncertain about whether an investment in HoldCo suits their particular investment objectives and they should also carefully consider the information in Section 7 about the Class B Shares that comprise the Scrip Consideration.

#### (b) Minimum Holding Threshold and Minimum Elections Threshold

The Scrip Consideration will not be made available to a Patties Shareholder under the Scheme unless Elections for Scrip Consideration received from that shareholder satisfy the Minimum Elections Threshold and unless Elections for Scrip Consideration received from Patties Shareholders in aggregate satisfy the Minimum Holding Threshold.

The Patties Board cannot give any assurance that the Minimum Holding Threshold will be satisfied. If it is not satisfied, or a Patties Shareholder does not otherwise satisfy the Minimum Elections Threshold, the Scrip Consideration will not be available to that Patties Shareholder and that Patties Shareholder will instead receive the Cash Consideration in respect of each Patties Share it holds on the Scheme Record Date.

#### (c) Foreign Scheme Shareholders

Restrictions in jurisdictions outside Australia may make it impractical or unlawful for Class B Shares to be issued under the Scheme to Patties Shareholders located in those jurisdictions, or for Patties Shareholders located in those jurisdictions to receive Class B Shares under the Scheme. Any Patties Shareholder whose address shown in the Patties Register at 7.00pm on the Scheme Record Date is a place outside of Australia and its external territories will be a "Foreign Scheme Shareholder" for the purposes of the Scheme.

Only Patties Shareholders whose registered address is within Australia are entitled to make an Election, if they wish. If a Patties Shareholder does not make an Election, or does not make an Election in accordance with the terms and conditions of the Election Form, that shareholder will receive the Cash Consideration for their Patties Shares. If a Foreign Scheme Shareholder submits an Election Form, that purported election will not be valid and the Shareholder will receive the Cash Consideration for all their Patties Shares.

All Foreign Scheme Shareholders will receive the Cash Consideration to which they are entitled in accordance with the terms of the Scheme.

#### (d) Trustees and nominees

Patties Shareholders that hold parcels of Patties Shares as trustee or nominee for, or otherwise on account of, another person can make an Election in respect of the Scheme Consideration alternatives for each parcel. A nominee needs to manage the underlying owners' separate Elections in the following manner. Where a nominee wishes to nominate separate Elections to reflect the instructions of different underlying beneficiaries, that nominee should establish separate holdings on the Patties Register (each with a different Holder Identification Number (*HIN*)) and lodge by the Record Date one Election Form in relation to each such beneficiary.

#### (e) Illustrative ownership structure of HoldCo under various scenarios

The following scenarios are shown to illustrate the potential sources and uses of funds of the consolidated Patties and Bidder Group and the ownership structure of HoldCo which may eventuate at the Implementation Date. Each of these scenarios is based on a number of assumptions which are unlikely to reflect the actual outcome of events at the Implementation Date and should be considered as illustrative only.

The consolidated sources and uses of funds shown in the tables below are based on both Bidder and Patties assumptions around various items as at the Implementation Date including:

- the total of the Scheme transaction costs (which includes assumptions made by Patties in respect of its transaction costs);
- the level of Patties net debt (which is based on assumptions made by Patties); and
- the number of shareholders who make valid Elections to receive Scrip Consideration.

The actual outcome at the Implementation Date may differ from the assumptions made in this Section 7.1 resulting in changes to the sources and uses of funds at the Implementation Date and, consequently, may result in changes to the illustrative ownership structures of HoldCo at the Implementation Date.

Each of the scenarios below also assumes that no Patties Shares will be issued or required to be issued on or after the Scheme Record Date as a result of the exercise of any Performance Rights and any Performance Rights not exercised by this date will instead lapse or be cancelled by Patties subject to the Scheme becoming Effective.

Performance Rights Holders have the right to exercise their rights into Patties Shares and then participate in the Scheme (and elect to receive either the Cash Consideration and/or the Scrip Consideration). There are 1,173,832 Performance Rights on issue at the date of this Explanatory Booklet. For the purpose of the examples below, it has been assumed that all of these rights will be exercised and an equivalent number of ordinary shares in Patties will be issued resulting in a total of 140,486,369 Patties Shares at the Implementation Date.

#### (f) Non-satisfaction of Minimum Holding Threshold and/or No Minimum Elections Threshold scenario

In this scenario where the Minimum Holding Threshold and/or the Minimum Elections Threshold is not met, any Patties Shareholder who made a valid Election to receive Scrip Consideration will instead receive the Cash Consideration in respect of all of their Patties Shares and the Fund would continue to be the only shareholder of HoldCo (in the manner shown in the structure diagram in Section 6.1 above). As a result, Patties would be ultimately owned by the Fund. In this scenario, the sources and uses of funds at implementation of the Scheme and the anticipated ownership structure of HoldCo are expected to be as shown in the following tables:

#### Sources and uses of funds of the consolidated Patties and Bidder Group in the no Minimum Holding Threshold and/or no Minimum Elections Threshold scenario

Sources and uses of funds	Amount
<b>Sources:</b>	
Cash provided by Bidder Group new debt facilities	\$136,000,000
Cash provided by the Fund <sup>13</sup>	\$177,973,941
<b>Total sources of funds</b>	<b>\$313,973,941</b>
<b>Uses:</b>	
Payment of the Cash Consideration to relevant Scheme Shareholders (\$1.40 (excluding the Special Dividend <sup>14</sup> ) for 140,486,369 <sup>15</sup> Patties Shares)	\$196,680,917
Payment of Special Dividend	\$35,121,592 <sup>16</sup>
Repayment of Patties' existing net debt balance outstanding	\$61,171,432 <sup>17</sup>
Payment for the costs of HoldCo's transaction, capital raising costs and related costs	\$14,000,000
Payment for the Scheme costs incurred by Patties	\$7,000,000 <sup>18</sup>
<b>Total uses of funds</b>	<b>\$313,973,941</b>

#### Anticipated ownership structure in HoldCo

Shares	Number	Percentage of HoldCo Shares
Total Fund Shares (Class A Shares)	127,124,243 <sup>19</sup>	100%
Total Scrip Consideration (Class B Shares)	0	0
<b>Total HoldCo shares on issue</b>	<b>127,124,243</b>	<b>100%</b>

#### (g) Satisfaction of Minimum Holding Threshold and Minimum Elections Threshold scenario

If valid Elections are received for Scrip Consideration which satisfy both the Minimum Holding Threshold and the Minimum Elections Threshold, and for the purposes of this scenario valid Elections are received in respect of exactly 5,555,555 Patties Shares (being the Minimum Holding Threshold) there is no Scrip Scale Back and one Class B Share will be issued for each Patties Share that is the subject of a valid Election.

In this scenario, the sources and uses of funds at implementation of the Scheme and the anticipated ownership structure of HoldCo are expected to be as shown in the following tables:

13. This figure includes the \$1,000 nominal capitalisation of HoldCo which the Fund contributed when Class A Shares were issued to the Fund at the time of HoldCo's incorporation.

14. Assuming that a Special Dividend of \$0.25 is declared and paid to eligible Patties Shareholders.

15. Being the sum of 139,312,537 shares + 1,173,832 Performance Rights

16. Being the product of the Special Dividend (\$0.25) multiplied by 140,486,369 shares

17. Based on Patties management accounts as at 31 May 2016 and is subject to change.

18. Based on Patties management estimate.

19. Being equal to the amount of cash provided by the Fund (\$177,973,941) divided by the issue price of \$1.40 per Class A Share, rounded down to the nearest whole share.

### Sources and uses of funds of the consolidated Patties and Bidder Group in the Minimum Holding Threshold and Minimum Elections Threshold scenario

Sources and uses of funds	Amount
<b>Sources:</b>	
Cash provided by Bidder Group new debt facilities	\$136,000,000
Cash provided by the Fund <sup>20</sup>	\$170,196,164
<b>Total sources of funds</b>	<b>\$306,196,164</b>
<b>Uses:</b>	
Payment of the Cash Consideration to relevant Scheme Shareholders (\$1.40 (excluding Special Dividend <sup>21</sup> ) for 134,930,814 <sup>22</sup> Patties Shares)	\$188,903,140
Payment of Special Dividend	\$35,121,592 <sup>23</sup>
Repayment of Patties' existing net debt balance outstanding	\$61,171,432 <sup>24</sup>
Payment for the costs of HoldCo's transaction, capital raising costs and related costs	\$14,000,000
Payment for the Scheme costs incurred by Patties	\$7,000,000 <sup>25</sup>
<b>Total uses of funds</b>	<b>\$306,196,164</b>

### Anticipated ownership structure in HoldCo

Shares	Number	Percentage of HoldCo Shares
Total Fund Shares (Class A Shares)	121,568,688 <sup>26</sup>	95.6%
Total Scrip Consideration (Class B Shares)	5,555,555	4.4%
<b>Total HoldCo shares on issue</b>	<b>127,124,243</b>	<b>100%</b>

#### (h) Maximum Scrip Consideration Scenario

Under the Scheme, a maximum of 50,000,000 Class B Shares may be issued to Scheme Shareholders.

If valid Elections are made in respect of more than 50,000,000 Patties Shares, the number of Class B Shares issued in respect of each Election will be subject to the Scrip Scale Back so that no more than 50,000,000 Class B Shares are issued to Patties Shareholders who have made a valid Election to receive Scrip Consideration under the Scheme. Cash Consideration will be provided in lieu of Class B Shares in respect of the Patties Shares that are subjected to the Scrip Scale Back in accordance with the formula outlined in the Scheme. Further information in relation to the Scrip Scale Back is set out in Section 7.1(i).

In this maximum Scrip Consideration scenario, the expected sources and uses of funds at implementation of the Scheme and the anticipated ownership structure of HoldCo is shown in the following tables:

### Sources and uses of funds of the consolidated Patties and Bidder Group in the maximum Scrip Consideration scenario

Sources and uses of funds	Amount
<b>Sources:</b>	
Cash provided by Bidder Group new debt facilities	\$136,000,000
Cash provided by the Fund <sup>27</sup>	\$107,973,941
<b>Total sources of funds</b>	<b>\$243,973,941</b>
<b>Uses:</b>	
Payment of the Cash Consideration to relevant Scheme Shareholders (\$1.40 (excluding Special Dividend <sup>28</sup> ) for 90,486,369 <sup>29</sup> Patties Shares)	\$126,680,917
Payment of Special Dividend	\$35,121,592 <sup>30</sup>
Repayment of Patties' existing net debt balance outstanding	\$61,171,432 <sup>31</sup>
Payment for the costs of HoldCo's transaction, capital raising costs and related costs	\$14,000,000
Payment for the Scheme costs incurred by Patties	\$7,000,000 <sup>32</sup>
<b>Total uses of funds</b>	<b>\$243,973,941</b>

### Anticipated ownership structure in HoldCo

Shares	Number	Percentage of HoldCo Shares
Total Fund Shares (Class A Shares)	77,124,243 <sup>33</sup>	60.7%
Total Scrip Consideration (Class B Shares)	50,000,000	39.3%
<b>Total HoldCo shares on issue</b>	<b>127,124,243</b>	<b>100%</b>

#### (i) Scrip Scale Back

Under the terms of the Scheme, a proportional scale back will apply if the number of Class B Shares to be issued to Scheme Shareholders who make a valid Election (assuming there were no Scrip Scale Back) would exceed 50,000,000 Class B Shares.

20. This figure includes the \$1,000 nominal capitalisation of HoldCo which the Fund contributed when Class A Shares were issued to the Fund at the time of HoldCo's incorporation.

21. Assuming that a Special Dividend of \$0.25 is declared and paid to eligible Patties Shareholders.

22. Being the difference between total number of shares (140,486,369) less 5,555,555 Patties Shares.

23. Being the product of the Special Dividend (\$0.25) multiplied by 140,486,369 shares.

24. Based on Patties management accounts as at 31 May 2016 and is subject to change.

25. Based on Patties management estimate.

26. Being equal to the amount of cash provided by the Fund (\$170,196,164) divided by the issue price of \$1.40 per Class A Share, rounded down to the nearest whole share.

27. This figure includes the \$1,000 nominal capitalisation of HoldCo which the Fund contributed when Class A Shares were issued to the Fund at the time of HoldCo's incorporation.

28. Assuming that a Special Dividend of \$0.25 is declared and paid to eligible Patties Shareholders.

29. Being the difference between total number of shares (140,486,369) less 50,000,000 Patties Shares.

30. Being the product of the Special Dividend (\$0.25) multiplied by 140,486,369 shares.

31. Based on Patties management accounts as at 31 May 2016 and is subject to change.

32. Based on Patties management estimate.

33. Being equal to the amount of cash provided by the Fund (\$107,973,941) divided by the issue price of \$1.40 per Class A Share, rounded down to the nearest whole share.

### Cash and scrip combinations in shareholder election scenarios

The following table sets out the proportion of the Scheme Consideration which would be issued to a Patties Shareholder in the form of Scrip Consideration and Cash Consideration in a number of scenarios to show the effect of the Scrip Scale Back.

The number of Class B Shares issued per Patties Share subject to a valid Election depends on the total proportion of Patties Shares that are subject to a valid Election.

The example shown in the table below assumes for ease that a Patties Shareholder holds 1,000 Patties Shares and makes a valid Election for Scrip Consideration in respect of all of these shares. This scenario is therefore based on a number of assumptions which are unlikely to reflect the actual outcome of events at the Implementation Date and should be considered as illustrative only.

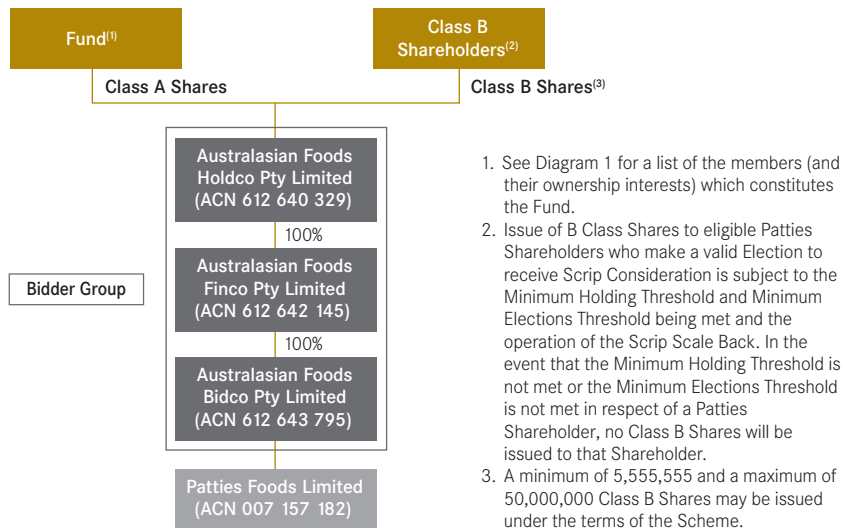
### Scrip Consideration and Cash Consideration received by an eligible Scheme Shareholder making a valid Full Election for Scrip Consideration under various scenarios.

Total Patties Shares subject to a valid Election	Scrip Consideration received by a Patties Shareholder who holds 1,000 Patties Shares <sup>34</sup>	Cash Consideration received by a Patties Shareholder who holds 1,000 Patties Shares
140,486,369	355 Class B Shares <sup>35</sup>	\$1,064.25 <sup>36</sup> less the amount received under the Special Dividend in respect of those Patties Shares that will receive the Cash Consideration
90,000,000	555 Class B Shares <sup>37</sup>	\$734.25 <sup>38</sup> less the amount received under the Special Dividend in respect of those Patties Shares that will receive the Cash Consideration
50,000,000 – 5,555,555	1000 Class B Shares <sup>39</sup>	\$0
Less than 5,555,555	0 Class B Shares <sup>40</sup>	\$1,650 less the amount of the Special Dividend in respect of those Patties Shares that will receive the Cash Consideration

### (j) Post-Scheme Implementation Structure

Following the implementation of the Scheme, the ownership structure of Patties is anticipated to be as shown in Diagram 2 below.

Diagram 2



34. This calculation assumes the Scrip Scale Back will round down to nearest whole share when calculating shares to be issued, calculated in accordance with the formula in the Scheme at clause 1.1 (see definition of 'Scheme Consideration', paragraph (b)).

35. Being equal to (50,000,000 divided by 140,486,369) multiplied by 1000 shares held by the Patties Shareholder.

36. Being equal to the product of (1,000 – 355 Class B Shares) multiplied by \$1.65.

37. Being equal to (50,000,000 divided by 90,000,000) multiplied by 1000 shares held by the Patties Shareholder.

38. Being equal to the product of (1,000 – 555 Class B Shares) multiplied by \$1.65.

39. There will be no Scrip Scale Back in respect of these shares.

40. No Scrip Consideration will be received given the Minimum Holdings Threshold has not been met.

## 7.2 Class B Shares – Rights & Liabilities

A summary of the key rights and liabilities attaching to Class B Shares is set out below. This summary is not exhaustive and should be read subject to the full terms of the Shareholders' Deed (see Appendix 6 to this Explanatory Booklet) and the HoldCo constitution (see Appendix 7 to this Explanatory Booklet). You should note that the HoldCo constitution provides that the terms of the Shareholders' Deed will prevail in the event of any inconsistency between the provisions of the HoldCo constitution and the Shareholders' Deed. Capitalised terms used in this section which are not defined in this Explanatory Booklet have the meanings given to them in the Shareholders' Deed.

### (a) Issue and Ranking

Each Class B Share will be issued as a fully paid ordinary share in accordance with the terms of the Scheme, and will rank equally in all respects with each other Class B Share.

### (b) Dividends

Each Class B Share will have the same economic rights to dividends and other distributions from HoldCo as other classes of shares issued in HoldCo.

Payment of any dividends will be at the sole discretion of the HoldCo Board subject to retention of such reasonable and proper reserves for working capital requirements, possible future acquisitions, capital expenditure, debt amortization or other actual or contingent liabilities or commitments of the Bidder Group:

- as the board of HoldCo considers reasonably appropriate; and
- provided such dividend does not result in a breach of any covenant or undertaking of the Bidder Group or the Patties Group to any bank or financial institution or under any other material contract of any member of the Bidder Group or the Patties Group.

The Shareholders' Deed provides that the parties agree and acknowledge that there is no intention for any dividend to be declared or paid during the two year period following the Effective Date.

### (c) Proprietary Company Status

- In order for HoldCo to maintain its status as an Australian proprietary limited company under the Corporations Act, the Board of Directors of HoldCo may appoint an independent third party trustee (the *Nominee*) to hold Class B Shares on bare trust for Class B Shareholders on the terms of the Nominee Deed.
- For the avoidance of doubt, Class B Shareholders are to be treated as holding the Class B Shares which are held on their behalf by the Nominee. See Section 7.2(m) for further information about the Nominee Deed.

### (d) Appointment of Directors and Chair

- The Board must be constituted by a minimum of three directors.
- The PEP Shareholders will have the right to appoint, remove and replace a majority of directors to the Board of HoldCo. The PEP Shareholders will also have the right to appoint the Chairman of the HoldCo Board.
- The Class B Shareholders will have the right to appoint, remove and replace:
  - two directors to the Board of HoldCo, if Class B Shares represent 25% or more of the total shares on issue in HoldCo; and

- one director to the Board of HoldCo, if Class B Shares represent less than 25% but more than 10% of the total shares on issue in HoldCo.

- Any director nominated by Class B Shareholders must be a "qualified person" and be approved by the directors appointed by the PEP Shareholders (**PEP Directors**) (with such approval not to be unreasonably withheld). A director is a qualified person if they are not subject to any commercial or other conflict of interest in relation to the business or operations of the Bidder Group (excluding any conflict arising from the person's holding in Class B Shares).
- The CEO will be appointed as a director of HoldCo.

### (e) Board Meetings

- Two directors are required to form a quorum for a board meeting, one of which must be a PEP Director.
- The directors appointed by the Class B Shareholders (**Class B Directors**) together will be entitled to that number of votes which is equal to the number of Class B Shares.
- The PEP Directors together will be entitled to that number of votes which is equal to the number of Class A Shares.
- The CEO will be entitled to one vote.
- Subject to applicable law and the terms of the Shareholders' Deed, all actions or resolutions of the Board of HoldCo will be made by the affirmative vote of a simple majority of directors (being directors that together hold more than 50% of the total voting rights of all directors who attend the relevant Board meeting or sign the relevant written resolution (as the case may be) and who are entitled to vote on the relevant resolution).

### (f) Shareholder Meetings

A quorum for a meeting of shareholders is constituted by the presence of two or more shareholders, of whom at least one is a PEP Shareholder and, where the Class B Shareholders hold 10% or more of the shares, at least one is a Class B Shareholder.

Each shareholder is entitled to that number of votes which is equivalent to the number of fully paid up shares held by it.

Meetings of Class B Shareholders (**Class B Meetings**) will be held in order to facilitate the exercise of Class B Shareholders' rights to appoint, remove and replace directors to the HoldCo board. Any action or resolution in a Class B Meeting will be made by the affirmative vote of a simple majority of Class B Shareholders. Two Class B Shareholders are required to form a quorum for a Class B Meeting.

### (g) Shareholder Approvals

#### Simple Majority Decisions

Subject to the Corporations Act, all shareholder decisions (other than in relation to the matters listed below) will be made by the affirmative vote of a simple majority of shareholders in HoldCo.

#### Special Majority Decisions

The following decisions will require approval by a *Special Majority Resolution*. A Special Majority Resolution means a resolution approved by a majority of the votes cast by the PEP Shareholders and at least 75% of all votes cast by the PEP Shareholders and Class B Shareholders who are present and entitled to vote.

- (**Constitution**) the making of any amendment to its constitution or the modification or abrogation of any rights attached to any class of shares in HoldCo whether issued or unissued;

- **(Amendment to Shareholders' Deed)** the making of any amendment to the Shareholders' Deed that materially adversely affects the rights of holders of Class B Shares (other than to a minor extent or in a way which impacts the Class B Shareholders and the PEP Shareholders equally);
- **(PEP Exit during Standstill Period)** Transfer of any shares by the PEP Shareholders during the two year period commencing on the Effective Date (**Standstill Period**) other than to a Permitted Transferee (as defined in the Shareholders' Deed);
- **(Winding up)** the making of an application or the commencement of any proceedings or the taking of any other steps for the winding up, dissolution, or appointment or administrator of HoldCo or a subsidiary, or the entering into by HoldCo or a subsidiary of an arrangement, compromise or composition with or assignment for the benefit of its creditors, a class of them or any of them;
- **(Relocation of Bairnsdale plant)** the relocation of Patties' manufacturing plant at Bairnsdale or any decision that can reasonably be expected to result in a material reduction of production capacity at that plant;
- **(Mergers and acquisitions)** the acquisition of any entity or business:
  - with an enterprise value of \$50 million or more; or
  - which has a different nature to the business of the Bidder Group and has an enterprise value of \$30 million or more; or
- **(Related Party Proposals)** the implementation of any related party proposal between HoldCo (or its subsidiaries) and any PEP Shareholder (or its related entities) to the extent not expressly permitted under the Shareholders' Deed.

#### Actions where Special Majority Resolution is not passed

If a shareholders' meeting has been held in relation to any decision concerning the relocation of the Bairnsdale plant, mergers and acquisitions or a related party proposal (as set out above), and the relevant decision has not been approved by a Special Majority Resolution, HoldCo or its subsidiaries may still proceed with the decision if either:

- at or prior to the relevant meeting, PEP has notified the Class B Shareholders that they have the right to sell 100% of their Class B Shares to the PEP Shareholders (the **Put Option**) – see section 7.2(h) below; or
- the EBITDA of the Patties Group in the 12 month period prior to the proposed action or resolution is more than 20% below the EBITDA of the Patties Group in FY2016.

#### (h) Put Option

The Class B Shareholders may exercise the Put Option by giving written notice to the PEP Shareholders within 20 Business Days' after the date of the relevant shareholders' meeting.

The sale price for Class B Shares under the Put Option will be equal to:

- if the Put Option is exercised during the first 12 months after the Implementation Date, \$1.65 less the amount per share of any dividends paid in respect of that Class B Share after the Implementation Date; or
- if the Put Option is exercised after the first 12 months after the Implementation Date, a price based upon a multiple of the EBITDA of the Patties Group for the previous 12 month period, as agreed by PEP and the Class B Directors (or if there are no Class B Directors appointed, the price agreed by PEP and Class B Shareholders holding at least 75% of the Class B Shares to be sold under the Put Option).

If the parties are unable to agree the applicable multiple of EBITDA within 20 Business Days' after notification of the relevant action or resolution by the Company, the price shall be equal

to fair market value, as determined by an independent valuer in accordance with the Shareholders' Deed.

#### (i) Issue of Further Shares

HoldCo must first offer any new shares in HoldCo on a pro rata basis to eligible holders of existing shares, except in the following circumstances:

- emergency funding requirements (after having first considered other means of financing), provided that HoldCo must offer new shares in HoldCo on a pro rata basis to eligible holders of existing shares following the provision of emergency funding to allow each eligible holder to maintain its relevant proportionate interest in HoldCo;
- the issue of shares to PEP Shareholders to provide funding to meet transaction costs in connection with the Scheme or to finance the payment of cash consideration under the Scheme to Patties Shareholders or to repay debts of Patties in place prior to implementation of the Scheme, such Class A Shares to be issued at an issue price equal to the implied value of Class B Shares issued pursuant to the Scheme;
- the issue of Class B shares in connection with the Scheme in consideration for the transfer of Patties shares to HoldCo or one of its subsidiaries;
- the issue of shares to management in HoldCo under a management equity plan;
- the issue of shares upon exercise of any options issued by HoldCo under a management equity plan;
- an issue of shares where the issue price is to be satisfied other than in cash in respect of the bona fide, arm's length acquisition of, or merger with, a company, or the acquisition of a company, business or assets, by HoldCo or one of its subsidiaries;
- the issue of shares pursuant to a dividend reinvestment plan established by HoldCo; or
- the issue of shares pursuant to an initial public offering of HoldCo or one of its subsidiaries (IPO).

If HoldCo proposes to issue any new shares (**Offer Shares**) and eligible holders of existing shares do not take up the Offer Shares, then PEP Shareholders may take up any Offer Shares not taken up by the other shareholders (in which case the Offer Shares will be issued to PEP as Class A Shares).

#### (j) Restrictions on Transfer

Class B Shareholders are not permitted to deal with their Class B Shares except:

- by way of transfer to a Permitted Transferee (being a related entity or relative of the Class B Shareholder); or
- in accordance with the exit mechanisms outlined in Section 7.2(k) below.

If a transferee ceases to be a Permitted Transferee, they must transfer back their holding of Class B Shares to the original transferor (or another Permitted Transferee of the transferor).

#### (k) Exits

##### Drag Along Rights

If the PEP Shareholders wish to sell all or a proportion of their shares to a third party (including by way of IPO), they may require Class B Shareholders to sell the same proportion of their Class B Shares to the third party on terms no less favourable than the terms offered by the third party to the PEP Shareholders.

**Tag Along Rights**

If the PEP Shareholders wish to sell all or a proportion of their shares to a third party, the Class B Shareholders must be invited to sell the same proportion of their Class B Shares to the third party on terms no less favourable to the Class B Shareholder than the terms offered by the third party to the PEP Shareholders.

**IPO**

If the board of HoldCo pursues an IPO, and the PEP Shareholders wish to sell all or a proportion of their shares in connection with the IPO, the PEP Shareholders must invite (and may elect to require) Class B Shareholders to sell the same proportion of their Class B shares pursuant to the IPO.

**Compulsory Acquisition**

At any time after the end of the two year period commencing on the Effective Date, shareholders holding in aggregate at least 90% of the issued shares in HoldCo (**Acquiring Shareholders**) may give written notice to HoldCo (**Compulsory Acquisition Notice**) that the Acquiring Shareholders wish to compulsorily acquire the Class B Shares held by the other shareholders (**Remaining Shareholders**). The Compulsory Acquisition Notice will set out the terms applying to the acquisition (including the proposed settlement date) and the price of the Class B Shares shall be at fair market value, as determined by an independent valuer in accordance with the Shareholders' Deed.

The Acquiring Shareholders may agree that instead of the Acquiring Shareholder acquiring the Class B Shares held by the Remaining Shareholders, HoldCo will acquire those shares by way of buy back or cancellation, as directed by HoldCo by notice to the Remaining Shareholders.

**(l) Amendment to Shareholders Deed**

For so long as the PEP Shareholders are shareholders of HoldCo, the board of HoldCo may approve any amendment to the Shareholders' Deed without shareholder approval unless the amendment requires approval by Special Majority Resolution as set out in clause 7.1 of the Shareholders' Deed.

**(m) Nominee Deed**

If required to maintain the status of HoldCo as an Australian proprietary company, HoldCo will appoint the Nominee to hold all of the Class B Shares (and if required, to hold all of the Class C Shares issued to management) on bare trust for each shareholder pursuant to the terms of the Nominee Deed. Following appointment of a Nominee, each Class B Shareholder agrees to appoint HoldCo as its attorney for the purpose of facilitating the transfer of its shares to the Nominee.

The key terms of the Nominee arrangements under the Nominee Deed and the Shareholders' Deed are as follows:

- Class B Shareholders will be beneficial holders in relation to shares held by the Nominee as bare trustee on their behalf.
- Each Class B Shareholder will be able to instruct the Nominee to exercise voting rights or take other steps as the registered holder of shares on its behalf.
- HoldCo will procure that any distribution or dividend that would otherwise be paid to the Nominee will instead be paid to the relevant beneficial holder in proportion to the number of shares that are held on trust for that beneficial holder.
- HoldCo will give, make available or despatch all notices or information it circulates to shareholders to beneficial holders as well as the Nominee.
- There will be no meetings of the beneficial holders.
- A Class B Shareholder who is a beneficial holder under the Nominee Deed must not (without the consent of the HoldCo

board) direct the Nominee to transfer legal title to the shares held on trust for that Class B Shareholder back to the Class B Shareholder.

- The restrictions on transfer set out in Section 7.2(j) above continue to apply to Class B Shareholders that are beneficial holders. However, a beneficial holder may transfer shares to a Permitted Transferee on the basis that the Nominee is directed to hold legal title to the relevant shares as bare trustee on behalf of the transferee, unless the Board of HoldCo agrees otherwise.

**(n) Accession Deed**

No person may be registered as a holder of shares in HoldCo unless they execute and deliver an accession deed agreeing to be bound by the terms of the Shareholders' Deed (except in the case of an IPO or where the proposed transferee is already party to the Shareholders' Deed).

**7.3 Investment Risks****(a) Introduction**

If the Scheme is implemented and the Minimum Holding Threshold and Minimum Elections Threshold are both satisfied in respect of each Scheme Shareholder who made a valid Election, that Scheme Shareholder will receive, as Scheme Consideration, a Class B Share for each Patties Share in respect of which the Election has been made (subject to any Scrip Scale Back).

Patties Shares that are not exchanged for Scrip Consideration (whether because the Patties Shareholder made a Partial Election, did not make a valid Election, was a Foreign Scheme Shareholder or because of the operation of Scrip Scale Back, Minimum Holding Threshold or Minimum Elections Threshold) will be exchanged for the Cash Consideration of \$1.65 (less any Special Dividend) in respect of each such Patties Share.

The value of Class B Shares going forward will depend largely on the future financial performance of Patties. Patties Shareholders who are considering making an Election should therefore consider the operational risks which may affect Patties' future financial performance. Patties Shareholders are already exposed to these risks through their existing direct investment in Patties. Patties Shareholders who are considering making an Election should also bear in mind the risks associated with holding an investment in HoldCo specifically.

In the immediate term Patties Shareholders should consider the risks relating to the Scheme itself.

The material risks of an investment in HoldCo which are known to Bidder as at the date of this Explanatory Booklet are described in this document and include the risks set out in this Section 7.3. For ease of reference the risks described in this Section 7.3 have been divided as follows:

- risks associated with an investment in HoldCo; and
- risks relating to the Scheme itself.

Section 5.10 separately sets out certain operational risks which affect Patties. The risks identified in this document are not necessarily exhaustive. Bidder gives no assurance or guarantee of future performance or profitability of, or payment of dividends by, HoldCo. Bidder also gives no assurance or guarantee that the risks set out in this document will not change, or that additional risks will not arise. There may be other material risks which are not disclosed in this document because they are not known to Bidder or were not considered to be material as at the date of this Explanatory Booklet.

This Section 7.3 does not take into account the investment objectives, financial circumstances or particular needs of individual Patties Shareholders. It is important that Patties

Shareholders carefully read this Explanatory Booklet in its entirety (particularly the risks set out in this Section 7.3), consider their personal circumstances and seek independent professional advice before deciding how to vote in relation to the Scheme and whether to make an Election or opt for all Cash Consideration.

### **(b) Risks associated with an investment in HoldCo**

This section sets out the risks associated with an investment in HoldCo, specifically noting that HoldCo is an Australian unlisted proprietary limited company. Patties Shareholders should carefully consider these risks before making an Election. If these risks conflict with a Patties Shareholder's individual risk profile, that shareholder should strongly consider opting for the Cash Consideration only.

#### **Different regulatory regime**

Many of the protections available to shareholders of Australian listed companies are not available to shareholders of unlisted companies. For example, ASX listed companies are subject to continuous disclosure obligations under ASX Listing Rule 3.1.

As Patties will be removed from the official list of the ASX following the Implementation Date, information that may be required disclosure under the Listing Rules may not be available to shareholders. There is a risk that, because of the different regulatory regime that applies to an investment in HoldCo, shareholders may not realise the outcome with respect to their investment that they intended, or which might have been available were their investment in a listed entity.

#### **Lack of Information**

Patties will not be an ASX listed company following the implementation of the Scheme.

This means that, after the Implementation Date, Class B Shareholders will receive significantly less information and reports about the Patties Group than Patties Shareholders currently receive.

Under the Shareholders' Deed, Class B Shareholders are entitled to receive a copy of the latest audited financial statements of the Bidder Group if requested. Class B Shareholders will not however receive reports such as directors reports, remuneration reports or corporate governance reports.

Unlike with an ASX listed company, the Shareholders' Deed does not require HoldCo to hold any annual general meeting of members.

#### **Lack of liquidity**

HoldCo is (and will continue to be) an unlisted company.

There will be no active market for the sale and purchase of Class B Shares following implementation of the Scheme. A HoldCo Shareholder who wishes to dispose of their shares will need to comply with the disposal provisions in the Shareholders Deed (refer to Section 7.2(k) for those provisions). Class B Shareholders may only deal with their Class B Shares in certain limited circumstances as set out in clause 15.2 of the Shareholders' Deed.

The lack of liquidity associated with Class B Shares may affect the price that another person is willing to pay for those shares (notwithstanding that the financial performance of HoldCo and Patties might suggest the value of those shares is higher).

#### **Dilution**

HoldCo may need to raise additional capital in the future in order to meet the operating and/or financing requirements of itself and Patties. HoldCo may also issue shares to HoldCo management through the establishment of a management incentive scheme.

Future capital raisings, equity funded acquisitions by HoldCo or issuance of shares to HoldCo management, undertaken

in accordance with the Shareholders' Deed, may dilute the holdings of a particular HoldCo Shareholder relative to other HoldCo Shareholders. In the event that further equity funding is required, existing HoldCo Shareholders may be offered to participate and, if they do not take up their proportional share of any pro rata issue of shares offered to them, have their stakes diluted relative to other HoldCo Shareholders who elected to take up their proportional share of any pro rata issue.

#### **HoldCo will be highly leveraged**

One source of funding for the cash component of the Scheme Consideration is the commitments obtained by the Bidder under the Debt Facilities.

As the Bidder is an indirectly wholly-owned entity of HoldCo, a HoldCo Shareholder will be exposed to the risks arising from the commitments obtained by the Bidder under the Debt Facilities.

Specifically, a HoldCo Shareholder will be exposed to greater risks than they currently face arising from the highly leveraged position of the Bidder Group which has a gearing (debt to equity) ratio that is significantly greater than the gearing ratio of Patties and other similar ASX listed companies.

The Debt Facilities have been documented under a facilities agreement which contains certain restrictions, undertakings and events of default that reflect the risk associated with the highly leveraged position of the Bidder Group.

#### **Lack of dividends**

Whilst each Class B Share will be entitled to receive any dividends and other distributions from HoldCo, declaration and payment of any dividends will be at the sole discretion of the HoldCo Board.

The Shareholders' Deed provides that the parties agree and acknowledge that there is no intention for any dividends to be declared or paid for the two year period commencing on the Effective Date of the Scheme.

#### **The Fund will have majority voting rights in HoldCo**

The Fund alone will hold Class A Shares.

Class A Shares carry rights to appoint a majority of the directors on the HoldCo Board (including the Chairman) and to approve appointment of the directors appointed by Class B Shareholders.

Class B Shareholders have limited voting rights under the Shareholders' Deed.

This means that the Fund will be able to exercise majority voting power, and will be in a position to determine the outcome of most decisions relating to HoldCo, and therefore also most decisions relating to Patties. In such circumstances, an individual HoldCo Shareholder or group of HoldCo Shareholders acting together (other than the Fund) will not be able to affect those matters relating to HoldCo.

HoldCo Shareholders will therefore, in most cases, be subject to the decisions made by the Fund in relation to HoldCo and Patties.

#### **Exit**

Consistent with usual private equity practice, the Fund may seek to exit their investment in Patties at some time in the future.

This is subject to prevailing market conditions, the businesses performance and other factors which may be considered relevant at the time. Due consideration will also be given to market conditions and business performance as they evolve over time. The optimal means of exit will be determined at some point in the future.

As such, the time period for exit is currently unknown and is in the discretion of the Fund.



There is no guarantee that HoldCo Shareholders will be able to achieve an exit in respect of their shares in HoldCo where a decision for exit is not made by the Fund. In particular, there will be no active market for the sale and purchase of Class B Shares following implementation of the Scheme.

Conversely, there is no guarantee that HoldCo Shareholders will want to exit their investment at the same time as a decision for exit is made by the Fund. HoldCo Shareholders may not agree with the exit strategy adopted by the Fund or receive the price and return on investment they expect.

### (c) Risks relating to the Scheme

This section sets out the risks relating to the implementation of the Scheme itself.

#### Court delays

There is a risk that the Court may not approve the Scheme. There is also a risk that some or all of the aspects of the approvals required for the Scheme to be implemented may be delayed or may not be granted.

#### Transaction costs

Bidder and Patties will incur transaction costs in connection with the Scheme. Both Bidder and Patties will pay transaction fees and other expenses related to the Scheme, including financial advisers' fees, filing fees, legal and accounting fees, regulatory fees and mailing costs.

#### Due diligence and reliance on information

Before executing the Scheme Implementation Deed, Bidder undertook due diligence on information about Patties provided for the purpose of considering the acquisition of Patties and negotiating the Scheme Implementation Deed.

Such investigations were carried out in a limited timeframe. Bidder is satisfied that it has sufficient information to proceed with the Scheme. However, whilst Bidder has decided to proceed with the Scheme, there is a risk that not all material information was provided by Patties in the due diligence process. If this were the case, there may be other risks associated with Patties which are presently unknown to Bidder.

Additionally, there is a risk that the information provided may contain inaccuracies or have changed due to changes in the economy or other risk factors outside the control of either Bidder or Patties. After implementation of the Scheme, HoldCo will be subject to any unknown liabilities of Patties which may have an adverse effect on HoldCo's performance and financial condition.

#### Change of control provisions

Upon implementation of the Scheme, a change of control in Patties will occur.

It is possible that material contracts to which Patties is a party may be subject to pre-emptive rights, review or termination upon this change of control. While Bidder is not aware of any counterparty that may wish to terminate a material contract, should any such contracts be terminated, Patties would lose the benefit of the contract and may be unable to obtain similar terms upon entry into replacement contracts (should such replacement contracts be available).

## 7.4 Additional information of PEP and Bidder Group

### (a) Interests in Patties Shares

As at the date of this Explanatory Booklet:

- the voting power of the Bidder and its associates in Patties is 0%; and
- the Bidder and its associates have no Relevant Interests in any Patties Shares or any other class of securities of Patties.

### (b) Dealings in Patties Shares in the previous four months

Neither the Bidder nor any of its associates has provided, or agreed to provide, consideration for Patties Shares under a purchase or agreement during the period of four months before the date of this Explanatory Booklet except for the Scheme Consideration which the Bidder has agreed to provide under the Scheme (as reflected in the Scheme Implementation Deed and the Deed Poll).

### (c) Inducing benefits given during previous four months

Neither the Bidder nor any of its associates, during the period of four months before the date of this Explanatory Booklet, gave, or offered to give or agreed to give, a benefit to another person which was likely to induce the other person, or an associate, to:

- vote in favour of the Scheme; or
- dispose of Patties Shares,

and which benefit was not offered to all Patties Shareholders under the Scheme.

### (d) Benefits to Patties Directors

The Bidder will not be making any payment or giving any benefit to any current Patties Director as compensation or consideration for, or otherwise in connection with, their resignation from the Patties Board, if the Scheme becomes Effective and the Patties Board is accordingly reconstituted, other than as required under the relevant person's employment contract with Patties (as to which see Section 11.6).

### (e) No interests of Bidder Group directors in Patties Shares

As at the date of this Explanatory Booklet none of the directors of Bidder has a relevant interest in any Patties Shares.

### (f) No other agreements or arrangements

Neither the Fund nor the Bidder Group have made any agreement or arrangement between a Patties Director in connection with or conditional on the outcome of the Scheme.

**(g) Disclosure of interests and fees of certain people**

Other than as set out in this Explanatory Booklet or pursuant to existing employment agreements, consulting arrangements, directorships (including, in the case of the directors of the Bidder Group, arrangements for staff participation in the Fund) no:

- directors or proposed directors of HoldCo; or
- person named in this Explanatory Booklet as performing a function in a professional, advisory or other capacity in connection with the preparation or distribution of this Explanatory Booklet,

holds, or held at any time during the last two years, any interests in:

- the formation or promotion of HoldCo;
- property acquired or proposed to be acquired by HoldCo in connection with its formation or promotion or the offer of the Class B Shares under the Scheme; or
- the offer of Class B Shares under the Scheme.

**(h) Fees and benefits**

Other than as set out in this Explanatory Booklet or pursuant to existing employment agreements, consulting arrangements, directorships (including, in the case of the directors of the Bidder Group, arrangements for staff participation in the Fund) no one has paid or agreed to pay any amount, or given or agreed to give any benefit to a director, or proposed director, of HoldCo:

- to induce them to become, or to qualify as, a director of HoldCo; or
- for services provided in connection with the formation or promotion of HoldCo or the offer of Class B Shares under the Scheme.

## 8. Taxation implications of the Scheme and the Special Dividend

### 8.1 Introduction

This Section provides a summary of the Australian income tax, goods and services tax (GST) and stamp duty implications for Patties Shareholders who receive the Special Dividend and participate in the Scheme resulting in the disposal of their Patties Shares to Bidder.

This Section is relevant for Patties Shareholders who hold their Patties Shares on capital account. This Section does not consider the Australian tax consequences for Patties Shareholders:

- who hold their Patties Shares as trading stock or as revenue assets;
- who acquired their Patties Shares through an employee share scheme;
- who are non-residents and hold their Patties Shares in the course of carrying on a business at or through a permanent establishment in Australia;
- who may be subject to special tax rules, such as financial institutions, insurance companies, partnerships, (except where expressly stated), tax exempt organisations, trusts (except where expressly stated), superannuation funds (except where expressly stated); or
- who are subject to the taxation of financial arrangements rules in Division 230 of the *Income Tax Assessment Act 1997* (Cth) in relation to gains and losses on their Patties Shares.

Patties Shareholders who are tax residents in a country other than Australia should take into account the tax consequences of the Special Dividend and the Scheme under the tax laws of their country of residence, as well as under Australian tax law.

The information contained in this Section is general in nature and should not be relied upon by Patties Shareholders as tax advice. This Section is not intended to be a complete statement of the taxation law applicable to the particular circumstances of every Patties Shareholder. Patties Shareholders should obtain their own professional advice on the taxation consequences of receiving the Special Dividend and disposing of their Patties Shares under the Scheme.

The information contained in this Section is based on the taxation law at the date of this Explanatory Booklet. The taxation consequences outlined in this Section may alter if there is a change in the taxation law after the date of this Explanatory Booklet.

Sections 8.3, 8.4, 8.6 and 8.7 relate to Patties Shareholders who are Australian tax residents. Section 8.5 relates to Patties Shareholders who are not Australian tax residents and do not hold their Patties Shares in the course of carrying on a business in Australia at or through a permanent establishment in Australia.

### 8.2 Class Ruling Requests

Patties has requested the ATO to issue a class ruling to confirm the availability of franking credits attaching to the Special Dividend, that the Special Dividend does not form part of the capital proceeds under the Scheme and the availability of CGT rollover for those Patties shares exchanged for Scrip Consideration under the Scheme (**Class Ruling**).

The ATO has not issued the Class Rulings as at the date of this Explanatory Booklet. Patties will make an ASX announcement when the Class Ruling is published. The Class Ruling will also be available on the ATO website at [www.ato.gov.au](http://www.ato.gov.au).

It is anticipated that the Commissioner's views to be expressed in the Class Ruling will be generally consistent with the information in this Section. However, it is possible that the Commissioner may reach different conclusions. Accordingly, it is important that this Section be read in conjunction with the Class Ruling to be issued by the ATO.

### 8.3 Income Tax consequences of Special Dividend

Australian tax resident Patties Shareholders who receive the Special Dividend must include the Special Dividend in their assessable income.

It is expected that the Special Dividend will be fully franked.

Where the Patties Shareholder is a 'qualified person' in relation to the Special Dividend and the franking integrity rules do not apply, they must also include the amount of the attached franking credits in their assessable income and will be entitled to a tax offset equal to the amount of the attached franking credits.

A Patties Shareholder will be a 'qualified person' if they hold their Patties Shares 'at-risk' for a continuous period of not less than 45 days (not including the day of the relevant share's acquisition or disposal) during a prescribed period. The usual holding period is modified where the 'related payment rule' applies. The 'related payment rule' applies if a Patties Shareholder is under an obligation to pass the benefit of the Special Dividend to one or more other persons. It is likely that the Commissioner will consider that the 'related payment rule' applies as a consequence of the impact of the Special Dividend on the amount of the Scheme Consideration.

Where the 'related payment rule' applies, the prescribed period for the Special Dividend is the period commencing 45 days before the day on which the shares become ex the Special Dividend (ie. 26 July 2016) and ending on the day before the Scheme Record Date. Accordingly, Patties Shareholders could only satisfy the 'related payment rule' in relation to particular Patties Shares if they acquired those Patties Shares on or before 31 July 2016.

Patties Shareholders will be considered to hold their Patties Shares 'at-risk' on a particular day provided that they have more than 30% of the ordinary financial risks of loss and opportunities for gain from owning those shares.

The Class Ruling is expected to confirm when a Patties Shareholder will be regarded as a 'qualified person', and to confirm that the Commissioner will not seek to apply the franking integrity rules.

The ability of Patties Shareholders to be able to benefit from the franking credit tax offset will depend on their status and specific circumstances. The following comments are provided on the basis that Patties Shareholders are a 'qualified person' in relation to the Special Dividend and that the Commissioner confirms that the various franking integrity rules do not apply. If either of these requirements are not met then there will be no franking credit tax offset.

### **Australian resident individuals and complying superannuation funds**

Patties Shareholders who are individuals or complying superannuation funds will be entitled to a tax offset equal to the amount of the franking credits attached to the Special Dividend. Where these Patties Shareholders have franking credit tax offsets in excess of their total income tax liability they may be entitled to a refund equal of the excess.

### **Australian resident companies**

Patties Shareholders that are Australian resident companies will be entitled to a tax offset equal to the amount of the franking credits attached to the Special Dividend and accordingly, should not pay any additional income tax on the Special Dividend. Australian resident companies in tax losses may be able to obtain an uplift in their tax losses on account of unused franking credit tax offsets.

A credit will arise in the franking account of these Patties Shareholders equal to the amount of the franking credits.

### **Australian resident trusts (other than an Attribution MIT)**

Where Patties Shares are held by an Australian resident trust (other than an Attribution MIT) and Australian resident beneficiaries are presently entitled to trust income of the trust including the Special Dividend, the benefit of the franking credit attached to the Special Dividend may also pass through to Australian resident beneficiaries. The income tax treatment of the Special Dividend and attached franking credits in the hands of those beneficiaries will depend on the tax status of the beneficiaries.

Where the Patties Shareholder is an Australian resident trust (other than an Attribution MIT) and there are no beneficiaries presently entitled to the Special Dividend, the Trustee will be liable for any income tax attributable to the Special Dividend and be entitled to a tax offset equal to the attached franking credits.

### **Australian resident Attribution MIT's**

Where Patties Shares are held by an Australian resident Attribution MIT, the beneficiaries of the trust will be attributed the income of the trust including the Special Dividend and relevant franking credit tax offset based on their clearly defined rights in the trust.

### **Australian resident partnerships**

Where Patties Shares are held by an Australian resident partnership, the Special Dividend and the benefit of the franking credit attached to the Special Dividend may also pass through to Australian resident partners. The income tax treatment of the Special Dividend and attached franking credits in the hands of those partners will depend on the tax status of the partners.

## **8.4 Income Tax consequences of Scheme for Patties Shareholders**

Under the Scheme, Patties Shareholders will dispose of their Patties Shares to Bidder in exchange for the Scheme Consideration, comprising either the Cash Consideration and/or the Scrip Consideration for particular Patties Shares held by the Patties Shareholder.

### **Capital gains tax event**

The disposal of Patties Shares to Bidder under the Scheme will give rise to a CGT event at the time Patties Shareholders transfer their Patties Shares to Bidder under the Scheme (i.e. at the Implementation Date).

### **Calculation of capital gain or loss**

Patties Shareholders will make a capital gain on the disposal of each of their Patties Shares to the extent that the capital proceeds received in respect of the Patties Share is more than its cost base. Conversely, Patties Shareholders will make a capital loss to the extent that the capital proceeds in respect of each of their Patties Shares are less than their cost base of those Patties Shares.

Patties Shareholders who make a capital gain on particular Patties Shares which are exchanged for Class B Shares (ie Scrip Consideration) may choose scrip for scrip roll-over relief which is discussed below under the heading 'CGT roll-over relief'.

### **Capital proceeds**

The capital proceeds on the disposal of the Patties Shares should be the Scheme Consideration received by Patties Shareholders, which for each Patties Share will comprise either the Cash Consideration and/or the Scrip Consideration. The Class Ruling should confirm that the capital proceeds for the disposal of Patties Shares does not include the amount of the Special Dividend.

In the case of those Patties Shares exchanged for Class B Shares (ie Scrip Consideration), the capital proceeds will be the market value of the Class B Shares on the Implementation Date. The Commissioner has been asked to confirm in the Class Ruling that the market value on the Implementation Date of the Class B Shares is the midpoint of the range as determined in the Independent Expert Report.

In the case of those Patties Shares exchanged for Cash Consideration, the capital proceeds will be the cash amount, being \$1.65, less the amount of the Special Dividend.

### **Cost base**

The cost base (or reduced cost base) of each Patties Share held by the Patties Shareholder will broadly be the original amount paid to acquire the Patties Share plus any incidental costs plus any non-capital costs not claimed as an income tax deduction, less any previous capital returns made by Patties.

If the Patties Shares were acquired before 21 September 1999 and held by a Patties Shareholder who is an individual, complying superannuation fund or trustee of a trust, the cost base may also include indexation up to 30 September 1999. However, the cost base cannot include indexation where the CGT discount outlined below applies.

### **CGT Discount**

The CGT discount should be available to Patties Shareholders who are individuals, trusts or complying superannuation funds and have held their Patties Shares for at least 12 months before the Implementation Date.

Broadly, the CGT discount rules enable the Patties Shareholders to reduce their capital gain (after the application of any current year or prior year capital losses) by 50% for individuals and trusts and 33 1/3% for complying superannuation funds.

The CGT discount is not available to Patties Shareholders that are companies or for Patties Shareholders who have chosen to apply the indexation method to the cost base of their Patties Shares.

### **Capital losses**

A capital loss on the disposal of Patties Shares may be used to offset any other capital gains derived by the Patties Shareholders for the relevant year of income (including any capital gain derived by Patties Shareholders on other Patties Shares) or may be carried forward to offset capital gains in future income years.

Specific capital loss recoupment rules apply to companies to restrict their ability to utilise capital losses in future years in some circumstances. Patties Shareholders should obtain their own tax advice in relation to the operation of these rules.

#### **CGT roll-over relief**

The Class Ruling is expected to confirm that Patties Shareholders who would make a capital gain on the disposal of particular Patties Shares for Class B Shares (ie Scrip Consideration) are eligible to make a choice whether or not to apply CGT roll-over relief. Patties Shareholders should maintain records to evidence which Patties Shares they have chosen to apply CGT rollover.

Where a Patties Shareholder elects to apply CGT roll-over relief, the capital gain that they would otherwise make on the disposal of those particular Patties Shares will be disregarded.

A Patties Shareholder must make a choice to apply CGT roll-over relief before lodging an income tax return for the income year in which the Implementation Date occurs. A Patties Shareholder evidences the choice by the way they prepare their income tax return, i.e. by excluding the disregarded capital gain from assessable income. There is no need to lodge a separate notice with the ATO.

Where a Patties Shareholder chooses CGT roll-over relief, the cost base of the Class B Shares received in respect of those Patties Shares to which the choice is made will be the cost base of the Patties Shares exchanged for those Class B Shares.

The Patties Shareholder will be taken to have acquired the Class B Shares acquired under the Scheme for which roll-over relief applies on the date they acquired the relevant Patties Share. This is relevant for the subsequent application of the CGT discount.

Patties Shareholders who are entitled to choose CGT roll-over relief should consider their specific circumstances before making an Election. Patties Shareholders are advised to obtain professional tax advice that takes into account their specific circumstances before deciding whether to choose CGT roll-over relief.

#### **If CGT roll-over relief is not chosen**

If a Patties Shareholder does not choose CGT roll-over relief in respect of Patties Shares exchanged for Class B Shares (ie Scrip Consideration), the Patties Shareholder will make a capital gain or loss as discussed above. The cost base of the Class B Shares received under the Scheme will be the market value of the Patties Shares exchanged on the Implementation Date.

The Commissioner has been asked to confirm in the Class Ruling that the market value on the Implementation Date of the Patties Shares is the VWAP of the Patties Shares on the ASX on the day before the Effective Date (being the last day of trading in Patties Shares on ASX before the Implementation Date), less the amount of the Special Dividend.

The date of acquisition of Class B Shares for CGT purposes in these circumstances will be the Implementation Date. This date will be relevant for the purpose of qualifying for the CGT discount with respect to CGT events happening to the Class B Shares.

## **8.5 Non-resident Patties Shareholders**

Patties Shareholders who are not Australian tax residents and do not hold their Patties Shares in the course of carrying on business in Australia at or through a permanent establishment are not required to include the Special Dividend in their assessable income and are not entitled to a franking credit tax offset. Non-resident Patties Shareholders should not be subject to Australian Dividend Withholding Tax to the extent that the Special Dividend is franked.

Any capital gain or loss derived on the disposal of Patties Shares by Patties Shareholders who are not Australian residents are disregarded provided that the Patties Shares are not held by the non-resident in carrying on business in Australia at or through a permanent establishment. This is because the Patties Shares are not *indirect real property interests* as defined in the *Income Tax Assessment Act 1997*.

## **8.6 Stamp duty**

No stamp duty should be payable by Patties Shareholders on the disposal of Patties Shares under the Scheme or on the acquisition of Class B Shares under the Scheme.

## **8.7 GST**

No GST will be payable by Patties Shareholders in respect of the receipt of the Special Dividend or the disposal of their Patties Shares under the Scheme.

Patties Shareholders may however be charged GST on costs (such as advisor fees) that relate to their participation in the Scheme. Patties Shareholders may be entitled to full or partial input tax credits for any GST payable on such costs, but this will depend on each Patties Shareholder's individual circumstances. Patties Shareholders should seek independent advice in this regard.

## 9. The Scheme in further detail

### 9.1 Introduction

This Section:

- discusses the purpose and effect of the Scheme;
- provides a summary of the conditions and approvals required for the Scheme to proceed; and
- provides a summary of the rights of Patties and Bidder to withdraw from the Scheme.

If the conditions for the Scheme are satisfied or waived (as applicable), the manner in which the Scheme will be implemented is described in Section 10.

### 9.2 Scheme

#### (a) Purpose

The purpose of the Scheme is to give effect to a proposed arrangement between Patties and Scheme Shareholders. That arrangement in turn contemplates that Bidder will acquire 100% ownership and control of Patties, in exchange for provision of the Scheme Consideration to Scheme Shareholders. If the Scheme becomes Effective, Patties will become a wholly owned and controlled subsidiary of Bidder and will be delisted from ASX.

The terms of the Scheme are set out in full in Appendix 2 to this Explanatory Booklet.

#### (b) Legal effect

If the Scheme becomes Effective, it will constitute a binding arrangement between Patties and each Scheme Shareholder under which:

- all Patties Shares held by each Scheme Shareholder (including those who were not present at the Scheme Meeting, those who did not vote on the Scheme and those who voted against it) will be transferred to Bidder free of any security interest (in accordance with, without limitation, section 32(1) of the *Personal Property Securities Act 2009* (Cth) and Regulation 7.1 of the *Personal Property Securities Act Regulations 2010* (Cth)), without the need for any action on the part of the Scheme Shareholders; and
- each Scheme Shareholder (including those who were not present at the Scheme Meeting, those who did not vote on the Scheme and those who voted against it) will receive the Scheme Consideration, as consideration in full for the transfer of all of their Patties Shares to Bidder.

#### (c) Scheme Meeting

At the First Court Hearing on 15 July 2016, the Court ordered Patties to convene a meeting of Patties Shareholders to consider and vote on the Scheme.

The resolution to be considered at the Scheme Meeting is contained in the Notice of Scheme Meeting in Appendix 3 to this Explanatory Booklet.

#### (d) Eligibility to vote at the Scheme Meeting

Each person who is registered on the Share Register as a Patties Shareholder as at the Voting Entitlement Time (7.00pm on Wednesday, 24 August 2016) is entitled to attend and vote at the Scheme Meeting, either in person, by proxy or attorney or, in the case of a corporate Patties Shareholder or proxy, by a corporate representative.

Section 3 provides full details of how to vote at the Scheme Meeting. The proxy form for the Scheme Meeting accompanies this Explanatory Booklet.

#### (e) Voting majority required

The Scheme will only become Effective and be implemented if it is:

- approved by the requisite majority of holders of Patties Shareholders at the Scheme Meeting; and
- approved by the Court at the Second Court Hearing.

Approval of the Scheme by Patties Shareholders requires the resolution at the Scheme Meeting to be approved by:

- a majority in number (more than 50%) of Patties Shareholders present and voting (either in person or by proxy) at that Scheme Meeting (referred to as the Headcount Test); and
- at least 75% of the total number of votes cast on the resolution by Patties Shareholders present and voting (either in person or by proxy) at the Scheme Meeting.

The Court has the power to approve the Scheme even if the Headcount Test has not been satisfied. For example, the Court may do so if there is evidence that the result of the vote has been unfairly influenced by activities such as Share Splitting.

#### (f) Your warranties under the Scheme

To the extent permitted by law, the Scheme Shares transferred under the Scheme will be transferred free from all mortgages, charges, liens, encumbrances, pledges, security interests, and interests of third parties of any kind, whether legal or otherwise.

Each Scheme Shareholder is deemed to have warranted to Patties, and appointed and authorised Patties as its attorney and agent to warrant to Bidder, that:

- all their Patties Shares (including any rights and entitlements attaching to those shares) transferred to Bidder under the Scheme will, at the date of transfer, be fully paid and free from mortgages, charges, liens, encumbrances, pledges, security interests (including any *security interests* within the meaning of section 12 of the *Personal Property Securities Act 2009* (Cth)) and other interests of third parties of any kind, whether legal or otherwise, and restrictions of transfer of any kind and that they have full power and capacity to sell and transfer their Patties Shares (together with any rights and entitlements attaching to those shares) to Bidder under the Scheme; and
- they have no existing right to be issued any Patties Shares, Patties Performance Rights, Patties convertible notes or any other Patties securities, other than, in the case of any Scheme Shareholder who is also the holder of Patties Performance Rights, the right to be issued Patties Shares on the exercise of those Patties Performance Rights before the Scheme Record Date in accordance with their terms.

#### (g) Deed Poll

Bidder and HoldCo have executed a Deed Poll in favour of the Scheme Shareholders in which they covenant in favour of Scheme Shareholders to perform the actions attributed to them under the Scheme and to provide the Scheme Consideration in accordance with the Scheme. A copy of the Deed Poll is set out in Appendix 5 to this Explanatory Booklet.

### 9.3 Scheme conditions

The Scheme is subject to the conditions noted in paragraphs (a), (b), (c) and (d) below, all of which, other than Court approval, must be satisfied or waived (as applicable) by no later than the Delivery Time on the Second Court Date. These conditions are set out in clause 3 of the Scheme Implementation Deed, a copy of which is reproduced in Appendix 4 to this Explanatory Booklet and in clause 3 of the Scheme in Appendix 2 to this Explanatory Booklet.

#### (a) Scheme conditions that apply for the benefit of Bidder

The following conditions apply under the Scheme Implementation Deed for the sole benefit of Bidder and can only be waived by Bidder:

- **(No Patties Prescribed Occurrences)** No Patties Prescribed Occurrences occur between the date of the Scheme Implementation Deed and the Delivery Time on the Second Court Date.
- **(No change of Patties Board recommendation)** Between the date of the Scheme Implementation Deed and the date of the Scheme Meeting, none of the Directors of Patties change, qualify or withdraw their voting intention to vote in favour of the resolution to approve the Scheme (to the extent a Director has a relevant interest in Patties Shares) or their recommendation to Patties Shareholders to vote in favour of the Scheme, which recommendation (or voting intention) may be expressed to be given:
  - in the absence of a Superior Proposal; and
  - subject to the Independent Expert opining that the Scheme is in the best interest of Patties Shareholders.
- **(Patties Warranties)** The warranties given by Patties in the Scheme Implementation Deed are true and correct as at the Delivery Time on the Second Court Date.
- **(Patties Performance Rights)** Patties has at the Delivery Time on the Second Court Date complied with its obligations in respect of the Patties Performance Rights under clause 5 of the Scheme Implementation Deed.

#### (b) Scheme condition that applies for the benefit of Patties

The following condition applies under the Scheme Implementation Deed for the sole benefit of Patties and can only be waived by Patties:

- **(No HoldCo Prescribed Occurrences)** No HoldCo Prescribed Occurrence occurs between the date of the Scheme Implementation Deed and the Delivery Time on the Second Court Date.
- **(Bidder Warranties)** The warranties given by Bidder in the Scheme Implementation Deed are true and correct as at the Delivery Time on the Second Court Date.
- **(Independent Expert)** The Independent Expert does not, on or before, the Delivery Time on the Second Court Date, withdraw, qualify or change its present opinion that the Scheme is in the best interest of Patties Shareholders.
- **(Shareholders' Deed)** The Shareholders' Deed has been executed by the persons named as the parties to that agreement. This condition has been satisfied – see the executed copy of the Shareholders' Deed in Appendix 6 to this Explanatory Booklet.

#### (c) Scheme conditions that apply for the benefit of Patties and Bidder

The following condition applies under the Scheme Implementation Deed for the benefit of both Patties and Bidder and can only be waived by both Patties and Bidder:

- **(ASIC and ASX approval)** before the Delivery Time on the Second Court Date, ASIC and ASX have issued or provided such consents or approvals necessary to implement the Scheme and such consents or approvals have not been withdrawn or revoked.
- **(No Restraints)** No temporary restraining order, preliminary or permanent injunction or other order issued by any court of competent jurisdiction, no preliminary or final decision, determination or order issued by any Governmental Agency and no other legal restraint preventing any of the transactions contemplated by the Scheme Implementation Deed is in effect as at the Delivery Time on the Second Court Date.

#### (d) Non-waivable conditions

The following conditions under the Scheme Implementation Deed are not capable of waiver:

- **(FIRB approval)** Receipt of regulatory approval from FIRB necessary for the implementation of the Scheme.
- **(Shareholder approval)** The Scheme is approved by the requisite majorities of Patties Shareholders (other than Excluded Shareholders).
- **(Court approval)** The Scheme is approved by the Court in accordance with section 411(4)(b) of the Corporations Act.

### 9.4 Termination rights

The Scheme Implementation Deed automatically terminates if Patties Shareholders do not approve the Scheme by the requisite majorities at the Scheme Meeting.

#### (a) Mutual termination rights

Either party may terminate the Scheme Implementation Deed by written notice to the other at any time before the Delivery Time on the Second Court Date if:

- the other is in material breach of any of its obligations under the Scheme Implementation Deed and has failed to remedy that breach within five Business Days (or any shorter period ending on the Delivery Time on the Second Court Date) after it is given notice by the first party specifying the breach and requesting it to be rectified;
- any condition precedent to the Scheme is not satisfied or waived (if capable of being waived) or is not capable of being satisfied by the required date and the parties have not reached agreement to overcome the non-satisfaction, in which the case the party entitled to terminate the Scheme Implementation Deed will depend on the condition that is not capable of being satisfied;
- the Court refuses to make any order directing Patties to convene the Scheme Meeting, where both Patties and Bidder have met and consulted in good faith and agreed that they do not wish to proceed with the Scheme; or
- the Scheme does not become Effective by the End Date.

### (b) Bidder termination rights

In addition to the mutual termination rights, Bidder may terminate the Scheme Implementation Deed by written notice to Patties at any time before the Delivery Time on the Second Court Date if:

- a Material Adverse Change occurs with respect to Patties; or
- any Director of Patties withdraws or adversely modifies their recommendation of the Scheme or supports a Competing Proposal.

### (c) Patties termination rights

In addition to the mutual termination rights, Patties may also terminate the Scheme Implementation Deed by written notice to Bidder at any time before the Delivery Time on the Second Court Date if a majority of the Patties Directors publicly recommend a Superior Proposal and do not, within three Business Days, reinstate their recommendation of the Scheme.

## 9.5 Status of conditions and termination rights

As at the date of this Explanatory Booklet, neither Patties nor Bidder is aware of any circumstances which would cause any of the conditions summarised in Section 9.3 not to be satisfied or which could result in termination of the Scheme Implementation Deed.

Patties will make a statement regarding the status of the conditions of the Scheme at the commencement of the Scheme Meeting.

## 9.6 Arrangements for Patties Performance Rights

Patties has a Long Term Incentive Plan under which Performance Rights Holders can acquire Patties Shares, subject to the terms of the Patties Long Term Incentive Plan.

Under the Scheme Implementation Deed, Patties has agreed with the Bidder to take all actions to ensure that:

- each Performance Rights Holder can exercise his or her Patties Performance Rights before the record date for the Special Dividend;
- any Performance Right which is not exercised before the record date for the Special Dividend by the relevant Performance Right Holder lapses or is cancelled upon or subject to the Scheme becoming Effective; and
- no Shares are issued, or required to be issued, on or after the Record Date as a result of the exercise of any Performance Right.

Patties will give a notice to each Performance Rights Holder in accordance with the terms of the Patties Long Term Incentive Plan confirming that:

- subject to Patties Shareholders approving the Scheme at the Scheme Meeting, Performance Rights Holders (or Patties as attorney for the Performance Rights Holders) may exercise their Patties Performance Rights;

- subject to Court approval of the Scheme at the Second Court Hearing and Performance Rights Holders (or Patties as attorney for the Performance Rights Holders) exercising their Patties Performance Rights, Patties will issue to Performance Rights Holders such number of Patties Shares to which they are entitled under the terms of the Patties Long Term Incentive Plan; and
- these new Patties Shares will be issued between the Second Court Date and the Special Dividend Record Date.

Therefore, Patties Shares issued to Performance Rights Holders in accordance with the above arrangements will form part of the Scheme Shares and Performance Rights Holders will be entitled to receive the Scheme Consideration and the Special Dividend (if it is declared).

The number of Patties Shares to be issued to Performance Rights Holders will be 1,173,832.

If the Scheme is not approved at the Scheme Meeting or the Scheme is not approved by the Court the matters outlined in this Section 9.6 will not occur and Performance Rights Holders will continue to hold their Patties Performance Rights subject to the terms of the Patties Long Term Incentive Plan.



## 10. Implementation

### 10.1 Introduction

If:

- (a) the Scheme is approved by Patties Shareholders at the Scheme Meeting; and
- (b) all other conditions to the Scheme as described in Section 9.3 (other than Court approval of the Scheme) have been satisfied or waived (as applicable),

the further general steps required to implement the Scheme are as described in the remainder of this Section.

The description of these general steps is based on the obligations that Patties and Bidder have under the Scheme Implementation Deed. Bidder and HoldCo have also signed the Deed Poll in which they covenant in favour of Scheme Shareholders to perform the actions attributed to them under the Scheme and to provide the Scheme Consideration in accordance with the Scheme. The Scheme Implementation Deed is contained in Appendix 4 to this Explanatory Booklet. The Deed Poll is contained in Appendix 5 to this Explanatory Booklet.

### 10.2 Apply to Court for approval of Scheme

At the Second Court Hearing, Patties will apply to the Court for orders approving the Scheme. It is proposed that the Second Court Date will be on or about 2 September 2016. Any change to this date will be announced through ASX and will be available on ASX's website, [www.asx.com.au](http://www.asx.com.au).

The Court has a wide, overriding discretion whether or not to approve the Scheme under section 411(4)(b) of the Corporations Act.

### 10.3 Opposing the Scheme

If you wish to oppose approval of the Scheme by the Court at the Second Court Hearing you must file with the Court, and serve on Patties, a notice of appearance in the form prescribed under the *Supreme Court (Corporations) Rules 2001* (Vic), together with any affidavit on which you wish to rely at the hearing. The notice of appearance and affidavit must be served on Patties at its address for service at least one day before the Second Court Date.

The address for service is: c/o Minter Ellison, Rialto Towers, 525 Collins Street, Melbourne VIC 3000 Attention: Mr Bart Oude-Vrielink

### 10.4 Receipt of Court orders

If the Court approves the Scheme:

- (a) Patties will make an announcement to ASX notifying the market of the receipt of Court approval, with that announcement proposed to be made on the day on which the Court approves the Scheme;
- (b) that announcement will specify the Effective Date; and
- (c) as soon as possible and in any event by 5.00pm on the first Business Day after the day on which the Court approves the Scheme, Patties will lodge an office copy of the Court's orders with ASIC under section 411(10) of the Corporations Act. On that date (currently proposed to be 5 September 2016), the Scheme will become Effective.

If the Scheme becomes Effective, Patties and Bidder will become bound to implement the Scheme in accordance with the terms of the Scheme Implementation Deed, the Scheme and the Deed Poll. Only those persons who are registered as the holders of

Patties Shares on the Scheme Record Date will be Scheme Shareholders, being the only persons who will be bound by, and have the benefit of, the Scheme. Section 10.7 of this Explanatory Booklet describes the principles in the Scheme for determining the identity of Scheme Shareholders.

If the Scheme does not become Effective before the End Date, the Scheme will lapse.

### 10.5 Implementation of Scheme

#### (a) Suspension of trading of Patties Shares

It is expected that suspension of trading on ASX in Patties Shares will occur from close of trading on the Effective Date. On the current timetable, the Effective Date is proposed to be 5 September 2016.

#### (b) Scheme Record Date

Patties Shareholders will be entitled to receive the Scheme Consideration if they are registered as the holders of Patties Shares on the Scheme Record Date. The Scheme Record Date is 7.00pm on the date which is eight Business Days after the Effective Date, and is currently proposed to be 7.00pm on 15 September 2016. In this Explanatory Booklet, those Patties Shareholders and the Patties Shares that they hold are referred to as 'Scheme Shareholders' and 'Scheme Shares', respectively.

#### (c) Transfer and registration of Scheme Shares

Under the Scheme, each Scheme Shareholder, without the need for any further act, irrevocably appoints Patties and each of its directors, officers and secretaries, jointly and severally, as that Scheme Shareholder's attorney and agent for the purpose of executing any document necessary to give effect to the Scheme, including (without limitation) a master transfer of all or part of the Scheme Shares.

On the Implementation Date, the Scheme Shares held by Scheme Shareholders, together with all rights and entitlements attaching to those shares as at the Implementation Date, will be transferred to Bidder without the need for any further act by any Scheme Shareholder, by Patties executing and delivering a valid transfer or transfers of the Scheme Shares to Bidder under the Corporations Act.

Prior to the Implementation Date and prior to the transfer of any Scheme Shares to Bidder, Bidder will deposit into the Trust Account an amount equal to the aggregate amount of cash comprised in the Scheme Consideration payable to Scheme Shareholders, with that amount to be held on trust for the Scheme Shareholders for the purpose of Patties dispatching the aggregate cash comprised in the Scheme Consideration to the Scheme Shareholders to which they are entitled, either by way of cheque or electronic funds transfer.

The transfer of any Scheme Shares to Bidder will only take place once:

- the cash component of the Scheme Consideration has been dispatched by Patties from the Trust Account to each Scheme Shareholder in the manner set out in Section 10.5(d); and
- Bidder has confirmed in writing to Patties by no later than 12 noon (or such later time as Bidder and Patties may agree) on the Implementation Date that each Scheme Shareholder (if any) entitled to receive Class B Shares under the Scheme has been entered in HoldCo's register of members as the holder of those Class B Shares.

## (d) Provision of Scheme Consideration

### Cash Consideration

After Bidder transfers the aggregate amount of the Scheme Consideration into the Trust Account, Patties will on the Implementation Date either:

- send (or procure the Share Registry to send) the Scheme Consideration due to each Scheme Shareholder to their Registered Address by cheque in Australian currency drawn out of the Trust Account; or
- deposit (or procure the Share Registry to deposit) the Scheme Consideration due to each Scheme Shareholder into an account with any Australian ADI (as defined in the Corporations Act) notified to Patties (or the Share Registry) by an appropriate authority from the Scheme Shareholders.

In the case of Scheme Shares held in joint names any cheque required to be sent under the Scheme will be made payable to the joint holders and sent, at the sole discretion of Patties, to either the holder whose name appears first in the Share Register as at the Scheme Record Date or to the joint holders.

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

### Scrip Consideration

On or before the date that is five business Days after the Implementation Date, Bidder must send or procure the sending of a certificate to each Scheme Shareholder entitled to receive Class B Shares under this Scheme (if any), reflecting the issue of such Class B Shares.

## 10.6 Delisting of Patties

At a time determined by Bidder following the implementation of the Scheme, Bidder will cause Patties to apply for the termination of the official quotation of Patties Shares on ASX and to have itself removed from the official list of ASX. It is expected that this will occur shortly after the Implementation Date.

## 10.7 Determination of Scheme Shareholders

To establish the identity of the Scheme Shareholders, dealings in Shares or other alterations to the Share Register will only be recognised if:

- in the case of dealings of the type to be effected using CHESSE, the transferee is registered in the Share Register as the holder of the relevant Shares on or before 7.00pm on the Scheme Record Date; and
- in all other cases, registrable transmission applications or transfers in respect of those dealings are received on or before 5.00pm on the day on which the Scheme Record Date occurs at the place where the Share Register is kept.

Patties must register registrable transmission applications or transfers received on or before 5.00pm on the day on which the Scheme Record Date occurs by or as soon as reasonably practicable after that time.

Patties will not accept for registration or recognise for any purpose any transmission application or transfer in respect of Patties Shares received after 5.00pm on the day on which the Scheme Record Date occurs, other than to Bidder in accordance with the Scheme and any subsequent transfer by Bidder or its successors in title.

Under the terms of the proposed Scheme, from the Scheme Record Date until registration of Bidder as the holder of all Scheme Shares:

- Patties Shareholders may not dispose of, or otherwise deal with, any Scheme Shares or any interest in them after the Scheme Record Date; and
- any disposals or dealings in Scheme Shares after the Scheme Record Date will not be recognised by the Share Registry.

For the purpose of determining entitlements to the Scheme Consideration, Patties must maintain the Share Register in accordance with the provisions of this Section 10.7 until the Scheme Consideration has been delivered to the Scheme Shareholders. The Share Register in this form will solely determine entitlements to the Scheme Consideration.

All statements of holding for Patties Shares will cease to have effect from the Scheme Record Date as documents of title in respect of those shares (other than statements of holding in favour of any Excluded Shareholders). As from the Scheme Record Date, each entry current at that date on the Share Register (other than entries in respect of any Excluded Shareholder) will cease to have effect except as evidence of entitlement to the Scheme Consideration in respect of the Shares relating to that entry.

As soon as practicable after the Scheme Record Date and in any event within one Business Day after the Scheme Record Date, Patties will ensure that details of the names, Registered Addresses and holdings of Patties Shares for each Scheme Shareholder are available to Bidder in the form Bidder reasonably requires.

## 11. Additional Information

### 11.1 Introduction

This Section sets out the statutory information required by section 412(1)(a) of the Corporations Act and Part 3 of Schedule 8 to the *Corporations Regulations 2001* (Cth) to be included in this Explanatory Booklet, but only to the extent that this information is not otherwise disclosed in other Sections. This Section also includes additional information that your Directors consider material to a decision on how to vote on the resolution to be considered at Scheme Meeting.

In this Section, the terms ‘associate’, ‘marketable securities’, ‘related body corporate’ and ‘subsidiary’ have the meanings given to them in the Corporations Act. The term ‘executive officer’ is used to mean ‘senior manager’ as defined in the Corporations Act, including the company secretary.

### 11.2 Directors’ interests and dealings in Patties Shares

The table below sets out the Patties Shares and Patties Performance Rights held by or on behalf of the Directors.

Director’s name	Position	Patties Shares held by or on behalf of the Director	Patties Performance Rights held by or on behalf of the Director
Mark Smith	Chairman	296,000	0
Curt Leonard	Deputy Chairman/Non-Executive Director	2,306,135	0
Steven Chaur	Managing Director/Chief Executive Officer	52,988	448,571
John Schmoll	Non-Executive Director	100,000	0
Richard Rijs	Non-Executive Director	9,000,002	0
Harry Rijs	Non-Executive Director	9,500,000	0
Greg Dhnaram	Non-Executive Director	200,000	0
<b>Total</b>	<b>n/a</b>	<b>21,455,125</b>	<b>448,571</b>

There have been no acquisitions or disposals of Patties Shares or Patties Performance Rights by any Director or their associates in the six months prior to the date of this Explanatory Booklet.

### 11.3 Directors’ interest and dealings in Bidder securities

No Director, nor any of his or her associates, has any relevant interest in any marketable security issued by Bidder or any of its respective related bodies corporate.

### 11.4 Directors’ interests in any contracts with Bidder

No Director or any of his or her associates has entered into, or otherwise has any interest in, any contract entered into by Bidder or any of its associates.

### 11.5 Directors’ interests in agreements connected with or conditional on the Scheme

No Director has an interest in any agreement connected with or conditional on the Scheme other than as set out in Section 11.2.

### 11.6 Retirement benefits

#### (a) Non-executive directors

No payment or other benefit is proposed to be made or given in connection with the Scheme to any non-executive Director of Patties as compensation for loss of, or as consideration for, or in connection with, his or her retirement from office in Patties or in any related body corporate of Patties.

#### (b) Executive directors

No payment or other benefit is proposed to be made or given in connection with the Scheme to any executive Director of Patties as compensation for loss of, or as consideration for, or in connection with, his or her retirement from office in Patties or in any related body corporate of Patties.

#### (c) Other directors, secretary or executive officers

No payment or other benefit is proposed to be made or given in connection with the Scheme to any other director, secretary or executive officer of Patties, or of any related body corporate of Patties, as compensation for loss of, or as consideration for, or in connection with, his or her retirement from office in Patties or in any related body corporate of Patties, other than any payments or benefits arising from any applicable redundancy entitlements. Redundancy entitlements may arise under the terms of the relevant executive officer’s contract of employment, applicable statutory entitlements, Patties policies or a combination of these.

## 11.7 Directors' intentions regarding the business, assets and employees of Patties

If the Scheme is approved and implemented, the existing Patties Board will be reconstituted in accordance with the instructions of Bidder as the only shareholder in Patties. Accordingly, it is not possible for your Patties Directors to provide a statement of their intentions regarding:

- the continuation of the business of Patties or how Patties existing business will be conducted after the Scheme is implemented;
- any major changes to be made to the business of Patties, including any redeployment of the fixed assets of Patties; or
- the future employment of the present employees of Patties, in each case, after the Scheme is implemented.

If the Scheme is approved and implemented, Bidder will have 100% ownership of Patties issued shares and will control Patties. Please refer to Section 6.3 for a statement of Bidder's intentions for Patties if the Scheme becomes Effective.

## 11.8 No unacceptable circumstances

The Patties Board believes that the Scheme does not involve any circumstances in relation to the affairs of Patties that could reasonably be characterised as constituting unacceptable circumstances for the purposes of section 657A of the Corporations Act.

## 11.9 Disclosure of fees and other benefits

No person has paid or agreed to pay any amount, or provided or agreed to provide any benefit to a director or proposed director of Bidder:

- to induce them to become or to qualify as a director of Bidder; or
- for services provided by that person in connection with the formation or promotion of Bidder.

There is no additional agreement or arrangement made between any Patties Director and another person in connection with or conditional on the outcome of the Scheme, other than certain Non-Executive Directors of Patties have been paid a special exertion fee for the increased time already spent, and in anticipation of the time that will be spent, working on the Scheme until it is completed. This fee is not conditional on the Scheme being implemented and will not exceed \$200,000 (in aggregate).

The persons named in this Booklet as performing a material function in a professional or advisory capacity in connection with the Scheme and with the preparation of the Explanatory Booklet on behalf of Patties are Minter Ellison as Australian legal adviser, Greenhill & Co. Australia Pty Limited as financial advisor, Deloitte Corporate Finance Pty Limited as the independent expert and Computershare Investor Services Pty Limited as the Share Registry.

The aggregate amount of the fees and expenses associated with the Scheme and the preparation of this Explanatory Booklet incurred (or to be incurred) by Patties are expected to be approximately \$7.0 million (inclusive of GST). Of this amount,

\$2.3 million (inclusive of GST) is expected to be payable by Patties irrespective of whether or not the Scheme becomes Effective. These amounts do not include the transaction costs that may be incurred by PEP in relation to the Scheme.

## 11.10 Consents and disclaimers

The following parties have given and have not, before the time of registration of this Explanatory Booklet by ASIC, withdrawn their written consent to be named in this Explanatory Booklet in the form and context in which they are named and have consented to the statements by them, or statements said in this Explanatory Booklet to be based on statements by them, in the form and context in which those statements are included in this Explanatory Booklet:

- Minter Ellison as legal adviser to Patties;
- Greenhill & Co. Australia Pty Limited as financial adviser to Patties;
- Deloitte Corporate Finance Pty Limited as the Independent Expert; and
- Computershare Investor Services Pty Limited as the Share Registry.

Bidder has given, and has not, before the time of registration of this Explanatory Booklet by ASIC, withdrawn its consent, to the inclusion of Bidder Information in this Explanatory Booklet and the references to that Section in the form and context in which they are included.

Deloitte Corporate Finance Pty Limited has given, and has not, before the time of registration of this Explanatory Booklet by ASIC, withdrawn its consent, to the inclusion of statements attributed to it in Sections 4.3(c) and 4.3(j) of this Explanatory Booklet and to the inclusion of the Independent Expert's Report set out in Appendix 1 to this Explanatory Booklet in the form and context in which they are included.

Each member of the Rijs family as set out in the table below has given, and has not, before the time of registration of this Explanatory Booklet by ASIC, withdrawn their written consent to be named in this Explanatory Booklet in the form and context in which they are named.

Rijs family member	Number of Patties Shares	Proportion of Patties Shares
Adrian & Louise Rijs	11,951,051	8.58%
N & F Rijs	10,715,348	7.70%
Frank & Wilhelmina Rijs	9,834,693	7.06%
Harry Rijs	9,500,000	6.82%
Richard Rijs	9,000,002	6.46%

Each of the persons listed in this Section 11.10:

- has not authorised or caused the issue of this Explanatory Booklet;
- does not make, or purport to make, any statement in this Explanatory Booklet or any statement on which a statement in this Explanatory Booklet is based (other than, in the case of the Bidder, the Bidder Information) other than a statement or report included in this Explanatory Booklet with the consent of that party;

- to the maximum extent permitted by law, expressly disclaims and takes no responsibility for any part of this Explanatory Booklet, other than as described in this Explanatory Booklet with the consent of that party; and
- except for Bidder, does not assume any responsibility for the accuracy, relevance or completeness of Bidder Information. The Bidder Information has been prepared by, and is the sole responsibility of, Bidder.

- posting a statement on Patties website at [www.pattiesfoods.com.au](http://www.pattiesfoods.com.au),

as Patties in its absolute discretion considers appropriate, subject to any approval that may be required from the Court. In particular, where the matter is not materially adverse to Patties Shareholders such circulation and publication may be only by an announcement to ASX.

### 11.11 Independent advice

Patties Shareholders should consult their financial, legal or other professional adviser if they have any queries regarding:

- the Scheme;
- the taxation implications for them if the Scheme is implemented;
- your Patties Directors' recommendations and intentions in relation to the Scheme, as set out in Sections 1.8 and 4.1 of this Explanatory Booklet; or
- any other aspects of this Explanatory Booklet.

Patties Shareholders may also call the Shareholder Information Line on 1300 782 058 (within Australia) or +61 3 9415 4109 (outside Australia) Monday to Friday between 8.30am and 5.00pm (Melbourne time) with any queries they may have on the Scheme.

### 11.12 Other material information

Except as set out in this Explanatory Booklet, in the opinion of the Patties Board, there is no other information material to the making of a decision in relation to the Scheme, being information that is within the knowledge of any Patties Director or of any related company of Patties, which has not been previously disclosed to Patties Shareholders.

Patties will issue a supplementary document to this Explanatory Booklet if it becomes aware of any of the following between the date of lodgement of this Explanatory Booklet for registration by ASIC and the Effective Date:

- a material statement in this Explanatory Booklet that is false or misleading in a material respect;
- a material omission from this Explanatory Booklet;
- a significant change affecting a matter included in this Explanatory Booklet; or
- a significant new matter that has arisen and that would have been required to be included in this Explanatory Booklet if it had arisen before the date of lodgement of this Explanatory Booklet for registration by ASIC.

Depending on the nature and timing of the changed circumstances and subject to obtaining any relevant approvals, Patties may circulate and publish any supplementary document by any one or more of the following methods:

- making an announcement to ASX;
- placing an advertisement in a prominently published newspaper which is circulated generally throughout Australia;
- posting the supplementary document to Patties Shareholders at their Registered Address as shown in the Share Register; and/or

## 12. Glossary

The following terms used in this Explanatory Booklet (including the Notice of Scheme Meeting in Appendix 3 to this Explanatory Booklet) have the meanings given to them below, unless the context otherwise requires.

<b>Appendix</b>	an Appendix to this Explanatory Booklet
<b>ASIC</b>	the Australian Securities and Investments Commission
<b>associate</b>	has the meaning given in Division 2 of Part 1.2 of the Corporations Act as if section 12(1) of that Act included a reference to this Explanatory Booklet and Patties was the designated body
<b>ASX</b>	ASX Limited ACN 008 624 691 or, as the context requires or permits, the financial market known as the Australian Securities Exchange operated by it
<b>ATO</b>	Australian Taxation Office
<b>Bidder</b>	Australasian Foods Bidco Pty Limited ACN 612 643 795 of Level 31, 126-130 Phillip Street, Sydney, NSW, 2000
<b>Bidder Break Fee</b>	has the meaning given to that term in the Scheme Implementation Deed (see Appendix 4 to this Explanatory Booklet)
<b>Bidder Group</b>	HoldCo and each of its subsidiaries (excluding, at any time, Patties and its subsidiaries to the extent that Patties and its subsidiaries are subsidiaries of Bidder at that time). A reference to a member of the <b>Bidder Group</b> or a <b>Bidder Group Member</b> is a reference to HoldCo or any such subsidiary
<b>Bidder Information</b>	the information prepared by Bidder for inclusion in this Explanatory Booklet and for which Bidder is responsible, being Sections 6 and 7
<b>Bidder Warranties</b>	has the meaning given to that term in the Scheme Implementation Deed (see Appendix 4 to this Explanatory Booklet)
<b>Board or Board of Directors or Patties Board</b>	the board of Directors of Patties as at the date of this Explanatory Booklet
<b>Business Day</b>	any day that is a Business Day within the meaning given in the Listing Rules
<b>Cash Consideration</b>	\$1.65 cash per Patties Share you hold on the Scheme Record Date less the amount of the Special Dividend (if any)
<b>CGT</b>	Capital gains tax
<b>CHESS</b>	the Clearing House Electronic Subregister System, the system established and operated by ASX Settlement Pty Ltd ABN 49 008 504 532
<b>Class A Share</b>	one fully paid Class A share in the capital of HoldCo issued on the terms of issue set out in the Shareholders' Deed
<b>Class A Shareholders</b>	the registered holders of Class A Shares
<b>Class B Directors</b>	means directors of the HoldCo Board appointed by the Class B Shareholders
<b>Class B Share</b>	one fully paid ordinary share in the capital of HoldCo issued on the terms of issue set out in the Shareholders' Deed
<b>Class B Shareholders</b>	the registered holders of Class B Shares (being Scheme Shareholders who have made a valid Election to receive Class B Shares and have been issued Class B Shares).
<b>Competing Proposal</b>	has the meaning given to that term in the Scheme Implementation Deed (see Appendix 4 to this Explanatory Booklet)
<b>Corporations Act</b>	the <i>Corporations Act 2001</i> (Cth)
<b>Corporations Regulations</b>	the <i>Corporations Regulations 2001</i> (Cth)
<b>Court</b>	the Supreme Court of Victoria or such other court of competent jurisdiction under the Corporations Act agreed in writing between Patties and Bidder
<b>Deed Poll</b>	the deed poll executed by Bidder and HoldCo on 14 July 2016 in which Bidder and HoldCo undertake to perform the actions attributed to them under the Scheme for the benefit of Scheme Shareholders. A copy of the executed Deed Poll is reproduced in Appendix 5 to this Explanatory Booklet
<b>Delivery Time</b>	in relation to the Second Court Date means 2 hours before the commencement of the hearing or, if the commencement of the hearing is adjourned, the commencement of the adjourned hearing, of the Court to approve the Scheme in accordance with section 411(4)(b) of the Corporations Act
<b>EBITDA</b>	earnings before interest, tax, depreciation and amortization
<b>Effective</b>	when used in relation to the Scheme, the coming into effect, under section 411(10) of the Corporations Act, of the order of the Court made under section 411(4)(b) of the Corporations Act in relation to that Scheme
<b>Effective Date</b>	the date on which the Scheme becomes Effective. The Effective Date is currently proposed to be 5 September 2016

<b>Election</b>	an election by a Patties Shareholder to receive the Scrip Consideration, which election is made by following the procedure set out in the Election Form and in Section 1.2 of this Explanatory Booklet under 'How to make an Election to receive the Scrip Consideration'
<b>Election Date</b>	Monday, 22 August 2016
<b>Election Form</b>	the election form accompanying this Explanatory Booklet under which Scheme Shareholders can choose to receive the Scrip Consideration (instead of the Cash Consideration) for some or all of their Patties Shares
<b>End Date</b>	31 October 2016 or such other date and time agreed in writing between Patties and Bidder
<b>Excluded Shareholder</b>	a holder of one or more Patties Shares who is a member of the Bidder Group
<b>Explanatory Booklet</b>	this explanatory booklet dated 15 July 2016 in relation to the Scheme
<b>FinCo</b>	Australasian Foods FinCo Pty Limited ACN 612 642 145 of Level 31, 126-130 Phillip Street, Sydney, NSW, 2000
<b>FIRB</b>	Foreign Investment Review Board
<b>First Court Date</b>	the Court hearing on Friday 15 July 2016, at which Patties made an application to the Court for an order pursuant to section 411(1) of the Corporations Act convening the Scheme Meeting
<b>First Court Hearing</b>	the hearing of the application made to the Court by Patties for an order to convene the Scheme Meeting
<b>Foreign Scheme Shareholder</b>	a Scheme Shareholder whose address in the register of members of Patties as at the Scheme Record Date is a place outside Australia and its external territories
<b>Full Election</b>	has the meaning given in section 1.1 of the Scheme
<b>FY2015</b>	the financial year ended 30 June 2015
<b>FY2016</b>	the financial year ended 30 June 2016
<b>Government Agency</b>	has the meaning given to that term in the Scheme Implementation Deed (see Appendix 4 to this Explanatory Booklet)
<b>Headcount Test</b>	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 Shareholders eligible to vote at the Scheme Meeting and who are present and voting, either in person or by proxy
<b>HoldCo</b>	Australasian Foods Holdco Pty Limited ACN 612 640 329 of Level 31, 126-130 Phillip Street, Sydney, NSW, 2000
<b>HY2016</b>	The half year ended 31 December 2015
<b>Implementation Date</b>	the date which the Scheme is to be implemented according to its terms, being the fifth Business Day after the Scheme Record Date or such other date as Patties and Bidder agree in writing. The Implementation Date is currently proposed to be 22 September 2016
<b>Independent Expert</b>	Deloitte Corporate Finance Pty Limited ACN 003 833 127 AFSL 241457
<b>Independent Expert's Report</b>	the report from the Independent Expert (a full copy of which is set out in Appendix 1 to this Explanatory Booklet), and any update to such report that the Independent Expert issues
<b>Last Practicable Date</b>	4.00pm on Wednesday, 13 July 2016, being the last practicable day before finalising the information to which this definition relates
<b>Listing Rules</b>	the official listing rules of ASX
<b>Material Adverse Change</b>	has the meaning given to that term in the Scheme Implementation Deed (see Appendix 4 to this Explanatory Booklet)
<b>Minimum Elections Threshold</b>	an Election to receive the Scrip Consideration must not relate to less than 40% of the Patties Shares held by a Patties Shareholder as at the Scheme Record Date
<b>Minimum Holding Threshold</b>	the total number of Class B Shares in respect of which Patties Shareholders in aggregate have made valid Elections on or before the Election Date equals or exceeds 5,555,555
<b>Partial Election</b>	has the meaning given in section 1.1 of the Scheme
<b>Patties</b>	Patties Foods Limited ABN 62 007 157 182 of 161-169 Princes Highway, Bairnsdale, VIC, 3875
<b>Patties Break Fee</b>	has the meaning given to that term in the Scheme Implementation Deed (see Appendix 4 to this Explanatory Booklet)
<b>Patties Directors or your Directors</b>	the current directors of Patties
<b>Patties Group</b>	means Patties and each of its subsidiaries
<b>Patties Information</b>	all information included in this Explanatory Booklet other than: <ul style="list-style-type: none"> <li>(a) Bidder Information; and</li> <li>(b) the Independent Expert's Report</li> </ul>

<b>Patties Long Term Incentive Plan</b>	the Patties long term incentive plan operated by Patties
<b>Patties Performance Rights</b>	a performance right granted by Patties to acquire by way of issue or transfer one or more Patties Shares under the Patties Long Term Incentive Plan
<b>Patties Prescribed Occurrence</b>	has the meaning given to that term in the Scheme Implementation Deed (see Appendix 4 to this Explanatory Booklet)
<b>Patties Share or Share</b>	a fully paid ordinary share in the capital of Patties
<b>Patties Shareholder or Shareholder</b>	a holder of one or more Patties Shares
<b>Patties Warranties</b>	has the meaning given to that term in the Scheme Implementation Deed (see Appendix 4 to this Explanatory Booklet)
<b>PEP</b>	Pacific Equity Partners Pty Ltd ACN 082 283 949
<b>PEP Director</b>	a director of the HoldCo board appointed by the PEP Shareholders
<b>PEP Shareholders</b>	the entities constituting the Fund
<b>Performance Rights Holder</b>	a holder of one or more Patties Performance Rights
<b>Proxy Form</b>	the Proxy Form for the Scheme Meeting accompanying this Explanatory Booklet or, as the context requires, any replacement or substitute Proxy Form provided by or on behalf of Patties
<b>Registered Address</b>	in relation to a Patties Shareholder, the address shown in the Share Register as at the Scheme Record Date
<b>relevant interest</b>	has the meaning given in the Corporations Act
<b>Scheme or Scheme of Arrangement</b>	the scheme of arrangement under Part 5.1 of the Corporations Act between Patties and the Scheme Shareholders under which Bidder proposes to acquire all of the Patties Shares (other than Patties Shares held by an Excluded Shareholder) as set out in Appendix 2 to this Explanatory Booklet, subject to any alterations or conditions agreed or any alterations or conditions made or required by the Court under section 411(6) of the Corporations Act
<b>Scheme Conditions</b>	the conditions precedent specified at clause 3 of the Scheme Implementation Deed
<b>Scheme Consideration</b>	has the meaning given to that term in the Scheme (see Appendix 4 to this Explanatory Booklet)
<b>Scheme Implementation Deed</b>	the deed dated 1 June 2016 between Patties and Bidder setting out certain arrangements in relation to the Scheme as varied by an amending deed dated 30 June 2016. The Scheme Implementation Deed (as amended) is reproduced in Appendix 2 to this Explanatory Booklet
<b>Scheme Meeting</b>	the meeting of Patties Shareholders to be held at 10:00am (Melbourne time) at Minter Ellison, Level 23, 525 Collins Street, Melbourne, Victoria on Friday, 26 August 2016 to consider and vote on the Scheme including any meeting convened and held following the postponement or adjournment of that meeting. The notice convening the Scheme Meeting is contained in Appendix 3 to this Explanatory Booklet
<b>Scheme Record Date</b>	the time and date for determining entitlements to the Scheme Consideration, being 7:00pm (Melbourne time) on the eighth Business Day (or such other Business Day as Patties and Bidder agree) following the date on which the Scheme becomes Effective. The Scheme Record Date is currently proposed to be 7:00pm (Melbourne time) on Thursday, 15 September 2016
<b>Scheme Resolution</b>	the resolution to be put to Patties Shareholders to approve the Scheme at the Scheme Meeting
<b>Scheme Share</b>	a Patties Share on issue on the Scheme Record Date, other than any Patties Shares then held by an Excluded Shareholder
<b>Scheme Shareholder</b>	a person who holds one or more Scheme Shares
<b>Scrip Consideration</b>	for each Patties Share in respect of which a Scheme Shareholder makes a valid Election, one Class B Share
<b>Scrip Scale Back</b>	the scale back in relation to the Scrip Consideration in the event that the total number of Class B Shares in respect of which Patties Shareholders have made valid Elections on or before the Election Date exceeds 50,000,000
<b>Second Court Date</b>	the first day on which the application made to the Court for an order pursuant to section 411(4)(b) of the Corporations Act approving the Scheme is heard or, if the application is adjourned for any reason, the first day on which the adjourned application is heard. This date is currently proposed to be Friday, 2 September 2016
<b>Second Court Hearing</b>	the hearing of the application made to the Court for an order pursuant to section 411(4)(b) of the Corporations Act approving the Scheme
<b>Section</b>	a section of this Explanatory Booklet
<b>Share Register</b>	the register of members of Patties maintained by or on behalf of Patties in accordance with section 168(1) of the Corporations Act



<b>Share Registry</b>	Computershare Investor Services Pty Limited ABN 48 078 279 277
<b>Share Splitting</b>	the splitting by a holder of Patties Shares into two or more parcels of Patties Shares whether or not it results in any change in beneficial ownership of Patties Shares
<b>Shareholders' Deed</b>	the Shareholders' Deed in relation to HoldCo (see Appendix 6 to this Explanatory Booklet)
<b>Special Dividend</b>	a fully franked dividend of up to and including \$0.25 per Patties Share that the Patties Directors may declare if the Scheme is approved by Shareholders and the Court, to be paid by Patties on the Special Dividend Payment Date
<b>Special Dividend Payment Date</b>	to be determined by the Patties Board when they declare the Special Dividend currently expected to be Wednesday, 14 September 2016 if the Court approves the Scheme
<b>Special Dividend Record Date</b>	the time and date for determining entitlements to the Special Dividend, being 7:00pm (Melbourne time) on the seventh Business Day (or such other Business Day as Patties and Bidder agree) following the date on which the Scheme becomes Effective. The Special Dividend Record Date is currently proposed to be 7:00pm (Melbourne time) on Thursday, 8 September 2016
<b>Superior Proposal</b>	has the meaning given to that term in the Scheme Implementation Deed (see Appendix 4 to this Explanatory Booklet)
<b>Trust Account</b>	an Australian dollar denominated trust account operated by Patties as trustee for the benefit of Scheme Shareholders
<b>Voting Entitlement Time</b>	the date for determining voting eligibility at the Scheme Meeting, being (7:00pm Melbourne time on Wednesday, 24 August 2016)
<b>VWAP</b>	volume weighted average price



## Appendix 1. Independent Expert's Report

**Deloitte.**

**Patties Foods Limited**

Independent expert's report and Financial Services Guide

**15 July 2016**

# Deloitte.

## Financial Services Guide

### What is a Financial Services Guide?

**This Financial Services Guide (FSG) provides important information to assist you in deciding whether to use our services. This FSG includes details of how we are remunerated and deal with complaints.**

Where you have engaged us, we act on your behalf when providing financial services. Where you have not engaged us, we act on behalf of our client when providing these financial services, and are required to give you an FSG because you have received a report or other financial services from us. The person who provides the advice is an Authorised Representative (AR) of Deloitte Corporate Finance Pty Limited (Deloitte Corporate Finance), which authorises the AR to distribute this FSG. Their AR number is included in the report which accompanies this FSG.

### What financial services are we licensed to provide?

We are authorised to provide financial product advice and to arrange for another person to deal in financial products in relation to securities, interests in managed investment schemes, government debentures, stocks or bonds to retail and wholesale clients. We are also authorised to provide personal and general financial product advice and deal by arranging in derivatives and regulated emissions units to wholesale clients, and general financial product advice relating to derivatives to retail clients.

### Our general financial product advice

Where we have issued a report, our report contains only general advice. This advice does not take into account your personal objectives, financial situation or needs. You should consider whether our advice is appropriate for you, having regard to your own personal objectives, financial situation or needs.

If our advice is provided to you in connection with the acquisition of a financial product you should read the relevant offer document carefully before making any decision about whether to acquire that product.

### How are we and all employees remunerated?

We will receive a fee of approximately \$190,000 exclusive of GST in relation to the preparation of this report. This fee is not contingent upon the success or otherwise of the proposed transaction with Australasian Foods Bidco Pty Ltd (Bidco), an entity wholly owned by funds managed by Pacific Equity Partners, under which Bidco would acquire 100% of

the issued capital of Patties Foods Limited by way of a scheme of arrangement (the Proposed Scheme).

Other than our fees, we, our directors and officers, any related bodies corporate, affiliates or associates and their directors and officers, do not receive any commissions or other benefits.

All employees receive a salary and while eligible for annual salary increases and bonuses based on overall performance they do not receive any commissions or other benefits as a result of the services provided to you. The remuneration paid to our directors reflects their individual contribution to the organisation and covers all aspects of performance.

We do not pay commissions or provide other benefits to anyone who refers prospective clients to us.

### Associations and relationships

We are ultimately controlled by the Deloitte member firm in Australia (Deloitte Touche Tohmatsu). Please see [www.deloitte.com/au/about](http://www.deloitte.com/au/about) for a detailed description of the legal structure of Deloitte Touche Tohmatsu.

### What should you do if you have a complaint?

If you have any concerns regarding our report or service, please contact us. Our complaint handling process is designed to respond to your concerns promptly and equitably. All complaints must be in writing to the address below.

If you are not satisfied with how we respond to your complaint, you may contact the Financial Ombudsman Service (FOS). FOS provides free advice and assistance to consumers to help them resolve complaints relating to the financial services industry. FOS' contact details are also set out below.

The Complaints Officer Services	Financial Ombudsman Services
PO Box N250	GPO Box 3
Grosvenor Place	Melbourne VIC 3001
Sydney NSW 1220	<a href="mailto:info@fos.org.au">info@fos.org.au</a>
<a href="mailto:complaints@deloitte.com.au">complaints@deloitte.com.au</a>	<a href="http://www.fos.org.au">www.fos.org.au</a>
Fax: +61 2 9255 8434	Tel: 1300 780 808
	Fax: +61 3 9613 6399

### What compensation arrangements do we have?

Deloitte Australia holds professional indemnity insurance that covers the financial services provided by us. This insurance satisfies the compensation requirements of the Corporations Act 2001 (Cth).

15 July 2016

Deloitte Corporate Finance Pty Limited, ABN 19 003 833 127, AFSL 241457 of Level 1 Grosvenor Place, 225 George Street, Sydney NSW 2000

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## Appendix 1. Independent Expert's Report *continued*



The Directors  
Patties Foods Limited  
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Mentone VIC 3194

15 July 2016

Dear Directors

### Independent expert's report

#### Introduction

On 2 June 2016, Patties Foods Limited (PFL or the Company) announced it had entered into a Scheme Implementation Deed with Australasian Foods Bidco Pty Limited (Bidco), an entity wholly owned by funds managed by Pacific Equity Partners (PEP), under which Bidco would acquire 100% of the issued capital of PFL by way of a scheme of arrangement (the Proposed Scheme). If the Proposed Scheme is approved, holders of shares in PFL (Shareholders) will receive cash consideration of \$1.65 per share less the amount of a fully franked special dividend of up to \$0.25 per share that is declared and paid by PFL before the Proposed Scheme is implemented such that the total payment received by Shareholders is \$1.65 per share (the Cash Consideration). As an alternative to the Cash Consideration, Shareholders will also have the option to elect to receive a share in Australasian Foods Holdco Pty Limited (Holdco), an entity that will own 100% of the shares in Bidco, in consideration for each PFL share held (Scrip Consideration).

Under the Proposed Scheme, Shareholders will receive the Cash Consideration for all of their shares but may elect the Scrip Consideration in respect of 40% to 100% of their shares. Shareholders may:

- receive the total value of their scheme consideration as Cash Consideration; or
- elect to receive some or all of the value of the scheme consideration as Scrip Consideration, in which case:
  - where a Shareholder has made a 'Partial Election' (that is, has made a valid election in respect of 40% to 100% of their Shares), they will receive a combination of Scrip Consideration in respect of those shares which are the subject of the valid election (subject to a minimum level of elections and scale back provisions) and will receive Cash Consideration in respect of the remaining shares held by that Shareholder which are not the subject of a valid election; or
  - where a Shareholder has made a 'Full Election' by making a valid election in respect of 100% of its shares, it will receive the entirety of its scheme consideration in the form of Scrip Consideration (subject to a minimum level of elections and scale back provisions).

All Shareholders holding PFL shares on the date for determining entitlements to the Special Dividend (Special Dividend Record Date), which is currently expected to be 8 September 2016, will receive the special fully franked dividend, regardless of consideration option elected.

Upon completion of the Proposed Scheme, PFL would become a wholly owned subsidiary of Bidco and would subsequently be delisted from the Australian Securities Exchange (ASX). PFL has prepared an explanatory booklet containing the detailed terms of the Proposed Scheme (the Explanatory Booklet) and an overview of the Proposed Scheme is provided in Section 1 of our detailed report.

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### **Purpose of the report**

Section 411 of the Corporation Act 2001 (Section 411) regulates schemes of arrangement between companies and their shareholders. Part 3 prescribes the information to be provided to shareholders in relation to schemes of arrangement.

Whilst an independent expert's report in respect of the Proposed Scheme is not required to meet any statutory obligations, the directors of PFL (the Directors) have requested that Deloitte Corporate Finance Pty Limited (Deloitte Corporate Finance) provide an independent expert's report advising whether, in our opinion, the Proposed Scheme is in the best interests of Shareholders.

This report is to be included in the Explanatory Booklet to be sent to Shareholders and has been prepared for the exclusive purpose of assisting Shareholders in their consideration of the Proposed Scheme. Neither Deloitte Corporate Finance, Deloitte Touche Tohmatsu, nor any member or employee thereof, undertakes responsibility to any person, other than the Shareholders and PFL, in respect of this report, including any errors or omissions however caused.

This report should be read in conjunction with the declarations outlined in Appendix A.

### **Basis of evaluation**

#### *Guidance*

This independent expert's report has been prepared in a manner consistent with Part 3 of Schedule 8 of the Corporations Regulations 2001 (Cth) (Part 3) to assist Shareholders in their consideration of the Proposed Scheme. Part 3 prescribes the information to be provided to shareholders in relation to schemes of arrangement. We have prepared this report having regard to Part 3 and Australian Securities and Investments Commission (ASIC) Regulatory Guide 111: Content of experts reports and ASIC Regulatory Guide 112: Independence of experts.

According to ASIC Regulatory Guide 111, where the scheme of arrangement has the same effect as a takeover, the form of analysis used by the expert should be substantially the same as for a takeover bid. Accordingly, if an expert were to conclude that a proposal was 'fair and reasonable' if it was in the form of a takeover bid, it will also be able to conclude that the proposal is in the best interests of the members of the company.

To assess whether the Proposed Scheme is in the best interests of Shareholders, we have adopted the tests of whether the Proposed Scheme is either fair and reasonable, not fair but reasonable, or neither fair nor reasonable, as set out in ASIC Regulatory Guide 111.

Further details regarding the basis of evaluation are set out at Section 2 of our detailed report.

### **Definition of value**

For the purpose of our opinion, we have referred to the concept of fair market value. Fair market value is defined as the amount at which the shares in the entities valued would be expected to change hands in a hypothetical transaction between a knowledgeable willing, but not anxious, buyer and a knowledgeable willing, but not anxious, seller acting at arm's length.

Special purchasers may be willing to pay higher prices to reduce or eliminate competition, to ensure a source of material supply or sales, or to achieve cost savings or other synergies arising on business combinations, which could only be enjoyed by the special purchaser. Our valuation has not been premised on the existence of a special purchaser.

### **Summary and conclusion**

In our opinion the Proposed Scheme is fair and reasonable and therefore in the best interests of Shareholders. In arriving at this opinion, we have had regard to the following factors.

#### **The Proposed Scheme is fair**

According to ASIC Regulatory Guide 111, in order to assess whether the Proposed Scheme is fair, the independent expert is required to compare the fair market value of a share in PFL on a control basis with the fair market value of the consideration to be received under the Proposed Scheme. The Proposed Scheme is fair if the value of the consideration is equal to or greater than the value of the securities subject to the offer.

## Appendix 1. Independent Expert's Report *continued*



Set out in the table below is a comparison of our assessment of the fair market value of a share in PFL with the Cash Consideration and the Scrip Consideration.

**Table 1: Valuation assessment**

	Low (\$)	High (\$)
Estimated fair market value of a share in PFL (on a control basis)	1.53	1.71
<b>Election options available to Shareholders</b>		
Estimated value of total payments under the Cash Consideration		1.65
Estimated value of total payments under the Scrip Consideration <sup>1</sup>	1.04	1.52

Source: Deloitte Corporate Finance analysis

Note:

- For the purpose of assessing the payments to be received by Shareholders electing to receive Scrip Consideration, we have assumed the special dividend of \$0.25 per share will be paid by PFL and considered the scenarios where Shareholders have elected the Scrip Consideration in respect of 40% or 100% of their PFL shares, with the upper end of the valuation range reflecting the scenario where Shareholders receive 40% of the consideration in scrip

The consideration per share offered by Bidco:

- based on the Cash Consideration is within the range of our estimate of the fair market value of a PFL share
- based on the Scrip Consideration is below the range of our estimate of the fair market value of a PFL share.

Notwithstanding the fact that the Scrip Consideration is below the range of our estimate of the fair market value of a PFL share, as the Cash Consideration is within the range of our estimate of the fair market value of a PFL share we consider the Proposed Scheme to be fair. We have adopted this position as the Cash Consideration is the default consideration option and is available to all Shareholders, whereas the Scrip Consideration is only available upon specific election by a Shareholder and subject to minimum elections and scale back provisions.

Accordingly it is our opinion that the Proposed Scheme is fair.

### Valuation of PFL

We have estimated the fair market value of PFL by applying the capitalisation of maintainable earnings method, which estimates the value of PFL by capitalising its maintainable earnings with an appropriate earnings multiple.

We have assessed PFL's maintainable level of EBITDA to be in the range of \$36.5 million to \$37.5 million, based on our consideration of historical earnings for FY2013 to FY2015 and the year to date performance to 31 May 2016, earnings projections from equity research analysts and various normalisation adjustments applicable to PFL. The earnings multiple of 7.5 times to 8.0 times (on a control basis) was selected based on consideration of the multiples of listed comparable companies and previous mergers and acquisitions in the food manufacturing industry.

**Table 2: Valuation of PFL**

	Section	Unit	Low	High
Maintainable earnings (EBITDA)	5.2	\$'million	36.5	37.5
Earnings multiple (on a control basis)	5.3	times	7.5	8.0
<b>Enterprise value (on a control basis)</b>		<b>\$'million</b>	<b>273.8</b>	<b>300.0</b>
Add: surplus assets	5.4	\$'million	4.9	4.9
Less: net debt	5.5	\$'million	(64.0)	(64.0)
<b>Equity value (on a control basis)</b>		<b>\$'million</b>	<b>214.6</b>	<b>240.9</b>
Number of shares on issue (fully diluted basis)	5.6	million	140.5	140.5
<b>Estimated value per share in PFL</b>		<b>\$</b>	<b>1.53</b>	<b>1.71</b>

Source: Deloitte Corporate Finance analysis

Note:

- Figures in the above table and throughout this report may be subject to rounding

We have cross-checked our valuation under the capitalisation of maintainable earnings using a high level discounted cash flow approach. The discounted cash flow method requires the determination of an appropriate discount rate and the projection of future cash flows. We selected a nominal after tax discount rate in the range



of 9.0 % to 10.0% to discount the estimated future cash flows of PFL's business to their present value. PFL management has prepared a financial forecast for FY2016, which has formed the basis for the cash flow projections. Further details of the assumptions underlying the cash flow projections are set out in Section 5.7.

Based on our analysis, we consider the high level discounted cash flow analysis provides support for our valuation of PFL based on the capitalisation of maintainable earnings approach.

### *Valuation of consideration*

Our valuation of the consideration under the Proposed Scheme is set out in Section 6.

If the Proposed Scheme is implemented, Shareholders will receive total payments of \$1.65 per share held on the Scheme Record Date (as defined in the Explanatory Booklet). This is currently expected to comprise:

- a fully franked dividend of up to \$0.25 per share held on the Special Dividend Record Date (as defined in the Explanatory Booklet) that PFL may declare and pay before the Proposed Scheme is implemented; plus
- \$1.65 per PFL share less the amount per share of any special dividend, payable in cash.

Alternatively, Shareholders may elect to receive the Scrip Consideration instead of the Cash Consideration for between 40% and 100% of their Shares. Elections from Shareholders who are Foreign Scheme Shareholders (as defined in the Explanatory Booklet) will not be valid. The default option will be the Cash Consideration meaning that if a Shareholder does not make a valid election to receive the Scrip Consideration, they will receive the Cash Consideration.

There is no guarantee that the Scrip Consideration will eventuate as it is dependent on Shareholders in aggregate making valid elections to receive at least 5,555,555 Class B Shares in Holdco. This is to say that there must be a minimum level of elections to receive Scrip Consideration and if that minimum level is not satisfied then no Shareholder will receive the Scrip Consideration and if Shareholders, in aggregate, make valid elections to receive the Scrip Consideration for in excess of 50,000,000 shares in Holdco, they will be scaled back on a pro-rata basis.

Given the above and the nature of the current ownership of PFL, Shareholders' ability to participate in the Scrip Consideration is dependent on some or all of the current substantial shareholders of PFL electing to receive the Scrip Consideration in full or in part. The intentions of the substantial shareholders with respect to their election are not known at the date of this report.

### *Valuation of the Cash Consideration*

Under the Cash Consideration, Shareholders will receive \$1.65 per share less the amount of a fully franked special dividend of up to \$0.25 per share that is declared and paid by PFL before the Proposed Scheme is implemented such that the total payment received by Shareholders is \$1.65 per share. Furthermore, the franking credits associated with the special dividend could add value beyond what we have assessed.

### *Valuation of the Scrip Consideration*

Under the Scrip Consideration, Shareholders will receive a component of the consideration as a fully franked special dividend of up to \$0.25 per share that is declared and paid by PFL before the Proposed Scheme is implemented. Shareholders will also receive a Class B Share in Holdco for each PFL share held (subject to the level of valid elections made by the Shareholder, a minimum overall election threshold and the scale back noted above).

Holdco will have two classes of shares; Class A Shares, which will be issued to the funds managed by PEP and Class B Shares which will be issued to Shareholders who make a valid election and receive the Scrip Consideration. Class B Shares will rank equally to and have the same economic interests as Class A Shares, however will be subject to certain limitations which are discussed further in Section 1.4.

Notwithstanding that Class B shares have the same economic interest as shares in PFL, as a result of the limitations on both the marketability of Class B shares and the possibility of control over Holdco, we are of the opinion that the value of a Class B share (which entitles a holder to a minority interest in Holdco) will be less than the value of a share in PFL on a control basis. This premise of value underlies our assessment of the value of the Scrip Consideration.

We have estimated the value of a Class B share by considering the value of the underlying business of Holdco, and adjusting for the various costs to be incurred and liabilities to be assumed pursuant to the Proposed Scheme as well as appropriate discounts to value.

Our analysis has not had any regard to the impact of Holdco's specific intentions for the acquired operations of PFL on the value of the Scrip Consideration as we have not been provided with sufficient detail to assess their

## Appendix 1. Independent Expert's Report *continued*



potential impact. We understand that if the Proposed Scheme is approved and completed, Holdco will then undertake a detailed review of PFL in order to develop a strategic plan for PFL. It may be the case that the results of this may lead to a value that is lower or higher than our assessment of the Scrip Consideration. This assessment could also result in Shareholders' economic interest in Holdco being diluted for a number of reasons, including the issue of shares or performance rights to management.

### **The Proposed Scheme is reasonable**

In accordance with ASIC Regulatory Guide 111 an offer is reasonable if it is fair. On this basis, in our opinion the Proposed Scheme is reasonable. We also note the following factors relevant to the reasonableness of the Proposed Scheme.

#### *Shareholders are receiving a premium to the share price of PFL prior to the announcement of the Proposed Scheme*

The Cash Consideration of \$1.65 per share (including the amount of a fully franked dividend of up to \$0.25 per share that is declared and paid by PFL before the Proposed Scheme is implemented) represents a premium to recent trading prices per share prior to the announcement of the Proposed Scheme.

The one month volume weighted average price (VWAP) of shares in PFL up to 27 May 2016 (being the day prior to PFL announcing it had received a non-binding, conditional and incomplete proposal from PEP) was \$1.26, and the three month VWAP was \$1.19. Accordingly, the Cash Consideration represents a premium to trading in PFL shares prior to the announcement of the Proposed Scheme of between 31% and 39%.

Australian studies indicate the premiums required to obtain control of companies range between 20% and 40% of the portfolio holding values. The control premiums implied by the offer are within the empirically observed range.

#### *Certainty of the Cash Consideration*

The Proposed Scheme represents an opportunity for Shareholders to realise their investment in PFL with the certainty of the Cash Consideration offered under the Proposed Scheme and without incurring any transaction costs.

#### *No alternative offer has emerged to date*

The existence of PEP's proposal to acquire PFL was announced to the market on 30 May 2016. Since then, no alternative proposals for PFL have emerged and no new investors have emerged as a holder of a substantial interest in PFL.

#### *Access to liquidity for Shareholders*

PFL's existing capital structure has large shareholding blocks and therefore the free float of shares is thinly traded on the ASX. Consequently, Shareholders face limited opportunities to achieve liquidity in respect of their shares in PFL. The Cash Consideration offered under the Proposed Scheme provides Shareholders with access to liquidity at a premium to prices at which the shares were trading prior to the announcement of the Proposed Scheme.

#### *In the absence of the Proposed Scheme shares in PFL would likely trade below current levels*

In the absence of the Proposed Scheme or an alternative transaction, shares in PFL would likely trade below the prices achieved since the announcement of the Proposed Scheme. The current share price of PFL reflects market expectations of the Proposed Scheme proceeding and is likely to include a premium for control. In the absence of the Proposed Scheme or an alternative transaction, we would expect shares in PFL to trade at a value consistent with our valuation of a share in PFL after allowing for an appropriate discount for lack of control. However, recognising the low liquidity in the trading of PFL shares on the ASX, the trading price could fall further to levels more in line with share trading prior to the announcement of the Proposed Scheme.





### *Inability to participate in the possible future growth potential of PFL*

Our valuation of PFL recognises the potential future growth of PFL's business based on our consideration of its potential future earnings. However, if PFL is able to generate additional earnings beyond those contemplated in our valuation, for example, through new product development or the expansion of market share particularly in the Out-of-Home market segment, the value of a share in PFL may be enhanced, perhaps significantly, to a value that may exceed the Cash Consideration offered under the Proposed Scheme.

This factor is somewhat mitigated if Shareholders elect to receive the Scrip Consideration (and subject to a minimum level of elections and scale back provisions being met). By making a valid election and receiving the Scrip Consideration, Shareholders would be able to participate in the future growth potential in PFL; albeit by receiving consideration for their PFL shares in the form of Class B Shares in Holdco that have a value that is less than the value of a share in PFL on a control basis.

### **Other matters**

#### *Taxation*

Implementation of the Proposed Scheme may trigger tax consequences for Shareholders earlier than would have been the case otherwise. The taxation consequences of the Proposed Scheme for Shareholders will depend on the personal taxation and financial circumstances of each Shareholder. We recommend Shareholders consider consulting an independent adviser who will have regard to their individual circumstances.

#### *Franking credits*

Shareholders may receive a fully franked special dividend of up to \$0.25 per share in PFL held on the Special Dividend Record Date (as defined in the Explanatory Booklet) that PFL may declare and pay before the Proposed Scheme is implemented. The value of the special dividend to individual Shareholders will differ depending on their individual tax profile. The following table sets out the potential value of the special dividend to Shareholders, assuming a fully franked special dividend of \$0.25 per share is declared and paid by PFL prior to the Proposed Scheme being implemented, under a range of common marginal tax rates.

**Table 3: Value of special dividend**

	Marginal tax rate					
	0%	15%	30%	40%	45%	
Possible investor type		Investment supporting an allocated pension	Superannuation fund	Company	Individual	Individual
Special dividend	0.25	0.25	0.25	0.25	0.25	
Franking credit	0.11	0.11	0.11	0.11	0.11	
Tax payable on special dividend	-	(0.05)	(0.11)	(0.14)	(0.16)	
<b>Total value of special dividend (inclusive of franking credits)</b>	<b>0.36</b>	<b>0.30</b>	<b>0.25</b>	<b>0.21</b>	<b>0.20</b>	

Source: Deloitte Corporate Finance analysis

Note:

1. The tax payable figures above do not include an allowance for the Medicare levy

We estimate the value of the special dividend per share to be in the range of \$0.20 to \$0.36, depending on the Shareholder's marginal tax rate. Under the Cash Consideration, we estimate the value of the total payment to Shareholders, inclusive of the value of special dividend, in the range \$1.60 to \$1.76. Under the Scrip Consideration, we estimate the value of the total payment to Shareholders, inclusive of the value of special dividend, in the range \$0.99 to \$1.63.

We note that PFL shares have traded above \$1.60 on the ASX since the announcement of the Proposed Scheme, indicating that Shareholders with marginal tax rates above 30% may be able to achieve an outcome which is superior to the value of the consideration offered under the Proposed Scheme by selling their shares on-market.

In assessing the value of the special dividend to the Shareholders, we have ignored the value of any capital gain or loss which may accrue to the Shareholders as a consequence of the Proposed Scheme (excluding the special dividend) being higher or lower than their initial acquisition price.

## Appendix 1. Independent Expert's Report *continued*

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### *Intentions of Rijs family Shareholders*

Members of the Rijs family, which include Mr Harry Rijs and Mr Richard Rijs who are directors of PFL, collectively own 36.6% of the issued capital of PFL. The Rijs family Shareholders have each indicated their intention to vote in favour of the Proposed Scheme in the absence of the Board recommending a superior proposal and us concluding that the Proposed Scheme is in the best interests of Shareholders. However, their intentions with respect to election of the forms of consideration are not known at the date of this report.

### **Opinion**

In our opinion, the Proposed Scheme is fair and reasonable to Shareholders. It is therefore in the best interests of Shareholders.


An individual Shareholder's decision in relation to the Proposed Scheme and which consideration option to elect to receive is likely to be influenced by his or her particular circumstances. If in doubt the Shareholder should consult a financial adviser, who will have regard to their individual circumstances.

This opinion should be read in conjunction with our attached detailed report which sets out our scope and findings.

Yours faithfully



**Tapan Parekh**  
Authorised Representative Number: 461009  
Deloitte Corporate Finance Pty Limited



**Stephen Reid**  
Authorised Representative Number: 461011  
Deloitte Corporate Finance Pty Limited



## Glossary

Reference	Definition
ABARES	Australian Bureau of Agricultural and Resource Economics and Sciences
AFSL	Australian Financial Services Licence
Announcement Date, the	Date that PFL announced the transaction to the market, 30 May 2016
AR	Authorised representative of Deloitte Corporate Finance
ASIC	Australian Securities and Investments Commission
ASX	Australian Securities Exchange
AUD or \$	Australian dollars
Bidco	Australasian Foods Bidco Pty Limited
Board, the	Board of PFL
bps	Basis points
$\beta$	Beta
CAGR	Compound annual growth rate
CBOT	Chicago Board of Trade
Cash Consideration	Cash consideration of \$1.65 per share less the amount of a fully franked special dividend of up to \$0.25 per share that is declared and paid by PFL before the Proposed Scheme is implemented such that the total payment received by Shareholders is \$1.65 per share.
Company, the	Patties Food Limited
Deloitte Corporate Finance	Deloitte Corporate Finance Pty Limited
Directors, the	Directors of PFL
EBIT	Earnings before interest and tax
EBITDA	Earnings before interest, tax, depreciation and amortisation
EMRP	Equity Market Risk Premium
EPS	Earnings per share
Explanatory Booklet, the	Explanatory booklet containing the detailed terms of the Proposed Scheme
FOS	Financial Ombudsman Service
FSG	Financial Services Guide
FY	Financial year
Holdco	Australasian Foods Holdco Pty Limited
IBIS	IBIS World Pty Ltd
ICE	Intercontinental Exchange
IPO	Initial public offering
IQF	Individual Quick Frozen fruit
$K_d$	Cost of debt capital
$K_e$	Cost of equity capital
Manassen	Manassen Foods Australia
MLA	Meat and Livestock Australia
NPAT	Net profit after tax
NPD	New product development
NSW	New South Wales
PEP	Pacific Equity Partners
Performance Rights	Performance rights issued by PFL
PFL	Patties Food Limited
Proposed Scheme, the	Proposed scheme of arrangement
$R_f$	Risk free rate of return
$R_m$	Expected return on the market portfolio
S&P	Standard & Poor's
Scrip Consideration	A share Holdco in consideration for each PFL share held (subject to a minimum level of elections and scale back provisions)
Section 411	Section 411 of the Corporations Act 2001
Section 640	Section 640 of the Corporations Act 2001
Shareholders	Existing holders of PFL securities
VWAP	Volume weighted average price
Woolworths	Woolworths Limited

## Appendix 1. Independent Expert's Report *continued*



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# 1 Overview of the Proposed Scheme

## 1.1 Summary

On 2 June 2016, PFL announced it had entered into a Scheme Implementation Deed with Bidco, an entity wholly owned by funds managed by PEP, under which Bidco would acquire 100% of the issued capital of PFL by way of a scheme of arrangement. If the Proposed Scheme is approved, Shareholders will receive Cash Consideration of \$1.65 per share less the amount of a fully franked dividend of up to \$0.25 per share that is declared and paid by PFL before the proposed scheme is implemented such that the total payment received by Shareholders is \$1.65 per share. As an alternative to the Cash Consideration, Shareholders will also have the option to elect to receive a share in Holdco, an entity that will own 100% of the shares in Bidco, in consideration for each PFL share held.

Under the Proposed Scheme, Shareholders will receive the Cash Consideration for all of their shares but may elect the Scrip Consideration in respect of 40% to 100% of their shares. Shareholders may:

- receive the total value of their scheme consideration as Cash Consideration; or
- elect to receive some or all of the value of the scheme consideration as Scrip Consideration, in which case:
  - where a Shareholder has made a 'Partial Election' (that is, has made a valid election in respect of 40% to 100% of their Shares), they will receive a combination of Scrip Consideration in respect of those shares which are the subject of the valid election (subject to a minimum level of elections and scale back provisions) and will receive Cash Consideration in respect of the remaining shares held by that Shareholder which are not the subject of a valid election; or
  - where a Shareholder has made a 'Full Election' by making a valid election in respect of 100% of its shares, it will receive the entirety of its scheme consideration in the form of Scrip Consideration, subject to a minimum level of valid elections and scale back provisions.

All Shareholders holding PFL shares on the Special Dividend Record Date, will receive the special fully franked dividend, regardless of consideration option elected.

Full details of the Proposed Scheme are provided in Section 1 of the Explanatory Booklet for the Proposed Scheme.

## 1.2 Background to Bidco and PEP

PEP is one of the largest private equity funds in Australia and New Zealand with over \$4 billion in funds under advisement. PEP Fund V, a fund which is managed by PEP, will hold shares in Holdco, which in turn will hold 100% of the shares in Bidco, the company which will acquire the shares in PFL pursuant to the Proposed Scheme. Holdco and Bidco are private Australian unlisted companies and have been specifically established for the purpose of the Proposed Scheme and have not undertaken any trading activities and have no other assets and liabilities.

PEP has substantial experience in the food and beverage sectors, having owned and managed businesses such as Peter's Ice Cream, Tegel, Pinnacle Bakery, Manuka Health, Griffin Foods and V energy drinks.

Further details on Bidco, Holdco, PEP Fund V and PEP are provided in Section 6.1 of the Explanatory Booklet.

## 1.3 Key conditions of the Proposed Scheme

The Proposed Scheme is subject to the meeting or waiver of various conditions, the most significant being:

- regulatory approvals, including from FIRB, ASIC and the ASX
- no change in the Directors' recommendation (which is subject to PFL not receiving a superior proposal and us concluding that the Proposed Scheme is in the best interests of the Shareholders)
- Shareholders approving the Proposed Scheme at the scheme meeting (with at least 75% of votes cast and more than 50% of Shareholders voting in favour of the Proposed Scheme)
- no 'prescribed occurrences' in relation to PFL or Holdco as defined in the Scheme Implementation Deed

## Appendix 1. Independent Expert's Report *continued*

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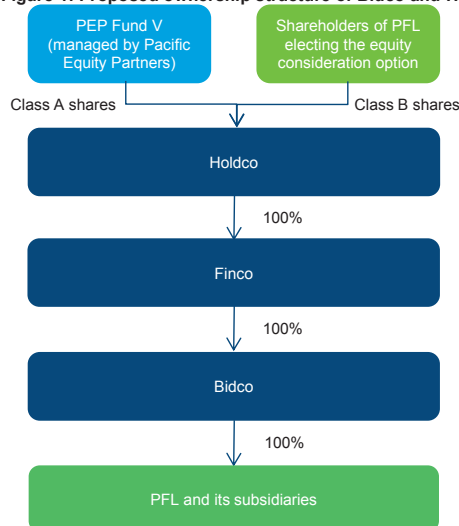
- no 'material adverse changes' in relation to PFL as defined in the Scheme Implementation Deed which include:
  - a diminution of the consolidated net assets of PFL by at least \$20.2 million which is 15% of the last reported amount
  - an increase in the consolidated net debt of PFL by at least \$8 million
  - a diminution in EBITDA for the financial year ending 30 June 2017 (compare to the prior year) by at least \$5 million
- Court approval of the Proposed Scheme in accordance with paragraph 411(4)(b) of the Corporations Act 2001 (Cth).

Further details are disclosed at Section 1.6 and Section 9.3 of the Explanatory Booklet.

### 1.4 Intentions if the Proposed Scheme proceeds

If the Proposed Scheme proceeds, PFL will become a wholly owned subsidiary of Bidco and will subsequently be delisted from the ASX. The simplified ownership structure of Holdco, the ultimate parent entity of Bidco, is expected to be as set out in the figure below.

**Figure 1: Proposed ownership structure of Bidco and Holdco**



Source: PFL

Holdco will have two classes of shares; Class A Shares, which will be issued to the PEP Fund V managed by PEP and Class B Shares which will be issued to Shareholders electing to receive scrip consideration. Class B Shares will rank equally to and have the same economic interests as Class A Shares. The Class A Shares will confer the right to appoint the majority of directors to the board of Holdco and also the right to appoint the Chairperson of the board. Class B shareholders will be able to appoint up to two directors depending on the number of Class B shares taken up by Shareholders. There are other distinctions between Class A Shares and Class B Shares which are set out in Section 7 of the Explanatory Booklet.

Shareholders electing the Scrip Consideration may elect to receive between 40% and 100% of the consideration as Class B Shares in Holdco, with up to 50,000,000 Class B Shares to be issued with any excess elections being scaled back on a pro-rata basis. The scrip option will only be available if the total elections would result in at least 5,555,555 Class B Shares being issued.

Under the Shareholders' Deed in respect of Holdco, Shareholders electing to receive Class B Shares in Holdco will also be granted a put option in respect of their Class B Shares under which Class B shareholders have the option to sell their shares to PEP if:



- shareholders of Holdco do not approve certain business matters proposed by PEP with respect to PFL, for which shareholder approval by a special majority is required under Section 7.1 of the Shareholders' Deed; and
- a decision has been made by PEP to proceed with the aforementioned business matters; and
- PEP has notified Class B shareholders that the put option has arisen.

The sale price for Class B Shares under the put option will be equal to:

- if the put option is exercised within the first 12 months after the implementation date of the Proposed Scheme, \$1.65 less the amount of dividends paid on Class B Shares within 12 months of the implementation date of the Proposed Scheme; or
- if the put option is exercised after the first 12 months after the implementation date of the Proposed Scheme, a price to be agreed between the shareholder and Pacific Equity Partners or to be determined by an independent valuer.

For completeness, we note that there may also be a third class of shares, Class C Shares, issued to management.

Further details are disclosed at Section 7 of the Explanatory Booklet. A copy of the Shareholders' Deed was also attached as Schedule 4 to the Scheme Implementation Deed which was released to the market on 2 June 2016.

## Appendix 1. Independent Expert's Report *continued*



### 2 Basis of evaluation of the Proposed Scheme

#### 2.1 Guidance

In undertaking the work associated with this report, we have had regard to ASIC Regulatory Guide 111 in relation to the content of expert's report and ASIC Regulatory Guide 112 in respect of the independence of experts.

Schemes of arrangement can include many different types of transactions, including being used as an alternative to a Chapter 6 takeover bid. The basis of evaluation selected by the expert must be appropriate for the nature of each specific transaction.

Section 640 requires an independent expert's report in connection with a takeover offer to state whether, in the expert's opinion, the takeover offer is fair and reasonable. Where the scheme of arrangement has the same effect as a takeover, the form of analysis used by the expert should be substantially the same as for a takeover bid, however, the opinion reached should be whether the proposed scheme is 'in the best interests of the members of the company'. Accordingly, if an expert were to conclude that a proposal was 'fair and reasonable' if it was in the form of a takeover bid, it will also be able to conclude that the proposed scheme is in the best interests of the members of the company.

#### ASIC Regulatory Guide 111

This regulatory guide provides guidance in relation to the content of independent expert's reports prepared for a range of transactions.

ASIC Regulatory Guide 111 refers to a 'control transaction' as being the acquisition (or increase) of a controlling stake in a company that could be achieved, for example, by way of a takeover offer, scheme of arrangement, approval of an issue of shares using item 7 of section 611, a selective capital reduction or selective buy back under Chapter 2J.

In respect of control transactions, under ASIC Regulatory Guide 111 an offer is:

- fair, when the value of the consideration is equal to or greater than the value of the shares subject to the proposed scheme. The comparison must be made assuming 100% ownership of the target company (i.e. including a control premium)
- reasonable, if it is fair, or, despite not being fair, after considering other significant factors, shareholders should accept the offer under the proposed scheme, in the absence of any higher bids before the close of the offer.

To assess whether the Proposed Scheme is in the best interests of Shareholders, we have adopted the tests of whether the Proposed Scheme is either fair and reasonable, not fair but reasonable, or neither fair nor reasonable, as set out in ASIC Regulatory Guide 111.

#### 2.2 Fairness

ASIC Regulatory Guide 111 defines an offer as being fair if the value of the offer price is equal to or greater than the value of the securities the subject of the offer. The comparison must be made assuming 100% ownership of the target company.

Accordingly, we have assessed whether the Proposed Scheme is fair by comparing the consideration offered with the value of PFL on a control basis.

Our valuation of PFL's shares is based on the concept of fair market value, defined as the amount at which the shares in the entity valued would be expected to change hands in a hypothetical transaction between a knowledgeable willing, but not anxious, buyer and a knowledgeable willing, but not anxious, seller acting at arm's length.

Special purchasers may be willing to pay higher prices to reduce or eliminate competition, to ensure a source of material supply or sales, or to achieve cost savings or other synergies arising on business combinations, which could only be enjoyed by the special purchaser. Our valuation of a PFL share has not been premised on the existence of a special purchaser.





We have assessed whether the Proposed Scheme is fair by comparing the value of a share in PFL with the value of the consideration to be received from Bidco. We have assessed the value of each share in PFL by estimating the current value of PFL on a control basis and dividing this value by the number of shares on issue.

## 2.3 Reasonableness

ASIC Regulatory Guide 111 considers an offer in respect of a control transaction to be reasonable if either:

- the offer is fair; or
- despite not being fair, but considering other significant factors, shareholders should accept the offer in the absence of any higher bid before the close of the offer.

To assess the reasonableness of the Proposed Scheme we considered the following significant factors in addition to determining whether the Proposed Scheme is fair:

- the extent to which Shareholders are receiving a premium for control
- the likely PFL share price in the absence of the Proposed Scheme
- the fact that the Proposed Scheme allows Shareholders to realise their investment in PFL
- the value to an alternative bidder and the likelihood of an alternative offer being made
- any significant shareholdings in PFL
- whether any alternative proposals exists
- other implications associated with PFL Shareholders rejecting the Proposed Scheme.

## 2.4 Limitations and reliance on information

This report should be read in conjunction with the declarations outlined in Appendix A.

## Appendix 1. Independent Expert's Report *continued*



### 3 Profile of PFL

#### 3.1 Introduction and company history

PFL is an ASX listed company with a market capitalisation of approximately \$235 million (as at 13 July 2016) and is a member of the S&P/ASX 300 Index. The Company has business operations in food manufacturing with a focus on frozen pies and pastries, with its manufacturing facilities based in Bairnsdale, Victoria.

An overview of the company history is provided below.

**Figure 2: Company history**

1966	Peter and Anne Rijs purchase a bakery named Patties Cake Shop in Lakes Entrance, Victoria
1974	A new bakery is built in Lakes Entrance
1976	The Rijs family acquires the Sunicrust Bakery in Bairnsdale and move the Patties operations to the new location
1985	A significantly larger bakery facility is built in Bairnsdale to manage the substantial expansion of the business
1998	A \$2 million investment is made to expand production facilities at the Bairnsdale site
2000	Additional production facilities installed to facilitate expansion of production of sausage rolls and finger foods
2003	Acquisition of the FOUR'N TWENTY, Wedgewood and Nanna's brands from Simplot
2006	PFL is listed on the ASX
2007	Acquisition of the Creative Gourmet and Chefs Pride brands
2010	Launch of Nanna's frozen fruit range
2015	Product recall of Nanna's frozen berry products PFL divests the Creative Gourmet frozen berry business to Entyce Food PFL announces its intention to exit frozen fruit
2016	PFL announces the Proposed Scheme

Source: PFL

#### 3.2 Products, market segments and operations

##### 3.2.1 Products

PFL is Australia's largest savoury pie manufacturer and owns a number of key brands in the savoury and sweet pastry market in Australia. The major brands and products of PFL are discussed below.

##### Patties

The origins of the Patties brand date back to the first bakery operated by Peter and Anne Rijs in Lakes Entrance in 1966, Patties Cake Shop. Patties is focused on both the In-Home and Out-of-Home segments with a product range which includes party pies, sausage rolls, pasties, spring rolls, mini pizzas and pie bites. Typically sold in supermarkets and venues, the Patties range of products is geared to the party and snack market.

##### FOUR'N TWENTY

Originating in Bendigo in 1947 and gaining a strong market leading position in the Out-of-Home segment, FOUR'N TWENTY is an iconic Australian brand synonymous with meat pies and Australian Rules football. The FOUR'N TWENTY product range includes meat pies, sausage rolls, pasties and party snacks. Recent product development in the FOUR'N TWENTY range has seen an expansion from traditional meat pies to premium gourmet-style products including Angus beef and slow-cooked offerings.

The FOUR'N TWENTY brand, together with the Herbert Adams, Nanna's, Wedgewood and Great Australian Pies brands, was acquired by PFL in 2003 from Simplot Australia Pty Limited, a subsidiary of the US-based multinational, J.R. Simplot Company.



**Herbert Adams**

Originating in 1909, Herbert Adams Bakeries commenced operations in Prahran and Brunswick before expanding into a large network of retail outlets throughout metropolitan Melbourne and into Geelong, Ballarat, Bendigo and Canberra. The Herbert Adams range of products is geared towards the premium market and includes a range of gourmet pies, savoury rolls and pasties in both the In-Home and Out-of-Home segments.

**Nanna’s**

With origins dating back to the 1950s, the Nanna’s brand was initially launched in 1969 when Mr Alex Mutch expanded his bakery operations in Gosford, New South Wales (NSW). The Nanna’s product range, which targets the In-Home market, includes frozen pies, crumbles, waffles, and crepes. PFL also provided frozen fruit under the Nanna’s brand, however, in December 2015, announced its intention to exit the frozen fruits segment.

**Chefs Pride**

Chefs Pride is a brand exclusively targeting the foodservice sector and offers a range of ingredient products including protein based meal solutions, Individual Quick Frozen vegetables and other products for the catering and foodservice market.

**Other brands and products**

PFL also holds a number of other smaller value positioned brands such as Wedgewood, Mr Baker and Snowy River.

In addition to its branded portfolio of products, PFL produces a range of ‘private label’ products for a range of customers in the supermarket, food wholesale and distribution and convenience store markets.

**3.2.2 Market segments**

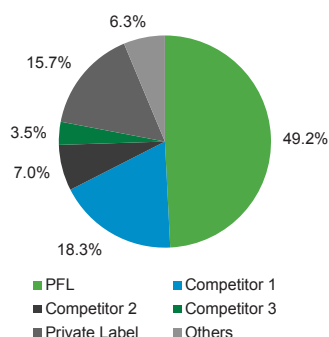
**In-Home market segment**

PFL’s In-Home channel comprises multipack pies, sausage rolls and other frozen sweet and savoury pastries for the take home market. The major distribution channels for the In-Home segment are the major supermarkets and other independent grocery outlets. PFL supplies to the two major supermarket chains, Coles and Woolworth’s, as well as the major food distributor, Metcash, which together, accounted for approximately 57% of PFL’s total FY2015 revenue. Approximately 62% of total HY2016 revenue was derived from the In-Home segment.

PFL’s In-Home product offering principally comprises savoury pies, sausage rolls and pasties through the FOUR’N TWENTY, Patties, Snowy River and Herbert Adams brands and sweet pies and pastries through the Nanna’s brand.

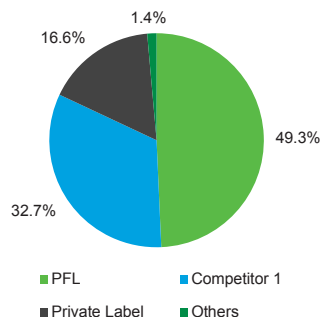
PFL holds a market leading position in each of the Grocery Frozen Savoury and Grocery Frozen Dessert categories, with a market share in these segments of 49.2% and 49.3%, respectively (as at December 2015).

**Figure 3: Market share in Grocery Frozen Savoury (HY2016)**



Source: PFL

**Figure 4: Market share in Grocery Frozen Dessert (HY2016)**



Source: PFL

Following the growing consumer trend of ‘product premiumisation’, PFL has pursued this growth path in respect of its FOUR’N TWENTY, Patties and Herbert Adams products, PFL management is currently reviewing further

## Appendix 1. Independent Expert's Report *continued*

**Deloitte.**

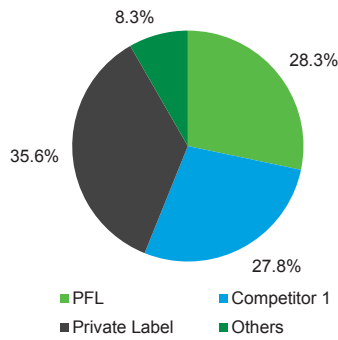
potential new product development (NPD) opportunities incorporating premium and provenance ingredients in savoury and protein based foods.

### Out-of-Home market segment

PFL's current Out-of-Home segment includes convenience stores, petrol stations, sporting stadiums, foodservice and catering customers. The Out-of-Home segment is significantly more fragmented than the In-Home segment and subject to greater competition. Approximately 38% of PFL's total HY2016 revenue was derived from the Out-of-Home market segment.

Notwithstanding the greater competition in the Out-of-Home segment, PFL remains among the market leaders with 28.3% of the market share of the Petrol & Convenience Hot Savoury market.

**Figure 5: Market share in Petrol & Convenience Hot Savoury (HY2016)**



Source: PFL

With a view to expanding its market share in the Out-of-Home segment, during FY2015, PFL embarked on the "Paint the Town Yellow" marketing campaign in respect of the FOUR'N TWENTY range of products. The campaign, aimed at expanding the brand's Out-of-Home position, incorporated social media aspects together with enhanced point of sale presence to drive impulse purchases.

PFL estimates the total Australian savoury market to be of the order of \$1.4 billion in retail sales value per annum of which approximately 78% relates to the Out-of-Home channel, noting there are significant sub-segments, such as cafes, and chain and independent bakeries, in which PFL currently has no product offerings. As a consequence, PFL management expects the Out-of-Home segment to pose a substantial opportunity for revenue growth and is currently examining prospects for NPD which will enable PFL to enter these historically untapped sub-segments. PFL estimates that its current share of the total Australian savoury market is approximately 25%, indicating further growth potential.

### 3.2.3 Operations

#### Key manufacturing facility

PFL's principal manufacturing facility is located in Bairnsdale, Victoria, 280 kilometres east of Melbourne and was first commissioned in 1985. The facility is located on approximately 27.5 hectares of land and incorporates four production lines, one of which is fully automated and three partially automated, with production capacity of approximately 450 million meat pies and 240 million sausage rolls per annum. The bakery is capable of operating 24 hours per day, seven days per week.

In recent years, PFL has undertaken significant investment in the Bairnsdale production facilities, aimed at delivering enhanced production efficiency and cost reductions. These initiatives have included the installation of robotic units on the main production line as well as an expansion of onsite warehousing capacity. Management is currently examining a capital expenditure project aimed at automating production in respect to the second main production line and potentially delivering further costs savings to the Company. Whilst such projects can require significant capital expenditure and give rise to commissioning risk, the subsequent annual cost savings and productivity improvements can be substantial. In mid-2015, the Company invested in new Sous Vide meat cooking technology to make both premium pie fillings and extend the Company further into the food service meal solutions market. This investment has given PFL a first to market advantage in the premium savoury pastry segment and new products are being launched in the prepared meals segment in 2016.



### Davies Bakery

The Davies Bakery is a 50:50 joint venture between PFL and Agri Industries Pty Ltd (Agri Industries) (a privately held company owned by the Davies family), whose principal bakery facilities are located in Broadmeadows, Victoria. PFL acquired its equity interest in the Davies Bakery in July 2007. The management of the day-to-day operations of the company is undertaken by Davies Bakery management.

Davies Bakery is primarily a fresh daily baker producing bread and other bakery-related products under contract mainly for customers operating in the supermarket sector. These products include white, wholemeal, multigrain, rye, soy & linseed bread, fruit loaf, crumpets, English muffin, bread rolls and pita bread. In addition, Davies Bakery also produces some products for PFL such as branded and private label savoury pies and sausage rolls, and provides PFL with some mitigation in the event of extended downtime at the Company's main production facility in Bairnsdale.

## 3.3 Capital structure and shareholders

PFL's debt and equity profile is summarised in the following sections.

### 3.3.1 Debt profile

The Company's debt facilities as at 31 December 2015 are summarised in the following table.

**Table 4: PFL's debt facilities as at 31 December 2015**

Facility type	Value drawn (\$'million)	Facility amount (\$'million)	Maturity
Working capital and core debt facilities	74.9	88.4	Jan-2018

Source: PFL

Both tranches of PFL's debt facilities, which are due to mature in January 2018, attract interest at a margin of 150 basis points (bps) over the bank bill swap rate.

PFL actively uses derivatives to manage interest rate risk and foreign currency exposure. However, PFL's recent exit from frozen fruit has significantly reduced the need to manage foreign currency exposure moving forward.

### 3.3.2 Share capital

As at 30 May 2016, PFL had 139,312,537 ordinary shares on issue.

The following table summarises the substantial shareholders and their respective interest in the Company based on the latest notices disclosed to the ASX.

**Table 5: Substantial shareholders in PFL**

Investor	Number of shares held ('million)	% of total issued shares
Myer Family Company Pty Limited	13.4	9.6%
Adrian & Louise Rijs	12.0	8.6%
Nicholas & Faye Rijs	10.7	7.7%
Frank & Wilhelmina Rijs	9.8	7.1%
Harry Rijs	9.5	6.8%
Richard C Rijs	9.0	6.5%
<b>Substantial shareholders</b>	<b>64.4</b>	<b>46.2%</b>
Other shareholders	74.9	53.8%
<b>Total shareholders</b>	<b>139.3</b>	<b>100.0%</b>

Source: PFL

Members associated with the founders own more than 36% of the ordinary issued shares in the Company. In addition, the Myer Family Company Pty Limited acquired its shareholding during 2008.

## Appendix 1. Independent Expert’s Report *continued*



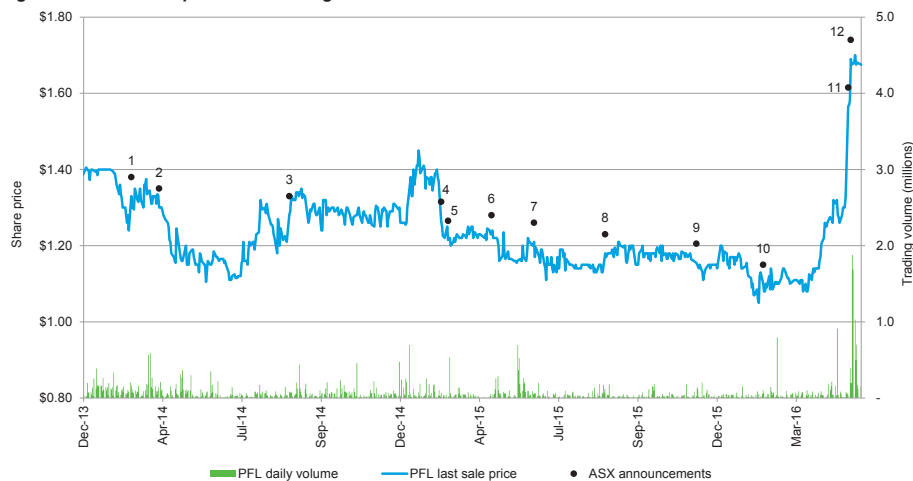
The Company also has on issue a total of 1,173,832 performance rights (Performance Rights) held by certain employees which have been issued over the course of the last three years that remain unvested. Each Performance Right entitles the recipient to acquire one share in PFL for nil consideration subject to the Performance Right vesting upon meeting certain total shareholder return and earnings per share performance hurdles. Under the terms of the Performance Rights, where there is a change in control in PFL, the Board of PFL may at its discretion, and subject to such terms and conditions it considers appropriate, determine the level of vesting of any unvested Performance Rights.

### 3.4 Share price performance

On 6 November 2006, PFL listed a total of approximately 139.1 million ordinary shares, at an offer price of \$1.75 per share, on the ASX through an initial public offering (IPO). A total of 58.7 million shares, representing approximately 42.2% of total ordinary shares, were offered to retail and institutional investors, while the remaining shares were retained by existing shareholders. Since listing the PFL share price reached a high of \$2.29 in January 2007, before declining to \$0.54 in March 2009. Following this decline, the PFL share price recovered to a high of \$1.80 in July 2011 before trading with relative stability between 2011 and 2013, fluctuating between \$1.27 and \$1.80.

PFL’s daily share price history and trading volumes since 31 December 2013 are presented in the chart below, along with potentially price-sensitive ASX announcements and other events over the period.

**Figure 6: PFL’s share prices and trading volumes**



Source: Capital IQ, Deloitte Corporate Finance analysis



The main movements in PFL’s share price and trading volumes, as identified by the numbers in the figure above, are summarised in the table below.

**Table 6: Summary of potentially price-sensitive ASX announcements and other key events**

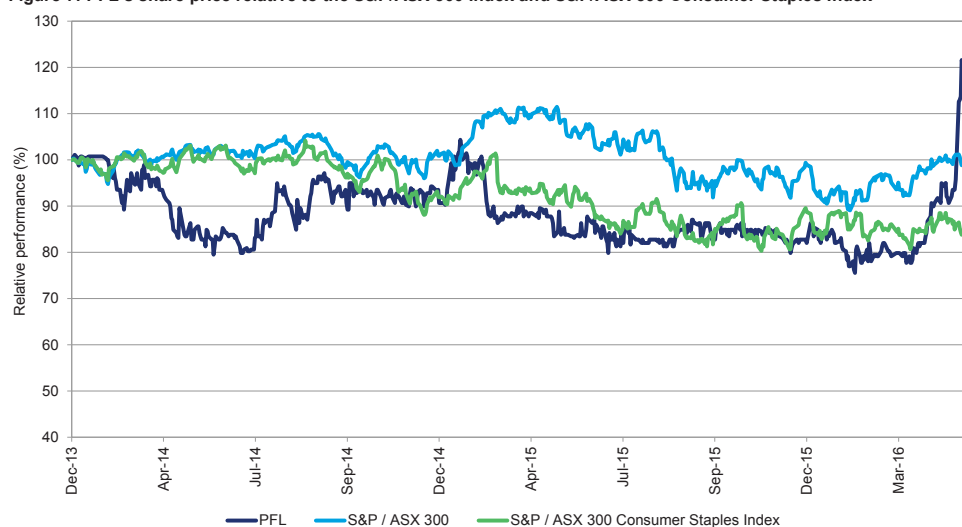
Reference	Date	Note
1	24-Feb-2014	PFL releases its 1H FY2014 results
2	28-Mar-2014	PFL appoints Steven Chaur as Managing Director and CEO
3	25-Aug-2014	PFL releases its financial report for the period ended 30 June 2014
4	16-Feb-2015	PFL recalls its Nanna’s mixed berries and raspberries range following advice from the Victorian Health Department of potential Hepatitis A contamination
5	24-Feb-2015	PFL releases its 1H FY2015 results
6	15-Apr-2015	Scientific test results in relation to Hepatitis A contamination of PFL’s frozen berries range indicates that Hepatitis A was not detected in any of the batches tested by the four certified laboratories
7	3-Jun-2015	PFL provides earnings guidance for FY2015, indicating that NPAT for FY2015 is expected to be approximately \$15 million, which accounts for the expected loss of earnings of approximately \$1.5 million in NPAT resulting from the recall of the frozen berry products in February 2016
8	24-Aug-2015	PFL releases its financial report for the period ended 30 June 2015
9	7-Dec-2015	PFL announces the sale of the Creative Gourmet frozen fruit business
10	22-Feb-2016	PFL releases its 1H FY2016 results
11	30-May-2016	PFL announces it has received a non-binding, conditional and incomplete proposal from PEP for the acquisition of 100% of the shares in PFL via a scheme of arrangement for a total payment of \$1.65 cash per share
12	2-Jun-2016	PFL enters into a Scheme Implementation Deed with PEP

Source: ASX announcements

Given more than 45% of the shares are held by substantial shareholders who have been shareholders over the long term, the free float of PFL is highly illiquid, with only 8.7% of total shares outstanding being traded over the past twelve months, compared to the median trading volumes of the companies comprising the ASX 200 and ASX 300, of 91.7% and 78.5%, respectively.

The following figure sets out the Company’s share price performance relative to the S&P/ASX 300 Index and the S&P/ASX 300 Consumer Staples Index.

**Figure 7: PFL’s share price relative to the S&P/ASX 300 Index and S&P/ASX 300 Consumer Staples Index**



Source: Capital IQ

## Appendix 1. Independent Expert's Report *continued*



Since December 2013, PFL has traded at an average discount of approximately 13% to the S&P/ASX 300 Index, up to 30 May 2016 (the Announcement Date).

PFL's share price has historically exhibited a relatively strong degree of correlation with the S&P/ASX 300 Consumer Staples Index with the exception of the period between April 2014 and September 2014, during which period PFL's shares traded at levels approximately 15% below both indices. PFL's share price diverged from the S&P/ASX 300 Index after December 2014, which coincided with the frozen fruits product recall.

In the days following the frozen fruits product recall, the Woolworths share price declined significantly following the announcement of its 1H FY2015 results. Woolworths comprises almost 30% of the S&P/ASX 300 Consumer Staples Index, hence the decline in the Woolworths share price, coupled with the corresponding negative sentiment within the sector, resulted in the S&P/ASX 300 Consumer Staples Index diverging from the S&P / ASX 300 Index in a similar manner to PFL's share price, albeit on a lagged basis.

### 3.5 Financial performance of PFL

Recent reported financial performance of PFL for the financial years ended 30 June 2013 to 30 June 2015, and the reviewed position for the six months ended 31 December 2015, is summarised below.

**Table 7: Historical financial performance**

In \$'million (unless otherwise noted)	Audited FY2013	Audited FY2014	Audited FY2015	Reviewed 1H FY2016
<b>Sales revenue</b>	<b>244.8</b>	<b>247.7</b>	<b>256.9</b>	<b>126.2</b>
<b>EBITDA (before share of net profit of associates, and before impairment)</b>	<b>32.3</b>	<b>32.0</b>	<b>26.0</b>	<b>15.1</b>
Share of net profit of associates <sup>1</sup>	1.7	1.9	1.9	1.1
<b>EBITDA (before impairment)</b>	<b>34.0</b>	<b>34.0</b>	<b>27.9</b>	<b>16.2</b>
Depreciation and amortisation	(7.7)	(7.9)	(8.4)	(4.1)
<b>EBIT (before impairment)</b>	<b>26.4</b>	<b>26.1</b>	<b>19.5</b>	<b>12.1</b>
Impairment	(11.8)	-	(10.3)	-
<b>EBIT (after impairment)</b>	<b>14.5</b>	<b>26.1</b>	<b>9.2</b>	<b>12.1</b>
Net finance expense	(4.0)	(3.7)	(3.7)	(2.4)
<b>Profit before tax</b>	<b>10.5</b>	<b>22.4</b>	<b>5.5</b>	<b>9.7</b>
Tax expense	(5.7)	(5.7)	(3.4)	(2.4)
<b>Profit after tax</b>	<b>4.8</b>	<b>16.8</b>	<b>2.1</b>	<b>7.3</b>
Other comprehensive income	0.6	(0.9)	0.4	0.0
<b>Total comprehensive income (attributable to owners of PFL)</b>	<b>5.4</b>	<b>15.8</b>	<b>2.5</b>	<b>7.3</b>
<b>Earnings per share (cents per share)</b>	<b>3.4</b>	<b>12.0</b>	<b>1.5</b>	<b>5.2</b>
<i>Sales revenue growth</i>	<i>3.8%</i>	<i>1.2%</i>	<i>3.7%</i>	<i>(8.6)%</i>
<i>EBITDA (before impairment) growth</i>	<i>(12.2)%</i>	<i>(0.1)%</i>	<i>(17.8)%</i>	<i>(3.3)%</i>
<i>EBITDA (before impairment) margin</i>	<i>13.9%</i>	<i>13.7%</i>	<i>10.9%</i>	<i>12.9%</i>

Source: PFL, Deloitte Corporate Finance analysis

Note:

1. Reflects share of post-tax net profit. Refer below for adjustments for depreciation.

Between FY2013 and FY2015, PFL's revenues increased at a compound annual growth rate (CAGR) of 2.4%, underpinned by CAGR of 3.8% in the Company's savoury business over the period, which was partially offset by the decline in revenues from the Frozen Fruit business (contributing negative CAGR of 5.8% over the same period).

PFL reported contractions in EBITDA margins between FY2013 and FY2015 as a result of high material input costs (mostly beef), the loss of key Frozen Fruit customers (in FY2014), the Frozen Fruit recall in FY2015, costs associated with company reorganisation activities that commenced during FY2015, and increased spending on marketing activities.

Sales revenue in FY2015 and 1HY2016 was significantly influenced by the Company exiting the frozen fruit market, with the Company announcing the sale of the Creative Gourmet frozen fruit business and its exit from the frozen fruit market altogether in December 2015. For the most part, however, the earnings impact of the





frozen fruit recall was felt by PFL in FY2015, as evidenced by the decrease in EBITDA between FY2014 and FY2015.

We note the following:

- rising beef prices between 2014 and 2016, representing the Company's major input into its pie manufacturing processes, have contributed to relatively flat gross profit in PFL's underlying savoury business. Wheat and margarine prices (representing the next largest inputs in PFL's manufacturing processes), on the other hand, were comparably stable over this period
- during FY2015 PFL commenced a company reorganisation, which primarily involved the streamlining of certain management functions (resulting in headcount reductions) and in FY2016 renegotiated freight and warehouse agreements. The reorganisation resulted in over \$3.0 million in overhead savings and \$2.8 million in annual operational and purchasing savings, at a cost of \$1.1 million
- in FY2015, the Company invested a further \$1.6 million in brand support (mostly related to FOUR'N TWENTY) and on NPD

The Company incurred significant impairment charges in FY2013 and FY2015, which predominantly related to the loss of a major private label contract (approximately \$8 million in revenue), the write-down of all goodwill in the Frozen Fruit products business in FY2013 (as a result of rising commodity prices, unfavourable exchange rate movements and volatility within the business) and the subsequent impairment of associated brands in FY2015.

PFL's share of net profit of associates refers to PFL's 50% interest in the Davies Bakery, and reflects PFL's 50% interest in the net profit after tax earnings of the Davies Bakery. Summary financial information for Davies Bakery is set out below:

**Table 8: Historical financial performance of Davies Bakery**

\$'million (unless otherwise noted)	Audited FY2013	Audited FY2014	Audited FY2015
<b>Sales revenue</b>	<b>44.7</b>	<b>50.3</b>	<b>56.4</b>
<b>EBITDA</b>	<b>7.1</b>	<b>7.3</b>	<b>8.1</b>
<b>Profit after tax</b>	<b>3.3</b>	<b>3.7</b>	<b>3.9</b>
<i>Sales revenue growth</i>	<i>14.1%</i>	<i>12.6%</i>	<i>12.0%</i>
<i>EBITDA growth</i>	<i>29.1%</i>	<i>3.3%</i>	<i>10.4%</i>
<i>EBITDA margin</i>	<i>15.8%</i>	<i>14.5%</i>	<i>14.3%</i>
<b>Net debt at year end</b>	<b>1.5</b>	<b>2.7</b>	<b>2.5</b>
<b>Net assets at year end</b>	<b>18.7</b>	<b>20.4</b>	<b>23.3</b>

*Source: Davies Bakery financial statements and Deloitte Corporate Finance analysis*

Davies Bakery revenue has increased substantially over the past three years as a result of organic growth. This has also translated to an increase in earnings.

Davies Bakery paid \$1.8 million, \$2 million and \$1 million in dividends from FY2013, FY2014 and FY2015 earnings, respectively. PFL receives 50% of any Davies Bakery dividend.

## Appendix 1. Independent Expert's Report *continued*



As noted above, PFL's reported financial performance includes a number of revenue and costs that are considered to be non-recurring or, in the case of the Davies Bakery, items that need to be adjusted from PFL's reported earnings in order to calculate EBITDA. The table below adjusts EBITDA for these items.

**Table 9: Adjusted historical financial performance**

\$'million (unless otherwise noted)	Audited FY2013	Audited FY2014	Audited FY2015	Reviewed 1H FY2016
Reported sales revenue	244.8	247.7	256.9	126.2
Sales revenue relating to Frozen Fruit	(37.5)	(37.1)	(33.3)	(9.2)
Share of sales from Davies Bakery <sup>1</sup>	22.3	25.2	28.2	15.5
<b>Adjusted sales revenue</b>	<b>228.7</b>	<b>235.7</b>	<b>251.7</b>	<b>132.4</b>
<b>Reported EBITDA (before impairment)</b>	<b>34.0</b>	<b>34.0</b>	<b>27.9</b>	<b>16.2</b>
<b>Frozen Fruit adjustments</b>				
Gross profit contribution of Frozen Fruit	(9.4)	(8.5)	(5.8)	(0.1)
Overheads attributable to Frozen Fruit	4.4	4.4	3.9	1.1
Net (of recoveries) recall costs	-	-	0.3	-
Inventory provision	-	-	3.0	-
<b>Other adjustments</b>				
Adjustments to share of net profit of associates <sup>2</sup>	1.9	1.8	2.1	1.2
Organisational restructuring	-	-	1.1	-
<b>Adjusted EBITDA (including proportionate share of Davies Bakery)</b>	<b>30.9</b>	<b>31.7</b>	<b>32.6</b>	<b>18.4</b>
<b>Adjusted EBITDA margin</b>	<b>13.5%</b>	<b>13.4%</b>	<b>13.0%</b>	<b>13.9%</b>

Source: PFL, Deloitte Corporate Finance analysis

Notes:

1. We have estimated the 1HFY2016 share of sales from Davies Bakery based on high level guidance from management
2. Reflects PFL's proportionate interest in depreciation, net interest and tax incurred by the Davies Bakery, which are included in PFL's share of net profit of associates earned in each financial year.

Given PFL's exit from the frozen fruit market, we have adjusted PFL's reported EBITDA (before impairment) as follows:

- the estimated gross profit contribution from the sale of Frozen Fruits products in FY2013, FY2014 and FY2015, estimated at \$9.4 million, \$8.5 million and \$5.8 million, respectively, has been deducted from earnings
- net costs incurred in relation to Frozen Fruit during 1H FY2016 (reflecting the negligible gross profit margin earned during the year, offset by related distribution and overhead costs that will no longer be incurred) have been added back to 1H FY2016 earnings. We have received broad high level guidance from management in order to estimate the impact of Frozen Fruit on overheads for those years
- non-recurring net costs associated with the recall of the Company's mixed berries and raspberries range, together with adjustments to associated inventories, have been added back to PFL's earnings

The EBITDA margin of PFL (adjusted for the contribution from the Frozen Fruits business, reorganisation costs and significant items) has exhibited some variability between FY2013 and 1H FY2016, even after adjusting the results of PFL for its exit from the frozen fruits market.

As PFL's 50% share of the Davies Bakery's net profit includes depreciation charges, net finance costs and tax, we have adjusted PFL's EBITDA for the Company's proportionate interest in these items (based on our analysis of the Davies Bakery's audited annual statements between FY2013 and FY2015) to appropriately reflect PFL's earnings at the EBITDA level.

As discussed above, the costs associated with the company reorganisation in FY2015 were estimated at \$1.1 million, and we have treated these particular costs as non-recurring.



### 3.6 Financial position of PFL

PFL's financial position as at 30 June 2015 and 31 December 2015 is set out below.

**Table 10: Historical financial position**

\$'million	Audited 30-Jun-15	Reviewed 31-Dec-15
Receivables	52.4	47.5
Inventories	49.9	47.3
Current tax receivables	0.0	0.6
Payables	(26.8)	(19.6)
Current tax liabilities	(0.4)	0.0
<b>Net working capital</b>	<b>75.2</b>	<b>75.8</b>
Investments accounted for using the equity method	12.1	13.2
Property, plant and equipment	76.5	75.7
Intangible assets	56.6	56.4
Provisions	(5.1)	(4.9)
Deferred tax liabilities	(6.1)	(6.1)
<b>Total funds employed</b>	<b>134.0</b>	<b>134.2</b>
Cash and cash equivalents	0.7	0.6
Derivatives	(1.0)	(0.9)
Borrowings	(74.9)	(75.2)
<b>Net debt</b>	<b>(75.2)</b>	<b>(75.6)</b>
<b>Net assets</b>	<b>134.0</b>	<b>134.5</b>
<b>Owners of PFL</b>	<b>134.0</b>	<b>134.5</b>

Source: PFL; Deloitte Corporate Finance analysis

Net working capital has remained stable over the six months between 30 June 2015 and 31 December 2015, notwithstanding seasonality in the business (sales volumes increase in the lead up to and during the winter months). The majority of inventories comprise finished goods and raw materials, together with a comparably small amount of spare parts, and included a small amount of residual Frozen Fruits inventory that remained unsold as at 31 December 2015.

Investments comprise PFL's interest in the Davies Bakery, which is accounted for using the equity method of accounting, after initially being recognised at cost.

Property, plant and equipment as at 30 June 2015 comprised \$4.4 million in construction in progress assets, \$24.9 million in land and buildings, \$45.4 million in plant and equipment (including manufacturing plant and associated assets, furniture and fittings, office equipment and motor vehicles) and \$1.8 million in pie warmers held at third parties.

Approximately \$54.6 million in intangible assets, representing the majority of PFL's intangible assets as at 30 June 2015, relate solely to sweet and savoury brands acquired by PFL after PFL impaired approximately \$10.3 million associated with all of the Frozen Fruit brands during FY2015. The balance of the intangible assets generally relates to supply and distribution rights, which the Company amortises annually.

Borrowings refer to PFL's working capital and core debt facilities, discussed in Section 3.3.1 above.

## Appendix 1. Independent Expert's Report *continued*



### 3.7 Outlook

Equity research analysts provide commentary on the financial and trading performance of PFL, and periodically release profit estimates as part of their research. The estimates for FY2016, FY2017 and FY2018, from available equity research analyst reports published from December 2015 onwards, are summarised in the following table. We have presented the consensus median estimates for various metrics.

**Table 11: Available equity research estimates**

	Audited FY2015	Forecast FY2016	Forecast FY2017	Forecast FY2018
Sales revenue (\$'million)	256.9	245.3	245.3	256.8
EBITDA (\$'million)	27.9	33.2	35.1	36.6
EBIT (\$'million)	19.5	25.1	26.8	28.1
NPAT (\$'million)	2.1	15.5	17.1	18.2
EPS (cents per share)	1.5	11.1	12.3	13.1
DPS (cents per share)	5.0	6.6	7.3	7.7

*Source: Various equity research analyst notes, Deloitte Corporate Finance analysis*

The equity research analysts' EBITDA estimates do not adjust for PFL's proportionate interest in depreciation, net interest and tax incurred by the Davies Bakery. Historically, these amounts have totalled between \$1.9 million and \$2.1 million over FY2013 to FY2015 (reflecting PFL's interest). Simplistically adjusting the estimates of the equity analysts for this implies average EBITDA of approximately \$35 million, \$37 million and \$39 million (assuming an annual adjustment of approximately \$2 million per annum) from FY2016 to FY2018, respectively.

The equity research analysts' considered within the table above are contained within reports published after PFL's announcement in December 2015 of the Company's exit from the frozen fruit market. Therefore, the forecasts incorporate the lost potential profit associated with Frozen Fruit sales. However, in general, the equity research analysts appear to take the view that, whilst the Frozen Fruit segment has been profitable to PFL historically, the recent performance of the segment suggests the sale of this division would be earnings neutral to PFL and would instead allow PFL management to refocus resources.

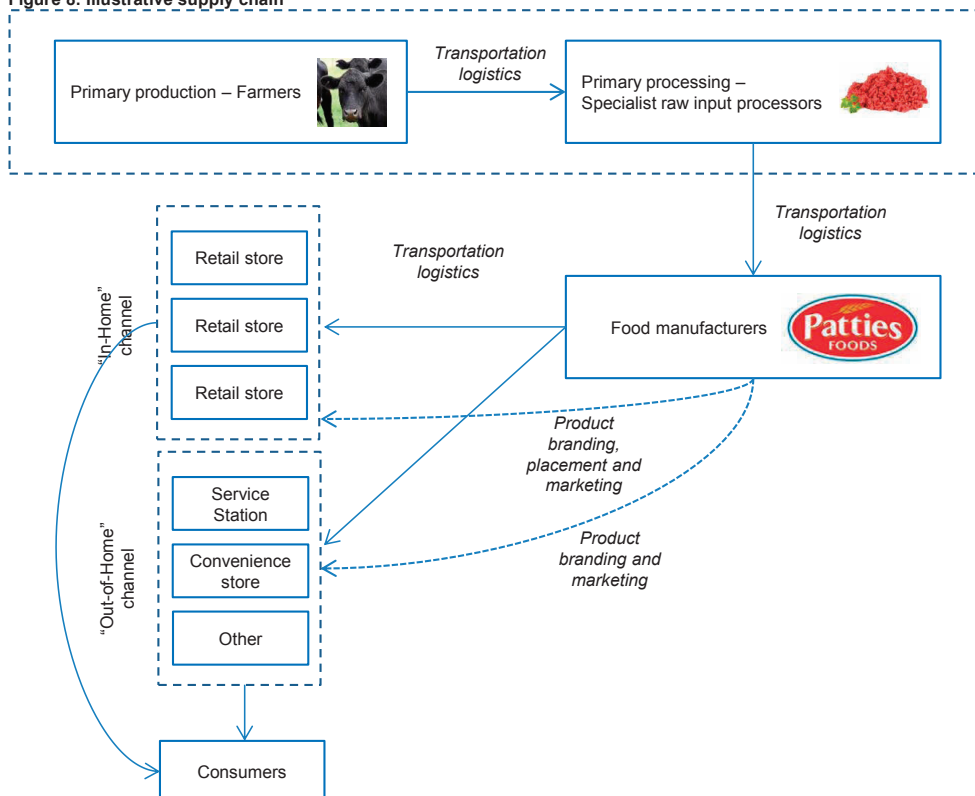


## 4 Key industry themes affecting PFL

### 4.1 Position in the supply chain

The majority of PFL’s business involves the manufacture of branded food products for wholesale sale to retailers in the “In-Home” segment, comprising large supermarket chains, and the “Out-of-Home” segment, comprising convenience stores, petrol stations, sporting stadiums, foodservice and catering customers. PFL does not own primary agriculture assets and has minimal sales direct to consumers. The following figure illustrates the ‘paddock to plate’ supply chain of the average food product in Australia, and its application to PFL.

Figure 8: Illustrative supply chain



Source: Deloitte Corporate Finance analysis

PFL’s position in the supply chain is such that it faces pressure from both raw material suppliers and food retailers who purchase the Company’s products.

Australia’s primary industry is highly fragmented with many individual farmers producing a relatively small amount of raw material inputs. The bargaining power of primary producers is generally low and the price they can charge food manufacturers is generally based on market prices. This industry structure drives a key industry theme; food manufacturing is heavily influenced by movements in market prices for raw material inputs (discussed further below). PFL’s most important raw material input is beef, which is used in the majority of its savoury products, followed by wheat (flour) and margarine, which are used across all three of PFL’s products. Volatility in these raw material input costs may translate into volatility in earnings (albeit input cost volatility affects the total industry and as such changes are relative to all players).

On the other side of the supply chain within the In-Home segment, PFL deals with a small number of very large food retailers and wholesalers. The level of concentration in the food retail industry is therefore very high where the two major supermarket chains dominate the market in Australia. This concentration means that food

## Appendix 1. Independent Expert's Report *continued*



manufacturers have a limited route to the consumers in this segment. This, coupled with the retailer's power over the consumer, means that retailers have a strong bargaining position with food manufacturers. The bargaining power of the retailers is exercised in the following key ways:

- **goods stocked** – retailers are continuously trying to meet the needs of the consumer and as a result are regularly changing their retail product mix which increases the risk of product deranging
- **slotting costs** – it is not uncommon for retailers to charge fees for stocking new products
- **in-store marketing** – a big part of product marketing occurs in the retail store through the location and way goods are shelved. In store presentation is generally negotiated and agreed between the food manufacturer and the retailer through category range reviews, however, significant influence over store presentation resides with the retailer
- **returns** – daily fresh products not sold are sent back to the food manufacturer. This results in costs to the supplier, particularly for fresh products which in many cases cannot be resold, and creates sales risk as not all goods produced will result in revenue. However, this is less applicable to PFL as PFL's product range includes minimal fresh products and the typical shelf life of frozen products is 18-24 months
- **below cost selling** – stock clearances can result in products being sold for less than recommended retail prices. This can lead to a distortion in the market where consumers come to demand products at discounted prices and perception of product value can change
- **promotional selling** – in certain instances, suppliers fund promotional campaigns to drive sales volumes
- **the expansion of private label products** – over the past decade there has been a significant increase in retailers producing and selling their own branded products (known as private label products) in order to capture the profit margin realised by food manufacturers. Often this production is done by third party manufacturers. Private label and branded products compete on the shelves for consumer attention and the expansion of private label products may lead to a further squeeze on volumes and profits of branded products. This is discussed in more detail later below.

The challenges associated with the In-Home segment are in contrast to those of the Out-of-Home segment, which is significantly more fragmented and subject to greater competition. The Out-of-Home sales channels of convenience stores, service stations and other non-supermarket retailers lack the bargaining power of supermarkets, which has the following implications to participants such as PFL:

- **greater opportunities for distribution and customer accessibility** – the Out-of-Home segment offers more alternatives to distribute products, providing greater opportunity to form and control customer relationships, compared with the major supermarket chains, which exert a high degree of market power over product placement and access to customers
- **low exposure to private label products** – higher margins are achievable as stocked products are usually branded, meaning there is less exposure to the competitive and pricing pressures generated by private labels
- **rational price setting** – a more fragmented makeup of consumers allows for more rational price setting, further encouraging higher margins.

### 4.2 Raw material input prices

Beef and wheat (flour) represent PFL's main material inputs. The contracts that PFL have with its suppliers of these products are such that the price paid by PFL is based on market prices for these inputs. However, PFL enters into short term forward contracts with a select pool of approved suppliers for meat in an attempt to mitigate exposure to volatility in the price of inputs. Given these raw material inputs move with market forces, PFL's variable operating cost can be volatile. However, this also affects the total market and PFL has demonstrated success in being able to raise prices with customers to help offset these price fluctuations. PFL has critical mass in meat buying and has moved from being a price-taker to a price-maker over the past two years. PFL has a select group of approved suppliers who are currently less exposed to the export price markets and therefore has greater control of the input price of raw materials.

As these raw materials are agriculture-based commodities, their prices can be influenced by factors such as weather, seasonality, substitute plantation or production (i.e., where farmers choose to plant one crop instead of another due to differing market prices, or due to increasing demand for one product over another as a result of changing consumer preferences).

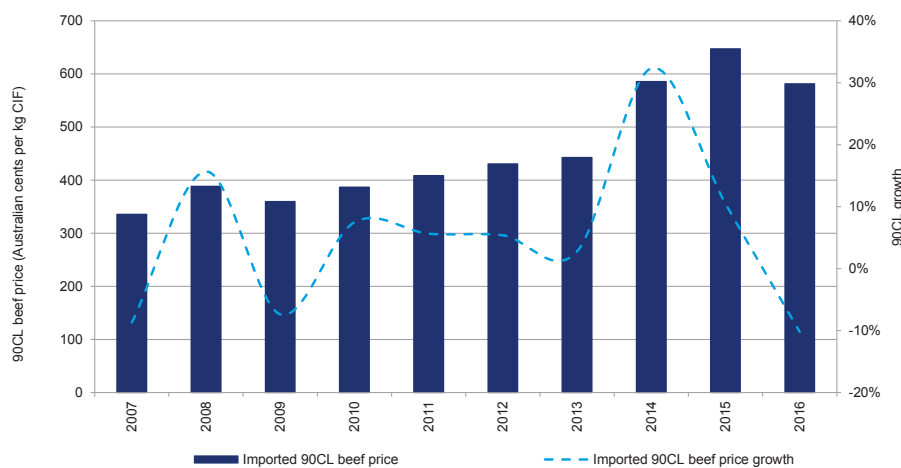
Each input also has unique market dynamics and accordingly each is discussed separately.



### 4.2.1 Beef

Meat and Livestock Australia (MLA) is a key industry body that publishes the latest prevailing beef prices and associated benchmarks, including weekly 90CL imported beef prices, which relates to the price paid for beef that is imported by the US with a lean meat content of 90%. The figure below shows historical movements in the calendar yearly average 90CL imported beef prices since 2007.

**Figure 9: Historical CL90 imported beef prices<sup>1</sup>**



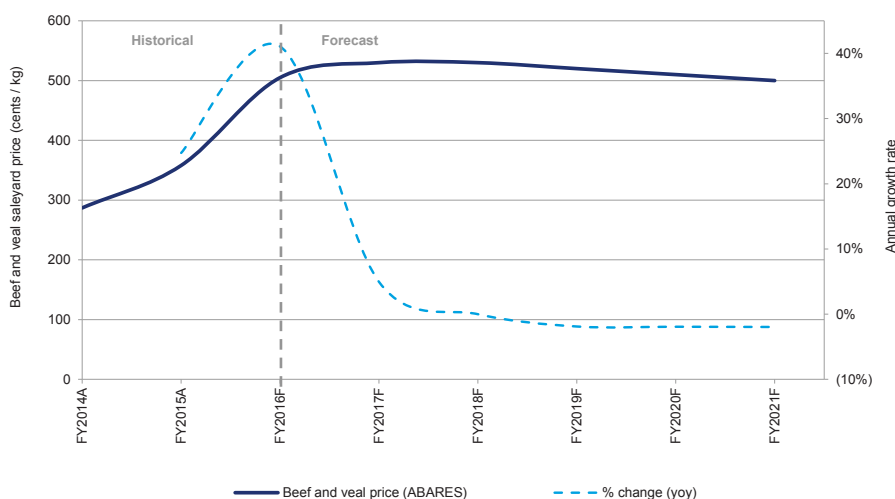
Source: Meat & Livestock Australia, Steiner Consulting Group, Deloitte Corporate Finance analysis

Notes:

1. CIF – cost, insurance and freight included
2. 90CL average imported beef price for 2016 presented above is year to date as at 23 June 2016.

The figure below shows the historical and forecast prices and growth rates for Australian beef and veal, as published by the Australian Bureau of Agricultural and Resource Economics and Sciences (ABARES), for the period from FY2014 to FY2021.

**Figure 10: Historical and forecast beef and veal prices and growth<sup>1</sup>**



Source: ABARES agricultural commodities report (March 2016)

Note:

1. Beef and veal prices presented are in nominal Australian dollars.

## Appendix 1. Independent Expert’s Report *continued*



Australian cattle prices have historically been subject to material fluctuations year on year, reflecting the cyclicity of the industry, as well as the occurrence of unforeseen events such as drought. In FY2015, average cattle prices increased by over 45% compared with average FY2013 prices, which can be attributed to strong international demand for Australian beef (mainly driven by US grinding beef due to low US local herd availability), favourable exchange rates and higher than expected cattle slaughter rates across the eastern states due to drought. The US market has since recovered and demand for Australian beef is expected to be lower in 2016.

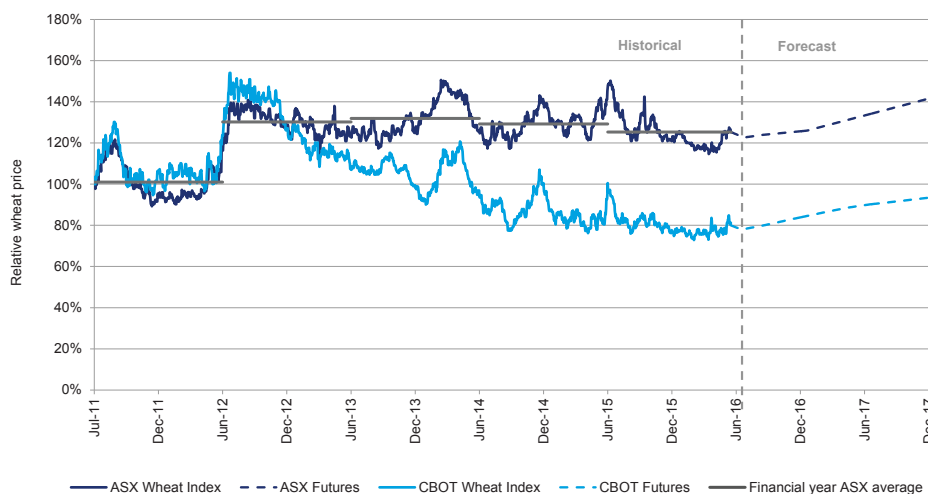
Going forward, the saleyard price of beef is forecast to increase in the short term, as a result of strong domestic demand, continued falls in the Australian dollar and robust international demand from Asia (albeit Asia largely purchases primal meat cuts rather than 85CL grade beef). In the medium term, herd rebuilding is expected to provide price support for domestic cattle saleyard prices, however this is expected to be largely offset by increased competition in key export markets, particularly from South American producers. Based on the ABARES forecasts, saleyard price forecasts are expected to be flat over the next five years.

### 4.2.2 Wheat

Australian wheat is sold domestically and internationally. There are a number of ways to sell wheat, including cash sales to grain marketers, grain pools or direct through futures contracts. The main global futures market is the Chicago Board of Trade (CBOT), however the ASX also has a wheat futures market through which Australian wheat can be traded.

The following chart illustrates the historical relativity between the ASX and CBOT wheat price markers, and the projected change in each index based on future contracted prices.<sup>1</sup>

**Figure 11: Historical and forecast ASX and CBOT wheat price**



Source: Capital IQ, Deloitte Corporate Finance analysis

Historically, the ASX milling wheat price closely tracked the CBOT price up to the end of 2012, however the price markers have since diverged as a result of differences in market and agricultural forces between Australia and other key wheat producing countries. In the second half of 2013, severe frosts and subsequent drought conditions in northern NSW and Queensland reduced wheat crop yields, which drove increases in the ASX wheat price. During this period, CBOT wheat prices declined, fuelled by record global wheat production forecasts for 2013 and 2014.

The ASX and CBOT futures prices increased significantly between February 2014 and May 2014 on the back of drought conditions in parts of Australia, the Crimea crisis which raised concerns that the flow of wheat out of Russia and Ukraine could be disrupted and transportation issues for wheat coming out of Canada and Argentina.

<sup>1</sup> The ASX futures contracts are thinly traded and therefore forecast prices may not be meaningful from January 2017





Since May 2014, the CBOT wheat price has fallen significantly due to increased supply of wheat from Russia and larger than expected crop harvests from the US and other northern hemisphere countries. The ASX wheat price has remained comparatively strong as a result of limited local supply and growth in wheat demand throughout Asia, which has resulted in an increase in exported Australian wheat volumes and consequently upward price pressure on the domestic price of wheat.

The ASX and CBOT futures markets are forecasting relatively strong wheat price appreciation over the short to medium term, as global production levels stabilise and demand from developing and emerging economies continues to accelerate.

### 4.3 Consistent and reliable manufacturing capability

Australian food manufacturers generally have a mix of ageing facilities and new/near new facilities. The cost of maintaining, improving and enhancing manufacturing facilities can be significant. Investment in facilities, either on existing or new facilities, requires significant commercial analysis to ensure that additional/improved production capacity is well supported by product demand.

There is an inherent trade-off between incurring capital expenditure to maintain/improve/increase production capacity and conserving cash for investment in other initiatives or distribution to Shareholders. In making this decision, food manufacturers weigh up a number of factors including:

- relative incremental returns of investing in production capacity versus investing in other initiatives
- age, condition and quality of existing production capacity
- current and projected demand for the company's products
- outlook for consumer choices
- size of investment, and sources and cost of capital required.

The typical shelf life for frozen meat pies is 18 – 24 months. Whilst offshoring of manufacturing is an option available in other industries, this is not necessarily the case for meat and meat pies as they are difficult to import into Australia under current regulation. As such, the threat of offshore private label competition is much lower than what companies in adjacent sectors may face (e.g. imported fruit and vegetables). Given the significant investment required in the industry's operations, food manufacturers are continuously seeking ways to optimise capital expenditure while still growing earnings. However, significant risks can result from underinvestment in production facilities. Ageing facilities or facilities in poor condition can fail leading to production halts, an inability to deal with volatility in utilisation or high levels of utilisation and significant costs to repair. Sudden halts in production can also be extremely problematic for sales contracts where food manufacturers have an agreed supply level which must be met. A halt in one facility, while being repaired, means production from other facilities must be increased, putting undue strain on the overall production network. Equally, large scale investment in production facilities can be problematic and carry the risk of substantial disruption to business operations.

Maintaining the quality of production capacity is also critical to maintaining efficient and reliable production. Margins in the food manufacturing industry are generally low and achieving and maintaining profitability requires highly efficient and consistent production. Efficient and consistent production is intrinsically linked to reliable production facilities, given that equipment failure leads to production halts and repair costs which quickly erode profits. The other important aspect of reliable production capacity is a reliable product. The modern consumer is discerning and product quality (including consistency) is becoming increasingly important. Contracts between food manufacturers and retailers are generally such that the food manufacturer carries the risk of acceptable product quality up until the point the product is sold to the consumer. This means that a product that does not meet the agreed product quality and/or specification can be returned by the retailer at the expense of the food manufacturer. This makes the reliability of production essential to ensuring products are produced to agreed quality and specification in order to mitigate the risk of returns, which can be significant.

### 4.4 Importance of logistics

As illustrated in Figure 8, transport logistics is the link between each stage of the supply chain. The importance of logistics is greater for Australia than for most of the developed world due to the country's size and the remoteness of many rural towns. PFL's principal manufacturing facility is located in Bairnsdale, Victoria, 280 kilometres east of Melbourne, and the Company's contracts with retailers are such that PFL delivers many of its products to major distributor warehouses in each state for both the supermarket groups and Out-of-Home

## Appendix 1. Independent Expert's Report *continued*



distributors (PFD, Bidvest, NAFDA, etc.). PFL does not engage in direct delivery to any customer's individual stores and does not own any trucks. PFL uses third party contracts on all logistics such as main warehousing and inter/intrastate freight. This means that transportation logistics is a fundamental aspect of PFL's business and, for many products, is a large component of total delivered cost. However, PFL has an 8000 pallet space warehouse in Bairnsdale for raw materials, WIP and bulk finished goods storage and are able to negotiate these third party contracts from time to time in line with the market.

The cost of transportation logistics can be significant, in particular for the remote towns in rural Australia. The retail price of products delivered to retail locations near manufacturing facilities is likely to have the same price as the same product delivered to remote locations, even though the cost to deliver the product to the remote location is generally significantly greater. The cost to manufacture and deliver a product to the retailer is known as the cost to serve, and the cost to serve each retail store across Australia differs widely depending primarily on the product type and the retail store's distance from the food manufacturer's facilities. In recent years, the cost to serve for Australia food manufacturers has increased due to wage cost inflation.

Equally, for a business that plays in the Out-of-Home segment, the requirement to reach many distribution points can substantially increase the cost to serve.

The ability of food manufacturers to reduce their overall cost to serve through logistics efficiency is critical to their future success.

### 4.5 Increase in private label food products

Private label food products are generally produced for retailers under contract by third party food manufacturers. Over the past several years, private label products have become more prevalent in supermarkets. To some extent, the penetration of private label in Australia lags the rest of the world. In the In-Home segment in Australia, private label is currently estimated to have 28% market share, whilst in Europe and the US, it is estimated to have 53% and 35% market share, respectively. In the early days of private label products, Australian consumers associated private label with low quality. The entry of ALDI into the Australian market in 2001, with the majority of its products being private label products, and the increased consumer awareness of private label products (including an increase in quality), has resulted in changes in consumer perceptions of the quality of private label products.

Private label products allow retailers to vertically integrate food manufacturing (albeit under third party manufacturing arrangements) into their existing business model. As retailers collect and analyse data on consumer buying habits, retailers can react directly to improve existing private label products and / or change the private label product mix to align with consumer trends. An example is the gourmet and organic offerings category, where private label products exist in abundance today, however did not a few years ago.

Private label products also allow retailers to compete directly with branded food manufacturers. The major retailers in Australia have used aggressive discounting and promotional pricing tactics to disrupt the consumer landscape. As retailers also have greater control of the arrangement and allocation of shelving space, some branded products have been shifted in favour of greater shelf space allocated to private label products. These tactics have therefore enabled private label products to become formidable competitors to the incumbent branded products.

Private label products have changed the landscape of food manufacturing and retailing significantly. In the context of fresh food, where much of the manufacturing cannot be sent offshore, private label products are often manufactured by companies that are located in the same market and who produce the competing branded products. It has become increasingly common for food manufacturers to diversify their product portfolio by producing private label products as well as branded products in the same product category and this offers growth opportunities for them (but possibly at the expense of their branded equivalents).

The demand for private label products, which mainly comprises food items, is forecast to grow rapidly and, by FY2021, could reach 35% market share in Australia.

However, in relation to the key frozen savoury category in which PFL competes with supermarkets, private label market momentum has been affected by low quality perceptions. As at May 2016, private label savoury products hold 14.9% market share and are showing a sales decline of 1.6% per annum.

### 4.6 Australian consumer choices

Australia generally ranks in the top 90% of most wealth and prosperity indexes. Australia is also one of the most food secure countries with self-sufficiency in all the major commodities; meat, dairy and grains. Australian



consumers are wealthy (in global terms), sophisticated and highly discerning. There are a number of key trends in Australian food retail, most notably:

- **savvy consumer** – Australians are becoming increasingly savvy in terms of their buying practices. Australians actively seek out promotional stock. According to a study conducted by Quantum<sup>2</sup>, 25% of Australian shoppers fill half their trollies with products on promotion
- **in-store food production** – the prevalence of bakeries, sandwich stores and sushi bars within supermarkets has increased significantly over the past several years. This trend appears to be established and will impact on the rest of the supermarket as space for traditional supermarket products continues to reduce
- **gourmet is increasing in popularity** – with the popularity of television chefs and cooking shows such as Masterchef, Australian consumers have become increasingly knowledgeable about food. With this knowledge has come more discerning tastes and, as a result, Australians are demanding more gourmet products. This is reflected in PFL’s own ‘premiumisation’ strategy across its FOUR’N TWENTY and Herbert Adams products, and PFL’s potential NPD opportunities incorporating gourmet and provenance ingredients. The strength of any new product will largely depend on the marketing strategy and spend involved in launching products
- **the consumer is becoming more health conscious** – Australians are becoming increasingly more aware of their health and consequently are becoming more conscious about the health implications of the food and drinks they consume. This trend has implications for food manufacturers and retailers
- **increased Out-of-Home consumption levels** – changing consumer preferences, increasing affluence and the rise of the “café culture” is increasing the volume of consumers choosing to eat food via Out-of-Home channels, which is driving an expansion in the number of service providers in this segment of the food industry
- **war between branded staples and private label staples** – the increase in private label foods is most evident in the staple food categories where consumers are placing less of a premium on branded staples
- **demographic changes** – Australia’s demographic makeup is changing and this is changing food consumption patterns, habits and tastes.

Both food manufacturers and retailers are continuously studying industry and consumer trends to ensure that future demand is met by product development. In an industry characterised by tightening margins and increasing competition, production innovation is becoming an increasingly important KPI for food manufacturers. Product innovation is also being used by food manufacturers to reinforce the position of branded products and to meet future demand trends with the aim of growing revenues and earnings. Therefore, NPD and direct marketing expenditure is an important part of a food manufacturers’ business and significant capital is deployed on market research, NPD and marketing.

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<sup>2</sup> Woolworths Trolley Trends: Understanding changes to household expenditure over the past 25 years and today’s customer, 2013

## Appendix 1. Independent Expert's Report *continued*



### 5 Valuation of PFL

#### 5.1 Basis of selection of the capitalisation of maintainable earnings methodology

For the purpose of our opinion current fair market value is defined as the amount at which the shares would be expected to change hands in a hypothetical transaction between a knowledgeable willing, but not anxious, buyer and a knowledgeable willing, but not anxious, seller acting at arm's length. We have not considered special value in this assessment.

We have assessed the equity value of PFL using the capitalisation of maintainable earnings method before adding/subtracting the value of surplus assets and liabilities and deducting net debt.

Refer to Appendix B for a detailed discussion on the various valuation methodologies which can be adopted in valuing corporate entities and businesses.

In selecting the capitalisation of maintainable earnings method to value the PFL businesses, we have considered the following factors:

- although PFL's historical earnings have been relatively volatile recently as a result of the Frozen Fruits recall, we consider there has been sufficient stability in the historical earnings associated with PFL's underlying savoury business and the outlook for this segment suggests this is projected to continue for the foreseeable future
- there is an adequate number of publicly listed companies and global transactions involving companies with operations sufficiently comparable to those of PFL's businesses to provide a meaningful comparison
- PFL's operations do not have a finite lifespan
- although capital and marketing expenditure is important to PFL, there is no current or projected requirement for the Company to incur significant or unusual capital and marketing expenditure.

Our valuation based on the capitalisation of maintainable earnings is set out in the Executive Summary.

#### 5.2 Selection of maintainable earnings

Future maintainable earnings represent the level of maintainable earnings that the existing operations could reasonably be expected to generate. We have selected EBITDA as an appropriate measure of earnings because earnings multiples based on EBITDA are less sensitive to different financing structures, depreciation and amortisation accounting policies and effective tax rates than multiples based on EBIT or NPAT. This allows a better comparison with earnings multiples of other companies.

The EBITDA margin of PFL (adjusted for the contribution from the Frozen Fruits business, reorganisation costs and significant items) has exhibited some variability between FY2013 and 1H FY2016. Whilst we have adjusted the results of PFL for its exit from the frozen fruits market, historical earnings cannot be accurately adjusted for overheads partly attributable to the Frozen Fruits business, given the relatively fixed nature of such costs.

Furthermore, EBITDA margins between FY2013 and FY2015, whilst relatively stable, have been affected by increases in input prices (beef and wheat), and do not reflect the full benefit from reorganisation activities. Therefore, in selecting maintainable EBITDA for PFL, we have focused on PFL's most recent reported financial performance for the six month period ended 31 December 2015 after adjusting for the effect of the Company's exit from the frozen foods market.

Our analysis is based on recent historical on forecast financial performance, including the Company's year to date performance for the 11 month period ended 31 May 2016, and the Company's FY2016 earnings forecasts. The FY2016 forecasts reflect some of the effects of the organisational activities commenced by the Company in FY2015, which are aimed at reducing its cost base, as well as the significant investment in the Company's Bairnsdale production facilities, which is aimed at delivering enhanced production efficiency, cost reductions and encouraging NPD.



The adjusted EBITDA for PFL for the six month period ended 31 December 2015 was \$18.4 million, with equity research estimates implying the Company's full year FY2016 financial performance will be in the region of \$35 million<sup>3</sup> (refer to Section 3.7), before increasing to approximately \$37 million<sup>4</sup> in FY2017.

We also considered the following specific factors:

- PFL's exposure to input prices (beef and wheat in particular) and the ability of PFL to recover higher input costs from its customers through price increases or conversely the compulsion to pass on savings from lower input costs. In particular, short term volatility in beef and wheat prices can exacerbate this risk
- NPD and innovation in the Out-of-Home market segment (thus improving overall margins), and the extent to which these can offset increasing margin pressure in the In-Home market segment as a result of increasing bargain power and private label market penetration of supermarket chains
- the contribution to earnings from PFL's interest in Davies Bakery
- the full year effect of the reorganisation initiatives commenced in FY2015, net of any costs associated with bringing benefits to fruition, and the likelihood of PFL continuing to deliver on savings targets.

Based on the above, we have assessed maintainable EBITDA for PFL to be in the range of \$36.5 million to \$37.5 million. This level of maintainable EBITDA is substantially higher than the historical EBITDA of the Company. However, we do not consider it unreasonable given the historical EBITDA losses incurred by the Frozen Fruits business, which has been disposed, and various reorganisation costs.

### 5.3 Selection of earnings multiple

In selecting an earnings multiple for PFL we have considered earnings multiples derived from share market prices of listed companies with comparable operations to its businesses and the implied earnings multiples paid to acquire companies with operations comparable to its operations.

Our valuation of PFL has been undertaken on a control basis, consistent with the requirements of ASIC RG111.

Earnings multiples derived from share market trading (which we refer to as 'listed company multiples' in this section) do not reflect the fair market value for control of a company as they are based on portfolio holdings in the subject companies. The difference between the fair market value of a controlling interest and a minority interest is referred to as the premium for control.

The owner of a controlling interest has the ability to do many things that the owner of a minority interest does not. These include:

- control the cash flows of the company, such as dividends, capital expenditure and compensation for directors and managers
- determine and change the strategy and policies of the company
- make acquisitions, restructure the business or divest operations
- control the composition of the board of directors.

Australian studies indicate the premiums required to obtain control of companies range between 20% and 40% of the portfolio holding values. Further details of control premiums are provided in Appendix E.

In comparison, the acquisition price achieved in mergers or acquisitions of companies represents the fair market value of a controlling interest in that company.

<sup>3</sup> After an adjustment for the impact of PFL's 50% interest in depreciation, net finance expense and tax incurred by the Davies Bakery

<sup>4</sup> Ibid

## Appendix 1. Independent Expert’s Report *continued*



### 5.3.1 Selecting comparable companies and transactions

We have conducted a global search for companies comparable to PFL. As most of the comparable companies have diversified operations and manufacture a wide variety of food products, there is a limited number of companies directly comparable to PFL on a standalone basis.

We have therefore categorised the comparable companies and transactions into three general groups: frozen and other food manufacturers, fresh bakery product manufacturers and other Australian food manufacturers (refer to Appendix C and Appendix D).

We have only considered transactions that occurred over the past five years as we do not consider transactions prior to this period to be relevant to our valuation. However, all things being equal we would consider the more recent transactions to reflect the relative values being paid in the current business and market environment.

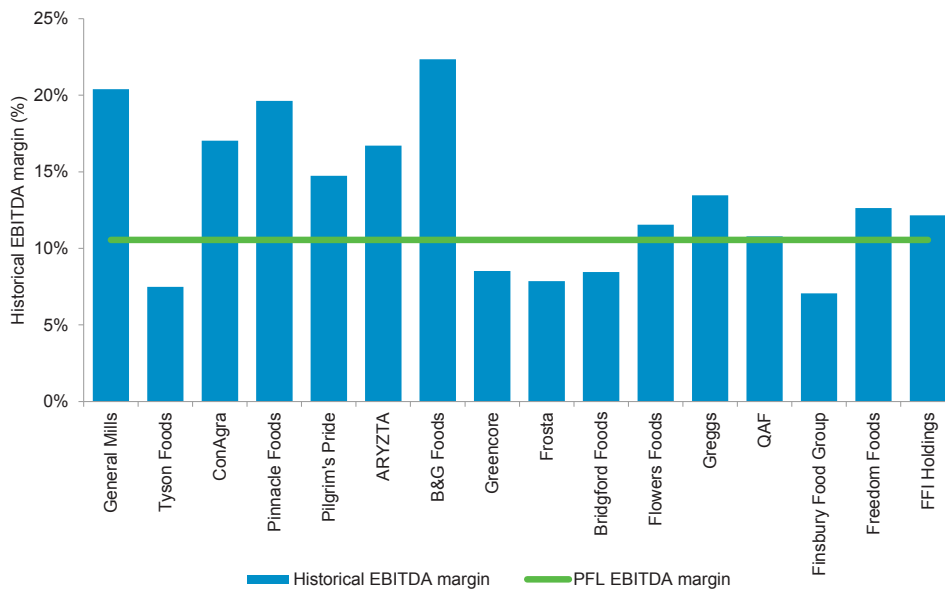
Transaction multiples are calculated with reference to historical earnings and, as a result, we would expect the transaction multiples (adjusted for control) to be higher than the unadjusted trading multiples observed for listed comparable companies, which have been calculated with reference to forecast earnings, given that most of the comparable companies are projected to exhibit earnings growth in the short term (based on consensus broker estimates).

### 5.3.2 EBITDA margin and EBITDA growth comparison

In the following sections, we discuss our analysis to arrive at our preferred comparable listed companies. To assist us with this, we have calculated the EBITDA margin and projected two year EBITDA CAGR for each listed company considered highly comparable and compared it to PFL’s adjusted EBITDA margins and projected two year EBITDA CAGR over the same period.

The EBITDA margin comparison is illustrated in the following figure.

Figure 12: EBITDA margin



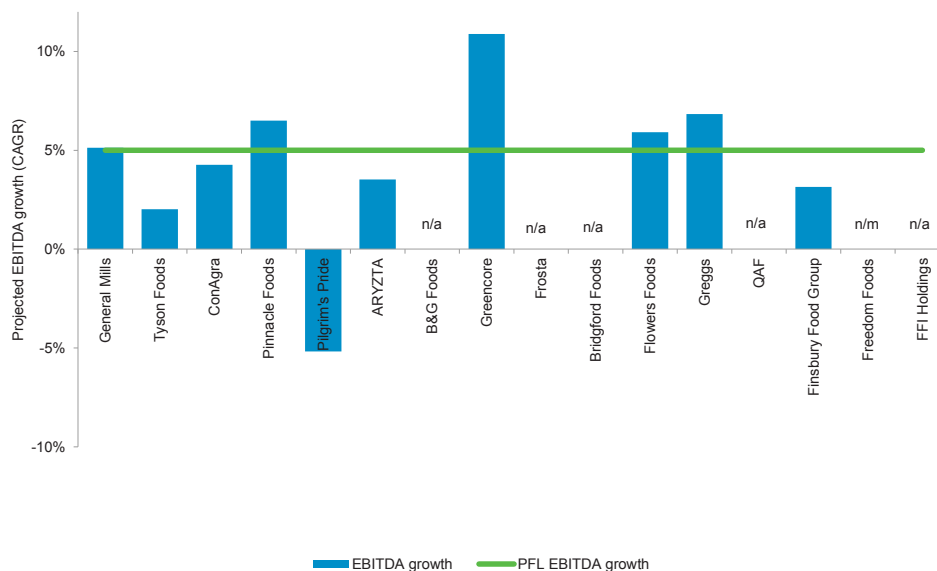
Source: Capital IQ and Deloitte Corporate Finance analysis

Most of the preferred comparable companies have exhibited higher EBITDA margins than PFL. All other things being equal, companies with higher EBITDA margins should attract higher multiples. We have been cognisant of the comparable companies’ higher EBITDA margins when selecting multiples for PFL.



The comparison of projected EBITDA growth is illustrated in the following figure.

**Figure 13: Projected EBITDA growth comparison**



Source: Capital IQ and Deloitte Corporate Finance analysis

PFL’s projected EBITDA growth is approximately equal to the median projected EBITDA growth for the comparable companies. All other things being equal, companies with higher projected EBITDA growth should attract higher multiples (because the future cash flows are expected to be higher) and vice versa.

We have been cognisant of the comparable companies’ relative projected EBITDA growth rates when selecting multiples for PFL

### 5.3.3 Listed company multiples

Of the comparable companies set out in Appendix C, we consider ARYZTA, General Mills and Tyson Foods to be the most comparable to PFL in terms of product offering as they each offer frozen pastries and snacks or are engaged in activities we consider comparable to PFL.

ARYZTA is a manufacturer of food products, based in Switzerland. ARYZTA manufactures specialty bakery products under various brands including Cuisine de France, Hiestand, Coup de Pates, Delice de France and Fresh Start Bakeries. ARYZTA sells to convenience stores, independent and large retailers, restaurants and other foodservice operators. We consider ARYZTA to be comparable to PFL due to the broadly comparable product mix offered and the similar distribution channels used by the company.

General Mills manufactures branded and unbranded foods that are sold to food retailers, foodservice operators and commercial bakeries. The company manufactures its products in 15 countries and markets them in more than 100 countries. General Mills’ product portfolio includes baking products, cereals, frozen and refrigerated biscuits, frozen dinner rolls, frozen pastries, frozen waffles, frozen breakfast items, fruits, ketchup, ready-made meals, organic foods, pizza, sauces, snacks, soup, vegetables and yoghurt. We consider General Mills to be comparable to PFL due to the broadly comparable product mix offered, the similar distribution channels used by the company and the way it leverages its brand in a similar fashion to PFL.

Tyson Foods operates worldwide through four segments: Chicken, Beef, Pork and Prepared Foods. The company produces frozen and fresh chicken, beef and pork and related products for a range of customers in the retail, distribution and food service sectors. The company offers its products primarily under the Tyson, Jimmy Dean, Hillshire Farm, Sara Lee, Ball Park, Wright, Aidells and State Fair brands. Notwithstanding the differences in operations and product mix, we consider Tyson Foods to be comparable to PFL in that the company is engaged in ‘protein value-add’ operations.

## Appendix 1. Independent Expert's Report *continued*



The other identified comparable companies (set out in Appendix C) generally have either a different or significantly more diversified product mix than PFL and therefore we have given less weight to those companies in our assessment of an appropriate earnings multiple for PFL.

These selected companies are summarised in the following table.

**Table 12: Preferred listed companies**

Company	Revenue (\$m) <sup>1</sup>	EBITDA margin	EBITDA growth	EBITDA times (current) <sup>2</sup>	EBITDA times (forecast) <sup>2</sup>
ARYZTA	5,754	16.7%	5.1%	9.2x	8.9x
General Mills	23,052	20.4%	2.0%	18.3x	17.1x
Tyson Foods	58,739	7.5%	3.5%	11.5x	11.4x

Source: Capital IQ, Deloitte Corporate Finance analysis

Notes:

1. Revenue based on most recent actual results

2. EBITDA multiples have been adjusted to include a 30% control premium

These companies are significantly larger than PFL. Larger companies generally trade at higher earnings multiples as they often have greater access to new markets and ability to raise capital which can increase growth prospects.

These companies are also more operationally diverse than PFL, in that they have a more diverse product offering and sell their products to a much wider market. Greater diversification generally means lower risk as it reduces bargaining power of customers, resulting in higher multiples (all else being equal).

Of these companies, we consider ARYZTA to be the most comparable to PFL. ARYZTA is trading at EBITDA multiples of 9.2 times current EBITDA and 8.9 times forecast EBITDA, though we note that these multiples may have been affected by the European market reaction to the recent results of the referendum in the United Kingdom. Whilst ARYZTA has a similar projected EBITDA growth to PFL, it has achieved a substantially higher EBITDA margin, which on balance, together with the significantly larger size of ARYZTA compared to PFL, would suggest that a lower multiple should apply to PFL.

### 5.3.4 Transaction multiples

Of the transactions considered and set out in Appendix D, the acquisitions of Manassen Foods Australia (Manassen) and Fletcher Group of Bakeries, together with the other Australian transactions, P&M Quality Smallgoods, Goodman Fielder and Inghams Enterprises are considered by us to be the most comparable to PFL. These transactions are summarised in the following table.

**Table 13: Preferred comparable transactions**

Announcement date	Target	Acquirer	% acquired	Currency	Implied EV (m)	EBITDA historical (m)	EBITDA multiple (times)
20-Nov-14	P&M Quality Smallgoods	JBS Australia	100%	AUD	1,450	180	8.1x
10-Oct-14	Fletchers Group of Bakeries	Finsbury Food Group	100%	GBP	56	6	9.3x
02-Jul-14	Goodman Fielder	First Pacific Company; Wilmar International	90%	AUD	1,827	224	8.2x
08-Mar-13	Inghams Enterprises	TPG Capital, LP	100%	AUD	880	190	4.6x
18-Aug-11	Manassen	Bright Food Group	75%	AUD	530	50	10.5x

Source: Mergermarket, Capital IQ, company announcements, Deloitte Corporate Finance analysis

Manassen engages in importing and sourcing groceries for brand owners worldwide. Its portfolio comprises food categories in retail and foodservice trade, including dry groceries, confectionery, biscuits and cakes, perishables, and frozen foods. Bright Foods, a diversified Chinese State Owned Enterprise, completed the acquisition of a 75% interest in Manassen in 2011. The acquisition was expected to provide Bright Food an opportunity to introduce its portfolio of products and brands into the Australian market via Food Holdings' distribution network in Australia. Compared to PFL, Manassen is a larger business with a more diversified product offering, suggesting a higher multiple than would be applicable to PFL. Furthermore, we consider that a premium was paid in the transaction to reflect the strategic importance of the acquisition to Bright Foods as a way to expand its





distribution channels and therefore the multiple implied by the transaction price would be above an appropriate multiple for PFL.

Fletchers Group of Bakeries produces and supplies fresh and frozen bakery products. It provides muffins, bread and pastries. The company serves customers in various sectors, including pubs and restaurants, travel, education, hotels, coffee shops and retail outlets. Finsbury Food Group's acquisition of Fletcher Group of Bakeries likely enabled the acquirer to extract substantial operational synergies which would suggest that the multiple paid could be higher than would be appropriate for PFL.

The P&M Quality Smallgoods, Goodman Fielder and Inghams Enterprises transactions, although not substantially comparable to PFL in terms of operations, have been included as they are Australian transactions and the underlying businesses may face similar risks to PFL by virtue of operating in the same geographic market. Each of the remaining Australian transactions is substantially larger than PFL suggesting a higher multiple than would be applicable to PFL.

### 5.3.5 Selected multiple

We consider, on balance, the transaction multiples provide a better benchmark than the listed company multiples. The selected range of EBITDA multiples on a control basis for PFL are, however, supported by the listed companies, after allowing for the substantial differences in size and diversity of operations of these companies relative to PFL.

PFL has a strong market position in both the In-Home and Out-of-Home market segments. Furthermore, revenue and earnings growth prospects are supported by the Company's strategy to expand its Out-of-Home offerings through NPD.

As noted above, PFL is substantially smaller than the selected comparable listed companies, of which we consider ARZYTA to be the most comparable. PFL is also smaller than the companies acquired in the transactions we consider most comparable. Its product offering and geographic diversification is also lower on the whole. Consequently, we would expect a lower multiple would be appropriate for PFL than applies for ARZYTA and the selected comparable transactions.

Based on our analysis, we consider an earnings multiple in the range of 7.5 times to 8.0 times, on a control basis, to be appropriate for PFL.

## 5.4 Surplus assets

PFL management has identified certain land, fixed assets and a small amount of Frozen Fruit inventory as surplus assets. The total estimated value of these surplus assets is \$4.9 million.

## 5.5 Net debt

We have assessed PFL's net debt based on the projected cash and debt balances at the Scheme Implementation Date, being 22 September 2016. Having regard to the most recent statement of financial position, cash flows from operations expected to be generated, capex expected to be incurred over the period to 22 September 2016 and PFL's share of Davies net debt, net debt is estimated to be \$64.0 million.

## 5.6 Number of shares outstanding

We have adjusted the number of shares outstanding to take account of the dilutive effect of the Performance Rights on issue as set out in the following table.

**Table 14: Number of shares outstanding**

	Number of shares (million)
Total shares on issue	139.3
Shares issued pursuant to Performance Rights	1.2
<b>Total shares on issues (fully diluted)</b>	<b>140.5</b>

Source: Deloitte Corporate Finance analysis

## Appendix 1. Independent Expert's Report *continued*



### 5.7 Cross-check – high level discounted cash flow

In order to cross-check our valuation of PFL's enterprise using the capitalisation of maintainable earnings method, we have considered the value using the discounted cash flow method.

The discounted cash flow method estimates fair market value by discounting a company's future cash flows to their net present value, and requires that the future cash flows that are expected to be derived from a business are capable of being estimated with a reasonable degree of confidence.

To cross check the value of PFL using the discounted cash flow method requires the determination of the following:

- future cash flows – based on a range of revenue and earnings scenarios which may be achievable over the next 5 years to FY 2021 (the Projection Period)
- an appropriate discount rate to be applied to the future cash flows
- an estimate of the terminal value growth rate.

Our considerations on each of these factors are presented below.

#### Future cash flows

PFL management has prepared a financial forecast for FY2016. We have derived three revenue growth profile scenarios for the projected cash flows, which are on a nominal after tax basis, based on the following:

- FY2016 financial forecast prepared by management, which consists of nine months of actual results and three months of forecast results
- potential future revenue growth profile achievable by PFL over the Projection Period. We have considered three revenue growth profile scenarios:
  - **Scenario 1:** nil revenue growth and an EBITDA margin 14.5% of over the Projection Period
  - **Scenario 2:** revenue growth of 3% p.a. and an EBITDA margin 13.5% over the Projection Period (base case)
  - **Scenario 3:** revenue growth of 6% p.a. and an EBITDA margin 12.5% over the Projection Period
- for each scenario, future EBITDA margins are assumed to remain relatively stable, reflecting the fact that cost of sales are predominantly variable costs
- a corporate tax rate of 30%
- working capital requirement assumed to remain relatively constant over the Projection Period
- capital expenditure is assumed to remain relatively constant over the Projection Period.

#### Discount rate

The discount rate used to equate the future cash flows to a present value reflects the risk adjusted rate of return demanded by a hypothetical investor. We have selected a base case nominal after tax discount rate in the range of 9.0% to 10.0 % to discount the future cash flows of PFL to their present value. In selecting these discount rates we consider the following:

- the required rate of return of comparable companies
- the debt to equity ratio of comparable companies.

The nominal after tax discount rate range selected reflects our assessment of the weighted average cost of capital for PFL based on the following:

- a cost of equity of 9.6% to 10.4% based on:
  - a risk free rate of 1.83% based on the five day average of the zero coupon ten year Australian government bond as at 13 July 2016
  - an equity market risk premium of 7.75%



- a levered beta of 1.0 to 1.1
- a net debt to enterprise value ratio of 10%
- a pre-tax cost of debt in the range of 6.5% to 7.5%
- a corporate tax rate of 30%.

The inputs to the weighted average cost of capital are highly subjective. Having said that, they imply an enterprise discount rate of 9.0% to 10.0%. Based on our experience, we consider such a discount rate reasonable for an enterprise such as PFL.

**Growth rate into perpetuity**

We adopted a growth rate into perpetuity (i.e. the growth rate that would apply to the cash flows beyond year five and over the long term) of 2.5%. Such a growth rate reflects long term growth for the Australian economy.

**Valuation summary**

We have considered the enterprise value of PFL on a control basis under each of the three cash flow scenarios discussed above and a range of higher and lower discount rate assumptions, as set out in the table below.

**Table 15: Summary of high level discounted cash flow valuation**

Enterprise value (\$ million)	Discount rate				
	10.5%	10%	9.5%	9.0%	8.5%
Scenario 1	233.8	248.2	264.6	283.6	305.7
Scenario 2	245.2	261.2	279.4	300.5	325.1
Scenario 3	255.0	272.5	292.5	315.7	342.7

*Source: Deloitte Corporate Finance analysis*

Given the risk profiles inherent in the three scenarios adopted, we consider it appropriate to apply higher and lower discount rates for Scenario 1 and Scenario 3, respectively, to account for the risk differential between those scenarios and Scenario 2, which is effectively a ‘base case’ scenario.

The above values reflect the value of the enterprise on a control basis and are therefore comparable to our assessed enterprise valuation range of PFL of \$273.8 million to \$300.0 million.

Based on the foregoing, we consider the high level discounted cash flow analysis provides support for our valuation of PFL based on the capitalisation of maintainable earnings approach.

## Appendix 1. Independent Expert's Report *continued*



### 6 Valuation of Consideration

#### 6.1 Cash Consideration

The default consideration option under the Proposed Scheme is the Cash Consideration.

The Cash Consideration affords Shareholders an opportunity to exit their investment in PFL and receive Cash Consideration of \$1.65 per share less the amount of a fully franked special dividend of up to \$0.25 per share that is declared and paid by PFL before the Proposed Scheme is implemented such that the total payment received by Shareholders is \$1.65 per share. This option is available to all Shareholders and if Shareholders do not make a valid election to receive the Scrip Consideration, they will receive the Cash Consideration.

#### 6.2 Scrip Consideration

Alternatively, Shareholders may elect to receive the Scrip Consideration instead of the Cash Consideration for between 40% and 100% of their Shares. Elections from Shareholders who are Foreign Scheme Shareholders (as defined in the Explanatory Booklet) will not be valid. The default option will be the Cash Consideration meaning that if a Shareholder does not make a valid election to receive the Scrip Consideration, they will receive the Cash Consideration.

Shareholders that elect the Scrip Consideration will receive the special dividend of up to \$0.25 and a Class B share in Holdco, in exchange for each share in PFL held, subject to certain conditions and limitations outlined in Section 1.4 of this report and Section 7.1 of the Explanatory Booklet.

There is no guarantee that the Scrip Consideration will eventuate as it is dependent on Shareholders in aggregate making valid elections to receive at least 5,555,555 Class B Shares in Holdco. This is to say that there must be a minimum level of elections to receive Scrip Consideration and if that minimum level is not satisfied then no Shareholder will receive the Scrip Consideration and if Shareholders, in aggregate, make valid elections to receive the Scrip Consideration in excess of 50,000,000 shares in Holdco, they will be scaled back on a pro-rata basis.

In electing to receive the Scrip Consideration, Shareholders would, in effect, exchange their direct collective majority interest in PFL (for which they will receive a control premium under the Cash Consideration) for an indirect, unlisted, minority interest in PFL.

Prima-facie, the unlisted Class B Shares would be subject to a discount to reflect inherently lower levels of marketability relative to the PFL shares currently held by Shareholders. In our view, discounts in respect of such factors would typically range between 10% and 40%. Whilst the Put Option, discussed in Section 1.4 of this report and Section 7.2 of the Explanatory Booklet, may provide Shareholders with some opportunity for liquidity in specific circumstances, we do not consider this to sufficiently mitigate the marketability factors for Shareholders electing to receive Scrip Consideration.

In addition, due to the potential payment of the special dividend, the debt being used by subsidiaries of Holdco to fund the acquisition of PFL and the transaction-related and other costs being incurred by Holdco and PFL, Shareholders who elect the Scrip Consideration will hold a significantly different economic interest in PFL compared to what they hold prior to the implementation of the Proposed Scheme.

Finally, Shareholders who elect to receive Scrip Consideration will not know the size of the collective economic interest they will hold in Holdco prior to the implementation of the Proposed Scheme. Therefore they will not know the voting rights and board representation their collective interest will command until after the Proposed Scheme becomes effective.

Another significant difference between the shares in PFL (on a control basis) and the Class B Shares relates to the issue of control. As discussed in Section 5.3 and Appendix E, Australian studies indicate the premiums required to obtain control of companies range between 20% and 40% of the portfolio holding values. A minority interest discount is the inverse of a premium for control (minority interest discount =  $1 - [1 / (1 + \text{control premium})]$ ) and generally ranges between 15% and 30%.

Assuming that a sufficient number of Shareholders elect to receive the Scrip Consideration, the number of Class B Shares in Holdco will be between 5,555,555 and 50,000,000 or approximately 4.3% to 39.3% of the issued capital of Holdco. In our view, a discount for minority interest and lack of marketability in the range of at least 20% to 30% would be appropriate to account for the difference in value between Class B Shares and the shares in Holdco on control basis.



For the purpose of assessing the payments to be received by Shareholders electing to receive Scrip Consideration, we have considered the scenarios Shareholders have elected the Scrip Consideration in respect of 40% or 100% of their PFL shares. Our assessment is summarised below.

**Table 16: Value of the Scrip Consideration**

	Shareholder electing Scrip Consideration in respect of 100% of their PFL shares		Shareholder electing Scrip Consideration in respect of 40% of their PFL shares	
	Low (\$)	High (\$)	Low (\$)	High (\$)
<b>Enterprise value of PFL including surplus assets (on a control basis)</b>	<b>278.6</b>	<b>304.9</b>	<b>278.6</b>	<b>304.9</b>
Less: amount net debt in Holdco <sup>1,2</sup>	(136.0)	(136.0)	(136.0)	(136.0)
<b>Equity value of Holdco (on a control basis)</b>	<b>142.6</b>	<b>168.9</b>	<b>142.6</b>	<b>168.9</b>
<i>Discount for minority interest and lack of marketability</i>	30%	20%	30%	20%
<b>Equity value of Holdco (on an unlisted minority interest basis)</b>	<b>99.8</b>	<b>135.1</b>	<b>99.8</b>	<b>135.1</b>
Number of shares on issue in Holdco <sup>2</sup>	127.1	127.1	127.1	127.1
Assessed value of a Class B share	0.79	1.06	0.79	1.06
<b>Pro-rata share of Scrip Consideration component</b>	0.79	1.06	0.31	0.43
<b>Pro-rata share of Cash Consideration component</b>	-	-	0.84	0.84
Add back Special Dividend <sup>3</sup>	0.25	0.25	0.25	0.25
Total payment under the Scrip Consideration	1.04	1.31	1.40	1.52
<b>Assessed value of the total payments under the Scrip Consideration<sup>4</sup></b>	<b>1.04</b>		<b>1.52</b>	

Source: Deloitte Corporate Finance analysis

Notes:

1. The equity investment from PEP and net debt assumed by Holdco include allowances for the payment of the special dividend, repayment of PFL's net debt and various transaction-related and other costs
2. Assuming that a sufficient number of Shareholders elect to receive the Scrip Consideration, the number of Class B Shares in Holdco will be between 5,555,555 and 50,000,000
3. For the purpose of assessing the payments to be received by Shareholders electing to receive Scrip Consideration, we have assumed the special dividend of \$0.25 per share will be paid by PFL
4. The upper on the of valuation range reflects the scenario where Shareholders receive 40% of the consideration in scrip

Our analysis has not had any regard to the impact of Holdco's specific intentions for the acquired operations of PFL on the value of the Scrip Consideration as we have not been provided with sufficient detail to assess their potential impact. We understand that if the Proposed Scheme is approved and completed, Holdco will then undertake a detailed review of PFL in order to develop a strategic plan for PFL. It may be the case that the results of this may lead to a value that is lower or higher than our assessment of the Scrip Consideration. This assessment could also result in Shareholders' economic interest in Holdco being diluted for a number of reasons, including the issue of shares or performance rights to management.

## Appendix 1. Independent Expert's Report *continued*



### Appendix A: Context to the Report

#### Individual circumstances

We have evaluated the Proposed Scheme for Shareholders as a whole and have not considered the effect of the Proposed Scheme on the particular circumstances of individual investors. Due to their particular circumstances, individual investors may place a different emphasis on various aspects of the Proposed Scheme from the one adopted in this report. Accordingly, individuals may reach different conclusions to ours on whether the Proposed Scheme is fair and reasonable and therefore in the best interests of Shareholders. If in doubt investors should consult an independent adviser, who should have regard to their individual circumstances.

#### Limitations, qualifications, declarations and consents

The report has been prepared at the request of the Directors of PFL and is to be included in the Explanatory Booklet to be given to Shareholders for approval of the Proposed Scheme. Accordingly, it has been prepared only for the benefit of the Directors and those persons entitled to receive the Explanatory Booklet in their assessment of the Proposed Scheme outlined in the report and should not be used for any other purpose. Neither Deloitte Corporate Finance, Deloitte Touche Tohmatsu, nor any member or employee thereof, undertakes responsibility to any person, other than the Shareholders and PFL, in respect of this report, including any errors or omissions however caused. Further, recipients of this report should be aware that it has been prepared without taking account of their individual objectives, financial situation or needs. Accordingly, each recipient should consider these factors before acting on the Proposed Scheme.

This engagement has been conducted in accordance with professional standard APES 225 Valuation Services issued by the Accounting Professional and Ethical Standards Board Limited.

The report represents solely the expression by Deloitte Corporate Finance of its opinion as to whether the Proposed Scheme is in the best interests of the Shareholders as a whole.

The opinion of Deloitte Corporate Finance is based on economic, market and other conditions prevailing at the date of this report. Such conditions can change significantly over relatively short periods of time.

Statements and opinions contained in this report are given in good faith but, in the preparation of this report, Deloitte Corporate Finance has relied upon the completeness of the information provided by PFL and its officers, employees, agents or advisors which Deloitte Corporate Finance believes, on reasonable grounds, to be reliable, complete and not misleading. Deloitte Corporate Finance does not imply, nor should it be construed, that it has carried out any form of audit or verification on the information and records supplied to us. Drafts of our report were issued to PFL management for confirmation of factual accuracy.

In recognition that Deloitte Corporate Finance may rely on information provided by PFL and its officers, employees, agents or advisors, PFL has agreed that it will not make any claim against Deloitte Corporate Finance to recover any loss or damage which PFL may suffer as a result of that reliance and that it will indemnify Deloitte Corporate Finance against any liability that arises out of either Deloitte Corporate Finance's reliance on the information provided by PFL and its officers, employees, agents or advisors or the failure by PFL and its officers, employees, agents or advisors to provide Deloitte Corporate Finance with any material information relating to the Proposed Scheme.

To the extent that this report refers to prospective financial information we have considered the prospective financial information and the basis of the underlying assumptions. The procedures involved in Deloitte Corporate Finance's consideration of this information consisted of enquiries of PFL personnel and analytical procedures applied to the financial data. These procedures and enquiries did not include verification work nor constitute an audit or a review engagement in accordance with standards issued by the Auditing and Assurance Standards Board or equivalent body and therefore the information used in undertaking our work may not be entirely reliable.

Based on these procedures and enquiries, Deloitte Corporate Finance considers that there are reasonable grounds to believe that the prospective financial information for PFL included in this report has been prepared on a reasonable basis in accordance with ASIC Regulatory Guide 111. In relation to the prospective financial information, actual results may be different from the prospective financial information of PFL referred to in this report since anticipated events frequently do not occur as expected and the variation may be material. The achievement of the prospective financial information is dependent on the outcome of the assumptions. Accordingly, we express no opinion as to whether the prospective financial information will be achieved.



Deloitte Corporate Finance holds the appropriate Australian Financial Services licence to issue this report and is owned by the Australian Partnership Deloitte Touche Tohmatsu. The employees of Deloitte Corporate Finance principally involved in the preparation of this report were Tapan Parekh, B.Bus, M.Com, CA (BV Specialist), F.Fin and Stephen Reid M App. Fin. Inv., B.Ec, F Fin, CA. Each have many years experience in the provision of corporate financial advice, including specific advice on valuations, mergers and acquisitions, as well as the preparation of expert reports.

## Consent to being named in disclosure document

Deloitte Corporate Finance Pty Limited (ACN 003 833 127) of 225 George Street, Sydney, NSW, 2000 acknowledges that:

- PFL proposes to issue an explanatory booklet in respect of the Proposed Scheme between PFL and the holders of PFL shares (the Explanatory Booklet)
- the Explanatory Booklet will be issued in hard copy and be available in electronic format
- it has previously received a copy of the draft Explanatory Booklet (draft Explanatory Booklet) for review
- it is named in the Explanatory Booklet as the ‘independent expert’ and the Explanatory Booklet includes its independent expert’s report at Schedule 1 of the Explanatory Booklet.

On the basis that the Explanatory Booklet is consistent in all material respects with the draft Explanatory Booklet received, Deloitte Corporate Finance Pty Limited consents to it being named in the Explanatory Booklet in the form and context in which it is so named, to the inclusion of its independent expert’s report at Schedule 1 of the Explanatory Booklet and to all references to its independent expert’s report in the form and context in which they are included, whether the Explanatory Booklet is issued in hard copy or electronic format or both.

Deloitte Corporate Finance Pty Limited has not authorised or caused the issue of the Explanatory Booklet and takes no responsibility for any part of the Explanatory Booklet, other than any references to its name and the independent expert’s report as included at Schedule 1 of the Explanatory Booklet.

## Sources of information

In preparing this report we have had access to the following principal sources of information:

- the draft Explanatory Booklet
- audited financial statements for PFL for the years ending 30 June 2013 to 2015 and reviewed financial statements for the half-year ended 31 December 2015
- recent annual reports for PFL
- management presentations and company strategy documents
- annual reports and company announcements for comparable companies
- company websites for PFL and comparable companies
- publicly available information on comparable companies and market transactions published by ASIC, Thompson research, Capital IQ, and Mergermarket
- IBIS company and industry reports
- other publicly available information, media releases and brokers reports on PFL, comparable companies and the food manufacturing sectors.

In addition, we have had discussions and correspondence with certain directors and executives, including Steven Chaur, Chief Executive Officer; Robin Donohue, Chief Financial Officer; Mark Smith, Chairman and Curt Leonard, Deputy Chairman; in relation to the above information and to current operations and prospects.

## Appendix 1. Independent Expert's Report *continued*



### Appendix B: Valuation methodologies

To estimate the fair market value of the shares in PFL we have considered common market practice and the valuation methodologies recommended by ASIC Regulatory Guide 111, which provides guidance in respect of the content of independent expert's reports. These are discussed below.

#### Market based methods

Market based methods estimate a company's fair market value by considering the market price of transactions in its share or the market value of comparable companies. Market based methods include:

- capitalisation of maintainable earnings
- analysis of a company's recent share trading history
- industry specific methods.

The capitalisation of maintainable earnings method estimates fair market value based on the company's future maintainable earnings and an appropriate earnings multiple. An appropriate earnings multiple is derived from market transactions involving comparable companies. The capitalisation of maintainable earnings method is appropriate where the company's earnings are relatively stable.

The most recent share trading history provides evidence of the fair market value of the shares in a company where they are publicly traded in an informed and liquid market.

Industry specific methods estimate market value using rules of thumb for a particular industry. Generally rules of thumb provide less persuasive evidence of the market value of a company than other valuation methods because they may not account for company specific factors.

#### Discounted cash flow methods

Discounted cash flow methods estimate market value by discounting a company's future cash flows to a net present value. These methods are appropriate where a projection of future cash flows can be made with a reasonable degree of confidence. Discounted cash flow methods are commonly used to value early stage companies or projects with a finite life.

#### Asset based methods

Asset based methods estimate the market value of a company's shares based on the realisable value of its identifiable net assets. Asset based methods include:

- orderly realisation of assets method
- liquidation of assets method
- net assets on a going concern basis.

The orderly realisation of assets method estimates fair market value by determining the amount that would be distributed to shareholders, after payment of all liabilities including realisation costs and taxation charges that arise, assuming the company is wound up in an orderly manner.

The liquidation method is similar to the orderly realisation of assets method except the liquidation method assumes the assets are sold in a shorter time frame. Since wind up or liquidation of the company may not be contemplated, these methods in their strictest form may not necessarily be appropriate. The net assets on a going concern basis method estimates the market values of the net assets of a company but does not take account of realisation costs.

These asset based methods ignore the possibility that the company's value could exceed the realisable value of its assets as they ignore the value of intangible assets such as customer lists, management, supply arrangements and goodwill. Asset based methods are appropriate when companies are not profitable, a significant proportion of a company's assets are liquid, or for asset holding companies.





## Appendix C: Comparable entities

An initial search identified a number of companies operating in the food manufacturing industry which we considered to be comparable to PFL's business. Our search was restricted to companies that produce broadly similar products to PFL.

Of the comparable companies identified, a number of companies were excluded as they produced products that were either extremely niche or specific to a single category of food.

The following table summarises the food manufacturers considered comparable.

**Table 17: Comparable listed companies**

Company	Country	Enterprise value <sup>1</sup> (\$million)	Debt to enterprise value ratio	Control basis		
				Historical EBITDA (times)	Current EBITDA (times)	Forward EBITDA (times)
<b>Frozen and other food manufacturers</b>						
General Mills, Inc.	United States	68,717	15%	18.2	18.3	17.1
Tyson Foods, Inc.	United States	42,969	19%	12.2	11.5	11.4
ConAgra Foods, Inc.	United States	34,115	19%	15.4	15.9	15.1
Pinnacle Foods Inc.	United States	11,535	36%	19.2	16.3	15.2
Pilgrim's Pride Corporation	United States	8,982	6%	6.9	8.5	8.7
ARYZTA AG	Switzerland	7,179	39%	8.8	9.2	8.9
B&G Foods Inc.	United States	5,827	33%	23.6	16.8	16.0
Greencore Group plc	Ireland	2,836	22%	14.2	15.2	13.6
Frosta AG	Germany	583	4%	14.6	n/a	n/a
Finsbury Food Group plc	United Kingdom	302	14%	10.2	8.7	8.5
Bridgford Foods Corp.	United States	152	-	13.0	n/a	n/a
<b>Average</b>			<b>19%</b>	<b>14.2</b>	<b>13.4</b>	<b>12.7</b>
<b>Fresh bakery product manufacturers</b>						
Flowers Foods, Inc.	United States	6,447	21%	13.3	12.6	12.0
Greggs plc	United Kingdom	1,616	-	9.3	10.2	9.5
QAF Limited	Singapore	629	-	7.8	n/a	n/a
Finsbury Food Group plc	United Kingdom	302	14%	10.2	8.7	8.5
<b>Average</b>			<b>18%</b>	<b>10.1</b>	<b>10.5</b>	<b>10.0</b>
<b>Other Australian food manufacturers</b>						
Freedom Foods Group Limited	Australia	795	-	90.4	47.3	32.5
FFI Holdings Limited	Australia	39	10%	13.4	n/a	n/a
<b>Average</b>			<b>10%</b>	<b>51.9</b>	<b>47.3</b>	<b>32.5</b>

Source: Capital IQ, Deloitte Corporate Finance analysis

Notes:

1. Based on the market capitalisation as at 13 July 2016
2. EBITDA multiples have been adjusted to include a 30% control premium.

## Appendix 1. Independent Expert's Report *continued*



### Appendix D: Comparable transactions

The following table provides a summary of domestic and international merger and acquisition transactions that have occurred in the food manufacturing industry. Further information on each of the transactions presented in the table below has been provided within the following section.

Table 18: Comparable transactions

Announcement date	Target	Acquirer	% acquired	Currency	Implied enterprise value <sup>1</sup> (million)	EBITDA historical <sup>2</sup> (million)	EBITDA multiple
<b>Australian / New Zealand transactions</b>							
<b>Various specialty food manufacturers</b>							
18-Jul-14	Griffins Foods Limited	URC International Co. Limited	100%	NZD	700	78	9.0x
27-May-14	Australasian Food Group Pty Limited	R&R Ice Cream Plc	100%	EUR	310	35	8.9x
02-Jul-13	Rafferty's Garden Pty Limited	PZ Cussons Plc	100%	GBP	42	4	12.1x
18-Aug-11	Manassen Foods Australia Pty Limited	Bright Food Group Co., Limited	75%	AUD	530	50	10.5x
<b>Other Australian food processors and manufacturers</b>							
20-Nov-14	P&M Quality Smallgoods Pty Limited	JBS Australia Pty Limited	100%	AUD	1,450	180 <sup>3</sup>	8.1x
02-Jul-14	Goodman Fielder Limited	First Pacific Company Limited; Wilmar International Limited	100%	AUD	1,827	224	8.2x
08-Mar-13	Inghams Enterprises Pty Limited	TPG Capital, LP	100%	AUD	880	190	4.6x
<b>International transactions</b>							
<b>Frozen food manufacturers</b>							
13-Aug-15	Findus Sverige AB	Nomad Foods Limited	100%	GBP	500	51	9.7x
20-Apr-15	Iglo Foods Holdings Limited	Permira Advisers Limited	100%	EUR	2,600	306	8.5x
<b>Fresh and frozen bakery product manufacturers</b>							
10-Oct-14	Fletchers Group of Bakeries Limited	Finsbury Food Group Plc	100%	GBP	56	6	9.3x
11-Feb-14	Canada Bread Company Limited	Grupo Bimbo, S.A.B. de C.V.	100%	CAD	1,512	176	8.6x
31-May-12	Lepage Bakeries, Inc.	Flowers Foods, Inc.	100%	USD	346	30	11.4x



Announcement date	Target	Acquirer	% acquired	Currency	Implied enterprise value <sup>1</sup> (million)	EBITDA historical <sup>2</sup> (million)	EBITDA multiple
29-Jun-12	St Hubert SAS	Montagu Private Equity S.A.S.	100%	EUR	430	48	8.9x

**Various other broadly comparable specialty food manufacturers**

Source: Capital IQ, Mergermarket, company announcements, Deloitte Corporate Finance analysis

Notes:

1. Implied enterprise values have been calculated as the sum of the reported transaction value (calculated in certain cases based on the offer price for a share) and net debt at each company's most recent reporting date (where relevant)
2. EBITDA reflects historical EBITDA as reported in the last financial year, or last 12 months where available (with the exception of P&M Quality Smallgoods, as noted below)
3. EBITDA shown for P&M Quality Smallgoods is a forecast for FY2015 disclosed by JBS Australia in the company's takeover announcement. No information on historical EBITDA was publically disclosed
4. Best Brands' EBITDA was not publicly disclosed, merely the implied EBITDA multiple.

## Appendix 1. Independent Expert's Report *continued*



### Australia / New Zealand transactions

#### Various speciality food manufacturers

##### Griffins Foods Limited

Griffins Foods is a leading producer of biscuits and snack foods in New Zealand and Australia and has been operating since 1864. Its biscuits range includes Gingernuts, Cookie Bears and MallowPuffs. The export of Griffins Foods products has grown significantly in recent years due to the growth in demand for Western style foods in Asia.

URC International completed the acquisition of Griffins Foods in November 2014. URC International's parent company, Universal Robina, is a leading food and beverage company based in the Philippines. The transaction offers Universal Robina the opportunity to distribute Griffins Foods' products in South-East Asia and East Asia where Universal Robina already has a strong presence. Universal Robina also intends to continue Griffins Foods operations in New Zealand, where manufacturing quality and safety is held in high regard by the Asian markets.

##### Australasian Food Group Pty Limited

Australasian Food Group, operating as Peters Ice Cream Australia, produces and sells ice creams in Australia. It markets its products through supermarkets, petrol stations, and convenience stores and supplies directly to corporate and personal events.

R&R Ice Cream completed the acquisition of Australasian Food Group in June 2014. R&R Ice Cream is a UK-based ice cream and frozen confectionery producer.

##### Rafferty's Garden Pty Limited

Rafferty's Garden produces baby food in Australia. The company offers various types of meals for babies, including meals that are lactose free, gluten free, halal, kosher, and vegetarian. The company offers its products for four month old babies to 12 month plus toddlers. It sells its products through stores, supermarkets and an online store.

PZ Cussons completed the acquisition of Rafferty's Garden in July 2013. PZ Cussons manufactures and distributes personal care, beauty, home care, food and nutrition, and electrical products worldwide.

##### Manassen Foods Australia Pty Limited

Manassen Foods Australia engages in importing and sourcing groceries for brand owners worldwide. Its portfolio comprises food categories in retail and foodservice trade, including dry groceries, confectionery, biscuits and cakes, perishables, and frozen foods. It serves retail, wholesale, and food service customers through sales representatives in Australia.

Bright Food completed the acquisition of a 75% interest in Manassen Foods in 2011. Bright Foods is a diversified Chinese State Owned Enterprise focused on agriculture, food manufacturing and real estate.

The acquisition was expected to provide Bright Food an opportunity to introduce its portfolio of products and brands into the Australian market via Food Holdings' distribution network in Australia. Both companies expect to achieve synergies by expanding Manassen Foods' domestic and export business.

#### Other Australian food processors and manufacturers

##### P&M Quality Smallgoods Pty Limited

P&M Quality Smallgoods, operating as Primo Smallgoods, produces and markets hams, bacons, salamis, and small goods. The company offers products in various categories, including deli meats, continental sausages, meals and poultry. It supplies its products to retail outlets, wholesalers and other participants in the food service industry in Australia and internationally. Primo Smallgoods has production facilities and distribution centres in Australia and New Zealand.

JBS Australia completed the acquisition of P&M Quality Smallgoods in March 2015. JBS Australia processes, manufactures, packs and markets beef and by-products in Australia and internationally.



### Goodman Fielder Limited

Goodman Fielder is engaged in the production, marketing and distribution of bread, grocery, dairy and poultry products. The company offers its products to supermarkets, retail outlets and food service customers in Australia, New Zealand and the Asia Pacific region.

Wilmar International and First Pacific company the acquisition of 89.9% of Goodman Fielder in March 2015. Wilmar International operates as an agribusiness company in China and internationally. First Pacific Company, through its subsidiaries, holds interests in companies operating in a range of sectors including telecommunications, consumer food products, infrastructure, and natural resources within Asia and internationally.

### Inghams Enterprises Pty Limited

Inghams Enterprises produces chicken and turkey products for retail and food service customers in Australia and New Zealand. Its chicken products include plain chicken, crumbed chicken snacks, marinated chicken, crumbed chicken, crumbed chicken meals and chicken smallgoods. The company's turkey products comprise plain turkey, marinated turkey, frozen turkey and turkey smallgoods. It also offers pet food and stockfeed. Inghams Enterprises Pty Limited was founded in 1918 and is based in Liverpool, Australia.

TPG Capital, a US based private equity (PE) firm, completed the acquisition of Inghams Enterprises in March 2013.

## International transactions

### Frozen food manufacturers

#### Findus Sverige AB

Findus Sverige AB is Swedish frozen food business that operates in Europe and internationally. It offers frozen fish and seafood, frozen vegetables, value-added vegetable products and ready-to-eat-meals. It also grows and sells peas.

Nomad Foods completed the acquisition of Findus Sverige AB in November 2015. Nomad Foods manufactures and distributes frozen foods within Europe, offering frozen food products and ready-made meals through its distribution channels, including supermarkets and large food retail chains.

#### Iglo Foods Holding Limited

Iglo Foods, now known as Nomad Foods Europe Holdings, produces, markets, and distributes frozen food products in Europe. It markets its products under the brands Birds Eye, Findus and Iglo.

Permira Advisers, a UK based PE firm, completed the acquisition of Iglo Foods in June 2015.

### Fresh and frozen bakery product manufacturers

#### Fletchers Group of Bakeries Limited

Fletchers Group of Bakeries produces and supplies fresh and frozen bakery products. It provides muffins, bread and pastries. The company serves customers in various sectors, including pubs and restaurants, travel, education, hotels, coffee shops and retail outlets.

Finsbury Food Group completed the acquisition of Fletchers Group of Bakeries in October 2014. Finsbury Food Group manufactures and sells a range of cakes, bread and bakery snack products in the United Kingdom and internationally.

#### Canada Bread Company Limited

Canada Bread manufactures bread, rolls, bagels and frozen or par-baked breads, as well as a diverse range of specialty bakery items, which it distributes throughout Canada, the US and the UK.

Grupo Bimbo completed the acquisition of Canada Bread in May 2014. Grupo Bimbo is a Mexican based company that manufactures and distributes bread, cakes, pastries and confectioneries internationally.

The transaction is aimed at giving Grupo Bimbo a dominant position in the Canadian bakery market and foothold in the UK market. The acquisition was one of a series of multi-billion dollar acquisitions completed by Grupo Bimbo aimed at expanding its international presence.

## Appendix 1. Independent Expert's Report *continued*



### Lepage Bakeries Inc.

Lepage Bakeries is a US based manufacturer of breads, rolls, English muffins, and donuts to retail and wholesale customers. It has three US bakeries and two key bread brands.

Flowers Food completed the acquisition of Lepage Bakeries in 2012. Flowers Food manufactures fresh bakery foods, including fresh bread, buns, rolls, tortillas and snack cakes. Flower Foods operates 47 bakeries and distributes fresh products to retail and foodservice customers through a network of independent distributors, and frozen products to national retail and foodservice customers.

The acquisition strengthened Flowers Food's existing bread portfolio and expanded its presence in the Northeast of the US. The acquisition also provided Flowers Foods with additional bakeries with available production capacity, access to markets in the Northeast of the US, new products and brands, and more than 550 employees.

### Various other broadly comparable speciality food manufacturers

#### St Hubert SAS

St Hubert SAS produces and markets spreads in France through supermarket chains. The company also offers spreads and ready-made quiches, tarts, and dough products in Italy.

Montagu Private Equity, a France base PE firm, completed the acquisition of St Hubert SAS in August 2012.



## Appendix E: Control premium studies

### Deloitte Corporate Finance study

Deloitte Corporate Finance conducted a study of premiums paid in Australian transactions completed between 1 January 2000 and 31 May 2016. This study was conducted by Deloitte Corporate Finance staff for internal research purposes. Our merger and acquisition data was sourced from Mergermarket, Reuters and Capital IQ and yielded 576 transactions that were completed during the period under review<sup>5</sup>.

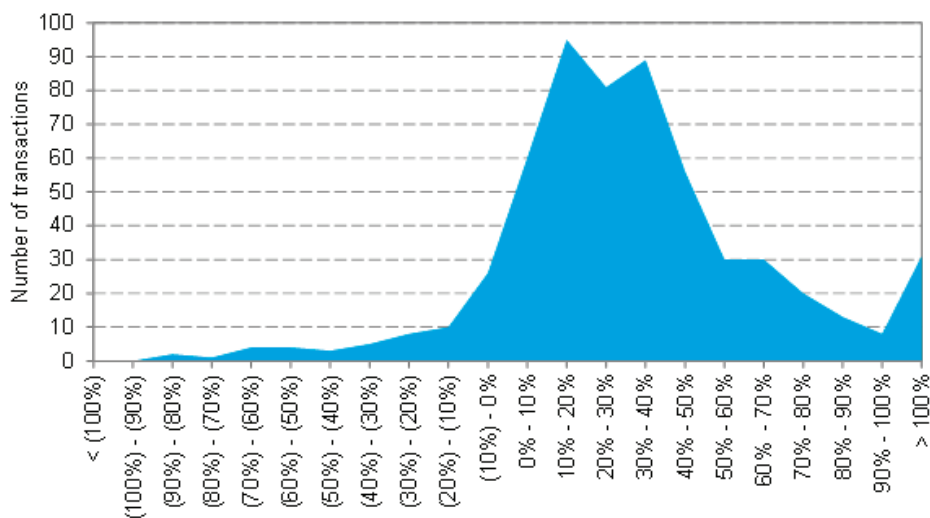
Our data set consisted of transactions where an acquiring company increased its shareholding in a target company from a minority interest to a majority stake or acquired a majority stake in the target company.

We assessed the premiums by comparing the offer price to the closing trading price of the target company one month prior to the date of the announcement of the offer. Where the consideration included shares in the acquiring company, we used the closing share price of the acquiring company on the day prior to the date of the offer.

### Summary of findings

As the following figure shows, premiums paid in Australian transactions between 1 January 2000 and 31 May 2016 are widely distributed with a long ‘tail’ of transactions with high premiums.

Figure 14: Distribution of control premiums in Australia



Source: Deloitte Corporate Finance analysis

<sup>5</sup> Excluding transactions where inadequate data was available.

## Appendix 1. Independent Expert's Report *continued*



The following table details our findings.

**Table 19: Control premium analysis – summary findings**

	Control premium
Average	34%
Median	29%
Upper quartile	47%
Lower quartile	12%

*Source: Deloitte Corporate Finance analysis*

Notwithstanding the relatively wide dispersion of control premiums observed in our study we consider the control premium range of 20% to 40% to be representative of general market practice for the following reasons.

Many of the observed control premiums below 20% are likely to have been instances where the market has either been provided with information or anticipated a takeover offer in advance of the offer being announced. Accordingly, the pre-bid share trading price may already reflect some price appreciation in advance of a bid being received, which creates a downward bias on some of the observed control premiums in our study.

Many of the observed control premiums above 40% are likely to have been influenced by the following factors which create an upward bias on some of the observed control premiums in our study:

- some acquirers are prepared to pay above fair market value to realise 'special purchaser' value which is only available to a very few buyers. Such 'special purchaser' value would include the ability to access very high levels of synergistic benefits in the form of cost and revenue synergies or the ability to gain a significant strategic benefit
- abnormally high control premiums are often paid in contested takeovers where there are multiple bidders for a target company. In such cases, bidders may be prepared to pay away a greater proportion of their synergy benefits from a transaction than in a non-contested situation
- some of the observations of very high premiums are for relatively small listed companies where there is typically less trading liquidity in their shares and they are not closely followed by major broking analysts. In such situations, the traded price is more likely to trade at a deeper discount to fair market value on a control basis.

Accordingly, the observed control premiums to share trading prices for such stocks will tend to be higher.

### Other studies

In addition to the study above, we have also had regard to the following:

- a study conducted by S. Rossi and P. Volpin of London Business School dated September 2003, 'Cross Country Determinants of Mergers and Acquisitions', on acquisitions of a control block of shares for listed companies in Australia announced and completed from 1990 to 2002. This study included 212 transactions over this period and indicated a mean control premium of 29.5% using the bid price of the target four weeks prior to the announcement
- 'Valuation of Businesses, Shares and Equity' (4th edition, 2003) by W. Lonergan states at pages 55-56 that: "Experience indicates that the minimum premium that has to be paid to mount a successful takeover bid was generally in the order of at least 25 to 40 per cent above the market price prior to the announcement of an offer in the 1980s and early 1990s. Since then takeover premiums appear to have fallen slightly."
- a study conducted by P. Brown and R. da Silva dated 1997, 'Takeovers: Who wins?', JASSA: The Journal of the Securities Institute of Australia, v4 (Summer):2-5. The study found that the average control premium paid in Australian takeovers was 29.7% between the period January 1974 and June 1985. For the ten year period to November 1995, the study found the average control premium declined to 19.7%.



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## Appendix 2. Scheme



# Scheme of Arrangement

Patties Foods Limited ABN 62 007 157 182

Scheme Shareholders

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**MinterEllison**

# Scheme of Arrangement

**Patties Foods Limited ABN 62 007 157 182**

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## Appendix 2. Scheme *continued*

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### Details

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

Between the parties

**Patties Foods Limited** ABN 62 007 157 182 of 161-169 Princes Highway, Bairnsdale, Victoria 3875  
(**Patties**)

and

**Each Scheme Shareholder**

## Agreed terms

### 1. Defined terms & 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 or permits, the financial market known as the Australian Securities Exchange operated by it.

**Bidder** means Australasian Foods Bidco Pty Limited ACN 612 643 795.

**Bidder Group** means Bidder and each of its Subsidiaries (excluding, at any time, Patties and its Subsidiaries to the extent that Patties and its Subsidiaries are subsidiaries of Bidder at that time). A reference to a **member of the Bidder Group** or a **Bidder Group Member** is a reference to Bidder or any such Subsidiary.

**Business Day** means a day that is not a Saturday, Sunday or a public holiday or bank holiday in Victoria, Australia.

**CHESS** means the clearing house electronic subregister system of share transfers operated by ASX Settlement Pty Limited ABN 49 008 504 532.

**Class B Share** means a fully paid Class B Share in the capital of TopCo issued on the terms of issue set out in the Shareholders Deed.

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

**Court** means the Supreme Court of Victoria or such other court of competent jurisdiction under the Corporations Act agreed in writing between Patties and Bidder.

**Deed Poll** means the deed poll dated 14 July 2016 executed by Patties, Bidder and TopCo under which Bidder and TopCo covenant in favour of the Scheme Shareholders to perform the actions attributed to them respectively under this Scheme.

**Delivery Time** means, in relation to the Second Court Date, two hours before the commencement of the hearing or, if the commencement of the hearing is adjourned, the commencement of the adjourned hearing, of the Court to approve this Scheme in accordance with section 411(4)(b) of the Corporations Act.

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

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

**Election** means an election by a Patties Shareholder to receive either:

- (a) 40% or greater but less than 100% of the total value of any Scheme Consideration they are to receive in the form of Class B Shares (such Election, **Partial Election**); or
- (b) 100% of the total value of any Scheme Consideration they are to receive in the form of Class B Shares (such Election, **Full Election**).

**Election Date** means 5.00pm on the date that is three clear Business Days before the date of the Scheme Meeting.

**Election Form** means a form issued by Patties for the purposes of a Patties Shareholder making an Election.

**End Date** means:

## Appendix 2. Scheme *continued*

- (a) 31 October 2016; or
- (b) such other date and time agreed in writing between Bidder and Patties.

**Excluded Shareholder** means any person who:

- (a) is registered in the register maintained by Patties under section 168(1) of the Corporations Act as a holder of one or more Shares; and
- (b) is a member of the Bidder Group.

**Foreign Scheme Shareholder** means a Scheme Shareholder whose address in the Share Register as at the Record Date is a place outside Australia or its external territories.

**Implementation Date** means the fifth Business Day after the Record Date or such other date after the Record Date agreed to in writing between Patties and Bidder.

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

**Market Integrity Rules** means any rules made by ASIC under section 798G of the Corporations Act that apply to ASX or any other prescribed financial market on which Shares are quoted.

**Patties Registry** means Computershare Investor Services Pty Ltd ACN 078 279 277 or any replacement provider of share registry services to Patties.

**Patties Shareholder** means a person who is registered in the register maintained by Patties under section 168(1) of the Corporations Act as a holder of one or more Shares but excludes an Excluded Shareholder.

**Performance Right** means a right granted under the Patties Foods Limited Long Term Incentive Plan to acquire by way of issue or transfer one or more Shares subject to the terms of such plan.

**Record Date** means 7.00pm on the fifth Business Day after the Effective Date or such other time and date agreed to in writing between Patties and Bidder.

**Registered Address** means, in relation to a Patties Shareholder, the address shown in the Share Register as at the Record Date.

**Regulatory Authority** means:

- (a) any government or governmental, semi-governmental, administrative, monetary, fiscal or judicial body, tribunal, agency or entity;
- (b) a minister, department, office, commission, delegate, instrumentality, agency, board, authority or organisation of any government; or
- (c) any regulatory organisation established under statute,

in Australia whether federal, state, territorial or local.

**Scheme** means this scheme of arrangement under Part 5.1 of the Corporations Act between Patties and the Scheme Shareholders, subject to any alterations or conditions agreed or any alterations or conditions made or required by the Court under section 411(6) of the Corporations Act but does not include the Shareholders Deed.

**Scheme Consideration** in respect of a Scheme Shareholder means:

- (a) if:
  - (i) the Scheme Shareholder is not a Foreign Scheme Shareholder and has made a valid Election on or before the Election Date; and
  - (ii) the total number of Class B Shares in respect of which Scheme Shareholders in aggregate have made valid Elections on or before the Election Date equals or exceeds 5,555,555 but does not exceed 50,000,000 (**Share Cap**),

then:

- (iii) if the Scheme Shareholder has made a Partial Election, one Class B Share for each Scheme Share held by the Scheme Shareholder in accordance with the Scheme Shareholder's Election and \$1.65, less the amount per Share of any Special Dividend for every Scheme Share held by the Scheme Shareholder not covered by the Scheme Shareholder's Election; or
  - (iv) if the Scheme Shareholder has made a Full Election, one Class B Share for each Scheme Share held by the Scheme Shareholder;
- (b) if:
- (i) the Scheme Shareholder is not a Foreign Scheme Shareholder and has made a valid Election on or before the Election Date; and
  - (ii) the total number of Class B Shares in respect of which Scheme Shareholders in aggregate have made valid Elections exceeds the Share Cap,
- then:
- (iii) one Class B Share for the number of Scheme Shares calculated as:  

$$(B/A) \times C,$$
 where:  
 A = the number of Class B Shares in respect of which Scheme Shareholders in aggregate have made valid Elections on or before the Election Date;  
 B = the Share Cap; and  
 C = if the Scheme Shareholder:
    - (a) has made a Partial Election, the number of Scheme Shares in respect of which the Scheme Shareholder has made an Election; or
    - (b) has made a Full Election, the number of Scheme Shares held by the Scheme Shareholder; and
  - (iv) \$1.65, less the amount per Share of any Special Dividend, for each of the Scheme Shares held by the Scheme Shareholder less the number of Scheme Shares held by the Scheme Shareholder in respect of which Class B Shares are to be issued as calculated in accordance with paragraph (iii); or
- (c) if:
- (i) the Scheme Shareholder is a Foreign Scheme Shareholder or has not made a valid Election on or before the Election Date; or
  - (ii) either:
    - (A) the total number of Class B Shares in respect of which Scheme Shareholders in aggregate have made valid Elections on or before the Election Date is less than 5,555,555; or
    - (B) Scheme Shareholders in aggregate have not made valid Elections on or before the Election Date for any Class B Shares,
- \$1.65 less the amount per Share of any Special Dividend for every Scheme Share held by the Scheme Shareholder.

**Scheme Implementation Deed** means the scheme implementation deed dated [] May 2016 between Patties and Bidder.

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

**Scheme Share** means a Share on issue as at the Record Date other than any Share then held by an Excluded Shareholder.

**Scheme Shareholder** means a person who holds one or more Scheme Shares.

## Appendix 2. Scheme *continued*

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

**Settlement Rules** means the ASX Settlement Operating Rules.

**Share** means an issued fully paid ordinary share in the capital of Patties.

**Shareholders Deed** means the Shareholders Deed in relation to TopCo in the form set out in Schedule 1 to this Scheme.

**Share Register** means the register of members of Patties maintained in accordance with the Corporations Act.

**Special Dividend** means a dividend referred to in clause 7.4 of the Scheme Implementation Deed.

**Subsidiary** has the meaning given to that term in section 46 of the Corporations Act.

**TopCo** means Australasian Foods Holdco Pty Limited (ACN 612 640 329) of level 31, 126–130, Phillip Street, Sydney NSW 2000.

**Trust Account** means an Australian dollar denominated trust account operated by Patties as trustee for the benefit of Scheme Shareholders.

### 1.2 Interpretation

Headings are for convenience only and do not affect interpretation. The following rules apply unless the context requires otherwise.

- (a) The singular includes the plural, and the converse also applies.
- (b) A gender includes all genders.
- (c) If a word or phrase is defined, its other grammatical forms have a corresponding meaning.
- (d) A reference to a person, corporation, trust, partnership, unincorporated body or other entity includes any of them.
- (e) A reference to a clause or schedule is a reference to a clause of or schedule to this Scheme.
- (f) A reference to an **agreement or document** (including a reference to this Scheme) is to the agreement or document as amended, supplemented, novated or replaced, except to the extent prohibited by this Scheme or that other agreement or document, and includes, except to the extent this Scheme expressly provides otherwise the recitals, schedules and annexures to that agreement or document.
- (g) A reference to a party to this Scheme or an agreement or document includes the party's successors, permitted substitutes and permitted assigns (and, where applicable, the party's legal personal representatives).
- (h) A reference to legislation or to a provision of legislation includes a modification or re-enactment of it, a legislative provision substituted for it and a regulation or statutory instrument issued under it.
- (i) A reference to conduct includes an omission, statement or undertaking, whether or not in writing.
- (j) A reference to an agreement includes any undertaking, deed, agreement and legally enforceable arrangement, whether or not in writing, and a reference to a document includes an agreement (as so defined) in writing and any certificate, notice, instrument and document of any kind.



- (k) A reference to **dollars** and **\$** is to Australian currency.
- (l) All references to time are to Melbourne, Australia time.
- (m) Mentioning anything after *includes, including, for example*, or similar expressions, does not limit what else might be included.
- (n) A word or expression defined in the Corporations Act has the meaning given to it in the Corporations Act.

### **1.3 Business Day**

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

### **1.4 Listing requirements included as law**

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

## **2. Preliminary**

### **2.1 Patties**

- (a) Patties is a public company limited by shares, registered in Victoria and admitted to the official list of ASX.
- (b) The Shares are officially quoted on ASX. As at the date of the Scheme Implementation Deed:
  - (i) 139,312,537 Shares were on issue which are officially quoted on ASX; and
  - (ii) 1,191,338 Performance Rights were on issue which are not quoted on any financial market.

### **2.2 Bidder**

Bidder is a proprietary company limited by shares registered in Victoria, Australia.

### **2.3 General**

- (a) Patties and Bidder have agreed by executing the Scheme Implementation Deed to implement this Scheme.
- (b) This Scheme attributes actions to Bidder but does not itself impose an obligation on it to perform those actions, as Bidder is not a party to this Scheme. Bidder and TopCo have agreed, by executing the Deed Poll, to perform the actions attributed to them respectively under this Scheme, including the provision of the Scheme Consideration to the Scheme Shareholders.

### **2.4 Consequence of this Scheme becoming Effective**

If this Scheme becomes Effective:

- (a) Bidder and TopCo will provide or procure the provision of the Scheme Consideration to Scheme Shareholders in accordance with this Scheme; and
- (b) all the Scheme Shares, together with all rights and entitlements attaching to the Scheme Shares, will be transferred to Bidder, and Patties will enter Bidder in the Share Register as the holder of the Scheme Shares with the result that Patties will become a wholly-owned subsidiary of Bidder.

## Appendix 2. Scheme *continued*

### 3. Conditions

- (a) This Scheme is conditional on, and will have no force or effect until, the satisfaction of each of the following conditions precedent:
- (i) all the conditions precedent in clause 3.1 of the Scheme Implementation Deed (other than the condition in clause 3.1(i) of the Scheme Implementation Deed (Court approval)) having been satisfied or waived in accordance with the terms of the Scheme Implementation Deed by no later than the Delivery Time on the Second Court Date;
  - (ii) neither the Scheme Implementation Deed nor the Deed Poll having been terminated in accordance with their terms by no later than the Delivery Time on the Second Court Date;
  - (iii) approval of this Scheme by the Court under section 411(4)(b) of the Corporations Act, including with any alterations made or required by the Court under section 411(6) of the Corporations Act as are agreed to in writing by Patties and Bidder;
  - (iv) such other conditions imposed by the Court under section 411(6) of the Corporations Act, as are acceptable to the parties, having been satisfied; and
  - (v) the orders of the Court made under section 411(4)(b) (and if applicable section 411(6)) of the Corporations Act approving the Scheme coming into effect, pursuant to section 411(10) of the Corporations Act, on or before the End Date (or any later date Patties and Bidder agree in writing).
- (b) The satisfaction of the conditions referred to in clause 3(a) of this document is a condition precedent to the operation of clauses 4 and 5.

### 4. Implementation

#### 4.1 Lodgement of Court orders

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

#### 4.2 Transfer of Scheme Shares

On the Implementation Date:

- (a) subject to:
- (i) the payment by Patties of the cash component of the Scheme Consideration in the manner contemplated by clause 5.4(c); and
  - (ii) Bidder confirming in writing to Patties by no later than 12 noon (or such later time as Bidder and Patties may agree) on the Implementation Date that the Class B Shares component of the Scheme Consideration (if any) has been provided in the manner contemplated by clause 5.4(b) (**Bidder Confirmation Certificate**),  
the Scheme Shares, together with all rights and entitlements attaching to the Scheme Shares at the Implementation Date, will be transferred to Bidder, without the need for any further act by any Scheme Shareholder (other than acts performed by Patties or its officers as agent and attorney of the Scheme Shareholders under clause 8.6 or otherwise), by:
    - (iii) Patties delivering to Bidder a duly completed and executed share transfer form to transfer all the Scheme Shares to Bidder, executed on behalf of the Scheme Shareholders by Patties; and

- (iv) Bidder duly executing such transfer form and delivering it to Patties for registration; and
- (b) immediately after receipt of the transfer form in accordance with clause 4.2(a)(iv), Patties must enter, or procure the entry of, the name of Bidder in the Share Register in respect of the Scheme Shares transferred to Bidder in accordance with this Scheme.

## 5. Scheme Consideration

### 5.1 Amount of Scheme Consideration

Each Scheme Shareholder is entitled to receive the Scheme Consideration.

### 5.2 Election procedure

- (a) Each Patties Shareholder other than a Foreign Scheme Shareholder will be entitled to make an Election. All Elections will take effect in accordance with this Scheme to the extent that any Patties Shareholder who makes an Election qualifies as a Scheme Shareholder.
- (b) A Patties Shareholder which makes an Election may vary, withdraw or revoke that Election by lodging a replacement Election Form so that it is received on or before the Election Date.
- (c) An Election must be made in accordance with the terms and conditions of the Election Form and this clause 5.2, and an Election not so made will not be a valid election for the purpose of this Scheme and will not be recognised by Bidder or Patties for any purpose (provided that Bidder may, with the agreement of Patties, waive this requirement and may, with the agreement of Patties, settle as it thinks fit any difficulty, matter of interpretation or dispute which may arise in connection with determining the validity of any Election, and any such decision will be conclusive and binding on Bidder, Patties and the relevant Scheme Shareholder).
- (d) Clause 5.3 will apply to any Patties Shareholder who purports to make an Election but who qualifies as a Foreign Scheme Shareholder.
- (e) Subject to clause 5.2(f), if a Patties Shareholder makes an Election, that Election will be deemed to apply in respect of the Patties Shareholder's registered holding of Patties Shares at the Record Date, regardless of whether the Patties Shareholder's holding of Patties Shares at the Record Date is greater or less than the Patties Shareholder's holding at the time it made its Election.
- (f) A Patties Shareholder who is noted on the Share Register as holding one or more parcels of Patties Shares as trustee or nominee for, or otherwise on account of, another person, may make separate Elections under this clause 5.2 in relation to each of those parcels of Shares (subject to it providing to Bidder and Patties any substantiating information they reasonably require), and if it does so it will be treated as a separate Patties Shareholder in respect of each such parcel in respect of which a separate Election is made (and in respect of any balance of its holding), provided that if, at the Record Date, it holds fewer Shares than it held at the time it made the Election, then, unless it has at the time of any sale of Patties Shares notified Patties whether the Shares sold relate to any such separate Election (and if so which separate Election the Shares sold relate to), it will be treated as not having made a valid Election in respect of any of its Patties Shares (or will be treated in any other manner that Bidder and Patties agree is fair to the Patties Shareholder in all the circumstances acting reasonably).

### 5.3 Foreign Scheme Shareholders

TopCo will be under no obligation to issue, and must not issue, any Class B Shares under the Scheme to Foreign Scheme Shareholders.

### 5.4 Provision of Scheme Consideration

- (a) Bidder must, by no later than the Business Day before the Implementation Date, deposit in cleared funds into the Trust Account an amount equal to the aggregate amount of the cash component of the Scheme Consideration payable to Scheme Shareholders, such amount to be held by Patties on trust for the Scheme Shareholders and for the purpose of

## Appendix 2. Scheme *continued*

sending the aggregate cash component of the Scheme Consideration to the Scheme Shareholders (except that any interest on the amount will be for the account of Bidder).

- (b) Bidder, and TopCo must before 12 noon (or such later time as Bidder and Patties may agree) on the Implementation Date procure that the name of each Scheme Shareholder (if any) entitled to receive Class B Shares under this Scheme is entered in TopCo's register of members as the holder of those Class B Shares (having the same holding name and address and other details as the holding of the relevant Scheme Shares).
- (c) On the Implementation Date and subject to funds having been deposited in accordance with clause 5.4(a), Patties must pay or procure the payment of the cash component of the Scheme Consideration to each Scheme Shareholder from the Trust Account by doing any of the following at its election:
  - (i) sending (or procuring the Patties Registry to send) it to the Scheme Shareholder's Registered Address by cheque in Australian currency drawn out of the Trust Account; or
  - (ii) depositing (or procuring the Patties Registry to deposit) it into an account with any Australian ADI (as defined in the Corporations Act) notified to Patties (or the Patties Registry) by an appropriate authority from the Scheme Shareholder.
- (d) On or before the date that is five Business Days after the Implementation Date, Bidder must send or procure the sending of a certificate to each Scheme Shareholder entitled to receive Class B Shares under this Scheme, reflecting the issue of such Class B Shares.
- (e) To the extent that, following satisfaction of Patties' obligations under clause 5.2(c), there is a surplus in the amount held in the Trust Account, that surplus may be paid by Patties to Bidder.

### 5.5 Joint holders

In the case of Scheme Shares held in joint names:

- (a) any Class B Shares comprised in the Scheme Consideration are to be registered in the names of the joint holders.
- (b) any cheque required to be sent under this Scheme will be made payable to the joint holders and sent at the sole discretion of Patties, either to the holder whose name appears first in the Share Register as at the Record Date or to the joint holders; and
- (c) any other document required to be sent under this Scheme, will be forwarded, at the sole discretion of Patties, either to the holder whose name appears first in the Share Register as at the Record Date or to the joint holders.

### 5.6 Fractional entitlements

Where the calculation of the Scheme Consideration to be provided to a Scheme Shareholder would result in the Scheme Shareholder becoming entitled to a fraction of a cent or a fraction of a Class B Share, that fractional entitlement will be rounded down to the nearest whole cent or Class B Share as the case may be.

### 5.7 Unclaimed monies

- (a) Patties may cancel a cheque sent under this clause 5 if the cheque:
  - (i) is returned to Patties; or
  - (ii) has not been presented for payment within six months after the date on which the cheque was sent.
- (b) During the period of 11 months commencing on the Implementation Date, on request in writing from a Scheme Shareholder to Patties (or the Share Registry) (which request may

not be made until the date which is 20 Business Days after the Implementation Date), Patties must reissue a cheque that was previously cancelled under clause 5.7(a).

- (c) The *Unclaimed Moneys Act 2008* (Vic) will apply in relation to any Scheme Consideration which becomes “unclaimed money” (as defined in section 3 of the *Unclaimed Moneys Act 2008* (Vic)).
- (d) Any interest or other benefit accruing from unclaimed Scheme Consideration will be to the benefit of Bidder.

### 5.8 Status of Class B Shares

Subject to this Scheme becoming Effective, TopCo and Bidder must:

- (a) issue (or procure the issue of) the Class B Shares required to be issued under this Scheme on terms such that each such Class B Share will rank equally in all respects with each other Class B Share; and
- (b) ensure that each Class B Share required to be issued under this Scheme is duly issued and is fully paid and free from any mortgage, charge, lien, encumbrance or other security interest (except for any lien arising under the constitution of TopCo).

### 5.9 Order of a court or Regulatory Authority

If:

- (a) written notice is given to Patties (or the Share Registry) of an order or direction made by a court of competent jurisdiction or by another Regulatory Authority that requires payment to a third party of a sum in respect of Scheme Shares held by a particular Scheme Shareholder, which would otherwise be payable to that Scheme Shareholder by Patties in accordance with this clause 5, then Patties may procure that payment is made in accordance with that order or direction; or
- (b) written notice is given to Patties (or the Share Registry) of an order or direction made by a court of competent jurisdiction or by another Regulatory Authority that prevents Patties from making a payment to any particular Scheme Shareholder in accordance with clause 5.4(c), or such payment is otherwise prohibited by applicable law, Patties may retain an amount equal to the number of Scheme Shares held by that Scheme Shareholder multiplied by the Scheme Consideration until such time as payment in accordance with this clause 5 is permitted by that order or direction or otherwise by law,

and the payment or retention by Patties (or the Share Registry) will constitute the full discharge of Patties' obligations under clause 5.4(c) with respect of the amount so paid or retained until, in the case of clause 5.9(b), it is no longer required to be retained.

### 5.10 Definition of 'sending'

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

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

## 6. Dealings in Shares

### 6.1 Determination of Scheme Shareholders

To establish the identity of the Scheme Shareholders, dealings in Shares or other alterations to the Share Register will only be recognised if:

- (a) in the case of dealings of the type to be effected using CHESS, the transferee is registered in the Share Register as the holder of the relevant Shares on or before 7.00pm on the Record Date; and

## Appendix 2. Scheme *continued*

- (b) in all other cases, registrable transmission applications or transfers in respect of those dealings are received on or before 5.00pm on the day on which the Record Date occurs at the place where the Share Register is kept,

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

### 6.2 Register

- (a) **(Registration of transfers)** Patties must register registrable transmission applications or transfers of the kind referred to in clause 6.1(b) by or as soon as reasonably practicable after the Record Date (provided that for the avoidance of doubt nothing in this clause 6.2 requires Patties to register a transfer that would result in a Patties Shareholder holding a parcel of Shares that is less than a 'marketable parcel' (as defined in the Settlement Rules).
- (b) **(No registration after Record Date)** Patties will not accept for registration or recognise for any purpose any transmission application or transfer in respect of Shares received after 5.00pm on the day on which the Record Date occurs, other than to Bidder in accordance with this Scheme and any subsequent transfer by Bidder or its successors in title.
- (c) **(Maintenance of Share Register)** For the purpose of determining entitlements to the Scheme Consideration, Patties must maintain the Share Register in accordance with the provisions of this clause until the Scheme Consideration has been delivered to the Scheme Shareholders. The Share Register in this form will solely determine entitlements to the Scheme Consideration.
- (d) **(No disposal after Record Date)** From the Record Date until registration of Bidder in respect of all Scheme Shares under clause 4, no Patties Shareholder may dispose or otherwise deal with Shares (or purport to do so) in any way except as set out in this Scheme and any attempt to do so will have no effect and Patties shall be entitled to disregard any such disposal or dealing.
- (e) **(Statements of holding from Record Date)** All statements of holding for 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 any Excluded Shareholders). As from the Record Date, each entry current at that date on the Share Register (other than entries in respect of any Excluded Shareholder) will cease to have effect except as evidence of entitlement to the Scheme Consideration in respect of the Shares relating to that entry.
- (f) **(Provision of Scheme Shareholder details)** As soon as practicable after the Record Date and in any event within one Business Day after the Record Date, Patties will ensure that details of the names, Registered Addresses and holdings of Shares for each Scheme Shareholder are available to Bidder in the form Bidder reasonably requires.

### 7. Quotation of Shares

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

## 8. General Scheme provisions

### 8.1 Consent to amendments to this Scheme

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

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

### 8.2 Binding effect of Scheme

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

### 8.3 Scheme Shareholders' agreements and acknowledgment

Each Scheme Shareholder:

- (a) agrees to the transfer of their Shares together with all rights and entitlements attaching to those Shares in accordance with this Scheme;
- (b) agrees to any variation, cancellation or modification of the rights attached to their Shares constituted by or resulting from this Scheme;
- (c) agrees to, on the direction of Bidder, destroy any share certificates relating to their Shares;
- (d) to the extent they are to receive Class B Shares as a component of the Scheme Consideration to which they are entitled, agrees to become a shareholder of TopCo and to be bound by its constitution and the Shareholders Deed; and
- (e) acknowledges and agrees that this Scheme binds Patties and all Scheme Shareholders (including those who did not attend the Scheme Meeting or did not vote at that meeting or voted against this Scheme at that Scheme Meeting).

### 8.4 Warranties by Scheme Shareholders

- (a) Each Scheme Shareholder is deemed to have warranted to Patties, in its own right and for the benefit of Bidder, that as at the Implementation Date:
  - (i) all of its Shares which are transferred to Bidder under this Scheme, including any rights and entitlements attaching to those Shares, will, at the time of transfer, be free from all mortgages, charges, liens, encumbrances, pledges, security interests (including any "security interests" within the meaning of section 12 of the *Personal Property Securities Act 2009* (Cth)) and interests of third parties of any kind, whether legal or otherwise, and restrictions on transfer of any kind;
  - (ii) all of its Shares which are transferred to Bidder under this Scheme will, on the date on which they are transferred to Bidder, be fully paid;
  - (iii) it has full power and capacity to transfer its Shares to Bidder together with any rights attaching to those shares; and
  - (iv) it has no existing right to be issued any Shares, options exercisable into Patties shares, Performance Rights, Patties convertible notes or any other Patties securities, other than, in the case of any Scheme Shareholder who is also the holder of Patties options or Performance Rights, the right to be issued Shares on the exercise of those Patties options or Performance Rights before the Record Date in accordance with their terms.

## Appendix 2. Scheme *continued*

- (b) Patties undertakes that it will provide the warranties in clause 8.4(a) to Bidder as agent and attorney of each Scheme Shareholder.

### 8.5 Title to and rights in Scheme Shares

- (a) To the extent permitted by law, the Scheme Shares (including all rights and entitlements attached to Scheme Shares) transferred under this Scheme will be transferred free from all mortgages, charges, liens, encumbrances, pledges, security interests (including any "security interests" within the meaning of section 12 of the *Personal Property Securities Act 2009* (Cth)) and interests of third parties of any kind, whether legal or otherwise, and restrictions on transfer of any kind.
- (b) On and from the Implementation Date, immediately after Bidder and TopCo satisfy their respective obligations in clauses 5.4(a) and 5.4(b), Bidder will be beneficially entitled to the Scheme Shares transferred to it under this Scheme pending registration by Patties of Bidder in the Share Register as the holder of the Scheme Shares.

### 8.6 Authority given to Patties

- (a) Scheme Shareholders will be deemed to have authorised Patties to do and execute all acts, matters, things and documents on the part of each Scheme Shareholder necessary for or incidental to the implementation of this Scheme, including executing and delivering, as agent and attorney of each Scheme Shareholder:
- (i) a share transfer or transfers in relation to Scheme Shares as contemplated by clause 4.2;
  - (ii) any deed or document required by Patties, Bidder or TopCo that causes each Scheme Shareholder entitled to Class B Shares to be bound by the Shareholders Deed and constitution of TopCo;
  - (iii) if the aggregate of:
    - (A) the total number of holders of Class B Shares; and
    - (B) the total number of expected holders of other classes of shares in TopCo, would, in Bidder's reasonable opinion, exceed 50, any transfer of Class B Shares issued to a Scheme Shareholder to a trustee to hold on bare trust for the Scheme Shareholder absolutely; and
  - (iv) any deed or document required by Patties, Bidder or TopCo that causes each Scheme Shareholder issued Class B Shares under this Scheme to be bound by the constituent documents of any trust for the Scheme Shareholder referred to in clause 8.6(a)(iii).
- (b) Each Scheme Shareholder, without the need for any further act, irrevocably appoints Patties 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 Bidder and TopCo, and Patties undertakes in favour of each Scheme Shareholder that it will enforce the Deed Poll against Bidder and TopCo on behalf of and as agent and attorney for each Scheme Shareholder; and
  - (ii) executing any document necessary to give effect to this Scheme including, a proper instrument of transfer of its Scheme Shares for the purposes of section 1071B of the Corporations Act which may be a master transfer of all the Scheme Shares,
- and Patties accepts each such appointment.



### **8.7 Appointment of sole proxy**

Immediately after Bidder and TopCo satisfy their respective obligations in clauses 5.4(a) and 5.4(b) until Patties registers Bidder as the holder of all Shares in the Share Register, each Scheme Shareholder:

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

### **8.8 Instructions and elections**

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

## **9. General**

### **9.1 Stamp duty**

Bidder must pay all stamp duty payable in connection with the transfer of the Scheme Shares to Bidder pursuant to this Scheme.

### **9.2 Notices**

- (a) If a notice, transfer, transmission application, direction or other communication referred to in this document is sent by post to Patties, 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 Patties' registered office or at the office of the Patties Registry.
- (b) The accidental omission to give notice of the Scheme Meeting or the non- receipt of such a notice by any Shareholder may not, unless so ordered by the Court, invalidate the Scheme Meeting or the proceedings of the Scheme Meeting.

### **9.3 Further assurances**

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

### **9.4 Governing law and jurisdiction**

- (a) This Scheme is governed by the laws of Victoria.

## Appendix 2. Scheme *continued*

- (b) The parties irrevocably submit to the non-exclusive jurisdiction of courts exercising jurisdiction in Victoria and courts of appeal from them in respect of any proceedings arising out of or in connection with this Scheme.

# Schedule 1– Shareholders Deed

## Appendix 3. Notice of Scheme Meeting

PATTIES FOODS LIMITED  
ABN 62 007 157 182

NOTICE OF COURT ORDERED  
MEETING OF PATTIES FOODS LIMITED SHAREHOLDERS

**Notice is given** that, by an Order of the Supreme Court of Victoria (**Court**) made on Friday, 15 July 2016 under section 411(1) of the Corporations Act, the Court has directed that a meeting of the holders of fully paid ordinary shares of Patties Foods Limited (**Patties**) (other than Excluded Shareholders) be held at Minter Ellison, Level 23, 525 Collins Street, Melbourne, Victoria on Friday, 26 August 2016 commencing at 10:00am.

The Court has also directed that Mr Mark Smith or, if he is unable or unwilling to attend, Mr Curt Leonard, act as Chairman of the meeting.

### PURPOSE OF THE MEETING

The purpose of the meeting is to consider and, if thought fit, to agree (with or without any alterations or conditions agreed between Patties and Australasian Foods Bidco Pty Limited (ACN 612 643 795) (**Bidder**) and approved by the Court or any alterations or conditions required by the Court to which Patties and Bidder agree) to a scheme of arrangement proposed to be made between Patties and the holders of its ordinary shares (other than Excluded Shareholders) (**Scheme**).

A copy of the Scheme and a copy of the Explanatory Statement required by section 412 of the Corporations Act in relation to the Scheme are contained in the Explanatory Booklet of which this notice forms part.

### RESOLUTION

The meeting will be asked to consider and, if thought fit, pass the following resolution:

*That under and in accordance with the provisions of section 411 of the Corporations Act 2001 (Cth), the members (other than Excluded Shareholders) agree to the arrangement proposed between Patties Foods Limited and the holders of its fully paid ordinary shares (other than Excluded Shareholders), designated the **Scheme**, as contained in and more particularly described in the Explanatory Booklet accompanying the notice convening this meeting with or without any alterations or conditions agreed or any alterations or conditions required by the Court and, subject to approval of the Scheme by the Court, the Board of Directors of Patties is authorised to implement the Scheme with any such alterations or conditions.*

DATED 15 July 2016

BY ORDER OF THE COURT



**Clinton Orr**  
Company Secretary

## Explanatory notes for the Scheme Meeting

### 1. General

- (a) Capitalised words and phrases contained in this Notice of Meeting (including the proposed resolution) have the same meaning as set out in the Glossary in Section 12 of the Explanatory Booklet, of which this notice forms part.
- (b) This notice should be read in conjunction with the entire Explanatory Booklet of which this notice forms part. The Explanatory Booklet contains important information to assist you in determining how to vote on the proposed resolution. The Explanatory Booklet includes a copy of the Scheme (refer Appendix 2) and a copy of the explanatory statement required by section 412 of the Corporations Act in relation to the Scheme (the explanatory statement being all Sections of this Explanatory Booklet, other than this Appendix 3).

### 2. Voting entitlements

For the purposes of the Scheme Meeting, only those persons registered in the Share Register as a holder of Patties Shares at 7:00pm (Melbourne time) on Wednesday, 24 August 2016 (other than Excluded Shareholders) are entitled to attend and vote at the Scheme Meeting in respect of each Patties Share held by them at that time, either in person, by proxy or attorney or, in the case of a corporate Patties Shareholder or proxy, by corporate representative.

### 3. Required voting majority

- (a) The resolution to approve the Scheme is subject to approval by the majorities required under section 411(4)(a)(ii) of the Corporations Act.
- (b) The resolution to approve the Scheme must be approved by:
  - (i) unless the Court orders otherwise, a majority in number (more than 50%) of holders of eligible Patties Shareholders present and voting at the Scheme Meeting (whether in person, by proxy, attorney or, in the case of a corporate Patties Shareholder or proxy, by corporate representative); and
  - (ii) eligible Patties Shareholders whose Patties Shares in aggregate account for at least 75% of the votes cast on the resolution.
- (c) The vote at the Scheme Meeting will be conducted by poll.

### 4. Court approval

In accordance with section 411(4)(b) of the Corporations Act, to become Effective, the Scheme (with or without any alterations or conditions agreed between Patties and Bidder and approved by the Court or any alterations or conditions required by the Court to which Patties and Bidder agree) must also be approved by an order of the Court and an office copy of the orders must be lodged with ASIC. If the Scheme is approved by the requisite majorities of Patties Shareholders at the Scheme Meeting, Patties intends to apply to the Court for orders approving the Scheme.

### 5. How to vote

Patties Shareholders who are entitled to vote at the Scheme Meeting may vote:

- (a) by attending the meeting and voting in person, or by appointing an attorney to attend the meeting and vote on their behalf or, in the case of corporate Patties Shareholders or proxies, a corporate representative to attend the meeting and vote on its behalf; or

- (b) by appointing a proxy to attend and vote on their behalf, using the proxy form accompanying this notice (which may be lodged online). A proxy may be an individual or a body corporate.

### 6. Jointly held Patties Shares

If you hold Patties Shares jointly with one or more other persons, only one of you may vote. If more than one of you attempts to vote in person at the Scheme Meeting, only the vote of the holder whose name appears first on the Share Register will be counted.

### 7. Voting in person (or by attorney or corporate representative)

- (a) Eligible Patties Shareholders wishing to vote in person or their attorneys or, in the case of a corporate Patties Shareholder or proxy, corporate representatives should attend the Scheme Meeting and bring a form of personal identification (such as their driver's licence).
- (b) The relevant parties who plan to attend the Scheme Meeting in person are asked to arrive at the venue 30 minutes prior to the time designated for the commencement of the Scheme Meeting, if possible, so that their shareholding may be checked against the Share Register and attendances noted.
- (c) The power of attorney appointing your attorney to attend and vote at the Scheme Meeting must be duly executed by you and specify your name, the company (that is, Patties Foods Limited), and the attorney, and also specify the meeting at which the appointment may be used. The appointment may be a standing one.
- (d) To vote by attorney at this meeting, the original or a certified copy of the power of attorney or other authority (if any) under which the instrument is signed must be received by the Share Registry before 10:00am (Melbourne time) on Wednesday, 24 August 2016 in any of the following ways:
  - (i) **By post** in the provided reply paid envelope (or the self-addressed envelope, for Shareholders whose registered address is outside Australia) to the Share Registry:
 

Computershare Investor Services Pty Limited  
GPO Box 242  
Melbourne Victoria Australia 3001
  - (ii) **By hand delivery**<sup>1</sup> to the Share Registry at:
 

Computershare Investor Services Pty Limited  
Yarra Falls, 452 Johnston Street  
Abbotsford Victoria 3067
- (e) Your appointment of an attorney does not preclude you from attending in person and voting at the Scheme Meeting. The appointment of your attorney is not revoked merely by your attendance and taking part in the Scheme Meeting, but if you vote on a resolution, the attorney is not entitled to vote, and must not vote, as your attorney on that resolution.
- (f) To vote in person, you or your attorney or, in the case of a corporate Patties Shareholder or proxy, corporate representative must attend the Scheme Meeting to be held at Minter Ellison, Level 23, 525 Collins Street, Melbourne, Victoria on Friday, 26 August 2016 commencing at 10:00am.
- (g) A vote cast in accordance with the appointment of a power of attorney is valid even if before the vote was cast the appointor:
  - (i) died;
  - (ii) became mentally incapacitated;
  - (iii) revoked the power; or

1. Please note that hand deliveries may only be made Monday to Friday between the hours of 9.00am to 5.00pm (Melbourne time).

- (iv) transferred the shares in respect of which the vote was cast,

unless Patties received written notification of the death, mental incapacity, revocation or transfer at least 48 hours before the meeting or, if applicable, any adjourned meeting.

- (h) To vote by corporate representative at the meeting, a corporate Patties Shareholder or proxy should obtain an *Appointment of Corporate Representative Form* from the Share Registry, complete and sign the form in accordance with the instructions on it. The completed appointment form should be lodged at the registration desk on the day of the meeting.
- (i) The appointment of a representative may set out restrictions on the representative's powers.
- (j) The *Appointment of Corporate Representative Form*, a certified copy of the *Appointment of Corporate Representative Form*, or a certificate of the body corporate evidencing the appointment of a representative is prima facie evidence of a representative having been appointed.

## 8. Voting by proxy

Eligible Patties Shareholders wishing to appoint a proxy to vote on their behalf at this meeting must:

- (a) complete and sign or validly authenticate the proxy form accompanying this Explanatory Booklet; and
- (b) either:
- (i) deliver the signed and completed proxy form to the Share Registry by 10:00am (Melbourne time) on Wednesday, 24 August 2016; or
- (ii) lodge your proxy vote online,

both in accordance with the instructions below.

## 9. Submitting proxies

Eligible Patties Shareholders wishing to appoint a proxy to attend and vote on their behalf at the Scheme Meeting must return the provided proxy form to the Share Registry in any of the following ways:

- (a) **By post** in the enclosed reply paid envelope (or the self-addressed envelope, for Shareholders whose registered address is outside Australia) provided to the Share Registry:  
Computershare Investor Services Pty Limited  
GPO Box 242  
Melbourne Victoria Australia 3001
- (b) **By hand delivery**<sup>2</sup> to the Share Registry at:  
Computershare Investor Services Pty Limited  
Yarra Falls, 452 Johnston Street,  
Abbotsford Victoria 3067

Alternatively, eligible Patties Shareholders may lodge their proxy online in any of the following ways:

- if you are a Patties Shareholder, at [www.investorvote.com.au](http://www.investorvote.com.au), by using the control number noted on the front of your proxy form along with your SRN/HIN number (as applicable) and your postcode and by following the instructions on that website; or
- if you are a custodian (for intermediary online subscribers only), at [www.intermediaryonline.com](http://www.intermediaryonline.com), and by following the instructions on that website.

As the cut off date for receipt of proxies is 10:00am (Melbourne time) on Wednesday, 24 August 2016, you should ensure that it is posted, delivered or lodged online in sufficient time for it to be received by the Share Registry by that time.

## 10. Notes for proxy appointments

- (a) Your proxy must attend the Scheme Meeting to be held at Minter Ellison, Level 23, 525 Collins Street, Melbourne, Victoria on Friday, 26 August 2016 commencing at 10:00am and are asked to arrive at the venue 30 minutes prior to the time designated for the commencement of the Scheme Meeting, if possible, so that their shareholding may be checked against the Share Register and attendances noted.
- (b) A Patties Shareholder entitled to attend and vote at the meeting is entitled to appoint not more than two proxies to attend and vote at the meeting on behalf of that Patties Shareholder.
- (c) A proxy need not be a Patties Shareholder.
- (d) You are entitled to appoint up to two proxies to attend the meeting and vote on a poll. If you appoint two proxies you must specify the percentage of votes or number of securities for each proxy, otherwise each proxy may exercise half of the votes. When appointing a second proxy you must specify the names of each proxy and the percentage of votes or number of securities for each proxy on the proxy form. Replacement proxy forms can also be obtained from the Share Registry.
- (e) If you hold Patties Shares jointly with one or more other persons, in order for your proxy appointment to be valid, each of you must sign the proxy form.
- (f) A proxy may vote or abstain as he or she chooses except where the appointment of the proxy directs the way the proxy is to vote on the resolution. If an appointment directs the way the proxy is to vote on the resolution:
- (i) if the proxy is the chair – the proxy must vote on the poll and must vote in the way directed; and
- (ii) if the proxy is not the chair – the proxy need not vote on the poll, but if the proxy does so, the proxy must vote in the way directed.
- (g) If a proxy appointment is signed or validly authenticated by a Patties Shareholder but does not name the proxy or proxies in whose favour it is given, the Chairman may either:
- (iii) act as proxy in respect of the resolution to be considered at the Scheme Meeting; or
- (iv) complete the proxy appointment by inserting the name or names of one or more Directors or the Company secretary to act as proxy under the appointment, in respect of the resolution to be considered at the Scheme Meeting.
- (h) If:
- (i) a Patties Shareholder nominates the Chairman of the meeting as their proxy; or
- (ii) the Chairman is otherwise appointed to act as proxy,
- then the person acting as Chairman in respect of an item of business at the meeting must act as proxy in respect of the resolution to be considered at the Scheme Meeting.

2. Please note that hand deliveries may only be made Monday to Friday between the hours of 9.00am to 5.00pm (Melbourne time).

- (i) The Chairman intends to vote undirected proxies of which he is appointed as proxy in favour of the resolution to approve the Scheme (in the absence of a Superior Proposal from another party prior to the date of the Scheme Meeting).
- (j) A vote cast in accordance with the appointment of a proxy is valid even if before the vote was cast the appointor:
  - (i) died;
  - (ii) became mentally incapacitated;
  - (iii) revoked the proxy; or
  - (iv) transferred the shares in respect of which the vote was cast,

unless Patties received written notification of the death, mental incapacity, revocation or transfer at least 48 hours before the meeting or, if applicable, any adjourned meeting.

## **11. Advertisement**

Where this notice of meeting is advertised unaccompanied by the Explanatory Booklet, a copy of the Explanatory Booklet can be obtained by anyone entitled to attend the Scheme Meeting from Patties website [www.pattiesfoods.com.au](http://www.pattiesfoods.com.au), or by contacting the Company Secretary of Patties Foods Limited or the Share Registry.

## Appendix 4. Scheme Implementation Deed



# Scheme implementation deed

Patties Foods Limited (**Patties**)  
Australasian Foods Bidco Pty Limited (**BidCo**)



## Scheme implementation deed

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## Appendix 4. Scheme Implementation Deed *continued*

### Details

Date 1 June 2016

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#### Parties

Name **Patties Foods Limited**  
ABN 62 007 157 182  
Short form name **Patties**  
Notice details 161-169 Princes Highway, Bairnsdale Vic 3875  
Email: [msmith@patties.com.au](mailto:msmith@patties.com.au)  
Attention: Mark Smith

---

Name **Australasian Foods Bidco Pty Limited**  
ACN 612 643 795  
Short form name **BidCo**  
Notice details Level 31, 126-130 Phillip Street, Sydney, NSW 2000  
Email: [tony.duthie@pep.com.au](mailto:tony.duthie@pep.com.au)  
Attention: Tony Duthie

---

#### Background

- A Patties and BidCo have agreed to implement the Proposed Transaction on and subject to the terms and conditions of this deed.
- B Patties and BidCo have agreed certain other matters in connection with the Proposed Transaction as set out in this deed.

## Agreed terms

### 1. Defined terms & interpretation

#### 1.1 Defined terms

In this deed:

**Accounting Standards** means:

- (a) the accounting standards made by the Australian Accounting Standards Board in accordance with the Corporations Act, and the requirements of that Act relating to the preparation and content of accounts; and
- (b) generally accepted accounting principles that are consistently applied in Australia, except those inconsistent with the standards or requirements referred to in paragraph (a).

**Adviser** means in relation to an entity:

- (a) a financier to the entity in connection with the Proposed Transaction; or
- (b) a financial, corporate, legal, technical or other expert adviser or consultant, who provides advisory or consultancy services in a professional capacity in the ordinary course of its business and has been engaged in that capacity in connection with the Proposed Transaction by the entity.

**Announcement** means an announcement by Patties in the form agreed by Patties and BidCo prior to signing of this deed.

**ASIC** means the Australian Securities and Investments Commission.

**Associate** has the meaning given in Division 2 of Part 1.2 of the Corporations Act as if section 12(1) of that Act included a reference to this deed and Patties was the designated body.

**ASX** means ASX Limited (ABN 98 008 624 691) or, if the context requires, the financial market known as the Australian Securities Exchange operated by it.

**Authorised Person** means, in respect of a person:

- (a) a director, officer, member or employee of the person;
- (b) an Adviser of the person;
- (c) a director, officer or employee of an Adviser of the person; and
- (d) where the person is TopCo, a TopCo Related Person.

**BidCo Break Fee** has the meaning given to that term in clause 15.

**BidCo Facility Agreements** means the debt facility agreements to be entered into pursuant to the Debt Commitment Letters.

**BidCo Group** means BidCo and each of its Subsidiaries and TopCo and each of its Subsidiaries (excluding, at any time, Patties and its Subsidiaries to the extent that Patties and its Subsidiaries are Subsidiaries of BidCo or TopCo at that time). A reference to a member of the **BidCo Group** or a **BidCo Group Member** is a reference to BidCo or any such Subsidiary.

**BidCo Indemnified Parties** means the entities that are part of the BidCo Group and their respective Related Bodies Corporate and Authorised Persons.

**BidCo Information** means such information regarding BidCo and TopCo that is provided by or on behalf of BidCo, MidCo or TopCo to Patties or the Independent Expert:

- (a) to enable the Explanatory Booklet to be prepared and completed in compliance with all applicable laws;
- (b) to enable applications for Regulatory Approvals to be made; and
- (c) otherwise in compliance with BidCo's obligations under clause 7.2(a).

**BidCo Warranties** means the representations and warranties of BidCo set out in clause 10.1.

## Appendix 4. Scheme Implementation Deed *continued*

**Business Day** means a day that is not a Saturday, Sunday or a public holiday or bank holiday in Victoria, Australia.

**Claim** means, in relation to a person, a demand, claim, action or proceeding made or brought by or against the person, however arising and whether present, unascertained, immediate, future or contingent.

**Class A Share** means a fully paid Class A Share in the capital of TopCo having the rights specified in the Shareholders Deed.

**Class B Share** means a fully paid Class B Share in the capital of TopCo having the rights specified in the Shareholders Deed.

**Competing Proposal** means any offer, proposal or expression of interest (including, by way of takeover bid or scheme of arrangement) under which, if ultimately completed, a person or two or more persons who are Associates would (other than BidCo or a member of the BidCo Group):

- (a) acquire, directly or indirectly:
  - (i) a Relevant Interest or become the holder of more than 20% of the Shares; or
  - (ii) an interest in the whole or a material part of the business or property of Patties or the Patties Group;
- (b) acquire directly or indirectly control of Patties, within the meaning of section 50AA of the Corporations Act; or
- (c) otherwise acquire or merge with Patties whether by way of a takeover offer, scheme of arrangement, shareholder approved acquisition, capital reduction, share buy back, sale or purchase of assets, joint venture, reverse takeover, dual-listed company structure or other synthetic merger or any other transaction or arrangement.

**Conditions** means the conditions set out in clause 3.1 and **Condition** means any one of them.

**Confidentiality Agreement** means the confidentiality agreement between Patties and PEP Services Pty Ltd (ABN 19 165 732 347) dated 14 January 2016.

**Constitution** means the constitution of Patties.

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

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

**Debt Commitment Letters** means the credit-approved, executed commitment letters and accompanying term sheets from certain banks or other financial institutions addressed to BidCo and dated on or about the date of this deed.

**Deed Poll** means the deed poll to be executed by Patties, BidCo and TopCo prior to the First Court Date, in the form set out in Schedule 2 or in such other form as Patties and BidCo may agree in writing.

**Delivery Time** in relation to the Second Court Date means two hours before the commencement of the hearing or if the commencement of the hearing is adjourned, the commencement of the adjourned hearing, of the Court to approve the Scheme in accordance with section 411(4)(b) of the Corporations Act is due to commence.

**Disclosure Letter** means the letter so entitled from Patties provided to BidCo prior to the date of this deed.

**Due Diligence Material** means:

- (a) the written information contained in the data room made available (including all written responses provided in response to written questions or requests for information) to BidCo, TopCo and their respective Authorised Persons prior to the date of this deed, the index of which has been initialled by, or on behalf of, the relevant parties for identification; and
- (b) the written information disclosed by or on behalf of Patties and its Subsidiaries in management presentations made to BidCo, TopCo and their respective Authorised Persons prior to the date of this deed, being such management presentations identified in the Disclosure Letter.

**EBITDA** means earnings from ordinary continuing activities of the Patties Group before interest, tax, depreciation and amortisation calculated in accordance with the accounting policies and practices applied by Patties as at the date of this deed, excluding all costs and expenses incurred by Patties associated with the Scheme process and the Scheme, including all fees payable to external advisers of Patties.

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

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

**Election Form** has the meaning given in the Scheme.

**End Date** means:

- (a) 31 October 2016; or
- (b) such other date and time agreed in writing between BidCo and Patties.

**Equity Commitment Letters** means the binding, executed commitment letters dated 1 June 2016 addressed to TopCo, MidCo and BidCo from the PEP Shareholders.

**Excluded Shareholder** means any person who:

- (a) is registered in the register maintained by Patties under section 168(1) of the Corporations Act as a holder of one of more Shares; and
- (b) is a member of the BidCo Group.

**Exclusivity Period** means the period commencing on the date of this deed and ending on the earliest of:

- (a) the End Date;
- (b) the Effective Date of the Scheme; and
- (c) the date this deed is terminated in accordance with its terms.

**Explanatory Booklet** means the explanatory booklet to be prepared by Patties in respect of the Proposed Transaction in accordance with the terms of this deed and to be despatched to Patties Shareholders (among others).

**FATA** means the *Foreign Acquisitions and Takeovers Act 1975* (Cth).

**First Court Date** means the date the Court first hears the application to order the convening of the Scheme Meeting under section 411(1) of the Corporations Act that the Scheme Meeting be convened is heard or, if the application is adjourned or subject to appeal for any reason, the day on which the adjourned application is heard.

**Foreign Scheme Shareholder** means a Scheme Shareholder whose address in the register of members of Patties as at the Record Date is a place outside Australia and its external territories.

**Governmental Agency** means any government or representative of a government or any governmental, semi-governmental, administrative, fiscal, regulatory or judicial body, department, commission, authority, tribunal, agency, competition authority or entity and includes any minister, ASIC, ASX and any regulatory organisation established under statute or any financial market.

**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 Patties Shareholders present and voting, either in person or by proxy.

**Implementation Date** means, with respect to the Scheme, the fifth Business Day, or such other Business Day as Patties and BidCo agree, following the Record Date for the Scheme.

**Indebtedness** means any debt or other monetary liability (whether actual or contingent), together with all interest, fees and penalties accrued thereon, in respect of moneys borrowed or raised or any financial accommodation including under or in respect of any:

- (a) bill, bond, debenture, note or similar instrument;
- (b) acceptance, endorsement or discounting arrangement;

## Appendix 4. Scheme Implementation Deed *continued*

- (c) guarantee or letter of credit;
- (d) finance or capital lease;
- (e) swap, option, hedge, forward, futures or similar transaction;
- (f) redeemable share or security;
- (g) deferral of a purchase price or other payment in relation to the acquisition of any asset or service;
- (h) obligation to deliver assets or services paid for in advance by a financier, or any guarantee of the obligations of another person with respect to the foregoing;
- (i) all recourse and non-recourse liabilities and other liabilities (whether conditional or unconditional, present or future) arising from any transactions related to the assignment or securitisation of receivables for financing purposes to any third party, including all factoring agreements and similar agreements executed for the purpose of obtaining financing and including any amount raised pursuant to such agreements but which, in accordance with Accounting Standards, have not otherwise been recognised on the balance sheet as a liability; or
- (j) all interest and non-interest bearing loans or other financing liabilities or obligations, including overdrafts and any other liabilities in the nature of borrowed money (whether secured or unsecured).

**Independent Expert** means an expert, independent of the parties, engaged by Patties in good faith to opine on whether the Scheme is in the best interest of Patties Shareholders.

**Independent Expert's Report** means the report from the Independent Expert commissioned by Patties for inclusion in the Explanatory Booklet, which includes a statement by the Independent Expert on whether, in its opinion, the Scheme is in the best interest of Patties Shareholders, and includes any update of that report by the Independent Expert.

**Insolvency Event** means in relation to a person:

- (a) **insolvency official**: the appointment of a liquidator, provisional liquidator, administrator, statutory manager, controller, receiver, receiver and manager or other insolvency official (whether under an Australian law or a foreign law) to the person or to the whole or a substantial part of the property or assets of the person and the action is not stayed, withdrawn or dismissed within 14 days;
- (b) **arrangements**: the entry by the person into a compromise or arrangement with its creditors generally;
- (c) **winding up**: the calling of a meeting to consider a resolution to wind up the person (other than where the resolution is frivolous or cannot reasonably be considered to be likely to lead to the actual winding up of the person) or the making of an application or order for the winding up or deregistration of the person other than where the application or order (as the case may be) is set aside or withdrawn within 14 days;
- (d) **suspends payments**: the person suspends or threatens to suspend payment of its debts as and when they become due;
- (e) **ceasing business**: the person ceases or threatens to cease to carry on business;
- (f) **insolvency**: the person is or becomes unable to pay its debts when they fall due within the meaning of the Corporations Act or is otherwise presumed to be insolvent under the Corporations Act;
- (g) **deregistration**: the person being deregistered as a company or otherwise dissolved;
- (h) **deed of company arrangement**: the person executing a deed of company arrangement;
- (i) **person as trustee or partner**: the person incurs a liability while acting or purporting to act as trustee (or co-trustee) or general partner of a trust or partnership (including a limited partnership) and the person is not entitled to be fully indemnified against the liability out of trust or partnership assets because of one or more of the following:
  - (i) a breach of trust or obligation as partner by the person;



- (ii) the person acting outside the scope of its powers as trustee or partner;
  - (iii) a term of the trust or partnership denying, or limiting, the person's right to be indemnified against the liability; and
  - (iv) the assets of the trust or partnership being insufficient to discharge the liability; or
- (j) **analogous events**: anything analogous to those set out in any of paragraphs (a) to (i) inclusive occurs in relation to the person under the laws of a foreign jurisdiction,

and a person will be **Insolvent** if any event specified in paragraphs (a) to (j) inclusive occurs in respect of that person.

**Interest Rate** means the means the daily buying rate displayed at or about 10.30am (AEST) on the Reuters screen BBSW page for Australian bank bills of a three month duration.

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

**Market Integrity Rules** means any rules made by ASIC under section 798G of the Corporations Act that apply to ASX or any other prescribed financial market on which Shares are quoted.

**Matching Offer** has the meaning given to it in clause 16.7(a)(v).

**Material Adverse Change** means any change, matter, event or circumstance that occurs, is announced or becomes known to BidCo or Patties (in each case whether or not it becomes public) after the date of this deed which (in each case determined in accordance with Accounting Standards) has or could reasonably be expected to result in, either individually or when aggregated with any other changes, matters, events or circumstances of a similar kind or category:

- (a) a diminution in the consolidated net assets of the Patties Group by at least \$20.2 million, which is 15% of the last reported amount;
- (b) an increase in the consolidated Net Indebtedness of the Patties Group by at least \$8 million; or
- (c) a diminution in the EBITDA for the financial year ending 30 June 2017 by at least \$5 million,

determined after taking into account any matters which offset the impact of the change, matter, event or circumstance but does not include any change, matter, event or circumstance:

- (d) expressly required to be done or procured by Patties under this deed or the Scheme;
- (e) which BidCo has previously approved in writing;
- (f) that was Fairly Disclosed in the Disclosure Letter;
- (g) that was Fairly Disclosed in documents that were publicly available prior to the date of this deed from public filings of Patties with ASX or ASIC;
- (h) relating to costs and expenses incurred by Patties associated with the Scheme process, including all fees payable to external advisers of Patties, to the extent such amounts are Fairly Disclosed in the Disclosure Letter;
- (i) a matter, event or circumstance comprising or resulting from a change in any applicable law, any Accounting Standards, general or political conditions (including changes in foreign exchange rates and commodity prices) or financial markets, whether in Australia or elsewhere;
- (j) relating to any material adverse change or disruption to the existing financial markets or political conditions of Australia, Japan, the United Kingdom, the United States of America, Singapore, Hong Kong or China; or
- (k) relating to payment by Patties of the Special Dividend.

**MidCo** means Australasian Foods Finco Pty Limited (ACN 612 642 145) of level 31, 126-130 Phillip Street, Sydney, NSW 2000.

**Net Indebtedness** means Indebtedness less the amount of cash, cash equivalents and short term interest bearing deposits, where the terms "cash" and "cash equivalents" are as defined in the Accounting Standards.

## Appendix 4. Scheme Implementation Deed *continued*

**Patties Board** means the board of directors of Patties as constituted from time to time (or any committee of the board of directors of Patties constituted from time to time to consider the Proposed Transaction on behalf of Patties).

**Patties Director** means a director of Patties.

**Patties Group** means Patties and its Subsidiaries. A reference to a member of the **Patties Group** or a **Patties Group Member** is a reference to Patties or any Subsidiary of Patties.

**Patties Indemnified Parties** means each member of the Patties Group and their respective Related Bodies Corporate and Authorised Persons.

**Patties Information** means information to be included by Patties in the Explanatory Booklet that explains the effect of the Scheme and sets out the information prescribed by the Corporations Act and the Corporations Regulations 2001 (Cth), and any other information that is material to the making of a decision by Patties Shareholders whether or not to vote in favour of the Scheme, being information that is within the knowledge of the Patties' Board and has not previously been disclosed to Patties Shareholders, other than the BidCo Information and the Independent Expert's Report.

**Patties Prescribed Occurrence** means the occurrence of any of the following on or after the date of this deed:

- (a) Patties converts all or any of its shares into a larger or smaller number of shares (see section 254H of the Corporations Act) or reclassifies, combines, splits or redeems or repurchases directly or indirectly any of its shares;
- (b) any member of the Patties Group resolves to reduce its share capital in any way;
- (c) any member of the Patties Group:
  - (i) enters into a buy-back agreement; or
  - (ii) resolves to approve the terms of a buy-back agreement under section 257C(1) or 257D(1) of the Corporations Act;
- (d) any member of the Patties Group issues securities, or grants a performance right, a phantom performance right or an option over its securities, or agrees to make such an issue or grant such a right or an option, other than the issue of Shares pursuant to the vesting or exercise of Performance Rights that were on issue immediately before the date of this deed and Fairly Disclosed in the Due Diligence Material or the Disclosure Letter which result in the issue of not more than 1,191,338 Shares;
- (e) any member of the Patties Group issues, or agrees to issue, securities convertible into shares or debt securities;
- (f) any member of the Patties Group disposes, or agrees to dispose, of the whole, or a substantial part, of its business or property;
- (g) any member of the Patties Group creates or agrees to create, any security interest over the whole, or a substantial part, of its business or property;
- (h) an Insolvency Event occurs in relation to any member of the Patties Group;
- (i) Patties pays, declares, distributes or incurs a liability to make or pay a dividend, bonus or other share of its profits, income, capital or assets by way of dividend or other form of distribution other than in respect of any Special Dividend;
- (j) Patties making any change to its Constitution;
- (k) any member of the Patties Group:
  - (i) acquires, leases or disposes of;
  - (ii) agrees to acquire, lease or dispose of; or
  - (iii) offers, proposes, announces a bid or tenders for the acquisition, leasing or disposal of,
 any business, asset, security, entity or undertaking, the value of which exceeds \$5 million (individually or in aggregate);

- (l) any member of the Patties Group agrees to incur capital expenditure of more than \$5 million (individually or in aggregate);
- (m) any member of the Patties Group incurs or commits to any additional financial indebtedness (including investments, borrowings, loans and advances or the issue of debt securities or hybrid securities) for one or more related items, other than one or more items relating directly or indirectly to the declaration or payment of a Special Dividend, in excess of \$5 million (individually or in aggregate);
- (n) any member of the Patties Group provides financial accommodation other than to Patties Group Members (irrespective of what form that financial indebtedness takes) in excess of \$5 million (individually or in aggregate);
- (o) any member of the Patties Group enters into, or resolves to enter into, a transaction with any related party of Patties (other than a related party that is a member of the Patties Group), as defined in section 228 of the Corporations Act other than a transaction relating to the remuneration of an officer of a member of the Patties Group;
- (p) any member of the Patties Group:
  - (i) settles any legal proceedings, disputed claim, investigation, arbitration or other like proceeding in relation to any recall of frozen berries or other contamination associated with any products manufactured by any member of the Patties Group where the settlement amount payable by any member of the Patties Group exceeds \$150,000;
  - (ii) settles any legal proceedings, disputed claim, investigation, arbitration or other like proceeding in relation to any matter other than as described in sub-paragraph (i) above where the settlement amount payable by any member of the Patties Group exceeds \$500,000; or
  - (iii) admits to fault or liability in respect of any legal proceedings, disputed claim, investigation, arbitration or other like proceeding;
- (q) any member of the Patties Group:
  - (i) pays any of its officers, directors, other executives or employees a bonus, retention, severance or termination or retention payment;
  - (ii) enters into or materially alters, varies or amends any employment, consulting, severance or similar agreement or arrangement with any of its officers, directors, other executives or employees;
  - (iii) accelerates or materially increases compensation or benefits for any of its officers, directors, other executives or employees;
  - (iv) enters into any enterprise bargaining agreement or similar collective employment agreement; or
  - (v) establishes a new incentive scheme, whether cash-based, securities-based or derivatives-based or a combination or otherwise,
 other than:
  - (vi) remuneration by way of fees or additional fees paid or payable to a director of a member of the Patties Group;
  - (vii) remuneration by way of bonus including any retention payment or deferred bonus paid or payable to an officer of a member of the Patties Group; and
  - (viii) remuneration by way of vesting of any short term incentive, long term incentive or Performance Right,
 agreed or resolved by Patties or the Patties Board and Fairly Disclosed in the Due Diligence Material or the Disclosure Letter, before the date of this deed; or
- (r) any member of the Patties Group employs an individual who is not an employee as at the time of signing this deed where the individual reports, or is to report, directly to the Managing Director/Chief Executive Officer of the Patties Group,

## Appendix 4. Scheme Implementation Deed *continued*

but does not include any matter:

- (s) expressly required to be done or procured by Patties pursuant to this deed or the Scheme;
- (t) Fairly Disclosed in filings of Patties with the ASX prior to the date of this deed;
- (u) to the extent it is Fairly Disclosed in the Due Diligence Material or the Disclosure Letter; or
- (v) the undertaking of which BidCo has approved in writing.

**Patties Party** means any person included in the Patties Indemnified Parties.

**Patties Shareholder** means a person who is registered in the register maintained by Patties under section 168(1) of the Corporations Act as a holder of Shares.

**Patties Warranties** means the representations and warranties of Patties set out in clause 10.3.

**PEP Shareholders** has the meaning given to it in the Shareholders Deed.

**Performance Right** means a right granted under the Performance Rights Plan to acquire by way of issue a Share subject to the terms of such plan.

**Performance Rights Holder** means a person who holds a Performance Right.

**Performance Rights Plan** means the Patties Foods Ltd Long Term Incentive Plan.

**Performance Rights Plan Rules** means the rules of the Performance Rights Plan.

**Proposed Transaction** means:

- (a) the proposed acquisition by BidCo in accordance with the terms and conditions of this deed, of all of the Shares (other than the Shares (if any) held by an Excluded Shareholder) through the implementation of the Scheme; and
- (b) all associated transactions and steps contemplated by this deed.

**Record Date** means, in respect of the Scheme, 7.00pm on the eighth Business Day (or such other Business Day as Patties and BidCo agree in writing) following the Effective Date.

**Regulatory Approvals** means the approvals set out in clause 3.1(a).

**Related Body Corporate of a person**, means a related body corporate of that person under section 50 of the Corporations Act and includes any body corporate that would be a related body corporate if section 48(2) of the Corporations Act was omitted.

**Relevant Interest** has the meaning given in the Corporations Act.

**RG 60** means Regulatory Guide 60 issued by ASIC.

**Scheme** means the proposed scheme of arrangement under Part 5.1 of the Corporations Act between Patties and Scheme Shareholders in respect of all Scheme Shares, substantially in the form set out in Schedule 3 or in such other form as Patties and BidCo agree in writing, subject to any alterations or conditions that are:

- (a) agreed to in writing by Patties and BidCo, and approved by the Court; or
- (b) made or required by the Court under section 411(6) of the Corporations Act and agreed to by each party.

**Scheme Consideration** has the meaning given in the Scheme.

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

**Scheme Share** means a Share on issue as at the Record Date other than any Share then held by an Excluded Shareholder.

**Scheme Shareholder** means a person who is the registered holder of one or more Scheme Shares.

**Second Court Date** means the first day on which an application made to the Court for an order under section 411(4)(b) of the Corporations Act approving the Scheme is heard or scheduled to be heard or, if the application is adjourned for any reason, means the date on which the adjourned application is heard or scheduled to be heard.

**Senior Manager** means an employee of any member of the Patties Group reporting directly to the managing director, chief financial officer or group chief operating officer of Patties.

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

**Shareholders Deed** means the Shareholders Deed in relation to TopCo in the form set out in Schedule 4 or as otherwise agreed between Patties and BidCo.

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

**Special Dividend** means a dividend referred to in clause 7.4.

**Subsidiary** has the meaning given to that term in section 46 of the Corporations Act.

**Superior Proposal** means a bona fide Competing Proposal which in the determination of the Patties Board acting in good faith and in order to satisfy what the Patties Board reasonably considers to be its fiduciary or statutory duties received in writing by Patties after the date of this deed:

- (a) is reasonably capable of being valued and completed, taking into account all aspects of the Competing Proposal and the person or persons making it; and
- (b) would, if completed substantially in accordance with its terms, be likely to be more favourable to Patties Shareholders as a whole than the Proposed Transaction, having regard to matters including consideration, conditionality, funding, certainty and timing.

**Third Party** means any person which is not an Associate of BidCo or Patties.

**Timetable** means the indicative timetable in relation to the Proposed Transaction set out in Schedule 1 with such modifications as may be agreed in writing by the parties.

**TopCo** means Australasian Foods Holdco Pty Limited (ACN 612 640 329) of level 31, 126-130 Phillip Street, Sydney, NSW 2000.

**TopCo Prescribed Occurrence** means the occurrence of an Insolvency Event in relation to BidCo or TopCo.

**TopCo Related Person** means, in respect of TopCo:

- (a) a Related Body Corporate of TopCo; and
- (b) any director, officer, member or employee of TopCo or of a Related Body Corporate of TopCo.

**Treasurer** means the Treasurer for the time being of the Commonwealth of Australia.

## 1.2 Interpretation

In this deed, except where the context otherwise requires:

- (a) the singular includes the plural, and the converse also applies;
- (b) gender includes other genders;
- (c) if a word or phrase is defined, its other grammatical forms have a corresponding meaning;
- (d) a reference to a clause, paragraph, schedule or annexure is to a clause or paragraph of, or schedule or annexure to, this deed, and a reference to this deed includes any schedule or annexure;
- (e) a reference to a document or instrument includes the document or instrument as novated, altered, supplemented or replaced from time to time;
- (f) a reference to A\$, \$A, dollar or \$ is to Australian currency;
- (g) a reference to time is to Melbourne, Australia time;
- (h) a reference to a party is to a party to this deed, and a reference to a party to a document includes the party's executors, administrators, successors and permitted assigns and substitutes;
- (i) a reference to a person includes a natural person, partnership, body corporate, association, governmental or local authority or agency or other entity;

## Appendix 4. Scheme Implementation Deed *continued*

- (j) a reference to legislation or to a provision of legislation (including a listing rule or operating rule of a financial market or of a clearing and settlement facility) includes a modification or re enactment of it, a legislative provision substituted for it and a regulation or statutory instrument issued under it;
- (k) a word or expression defined in the Corporations Act has the meaning given to it in the Corporations Act;
- (l) a reference to conduct includes an omission, statement or undertaking, whether or not in writing;
- (m) the meaning of general words is not limited by specific examples introduced by including, for example or similar expressions;
- (n) a rule of construction does not apply to the disadvantage of a party because the party was responsible for the preparation of this deed or any part of it;
- (o) if a day on or by which an obligation must be performed or an event must occur is not a Business Day, the obligation must be performed or the event must occur on or by the next Business Day; and
- (p) a reference to **Fairly Disclosed** means disclosed to any of BidCo, TopCo, Patties (as applicable) or any of their respective Authorised Persons in sufficient detail so as to enable a reasonable and sophisticated recipient of the relevant information who is experienced in transactions similar to the Proposed Transaction and experienced in transactions similar to the Proposed Transaction in the food processing and manufacturing industry, to identify the nature and scope of the relevant matter, event or circumstance.

### 1.3 Headings

Headings are for ease of reference only and do not affect interpretation.

### 1.4 Business Day

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

### 1.5 Consents or approvals

If the doing of any act, matter or thing under this deed is dependent on the consent or approval of a party or is within the discretion of a party, the consent or approval may be given or the discretion may be exercised conditionally or unconditionally or withheld by the party in its absolute discretion unless expressly provided otherwise.

### 1.6 Listing requirements included as law

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

### 1.7 Reasonable endeavours

Any provision of this deed which requires a party to use reasonable endeavours or best endeavours to procure that something is performed or occurs or does not occur does not include any obligation:

- (a) to pay any money or provide any financial compensation, valuable consideration or any other incentive to or for the benefit of any person except for payment of any applicable fee for the lodgement or filing of any relevant application with any Governmental Agency; or
- (b) to commence any legal action or proceeding against any person, except where that provision expressly specifies otherwise.

## 2. Agreement to propose Scheme

- (a) Patties agrees to propose and implement the Scheme on and subject to the terms and conditions of this deed, and substantially in accordance with the Timetable.
- (b) BidCo agrees to assist Patties in proposing and implementing the Scheme on and subject to the terms and conditions of this deed, and substantially in accordance with the Timetable.

## 3. Conditions precedent and pre-implementation steps

### 3.1 Conditions to Scheme

Subject to this clause 3, the Scheme will not become Effective, and the obligations of BidCo in clauses 4.2 and 4.3 will not be binding, unless and until each of the following conditions precedent is satisfied or waived to the extent and in the manner set out in this clause 3:

- (a) **(Regulatory Approvals):**
  - (i) **(ASIC and ASX)** before the Delivery Time on the Second Court Date, ASIC and ASX issue or provide such consents or approvals as are necessary or which Patties and BidCo agree are necessary or desirable to implement the Scheme and such consent, approval or other act has not been withdrawn or revoked before the Delivery Time on the Second Court Date; and
  - (ii) **(FIRB)** before the Delivery Time on the Second Court Date, either:
    - (A) the Treasurer (or his or her delegate) has provided a notice in writing (without any term or condition which BidCo reasonably considers unacceptable) stating or to the effect that there are no objections under the FATA to BidCo acquiring the Scheme Shares under the Scheme; or
    - (B) the Treasurer (and each of his or her delegates) becomes precluded by passage of time from making any order or decision under Division 2 of Part 3 of the FATA in respect of the acquisition of the Scheme Shares by BidCo;
- (b) **(No restraints)** no temporary restraining order, preliminary or permanent injunction or other order issued by any court of competent jurisdiction, no preliminary or final decision, determination or order issued by any Governmental Agency and no other legal restraint preventing any of the transactions contemplated by this Deed is in effect as at the Delivery Time on the Second Court Date;
- (c) **(No Patties Prescribed Occurrence)** no Patties Prescribed Occurrence occurs between and including the date of this deed and the Delivery Time on the Second Court Date;
- (d) **(No TopCo Prescribed Occurrence)** no TopCo Prescribed Occurrence occurs between and including the date of this deed and the Delivery Time on the Second Court Date;
- (e) **(No change of Patties Board recommendation)** between and including the date of this deed and the date of the Scheme Meeting, none of the Directors of Patties changing, qualifying or withdrawing their voting intention to vote in favour of the resolution to approve the Scheme (to the extent a Director has a Relevant Interest in Patties Shares) or their unanimous recommendation to Patties Shareholders to vote in favour of the Scheme, which recommendation (or voting intention) may be expressed to be given:
  - (i) in the absence of a Superior Proposal; and
  - (ii) subject to the Independent Expert opining that the Scheme is in the best interest of Patties Shareholders;
- (f) **(Patties Warranties)** the Patties Warranties being true and correct on the date of this deed and at the Delivery Time on the Second Court Date;
- (g) **(BidCo Warranties)** the BidCo Warranties being true and correct on the date of this deed and at the Delivery Time on the Second Court Date;

## Appendix 4. Scheme Implementation Deed *continued*

- (h) **(Shareholder approval)** the Scheme is approved by Patties Shareholders at the Scheme Meeting by:
  - (i) unless the Court orders otherwise, the majority specified in section 411(4)(a)(ii)(A) of the Corporations Act; and
  - (ii) the majority specified in section 411(4)(a)(ii)(B) of the Corporations Act;
- (i) **(Patties Performance Rights)** Patties has at the Delivery Time on the Second Court Date complied with its obligations under clause 5;
- (j) **(Court approval)** the Scheme is approved by the Court in accordance with section 411(4)(b) of the Corporations Act;
- (k) **(Independent Expert)** the Independent Expert concluding in the Independent Expert's Report that in its opinion the Scheme is in the best interest of Patties Shareholders and the Independent Expert maintaining that opinion (including by not withdrawing, qualifying or changing that opinion) at all times up to the Delivery Time on the Second Court Date; and
- (l) **(Shareholders Deed)** the Shareholders Deed is executed by the persons named as the parties to that Agreement.

### 3.2 Benefit and waiver of conditions precedent

- (a) The Conditions in clauses 3.1(a)(i) (ASIC and ASX) and 3.1(b) (No Restraints) are each for the benefit of Patties and BidCo and any breach or non-fulfilment of them may only be waived with the written consent of both parties, which consent either party may give or withhold in its absolute discretion.
- (b) The Conditions in clauses 3.1(c) (No Patties Prescribed Occurrences), 3.1(e) (No change of Patties Board recommendation), 3.1(f) (Patties Warranties) and 3.1(i) (Patties Performance Rights) are for the sole benefit of BidCo and any breach or non-fulfilment of them may only be waived by BidCo giving its written consent.
- (c) The Conditions in clauses 3.1(d) (No TopCo Prescribed Occurrences) and 3.1(g) (BidCo Warranties), 3.1(k) (Independent Expert) and 3.1(l) (Shareholders Deed) are for the sole benefit of Patties and any breach or non-fulfilment of them may only be waived by Patties giving its written consent.
- (d) A party entitled to waive a Condition under this clause 3.2 may do so in its absolute discretion. Any waiver of a Condition by a party for whose benefit the condition applies must take place on or prior to the Delivery Time on the Second Court Date. The Conditions in clauses 3.1(a)(ii) (FIRB), 3.1(h) (Shareholder approval) and 3.1(j) (Court approval) cannot be waived.
- (e) If a party waives the breach or non-fulfilment of any of the Conditions in clause 3.1, that waiver will not preclude it from suing the other party for any breach of this deed including a breach that resulted in the non-fulfilment of the Condition that was waived.

### 3.3 Reasonable endeavours

- (a) Patties and BidCo will use their respective reasonable endeavours to procure that each of the Conditions is satisfied as soon as reasonably practicable after the date of this deed or continues to be satisfied at all times until the last time they are to be satisfied (as the case may require).
- (b) Without limiting clauses 3.4 and 3.5 below, each of Patties and BidCo must:
  - (i) consult and co-operate fully with the other party in relation to the satisfaction of the Conditions, including in relation to all material communications with any Governmental Agency in relation to Regulatory Approvals;
  - (ii) promptly apply for all relevant Regulatory Approvals and provide the other party with a copy of all applications for Regulatory Approvals and all material communications with any Governmental Agency in relation to Regulatory Approvals;



- (iii) take all the steps for which it is responsible as part of the Regulatory Approvals process;
- (iv) respond to all requests for information in respect of the applications for Regulatory Approvals at the earliest practicable time;
- (v) provide the other with all information and assistance reasonably requested in connection with the applications for Regulatory Approvals and keep the other informed of progress in relation to the applications for Regulatory Approvals; and
- (vi) so far as it is able, allow the other and its Authorised Persons the opportunity to be present and make submissions at any meetings with any regulatory body relating to the Regulatory Approvals in respect of the Scheme.

### 3.4 Notifications

Each of BidCo and Patties must:

- (a) keep the other promptly and reasonably informed of the steps it has taken and of its progress towards satisfaction of the Conditions;
- (b) promptly notify the other in writing if it becomes aware that any Condition has been satisfied and provide reasonable evidence of the same; and
- (c) promptly notify the other in writing if it becomes aware that any Condition is or has become incapable of being satisfied (having regard to the respective obligations of each party under clause 3.3).

### 3.5 Certificates

On or before the Delivery Time on the Second Court Date:

- (a) BidCo and Patties will provide a joint certificate to the Court confirming whether or not the Conditions set out in clauses 3.1(a) (Regulatory Approval) and 3.1(b) (No Restraints) have been satisfied or waived in accordance with the terms of this deed;
- (b) Patties will provide a certificate to the Court confirming whether or not the Conditions set out in clauses 3.1(c) (No Patties Prescribed Occurrences), 3.1(e) (No change of Patties Board recommendation), 3.1(f) (Patties Warranties), 3.1(h) (Shareholder approval), 3.1(i) (Patties Performance Rights) and 3.1(k) (Independent Expert) have been satisfied or waived in accordance with the terms of this deed;
- (c) BidCo will provide a certificate to the Court confirming whether or not the Conditions set out in clauses 3.1(d) (No TopCo Prescribed Occurrences), 3.1(g) (BidCo Warranties) and 3.1(l) (Shareholders Deed) have been satisfied or waived in accordance with the terms of this deed;
- (d) Patties will provide a certificate to BidCo confirming whether or not:
  - (i) it has breached any of its obligations under this deed (including a breach of a representation or warranty), and if it has, giving details of such breach; and
  - (ii) any Material Adverse Change has occurred and, if it has, giving details of each Material Adverse Change; and
- (e) BidCo will provide a certificate to Patties confirming whether or not it has breached any of its obligations under this deed (including a breach of a representation or warranty), and if it has, giving details of such breach.

### 3.6 Scheme voted down

If the Scheme is not approved by Patties Shareholders at the Scheme Meeting by reason only of the non-satisfaction of the Headcount Test and BidCo considers acting reasonably that Share Splitting or some abusive or improper conduct may have caused or contributed to the Headcount Test not having been satisfied then Patties must:

- (a) apply for an order of the Court contemplated by section 411(4)(a)(ii)(A) of the Corporations Act to disregard the Headcount Test and seek Court approval of the Scheme under section 411(4)(b) of the Corporations Act, notwithstanding that the Headcount Test has not been satisfied; and

## Appendix 4. Scheme Implementation Deed *continued*

- (b) make such submissions to the Court and file such evidence as Counsel engaged by Patties to represent it in Court proceedings related to the Scheme, in consultation with BidCo, considers is reasonably required to seek to persuade the Court to exercise its discretion under section 411(4)(a)(ii)(A) of the Act by making an order to disregard the Headcount Test.

### 3.7 Conditions not capable of being fulfilled

- (a) If:
- (i) any Condition is not satisfied or (where capable of waiver) waived by the date specified in this deed for its satisfaction (or an event occurs which would or is likely to prevent a condition precedent being satisfied by the date specified in this deed);
  - (ii) a circumstance occurs with the result that a Condition is not capable of being fulfilled and, if the Condition is able to be waived by a party under clause 3.2 the party does not waive the Condition by the earlier of the Delivery Time on the Second Court Date and the tenth Business Day after becoming or aware of the occurrence of the circumstance;
  - (iii) a circumstance occurs which is reasonably likely to result in a Condition not capable of being fulfilled in time for the Scheme to become Effective by the End Date; or
  - (iv) the Scheme does not, or it becomes more likely than not that the Scheme will not, become Effective by the End Date,
- and neither of the following has occurred:
- (v) the Independent Expert opines to the effect that the Scheme is not in the best interest of Patties Shareholders; or
  - (vi) a Superior Proposal has been publicly announced,
- then Patties and BidCo must consult in good faith with a view to determining whether:
- (vii) the Scheme may proceed by way of alternative means or methods;
  - (viii) to extend the relevant time or date for satisfaction of the Condition;
  - (ix) to change the date of the application to be made to the Court for orders under section 411(4)(b) of the Corporations Act approving the Scheme or adjourning that application (as applicable) to another date agreed by the parties; or
  - (x) to extend the End Date.
- (b) Subject to clause 3.7(c), if a Condition becomes incapable of being satisfied before the End Date and Patties and BidCo are unable to reach agreement under clause 3.7(a) within five Business Days of the date on which they both become aware that the Condition has become incapable of being satisfied (or, if earlier, by the Delivery Time on the Second Court Date), then unless the relevant Condition (where capable of waiver) is waived:
- (i) in relation to the Conditions in clauses 3.1(a) (Regulatory Approval), 3.1(b) (No Restraints), 3.1(h) (Shareholder approval), 3.1(j) (Court approval) and 3.1(k) (Independent Expert) either BidCo or Patties may terminate this deed by giving the other notice without any liability to any party by reason of that termination alone;
  - (ii) in relation to the Conditions in clauses 3.1(c) (No Patties Prescribed Occurrences), 3.1(e) (No change of Patties Board recommendation), 3.1(f) (Patties Warranties) and 3.1(i) (Patties Performance Rights), BidCo may terminate this deed by giving Patties notice without any liability to any party by reason of that termination alone; and
  - (iii) in relation to the Conditions in clauses 3.1(d) (No TopCo Prescribed Occurrences), 3.1(g) (BidCo Warranties) and 3.1(l) (Shareholders Deed), Patties may terminate this deed by giving BidCo notice without any liability to any other party by reason of that termination alone.

- (c) A party will not be entitled to terminate this deed pursuant to clause 3.7(b) if the relevant Condition has not been satisfied as a result of:
  - (i) a breach of this deed by that party; or
  - (ii) a deliberate act or omission of that party which either alone or together with other circumstances prevents that Condition being satisfied.

### **3.8 Interpretation**

For the purposes of this clause 3, a Condition will be incapable of satisfaction, or incapable of being fulfilled if:

- (a) in the case of a Condition relating a Regulatory Approval – the relevant Governmental Agency makes or has made a final adverse determination in writing to the effect that it will not provide the Regulatory Approval; and
- (b) in all other cases – there is an act, failure to act or occurrence that will prevent the Condition being satisfied by the End Date (and the breach or non-fulfilment that would otherwise have occurred has not already been waived in accordance with this deed).

## **4. Transaction Steps**

### **4.1 Scheme**

Patties must, as soon as reasonably practicable after the date of this deed and substantially in compliance with the Timetable, propose the Scheme under which, subject to the Scheme becoming Effective, all of the Scheme Shares will be transferred to BidCo and the Scheme Shareholders will be entitled to receive, for each Scheme Share held at the Record Date, the Scheme Consideration.

### **4.2 Scheme Consideration**

BidCo covenants in favour of Patties (in Patties' own right and separately as trustee for each Scheme Shareholder) that, in consideration of the transfer to BidCo of the Scheme Shares under the terms of the Scheme), on the Implementation Date:

- (a) BidCo will accept that transfer; and
- (b) BidCo will provide and will procure TopCo to provide to each Scheme Shareholder the relevant component of the Scheme Consideration,

in accordance with the Scheme.

### **4.3 Issue of Class B Shares**

- (a) Subject to the Scheme becoming Effective, BidCo must:
  - (i) issue (or procure the issue of) the Class B Shares to the Scheme Shareholders in accordance with the Scheme on terms that each Class B Share will rank equally in all respects with each other Class B Share and will have the rights set out in the Shareholders Deed; and
  - (ii) ensure that on issue each Class B Share will be fully paid and free from any mortgage, charge, lien, encumbrance or other security interest.
- (b) To facilitate the issue of the Class B Shares to Scheme Shareholders, Patties must provide to BidCo, or procure the provision to BidCo of, a complete copy of the Patties register of members as at the Record Date (which must include the name, address and registered holding of each Scheme Shareholder as at the Record Date), within two Business Days after the Record Date. The details and information to be provided under this clause must be provided in such form as BidCo, its Advisers or share registry may reasonably require.
- (c) BidCo will not issue (or procure the issue of) any Class B Shares to Foreign Scheme Shareholders.

## Appendix 4. Scheme Implementation Deed *continued*

- (d) Any fractional entitlement of a Scheme Shareholder to a part of a Class B Share will be rounded down to the nearest whole number of Class B Shares.

### 4.4 Deed Poll

BidCo covenants in favour of Patties (in Patties' own right and separately as trustee for each of the Scheme Shareholders) to execute, deliver and perform and to procure TopCo to execute, deliver and perform, the Deed Poll no later than the First Court Date.

## 5. Treatment of Performance Rights

Patties must take all actions to ensure that:

- (a) each Performance Rights Holder can exercise his or her Performance Rights before the record date for the Special Dividend;
- (b) any Performance Right which is not exercised before the record date for the Special Dividend by the relevant Performance Right Holder lapses or is cancelled upon or subject to the Scheme becoming Effective; and
- (c) no Shares are issued, or required to be issued, on or after the Record Date as a result of the exercise of any Performance Right.

## 6. Recommendation, intentions and announcements

### 6.1 Patties Board Recommendation and Voting Intention

- (a) Patties must ensure that the Announcement and the Explanatory Booklet state that each Patties Director recommends that Patties Shareholders vote in favour of the Scheme (**Recommendation**) which Recommendation must not be qualified in any way other than by words to the effect of 'in the absence of a Superior Proposal' and 'subject to the Independent Expert concluding that the Scheme is in the best interest of Patties Shareholders'.
- (b) For the avoidance of doubt, Patties will not have failed to comply with clause 6.1(a) merely because any Patties Director makes no recommendation on whether a Patties Shareholder should elect to receive Class B Shares or recommends against making an election to receive Class B Shares.
- (c) BidCo agrees that each Patties Director may, subject to the terms of this deed, publicly (or otherwise) withdraw, change or in any way qualify their Recommendation if:
  - (i) a Superior Proposal is made; or
  - (ii) the Independent Expert concludes in the Independent Expert's Report (either in its initial report or any subsequent update of its report) that the Scheme is not in the best interest of the Patties Shareholders.
- (d) Patties and BidCo agree that each Patties Director has indicated to Patties that they intend to cause any Shares in which they have a Relevant Interest to be voted in favour of the Scheme (**Voting Intention**), subject to:
  - (i) there being no Superior Proposal; and
  - (ii) the Independent Expert concluding that the Scheme is in the best interests of Patties Shareholders,

and that the Explanatory Booklet will state that Voting Intention to the extent to which it is current as at the date of the Explanatory Booklet.
- (e) BidCo agrees that each Patties Director may, subject to the terms of this deed, publicly (or otherwise) withdraw, change or in any way qualify their Voting Intention if:
  - (i) a Superior Proposal is made; or

- (ii) the Independent Expert concludes in the Independent Expert's Report (either in its initial report or any subsequent update of its report) that the Scheme is not in the best interest of the Patties Shareholders.
- (f) Patties must use its best endeavours to procure that each Patties Director acts in accordance with his or her obligations under this clause 6.1.

## 6.2 Confirmation

Patties represents and warrants to BidCo that each Patties Director has confirmed their agreement not to do anything inconsistent with their Recommendation and Voting Intention (including withdrawing, changing or in any way qualifying their Recommendation or Voting Intention) other than in the circumstances referred to in clause 6.1(b) or 6.1(e).

## 6.3 Announcements

- (a) Immediately after the execution of this deed, Patties must issue the Announcement to the ASX.
- (b) Any further public announcements by Patties or BidCo in relation to, or in connection with, the Proposed Transaction or any other transaction related to this deed or the Scheme may only be made in a form approved by Patties and BidCo in writing (acting reasonably). Where a party is required by law or the Listing Rules to make any announcement or to make any disclosure in relation to, or in connection with the Proposed Transaction or any other transaction related to this deed or the Scheme, it may do so to the extent legally required and only then after it has given the other party as much notice as possible and has consulted to the fullest extent possible in the circumstances with the other party.

## 7. Scheme – parties' respective implementation obligations

### 7.1 Patties' obligations

Patties must take all steps reasonably necessary to propose and (subject to all of the Conditions being satisfied or waived in accordance with their terms) implement the Scheme as soon as reasonably practicable after the date of this deed and substantially in accordance with the Timetable, including without limitation taking each of the following steps:

- (a) **(Explanatory Booklet)** prepare the Explanatory Booklet in accordance with clause 7.3;
- (b) **(Election Form and bank account details)**
  - (i) not finalise the Election Form without the prior written consent of BidCo (acting reasonably);
  - (ii) ensure that the Election Form contains:
    - (A) a section which requires a Patties Shareholder to provide details of bank accounts into which any future dividends on and other payments relating to Class B Shares are to be paid; and
    - (B) wording to the effect that a Patties Shareholder, by signing and submitting an Election Form, consents to Patties providing to BidCo such bank account details and tax file numbers or bank account details or tax file numbers previously notified by the Patties Shareholder to Patties; and
  - (iii) not later than the Business Day before the Implementation Date, provide BidCo with the bank account details and tax file numbers referred to in clause 7.1(b)(ii)(B);
- (c) **(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;
- (d) **(approval of draft for ASIC)** as soon as reasonably practicable after the preparation of an advanced draft of the Explanatory Booklet suitable for review by ASIC, procure that a meeting of the Patties Board, or of a committee of the Patties Board appointed for the purpose, is held to consider approving that draft as being in a form appropriate for

## Appendix 4. Scheme Implementation Deed *continued*

provision to ASIC for its review and approval for the purposes of section 411(2) of the Corporations Act;

- (e) **(liaison with ASIC)** as soon as reasonably practicable after the date of this deed:
  - (i) provide an advanced draft of the Explanatory Booklet, in a form approved in accordance with clauses 7.1(d) and 7.2(f), to ASIC for its review and approval for the purposes of section 411(2) of the Corporations Act; and
  - (ii) liaise with ASIC during the period of its consideration of that draft of the Explanatory Booklet and keep BidCo reasonably informed of any matters raised by ASIC in relation to the Explanatory Booklet and use reasonable endeavours, in consultation with BidCo, to resolve any such matters;
- (f) **(consult with BidCo)** consult with BidCo as to the content and presentation of the Explanatory Booklet including:
  - (i) providing BidCo with drafts of the Explanatory Booklet for the purpose of enabling BidCo to review and comment on those draft documents;
  - (ii) taking all comments made by BidCo into account in good faith when producing a revised draft of the Explanatory Booklet; and
  - (iii) providing to BidCo a revised draft of the Explanatory Booklet within a reasonable time before the draft of the Explanatory Booklet which is provided to ASIC for approval pursuant to section 411(2) of the Corporations Act is finalised;
- (g) **(ASIC review)** keep BidCo reasonably informed of any matters raised by ASIC in relation to the Explanatory Booklet and use reasonable endeavours to take into consideration BidCo's views in resolving any material issues raised by ASIC;
- (h) **(approval of Explanatory Booklet)** as soon as reasonably practicable after the conclusion of the review by ASIC of the Explanatory Booklet, procure that a meeting of the Patties Board, or of a committee of the Patties Board appointed for the purpose, is held to consider approving the Explanatory Booklet for despatch to the Patties Shareholders, subject to orders of the Court under section 411(1) of the Corporations Act;
- (i) **(section 411(17)(b) statements)** apply to ASIC for the production of statements in writing under section 411(17)(b) of the Corporations Act stating that ASIC does not intend to appear before the Court at the First Court Date and that ASIC has no objection to the Scheme;
- (j) **(first Court hearing)** lodge all documents with the Court and take all other reasonable steps to ensure that promptly after, and provided that, the approvals in clauses 7.1(h) and 7.2(g) have been received, an application is heard by the Court for an order under section 411(1) of the Corporations Act directing Patties to convene the Scheme Meeting;
- (k) **(registration of explanatory statement)** request ASIC to register the explanatory statement included in the Explanatory Booklet in relation to the Scheme in accordance with section 412(6) of the Corporations Act;
- (l) **(convening Scheme Meeting)** take all reasonable steps necessary to comply with the orders of the Court including, as required, despatching the Explanatory Booklet to the Patties Shareholders and convening and holding the Scheme Meeting;
- (m) **(Court approval application if parties agree that conditions are capable of being satisfied)** if the resolution submitted to the Scheme Meeting is passed by the majorities required under section 411(4)(a)(ii) of the Corporations Act (or, where clause 3.6 applies, the majority required under section 411(4)(a)(ii)(B) of the Corporations Act) and, if necessary, the parties agree on the Business Day immediately following the Scheme Meeting that it can be reasonably expected that all of the Conditions will be satisfied or waived prior to the proposed Second Court Date, apply to the Court for orders approving the Scheme;
- (n) **(appeal process)** if the Court refuses to make any orders directing Patties to convene the Scheme Meeting or approving the Scheme, Patties and BidCo must:
  - (i) consult with each other in good faith as to whether to appeal the Court's decision; and

- (ii) appeal the court decision unless those parties agree otherwise or an independent senior counsel opines that, in his or her view, an appeal would have no reasonable prospect of success;
- (o) **(implementation of Scheme)** if the Scheme is approved by the Court:
  - (i) subject to the Listing Rules, lodge with ASIC an office copy of the orders approving the Scheme in accordance with section 411(10) of the Corporations Act no later than 10 Business Days after the date of such approval;
  - (ii) determine entitlements to the Scheme Consideration as at the Record Date in accordance with the Scheme;
  - (iii) execute proper instruments of transfer of and effect and register the transfer of the Scheme Shares to BidCo on the Implementation Date; and
  - (iv) do all other things contemplated by or necessary to give effect to the Scheme and the orders of the Court approving the Scheme;
- (p) **(Listing)** not do anything to cause the Shares to cease being quoted on the ASX prior to completion of the Proposed Transaction or to become permanently suspended from quotation prior to the Effective Date;
- (q) **(Regulatory notifications)** in relation to the Regulatory Approvals, lodge with any Governmental Agency within the relevant time periods all documentation and filings required by law to be so lodged by Patties in relation to the Proposed Transaction;
- (r) **(ATO)** consult with BidCo as to the content and presentation of each private ruling application that Patties may file with the Australian Taxation Office (**ATO**) in relation to the tax consequences of the Scheme or Special Dividend (or both), including:
  - (i) providing BidCo with drafts of each such application for the purpose of enabling BidCo to review and comment on those drafts; and
  - (ii) taking all comments made by BidCo into account in good faith when producing a revised draft of each such application,

and keep BidCo reasonably informed of any matters raised by the ATO in relation to each such application and use reasonable endeavours to take into consideration BidCo's views in resolving any material issues raised by the ATO;
- (s) **(BidCo Information)** without the prior written consent of BidCo, not use the BidCo Information for any purposes other than those expressly contemplated by this deed or the Scheme;
- (t) **(Documents)** consult with BidCo in relation to the content of the documents required for each of the Court hearings held for the purpose of subsection 411(1) and paragraph 411(4)(b) of the Corporations Act in relation to the Scheme (including originating process, affidavits, submissions and draft minutes of Court orders) and consider in good faith, for the purpose of amending drafts of those documents, reasonable comments from BidCo;
- (u) **(Shareholder support)** promote to its Shareholders the merits of the Scheme, including soliciting proxy votes in favour of the Scheme;
- (v) **(Compliance with laws)** do everything reasonably within its power to ensure that all transactions contemplated by this deed are effected in accordance with all applicable laws and regulations; and
- (w) **(No denigration)** from the date of this deed until the date the Independent Expert's Report is received, Patties will ensure that itself, its Subsidiaries and the Authorised Persons of Patties and each of its Subsidiaries do not publicly (or otherwise to third parties) denigrate the Proposed Transaction or BidCo, any member of the BidCo Group or Pacific Equity Partners in any way (whether expressly or implied).

## 7.2 BidCo's obligations

BidCo must take all steps reasonably necessary to assist Patties to implement the Scheme as soon as reasonably practicable and substantially in accordance with the Timetable including taking each of the following steps:

## Appendix 4. Scheme Implementation Deed *continued*

- (a) **(BidCo Information)** provide to Patties, in a form appropriate for inclusion in the Explanatory Booklet, all information regarding BidCo, MidCo and TopCo, the Class B Share component of the Scheme Consideration, the constitution of BidCo, the Shareholders Deed, the arrangements BidCo, MidCo and TopCo have in place to fund and provide the Scheme Consideration, and BidCo's intentions with respect to the assets, business and employees of Patties if the Scheme is approved and implemented that is required by all applicable law, the Listing Rules and ASIC Regulatory Guides for inclusion in the Explanatory Booklet, which information must (without limiting the above):
  - (i) contain all information necessary to enable Patties to ensure that the Explanatory Booklet complies with the requirements of RG 60;
  - (ii) not be misleading or deceptive in any material respect (whether by omission or otherwise) including in the form and context in which it appears in the Explanatory Booklet; and
  - (iii) be updated by all such further or new material information which may arise after the Explanatory Booklet has been despatched until the date of the Scheme Meeting which is necessary to ensure that it is not misleading or deceptive in any material respect (whether by omission or otherwise);
- (b) **(Regulatory notifications)** in relation to the Regulatory Approvals, lodge with any regulatory authority within the relevant time periods all documentation and filings required by law to be so lodged by BidCo in relation to the Proposed Transaction;
- (c) **(Independent Expert)** promptly provide all assistance and information reasonably requested by the Independent Expert to enable it to prepare the Independent Expert's Report;
- (d) **(ATO)** promptly review and comment on any draft application to the ATO as contemplated by clause 7.1(r);
- (e) **(review of Explanatory Booklet)** as soon as reasonably practicable after delivery, review the drafts of the Explanatory Booklet prepared by Patties and provide comments on those drafts in good faith;
- (f) **(approval of draft for ASIC)** as soon as reasonably practicable after the preparation of an advanced draft of the Explanatory Booklet suitable for review by ASIC, procure that a meeting of the appropriate representatives of BidCo is held to consider approving those sections of that draft that relate to BidCo, MidCo or TopCo as being in a form appropriate for provision to ASIC for review;
- (g) **(approval of Explanatory Booklet)** as soon as reasonably practicable after the conclusion of the review by ASIC of the Explanatory Booklet, procure that a meeting of the appropriate representatives of BidCo is held to consider approving those sections of the Explanatory Booklet that relate to BidCo, MidCo or TopCo as being in a form appropriate for despatch to Patties Shareholders, subject to approval of the Court;
- (h) **(Representation)** procure that, if requested by BidCo or Patties, BidCo is represented by counsel at the Court hearings convened for the purposes of section 411(4)(b) of the Corporations Act;
- (i) **(Patties Information)** without the prior written consent of Patties, not use Patties Information for any purposes other than those expressly contemplated by this deed or the Scheme;
- (j) **(Compliance with laws)** do everything reasonably within its power to ensure that all transactions contemplated by this deed are effected in accordance with all applicable laws and regulations; and
- (k) **(No denigration)** from the date of this deed until the date the Independent Expert's Report is received, BidCo will ensure that BidCo and its Authorised Persons do not publicly (or otherwise to third parties) denigrate the Proposed Transaction or Patties in any way (whether expressly or implied).



### 7.3 Explanatory Booklet - preparation principles

- (a) As soon as reasonably practicable after the date of this deed and substantially in accordance with the Timetable, Patties must prepare the Explanatory Booklet in compliance with:
  - (i) all applicable laws, in particular with the Corporations Act, RG 60 and the Listing Rules; and
  - (ii) this clause 7.3.
- (b) The Explanatory Booklet will include:
  - (i) the terms of the Scheme;
  - (ii) the notice of Scheme Meeting, and any other notice of meeting in respect of any resolution that is necessary, expedient or incidental to give effect to the Scheme, together with a proxy form for the Scheme Meeting and for any ancillary meeting;
  - (iii) the Patties Information;
  - (iv) the BidCo Information;
  - (v) a copy of this deed (without the schedules or annexures);
  - (vi) a copy of the executed Deed Poll; and
  - (vii) a copy of the Independent's Expert Report.
- (c) The Explanatory Booklet must include a statement that:
  - (i) other than the BidCo Information and the Independent Expert's Report, the Explanatory Booklet has been prepared by Patties and is the responsibility of Patties, and that BidCo assumes no responsibility for the accuracy or completeness of the Explanatory Booklet (other than BidCo Information); and
  - (ii) the BidCo Information has been provided by BidCo or TopCo and is the responsibility of BidCo or TopCo or both (as the case may be), and Patties assumes no responsibility for the accuracy or completeness of the BidCo Information.
- (d) Patties must make available to BidCo drafts of the Explanatory Booklet (excluding any draft of the Independent Expert's Report), consult with BidCo in relation to the content of those drafts (other than the BidCo Information), and consider in good faith, for the purpose of amending those drafts, comments from BidCo on those drafts. BidCo acknowledges and agrees that Patties has ultimate discretion with respect to the preparation, form and content of the Explanatory Booklet, other than as expressly provided in this deed with respect to the BidCo Information.
- (e) Patties must seek approval from BidCo for the form and context in which the BidCo Information appears in the Explanatory Booklet, which approval BidCo must not unreasonably withhold or delay, and Patties must not lodge the Explanatory Booklet with ASIC until such approval is obtained from BidCo.
- (f) If Patties and BidCo disagree on the form or content of the Explanatory Booklet, they must consult in good faith to try to settle an agreed form of the Explanatory Booklet. If complete agreement is not reached after reasonable consultation, then:
  - (i) if the disagreement relates to the form or content of any information appearing in the Explanatory Booklet other than the BidCo Information, the Patties Board will, acting in good faith, decide the final form or content of the disputed part of the Explanatory Booklet; and
  - (ii) if the disagreement relates to the form or content of the BidCo Information, Patties will make such amendments to the form or content of the disputed part of the BidCo Information as BidCo reasonably requires.
- (g) Patties must take all reasonable steps to ensure that the Explanatory Booklet (other than the BidCo Information) is not misleading or deceptive in any material respect (whether by omission or otherwise) as at the date it is despatched to Patties Shareholders.

## Appendix 4. Scheme Implementation Deed *continued*

- (h) BidCo must take all reasonable steps to ensure that the BidCo Information is not misleading or deceptive in any material respect (whether by omission or otherwise) as at the date on which the Explanatory Booklet is despatched to Patties Shareholders.
- (i) Patties must provide to BidCo all such further or new information of which Patties becomes aware that arises after the Explanatory Booklet has been despatched until the date of the Scheme Meeting where this is or may be necessary to ensure that the Explanatory Booklet continues to comply with the Corporations Act, RG 60 and the Listing Rules.
- (j) BidCo must provide to Patties all such further or new information of which BidCo becomes aware that arises after the Explanatory Booklet has been despatched until the date of the Scheme Meeting where this is or may be necessary to ensure that the BidCo Information continues to comply with the Corporations Act, RG 60 and the Listing Rules.
- (k) Patties and BidCo each agree that the efficient preparation of the Explanatory Booklet and the implementation of the Scheme are in the interests of Patties Shareholders and BidCo and that they will use all reasonable endeavours and utilise all necessary resources (including management resources and the resources of external advisers) to comply with their respective obligations under this clause 7.3 and to implement the Scheme as soon as reasonably practicable and substantially in accordance with the Timetable.

### 7.4 Payment of Special Dividend and internal payments

- (a) Despite any other provision of this deed, Patties reserves the right to, in its sole discretion, pay (with or without declaration) a dividend of not more than \$0.25 per Share (**Special Dividend**) to Patties Shareholders, where:
  - (i) the Special Dividend is to be declared or authorised prior to the Effective Date, and in any event by no later than the last date permitted by the Listing Rules to declare or authorise that dividend such that the record date for that dividend is no later than the Record Date;
  - (ii) the payment date for the Special Dividend will be determined by Patties at its sole discretion, provided that the Special Dividend is paid not later than the Implementation Date;
  - (iii) the Special Dividend will be franked to the maximum extent possible, subject to the franking account of Patties not being in deficit after the payment of the Special Dividend; and
  - (iv) the Special Dividend is to be paid from profits, retained earnings or distributable reserves (or a combination of all or some of them) of the Patties Group existing immediately prior to the declaration or authorisation of that dividend.
- (b) Despite any other provision of this deed, Patties may make and cause to be made any intra group distributions and payments between members of the Patties Group, in order to be able to declare or authorise and pay the Special Dividend in accordance with clause 7.4(a).

## 8. Conduct of business before the Implementation Date

### 8.1 Conduct of Patties business

Subject to clause 8.2, from the date of this deed up to and including the Implementation Date, Patties must conduct and must cause each of its Subsidiaries to conduct their businesses in the ordinary and usual course of business and:

- (a) operate those businesses consistent with past practice, in substantially the same manner as previously conducted, and not enter into any line of business which is materially different to the business in which the Patties Group engages as at the date of this deed, whether by way of acquisition or otherwise;
- (b) must, to the extent they are reasonably able, preserve their relationships with customers, suppliers, landlords, licensors, licensees and others having material business dealings with them, and to retain the services of all key employees;

- (c) use reasonable endeavours to ensure that all assets are maintained in the normal course consistent with past practice;
- (d) must ensure there is no material decrease in the amount of cash in the Patties Group (including by ensuring that consistent monthly payments to suppliers are made in accordance with the relevant contractual terms) other than in the ordinary course of business and consistent with forecast utilisation Fairly Disclosed to BidCo prior to the date of this deed:
- (e) must comply in all material respects with all material contracts to which a member of the Patties Group is a party, and with laws, authorisations and licences applicable to each member of the Patties Group;
- (f) must maintain such policies of insurance as are appropriate to the Patties Group's operations, property and assets, in such amounts and against such risks as are customarily carried and insured against by owners of comparable businesses and assets;
- (g) must ensure that all bills are paid as and when due, and that there is no change to the Patties Group's approach or practice to the timing of payment of bills;
- (h) not take or fail to take any action that constitutes a Patties Prescribed Occurrence or that could reasonably be expected to result in a Patties Prescribed Occurrence;
- (i) must ensure that no member of the Patties Group enters into any contract or commitment requiring payments by or to the Patties Group in excess of \$2 million (individually or in aggregate); and
- (j) must ensure that, in respect of any contract or commitment on foot as at the date of this deed which, as at the date of this deed:
  - (i) requires payments by the Patties Group in excess of \$2 million (individually or in aggregate); or
  - (ii) has a value or involves revenue for the Patties Group in excess of \$2 million (individually or in aggregate),
 no member of the Patties Group:
  - (iii) terminates, varies, amends or modifies any such contract or commitment; or
  - (iv) gives any consent or notice, or exercises any discretion, under any such contract or commitment.

## 8.2 Permitted activities

The obligations of Patties under clause 8.1 do not apply in respect of any matter:

- (a) required to be done or procured by Patties under this deed or the Scheme or in connection with the declaration or payment of any Special Dividend;
- (b) required by law or any an order of a court or Governmental Authority;
- (c) Fairly Disclosed in the Due Diligence Materials or the Disclosure Letter as being actions that the Patties Group may carry out between the date of this deed and the Implementation Date; or
- (d) the undertaking of which BidCo has approved in writing (which approval must not be unreasonably withheld).

## 8.3 Access and information

- (a) In the period from the date of this deed to and including the Implementation Date and for so long as the Patties Board considers the Proposed Transaction to be in the best interests of Patties Shareholders and continues to publicly recommend that Patties Shareholders vote in favour of the resolution to be proposed at the Scheme Meeting to approve the Scheme, Patties must:
  - (i) procure that at least three members of Patties executive management team meet with representatives of BidCo on a fortnightly basis to assist with, among other things:

## Appendix 4. Scheme Implementation Deed *continued*

- (A) keeping BidCo fully informed of the matters contemplated by clause 8.3(a)(ii); and
- (B) providing BidCo with access to information and people it has requested under clause 8.3(a)(ii); and
- (ii) promptly following a request by BidCo acting reasonably, provide BidCo (and its Authorised Persons) with:
  - (A) access to (or copies of) documents and information relating to the Patties Group, including any board minutes or papers, management accounts and audit papers; and
  - (B) access to executives and Senior Management of the Patties Group, for the purpose of or in connection with:
    - (C) planning the transition of the Patties Group and other matters relating to the conduct of the Patties Group following the Implementation Date; and
    - (D) otherwise facilitating the Proposed Transaction.
- (b) Patties must promptly provide BidCo with written notification of any recall of any Patties Group product.
- (c) Nothing in this clause 8.3 obliges Patties to provide to BidCo or its Authorised Persons any information:
  - (i) concerning Patties' Directors' consideration of the Scheme; or
  - (ii) which would breach an obligation of confidentiality to any person or any applicable privacy laws.
- (d) Patties will provide reasonable assistance to BidCo for the purpose of satisfying Patties obligations under this clause 8.3 but nothing in this clause 8.3 requires Patties to provide access to its people or documentation or to take any other action which would significantly disrupt the usual and ordinary course of Patties' businesses and operations.
- (e) The parties agree and acknowledge that nothing in this clause 8.3 requires Patties to provide any information that is different or in addition to the information Patties provides to its Board and Senior Managers in the usual and ordinary course consistent with past practice.

### 8.4 Access to BidCo information

- (a) From the date of this deed up until and including the Implementation Date, BidCo must ensure that BidCo, the BidCo Group and TopCo:
  - (i) respond to any reasonable request from Patties and its Authorised Persons (including in response to requests for information from financial markets and Governmental Agency) for information concerning the BidCo Group and its business and operations or TopCo; and
  - (ii) provide Patties and its Authorised Persons reasonable access to officers and employees, offices and other facilities, and books and records of members of the BidCo Group and TopCo, and otherwise provide reasonable co-operation to Patties and its Representatives, for the purpose of doing all things necessary or desirable under this deed or in connection with the Proposed Transaction (including compliance with any regulatory or financial market reporting requirements), and any plans for the integration of the Patties Group into the BidCo Group following the Implementation Date.
- (b) Nothing in this clause 8.4 requires BidCo to provide Patties with any information:
  - (i) in breach of an obligation of confidentiality to any person or any applicable privacy laws; or
  - (ii) concerning the consideration of the Proposed Transaction by the BidCo board or BidCo management.

- (c) BidCo will provide reasonable assistance to Patties for the purpose of satisfying BidCo's obligations under this clause 8.4 but nothing in this clause 8.4 requires BidCo to provide access to its people or documentation or to take any other action would disrupt the usual and ordinary course of its businesses and operations.

### 8.5 Change of control rights

As soon as practicable after the date of this deed, Patties and BidCo must seek to identify any change of control or similar provisions in leases and material contracts to which Patties or a Patties Group company is a party which may be triggered by the implementation of the Proposed Transaction. In respect of those leases and contracts, the parties agree as follows:

- (a) Patties and BidCo will agree a proposed course of action and then jointly initiate contact with the relevant landlords and other counter-parties and request that they provide any consents required. None of BidCo, TopCo or any of their Authorised Persons may contact any landlords or other counter-parties without Patties' approval; and
- (b) Patties must cooperate with, and provide reasonable assistance to, BidCo to obtain such consents as expeditiously as possible, including by:
  - (i) promptly provide any information reasonably required by landlords or counterparties; and
  - (ii) make representatives available, where necessary, to meet with landlords or counterparties to deal with issues arising in relation to the change of control of Patties.

A failure by a member of the Patties Group to obtain any landlord or third party consent will not constitute a breach of this deed by Patties and, together with any consequences that arise, will be disregarded when assessing the operation of any other provision of this deed.

### 8.6 Financing arrangements

- (a) Patties must co-operate with, and undertake all steps reasonably requested by, BidCo in connection with any repayment of Patties Group debt that may be required in connection with the Proposed Transaction, including:
  - (i) liaising with BidCo in relation to use of existing Patties Group cash reserves for such purpose;
  - (ii) issuing prepayment notices in relation to the existing Patties Group debt facilities and closing out hedging arrangements; and
  - (iii) using its best endeavours to procure deeds of releases and discharges of real property mortgages and registrations on the Personal Property Securities Register from secured parties in relation to any security interest granted by a member of the Patties Group in favour of that party and procuring the return of any title documents held by a secured party.
- (b) Patties agrees to provide timely cooperation in connection with the arrangement or syndication of any debt financings by any member of the BidCo Group as may be reasonably requested by BidCo and from time to time, including:
  - (i) participating in meetings (including meetings with ratings agencies), drafting sessions and due diligence sessions;
  - (ii) furnishing BidCo and the financing sources of the BidCo Group within a reasonable timeframe (including providing any consent required under the relevant Confidentiality Agreement to such disclosure) with financial and other pertinent information regarding the Patties Group or any entity in which any member of the Patties Group has an investment as may be reasonably requested by BidCo;
  - (iii) assisting BidCo and its financing sources in the preparation of any offering document to be used in obtaining or syndicating any debt financing, and any materials required in connection with ratings agency presentations;
  - (iv) co-operating with any marketing efforts undertaken by the BidCo Group and its financing sources related to debt financings (including by making available such

## Appendix 4. Scheme Implementation Deed *continued*

senior executives of Patties as reasonably requested by BidCo at mutually convenient times);

- (v) assisting the BidCo Group to satisfy any conditions and obligations of any financing to the extent same is within its control; and
- (vi) providing any information required to complete a reconciliation of financial statements to applicable accounting standards,

provided, in each case, that:

- (vii) where Patties has acted in good faith, no members of the Patties Group shall be required to incur any liability in connection with any debt financing prior to implementation of the Scheme that is not reimbursable by BidCo; and
- (viii) nothing in this clause 8.6 shall require cooperation to the extent that it would cause any Condition to not be satisfied or otherwise cause a breach of this deed.

### 9. Actions on and following Implementation Date

#### 9.1 Reconstitution of the board of each member of the Patties Group

- (a) On the Implementation Date, after Patties or its share registry has commenced the despatch of the Scheme Consideration to Scheme Shareholders or the Scheme Shares have been registered in the name of BidCo (whichever is earlier), subject to receipt by Patties of signed consents to act, Patties must take all actions necessary (and in accordance with the constitution of the Patties Group member, the Corporations Act and the Listing Rules) to appoint the persons nominated by BidCo as new Patties Directors and new directors of each Subsidiary.
- (b) Without limiting clause 9.1(a), on the Implementation Date, but subject to receipt by Patties of written notices of resignation to the effect that the outgoing directors have no claim outstanding against any member of the Patties Group, Patties must procure that:
  - (i) the incumbent Patties Directors (other than those specified in writing by BidCo to Patties) resign from the Patties Board;
  - (ii) to the extent specified in writing by BidCo to Patties, the incumbent directors of each Subsidiary of Patties resign from their office; and
  - (iii) to the extent specified in writing by BidCo to Patties, those directors appointed by, or who represent, the Patties Group on the board of any entity in which any member of the Patties Group holds securities.

#### 9.2 Sequence of actions on the Implementation Date

On the Implementation Date, the transactions which form part of the Scheme will be implemented in the following sequence:

- (a) BidCo will deposit (or procure the deposit of) the cash component of the Scheme Consideration into the specified Patties trust account in accordance with the Scheme;
- (b) Patties will commence the disbursement of the cash component of the Scheme Consideration to Scheme Shareholders in accordance with the Scheme;
- (c) BidCo will procure the issue by TopCo of the Class B Shares component of the Scheme Consideration to relevant Scheme Members in accordance with the Scheme; and
- (d) BidCo will acquire all of the Scheme Shares in accordance with the Scheme and become the registered holder of all the Scheme Shares,

### 10. Representations and warranties

#### 10.1 BidCo representations

- (a) BidCo represents and warrants to Patties (on Patties own behalf and separately as trustee or nominee for each of the other Patties Parties) each of the matters set out in clause

10.1(b) as at the date of this deed and on each subsequent day until the Delivery Time on the Second Court Date (except that where any statement is expressed to be made only at a particular date it is given only at that date).

- (b) BidCo represents and warrants that:
- (i) BidCo is a validly existing corporation registered under the laws of its place of incorporation;
  - (ii) the execution and delivery of this deed has been properly authorised by all necessary corporate action and BidCo has full corporate power and lawful authority to execute and deliver this deed and to perform or cause to be performed its obligations under this deed;
  - (iii) this deed constitutes legal, valid and binding obligations on it and this deed does not result in a breach of or default under any deed or any writ, order or injunction, rule or regulation to which BidCo is a party or is bound;
  - (iv) the BidCo Information provided to Patties in accordance with clause 7.2(a) for inclusion in the Explanatory Booklet will:
    - (A) comply in all material respects with the requirements of the Corporations Act, the Listing Rules and RG 60; and
    - (B) be provided on the understanding that each of the Patties Indemnified Parties will rely on that information for the purposes of preparing the Explanatory Booklet and proposing and implementing the Scheme in accordance with the requirements of the Corporations Act;
  - (v) all information provided by or on behalf of BidCo to the Independent Expert to enable the Independent Expert's Report to be included in the Explanatory Booklet to be prepared and completed will be provided in good faith and on the understanding that the Independent Expert will rely upon that information for the purposes of preparing the Independent Expert's Report;
  - (vi) as at the date the Explanatory Booklet is despatched to Patties Shareholders, the BidCo Information, in the form and context in which that information appears in the version of the Explanatory Booklet registered by ASIC under section 412(6) of the Corporations Act will not be misleading or deceptive in any material respect (whether by omission or otherwise);
  - (vii) BidCo will, as a continuing obligation, provide to Patties all such further or new information which may arise after the Explanatory Booklet has been despatched until the date of the Scheme Meeting which is necessary to ensure that the BidCo Information, in the form and context in which that information appears in the version of the Explanatory Booklet registered by ASIC under section 412(6) of the Corporations Act, is not misleading or deceptive in any material respect (whether by omission or otherwise);
  - (viii) all factual information BidCo or any BidCo Authorised Person has provided to Patties prior to this deed is, to the best of BidCo's knowledge, accurate in all material respects and not misleading in any material respect (whether by omission or otherwise), including that there are reasonable grounds for all statements as to future matters and a reasonable basis for all statements of opinion in that information;
  - (ix) no TopCo Prescribed Occurrence has occurred;
  - (x) the Equity Commitment Letters have each been duly executed by the parties to those Letters and constitute legally binding obligations of those parties that are enforceable in accordance with their respective terms and neither of the Equity Commitment Letters have been terminated;
  - (xi) as a continuing obligation, without the prior written consent of Patties:
    - (A) BidCo will not, and will procure TopCo not to, amend any of the Equity Commitment Letters in any respect which will, or is reasonably likely to,

## Appendix 4. Scheme Implementation Deed *continued*

- prejudice BidCo's ability to pay the Scheme Consideration in accordance with this deed and the Deed Poll; and
- (B) BidCo will not, and will procure TopCo not to, waive any of their rights under the Equity Commitment Letters in any respect which will, or is reasonably likely to, prejudice BidCo's ability to pay the Scheme Consideration in accordance with this deed and the Deed Poll;
- (xii) the Debt Commitment Letters have each been duly executed by BidCo and constitute legally valid and binding obligations of BidCo that are enforceable against BidCo in accordance with their respective terms and none of the Debt Commitment Letters have been terminated;
- (xiii) as a continuing obligation, without the prior written consent of Patties:
- (A) BidCo will not amend any of the Debt Commitment Letters in any respect which will, or is reasonably likely to, prejudice BidCo's ability to pay the Scheme Consideration in accordance with this deed and the Deed Poll; and
- (B) BidCo will not waive any of its rights under the Debt Commitment Letters in any respect which will, or is reasonably likely to, prejudice BidCo's ability to pay the Scheme Consideration in accordance with this deed and the Deed Poll;
- (xiv) on each date from the date on which the BidCo Facility Agreements are entered into until the Delivery Time on the Second Court Date:
- (A) the BidCo Facility Agreements have been duly executed by BidCo and constitute legally valid and enforceable obligations on, and rights of, BidCo that are enforceable in accordance with their terms; and
- (B) without the prior written consent of Patties, BidCo will not amend or agree to amend the BidCo Facility Agreements in any respect which will, or is reasonably likely to, prejudice BidCo's ability to pay the Scheme Consideration in accordance with this deed and the Deed Poll;
- (xv) as at the date of this deed BidCo has a reasonable basis to expect that it will, before the Implementation Date, have available to it sufficient cash amounts (whether from internal cash resources or external funding arrangements (including debt and equity financing) or a combination of both) to satisfy BidCo's obligation to pay the Scheme Consideration in accordance with its obligations under this deed, the Scheme and the Deed Poll;
- (xvi) by the Delivery Time on the Second Court Date, BidCo will have available to it on an unconditional basis (other than conditions relating to the approval of the Court and other conditions within the control of BidCo) sufficient cash amounts (whether from internal cash resources or external funding arrangements (including debt and equity financing) or a combination of both) to satisfy BidCo's obligation to pay the Scheme Consideration in accordance with its obligations under this deed, the Scheme and the Deed Poll;
- (xvii) BidCo will have available to it on the Implementation Date sufficient cash amounts (whether from internal cash resources or external funding (including debt and equity financing) arrangements or a combination of both) to satisfy BidCo's obligation to pay the Scheme Consideration in accordance with its obligations under this deed, the Scheme and the Deed Poll; and
- (xviii) 50,000,000 Class B Shares will comprise 45% of the total number of shares in TopCo to be issued on or before the Implementation Date, based upon an assumption that the shares in TopCo to be subscribed for by the PEP Shareholders on or prior to the Implementation Date will be 61,111,111 Class A Shares at \$1.40 per Class A Share.

### 10.2 BidCo's indemnity

BidCo agrees with Patties (on Patties' own behalf and separately as trustee or nominee for each of the other Patties Indemnified Parties) to indemnify and keep indemnified the Patties



Indemnified Parties from and against all claims, actions, proceedings, liabilities, obligations, damages, loss, harm, charges, costs, expenses, duties and other outgoings of whatever nature and however arising which any of the Patties Indemnified Parties may suffer or incur by reason of any breach of any of the representations and warranties in clause 10.1(a) or 10.1(b).

### 10.3 Patties representations

- (a) Patties represents and warrants to BidCo (on its own behalf and separately as trustee for each of the BidCo Indemnified Parties) each of the matters set out in clause 10.3(b) as at the date of this deed and on each subsequent day until the Delivery Time on the Second Court Date (except that where any statement is expressed to be made only at a particular date it is given only at that date).
- (b) Patties represents and warrants that:
  - (i) Patties is a validly existing corporation registered under the laws of its place of incorporation;
  - (ii) the execution and delivery of this deed by Patties has been properly authorised by all necessary corporate action and Patties has full corporate power and lawful authority to execute and deliver this deed and to perform or cause to be performed its obligations under this deed;
  - (iii) this deed constitutes legal, valid and binding obligations on Patties and the execution of this deed of itself does not result in a breach of or default under any deed or deed or any writ, order or injunction, rule or regulation to which Patties or any of its Subsidiaries is a party or to which they are bound;
  - (iv) between 23 May 2016 and the date of this deed, no member of the Patties Group has taken any action, or failed to take any action, which, if it has taken or failed to take (as applicable) after the date of this deed, would have constituted a Patties Prescribed Occurrence, other than as Fairly Disclosed in the Due Diligence Material or the Disclosure Letter;
  - (v) as at the date of this deed, the First Court Date, the date of the Scheme Meeting and the Delivery Time on the Second Court Date, Patties is not in breach of its continuous disclosure obligations under the Corporations Act or the Listing Rules and, as at the date of this deed, Patties is not relying on the exception to Listing Rule 3.1A to withhold any information from ASX (other than the fact of its discussions with BidCo in relation to the Proposed Transaction and the negotiation and execution of this deed);
  - (vi) the Patties Information contained in the Explanatory Booklet will comply in all material respects with the requirements of the Corporations Act, Listing Rules and RG 60;
  - (vii) as at the date the Explanatory Booklet is despatched to Patties Shareholders, the Explanatory Booklet registered by ASIC under section 412(6) of the Corporations Act (excluding the BidCo Information and the Independent Expert's Report) will not be misleading or deceptive in any material respect (whether by omission or otherwise);
  - (viii) the Patties Information contained in the Explanatory Booklet will be included on the understanding that BidCo and its directors will rely on that information for the purposes of considering and approving the BidCo Information in the Explanatory Booklet before it is despatched, approving the entry into the Deed Poll and implementing the Scheme;
  - (ix) the Due Diligence Material has been prepared in good faith and Patties has not intentionally:
    - (A) withheld from the Due Diligence Material any information in its possession:
      - (I) which is not already in the public domain; and
      - (II) which would reasonably be expected to be material to the financial position or financial performance of the business of the Patties Group; or

## Appendix 4. Scheme Implementation Deed *continued*

- (B) included in the Due Diligence Material any information that is misleading in any material respect;
- (x) the Due Diligence Material or the Disclosure Letter includes:
  - (A) each written mandate, engagement or appointment letter or agreement (or the like) between any member of the Patties Group and an Adviser the term of which expires, or which may not be terminated by the member, later than one month after the Implementation Date;
  - (B) particulars of the terms on which an Adviser has been appointed, including all fees payable and costs to be reimbursed as at the date of this deed, where the appointment expires, or which may not be terminated by any member of the Patties Group later than one month after the Implementation Date; and
  - (C) particulars of the aggregate amount of any bonus, retention, severance or termination or retention payments paid or agreed to be paid by any member of the Patties Group to any of its officers, directors, other executives or employees in relation to the Proposed Transaction;
- (xi) as at the date of this deed, the total issued capital of Patties is:
  - (A) 139,312,537 Shares; and
  - (B) 1,191,338 Performance Rights,
 and there are no other Patties options, performance rights, shares, convertible notes or other securities (or offers or agreements to issue any of the foregoing);
- (xii) as at the date of this deed, neither it nor any other member of the Patties Group is in material default under any material document, agreement or instrument binding on it or its assets nor has anything occurred which is or would with the giving of notice or lapse of time constitute an event of default, prepayment event or similar event, or give another party thereto a termination right or right to accelerate any right or obligation, under any such material document or agreement with such an effect, other than as Fairly Disclosed in the Due Diligence Material or the Disclosure Letter; and
- (xiii) other than as Fairly Disclosed in the Due Diligence Material or the Disclosure Letter, there are as at the date of this deed no existing or threatened claims, litigations, disputes or proceedings against Patties in relation to any recall of frozen berries or other contamination associated with any products manufactured by any member of the Patties Group and there are as at the date of this deed no existing or threatened investigations by any Governmental Agency against any member of the Patties Group in respect of the same.

### 10.4 Patties' indemnity

Patties agrees with BidCo (on BidCo's own behalf and separately as trustee for each of the BidCo Indemnified Parties) to indemnify and keep indemnified the BidCo Indemnified Parties from and against all claims, actions, proceedings, liabilities, obligations, damages, loss, harm, charges, costs, expenses, duties and other outgoings of whatever nature and however arising which any of the BidCo Indemnified Parties may suffer or incur by reason of any breach of any of the representations and warranties in clause 10.3(a) or 10.3(b).

### 10.5 Notifications

Each party will promptly advise the other 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 this clause 10.

### 10.6 Survival of representations

Each representation and warranty in clauses 10.1 and 10.3:

- (a) is severable;
- (b) will survive the termination of this deed; and

- (c) is given with the intent that liability thereunder will not be confined to breaches which are discovered prior to the date of termination of this deed.

#### **10.7 Survival of indemnities**

Each indemnity in this deed (including those in clauses 10.2 and 10.4) will:

- (a) be severable;
- (b) be a continuing obligation;
- (c) constitute a separate and independent obligation of the party giving the indemnity from any other obligations of that party under this deed; and
- (d) survive the termination of this deed.

### **11. Releases**

#### **11.1 Patties Indemnified Parties**

- (a) Without limiting BidCo's rights under clause 10, BidCo (for itself and as agent of every member of the BidCo Group and every holder or owner of any shares in any member of the BidCo Group or in any holding company of the BidCo Group) releases all rights against and agrees with Patties that it will not make a Claim against, any of the Patties Indemnified Parties (other than Patties) in connection with:
  - (i) Patties' execution or delivery of this deed;
  - (ii) any breach of any representation, covenant and warranty of or given by Patties in this deed;
  - (iii) the implementation of the Scheme; or
  - (iv) any disclosure made by any Patties Party including in the Due Diligence Material or the Disclosure Letter that contains any statement which is false or misleading whether in content or by omission,
 except to the extent the relevant Patties Indemnified Party has not acted in good faith or has engaged in fraud or wilful misconduct.
- (b) This clause is subject to any Corporations Act restriction and will (if and to the extent required) be read down accordingly. Patties receives and holds the benefit of this clause as trustee for each of the other Patties Indemnified Parties.

#### **11.2 BidCo Indemnified Parties**

- (a) Without limiting Patties' rights under clause 10, Patties releases its rights against, and agrees with BidCo that it will not make a Claim against any BidCo Party (other than BidCo) in connection with:
  - (i) BidCo's execution or delivery of this deed;
  - (ii) any breach of any representation, covenant and warranty of or given by BidCo in this deed;
  - (iii) the implementation of the Scheme; or
  - (iv) any disclosure made by any BidCo Indemnified Party that contains any statement which is false or misleading whether in content or by omission,
 except to the extent that the relevant BidCo Indemnified Party has not acted in good faith or has engaged in fraud or wilful misconduct.
- (b) This clause is subject to any Corporations Act restriction and will (if and to the extent required) be read down accordingly. BidCo receives and holds the benefit of this clause as trustee for each of the other BidCo Indemnified Parties.

## Appendix 4. Scheme Implementation Deed *continued*

### 11.3 Deeds of indemnity

- (a) Subject to the Scheme becoming Effective, BidCo undertakes in favour of Patties and each other person who is a Patties Party that it will:
  - (i) subject to clause 11.3(b), for a period of 7 years from the Implementation Date, ensure that the constitutions of Patties and each other member of the Patties Group continue to contain such rules as are contained in those constitutions at the date of this deed and which have been disclosed to BidCo that provide for each company to indemnify each of its directors and officers against any liability incurred by that person in his or her capacity as a director or officer of the company to any person other than a member of the Patties Group; and
  - (ii) procure that Patties and each other member of the Patties Group complies with any deeds of indemnity, access and insurance made by them in favour of their respective directors and officers from time to time.
- (b) The undertakings contained in clauses 11.3(a) and 11.4 are subject to any Corporations Act restriction, or any restriction in the law of a jurisdiction in which an entity is incorporated, and will be read down accordingly.
- (c) Patties receives and holds the benefit of clause 11.3(a) to the extent it relates to the other Patties Indemnified Parties, as trustee for them.
- (d) The undertakings contained in clause 11.3(a) and 11.4 are given:
  - (i) in the case of clause 11.3(a) until the earlier of 7 years from the Implementation Date or the relevant member of the Patties Group ceasing to be part of the BidCo Group; or
  - (ii) in the case of clause 11.4 until the earlier of 7 years from the retirement of each director and officer or the relevant member of the Patties Group ceasing to be part of the BidCo Group.

### 11.4 Directors' and officers' insurance

BidCo agrees that Patties will in respect of Patties and all other members of the Patties Group:

- (a) prior to the Effective Date, arrange for the cover currently provided under the directors' and officers' insurance policy for Patties and all other members of the Patties Group (**Policy**) to be extended for a further period of 12 months; and
- (b) by no later than the Implementation Date, to the extent practicable at normal commercial rates, arrange for the cover provided under the Policy to be amended so as to provide run off cover in accordance with the terms of the Policy for a 7 year period from the end of the term of the Policy, and pay all premiums required so as to ensure that insurance cover is provided under the Policy on those terms until that date.

### 11.5 Obligations in relation to directors' and officers' insurance

From the Implementation Date, Patties must not and undertakes to each other Patties Indemnified Party that it will not:

- (a) vary or cancel the Policy; or
- (b) unless required under the Policy, commit any act or omission that may prejudice any claim by a director or officer of Patties under the Policy as extended under clause 11.4(b).

## 12. Confidentiality and Public Announcement

### 12.1 Confidentiality

Each party agrees and acknowledges that it is bound by the terms of the Confidentiality Agreement save that the terms of this deed will prevail over the Confidentiality Agreement to the extent of any inconsistency.

### 12.2 Public Announcements on execution

Immediately after the execution of this deed, the parties must issue the Announcement.

### 12.3 Further public announcements

Subject to clause 12.4, any further public announcements by Patties, TopCo or BidCo in relation to, or in connection with, the Proposed Transaction or any other transaction the subject of this deed or the Scheme may only be made in a form approved by each party in writing (acting reasonably) subject to where a party is required by law or the Listing Rules to make any announcement or to make any disclosure in relation to, or in connection with, the Proposed Transaction or any other transaction the subject of this deed or the Scheme.

### 12.4 Required announcement

Where a party is required by applicable law, the ASX Listing Rules or any other applicable financial market regulation to make any announcement or to make any disclosure in connection with the Proposed Transaction or any other transaction the subject of this deed or the Scheme, it may do so but must use reasonable endeavours, to the extent practicable and lawful, to consult with the other party before making the relevant disclosure and must give the other party as much notice as reasonably practicable.

### 12.5 Statements on termination

The parties must use all reasonable endeavours to issue agreed statements in respect of any termination of this deed and, to that end but without limitation, clauses 12.3 and 13.4 apply to any such statements or disclosures.

## 13. Termination

### 13.1 Termination by notice

- (a) BidCo or Patties may, by notice in writing to the other, terminate this deed at any time prior to the Delivery Time on the Second Court Date:
  - (i) if the other is in material breach of any of its obligations under this deed (including a material breach of a representation or warranty), and has failed to remedy that breach within five Business Days (or the Delivery Time on the Second Court Date if earlier) of receipt by it of a notice in writing from the terminating party setting out details of the relevant circumstance and requesting the other party to remedy the breach;
  - (ii) in accordance with clause 3.7;
  - (iii) if the Court refuses to make any order directing Patties to convene the Scheme Meeting, where both Patties and BidCo have met and consulted in good faith and agreed that they do not wish to proceed with the Scheme; or
  - (iv) if the Effective Date for the Scheme has not occurred on or before the End Date.
- (b) Patties may, by notice in writing to BidCo, terminate this deed at any time prior to the Delivery Time on the Second Court Date if at any time before then each of that number of Patties Directors as constitutes a majority of the Patties Board publicly recommend a Superior Proposal and do not, within three Business Days, reinstate their recommendation of the Proposed Transaction.
- (c) BidCo may, by notice in writing to Patties, terminate this deed at any time prior to the Delivery Time on the Second Court Date if at any time before then:
  - (i) a Material Adverse Change occurs; or
  - (ii) any director of Patties withdraws or adversely modifies their recommendation of the Proposed Transaction or recommends or supports a Competing Proposal.

### 13.2 Automatic termination

Without limiting any other term of this deed but subject to clause 3.6, this deed will terminate automatically if the Scheme is not approved at the Scheme Meeting:

- (a) unless the Court orders otherwise, by the majority specified in section 411(4)(a)(ii)(A) of the Corporations Act; and

## Appendix 4. Scheme Implementation Deed *continued*

- (b) by the majority specified in section 411(4)(a)(ii)(B) of the Corporations Act.

### 13.3 Effect of termination

- (a) In the event of termination of this deed under clause 3.7, 13.1 or 13.2, this deed will become void and have no effect, except that the provisions of clauses 10.6, 10.7, 13, 14, 15 and 19.3 to 19.17 (inclusive) survive termination.
- (b) Termination of this deed does not affect any accrued rights of a party in respect of a breach of this deed prior to termination.

## 14. Patties Break Fee

### 14.1 Background

- (a) Patties and BidCo acknowledge that, if they enter into this deed and the Scheme is subsequently not implemented, BidCo will incur significant costs including those described in clause 14.2.
- (b) In the circumstances referred to in clause 14.1(a), BidCo has requested that provision be made for the payments outlined in clause 14.3, without which BidCo would not have entered into this deed.
- (c) The Patties Board believes that the Scheme will provide benefit to Patties and Patties Shareholders and that it is appropriate for Patties to agree to the payments referred to in this clause 14 in order to secure BidCo's participation in the Proposed Transaction.

### 14.2 Costs incurred by BidCo

- (a) The fee payable under clause 14.3 has been calculated to reimburse BidCo for the following:
  - (i) fees for legal and financial advice in planning and implementing the Proposed Transaction;
  - (ii) reasonable opportunity costs incurred in engaging in the Proposed Transaction or in not engaging in other alternative acquisitions or strategic initiatives;
  - (iii) costs of management and directors' time in planning and implementing the Proposed Transaction;
  - (iv) out of pocket expenses incurred in planning and implementing the Proposed Transaction;
  - (v) costs associated with the financing arrangements in respect of the Proposed Transaction; and
  - (vi) any damage to TopCo's reputation associated with a failed transaction and the implications of those damages if TopCo seeks to execute alternative acquisitions in the future,
 in each case, incurred by BidCo directly or indirectly as a result of having entered into this deed and pursuing the Proposed Transaction.
- (b) The parties acknowledge that:
  - (i) the amount of fees, costs and losses referred to in this clause 14.2 is inherently unascertainable and that, even after termination of this deed, the costs will not be able to be accurately ascertained; and
  - (ii) the amount of the costs payable under clause 14.3 is a genuine and reasonable pre-estimate of those fees, costs and losses (it being acknowledged by the parties that the costs would most likely be in excess of this amount).

### 14.3 Payment by Patties to BidCo

- (a) Patties agrees to pay to BidCo \$2.3 million (exclusive of GST) (**Patties Break Fee**) if:

- (i) a Competing Proposal is publicly announced or made at any time prior to the End Date and, within 9 months from the date of the public announcement of the Competing Proposal:
    - (A) the proponent of that Competing Proposal acquires a Relevant Interest in at least 50% of Patties Shares; and
    - (B) that Competing Proposal is (or becomes) free from any defeating conditions (or if the Competing Proposal is a scheme of arrangement, the scheme becomes effective);
  - (ii) at any time prior to the End Date, any Patties Director fails to recommend or withdraws or adversely modifies his or her support of the Scheme or his or her recommendation that Patties Shareholders vote in favour of the Scheme, or make a public statement indicating that they no longer support the Scheme, other than as a direct or indirect result of or following the Independent Expert opining to the effect that the Scheme is not in the best interest of Patties Shareholders except where the sole or dominant reason for the Independent Expert's opinion is the existence of a Superior Proposal, or that they support a Competing Proposal; or
  - (iii) a general meeting of Patties is convened to consider and, if thought fit, approve the implementation or taking of any step that would, or would be likely to, prevent a Condition being satisfied or result in a Condition not being satisfied, and any of the Patties Directors recommend that Patties Shareholders vote in favour of implementing or taking that step.
- (b) Patties must pay BidCo the Patties Break Fee within five Business Days of receipt by Patties of a demand for payment from BidCo made after the occurrence of an event referred to in clause 14.3(a).
  - (c) The Patties Break Fee is not payable merely because the resolution submitted to the Scheme Meeting in respect of the Scheme is not approved by the majorities required under section 411(4)(a)(ii) of the Corporations Act.
  - (d) The Patties Break Fee is only payable once and the maximum amount payable by Patties under this clause 14.3 is \$2.3 million (exclusive of GST).
  - (e) Where the Patties Break Fee becomes payable to BidCo under this clause 14.3 and is actually paid to BidCo, BidCo (for itself and as agent of every member of the BidCo Group):
    - (i) releases all rights against and agrees with Patties that BidCo will not make a Claim against any Patties Party (other than a claim under this clause 14.3) in connection with:
      - (A) the event that gave rise to the right to demand the payment of the Patties Break Fee; nor
      - (B) any other event, matter or circumstance that may give rise to a separate right to the Patties Break Fee or that constitutes or may constitute a breach of this deed; and
    - (ii) indemnifies and undertakes to keep indemnified any Patties Party against a Claim that is made contrary to the release under clause 14.3(e)(i),
 with the effect that the payment of the Patties Break Fee represents the sole and exclusive remedy of any BidCo Group Member.
  - (f) The Patties Break Fee is not payable where Patties has become entitled to the BidCo Break Fee.

## 15. BidCo Break Fee

- (a) BidCo agrees to pay to Patties \$2.3 million (exclusive of GST) (**BidCo Break Fee**) if:
  - (i) Patties terminates this deed in accordance with clause 13.1(a)(i); or

## Appendix 4. Scheme Implementation Deed *continued*

- (ii) BidCo does not pay the Scheme Consideration in accordance with the terms and conditions of this deed and the Deed Poll.
- (b) BidCo must pay Patties the BidCo Break Fee within five Business Days of receipt by BidCo of a demand for payment from Patties made after the occurrence of the event referred to in clause 15(a).
- (c) The maximum aggregate amount which BidCo is required to pay in relation to a breach of this deed by BidCo is the BidCo Break Fee, and in no event will the aggregate liability of BidCo under or in connection with a breach of this deed exceed the BidCo Break Fee.
- (d) The BidCo Break Fee is only payable once and the maximum amount payable by BidCo under clause 15(a) is \$2.3 million (exclusive of GST).
- (e) Where the BidCo Break Fee becomes payable to Patties under this clause 15 and is actually paid to Patties, Patties (for itself and as agent of every member of the Patties Group):
  - (i) releases all rights against and agrees with BidCo that Patties will not make a Claim against any member of the BidCo Group (other than a claim under this clause 15) in connection with:
    - (A) the event that gave rise to the right to demand the payment of the BidCo Break Fee; nor
    - (B) any other event, matter or circumstance that may give rise to a separate right to the BidCo Break Fee or that constitutes or may constitute a breach of this deed; and
  - (ii) indemnifies and undertakes to keep indemnified any member of the BidCo Group against a Claim that is made contrary to the release under clause 15(e)(i),
 with the effect that the payment of the BidCo Break Fee represents the sole and exclusive remedy of any Patties Group Member.

### 16. Exclusivity

#### 16.1 No shop restriction

During the Exclusivity Period, except with the prior written consent of BidCo, Patties must not, and must ensure that none of its Related Bodies Corporate nor any of the Authorised Persons of Patties or any of its Related Bodies Corporate, directly or indirectly solicit, invite or initiate any Competing Proposal or any enquiries, negotiations or discussions with any Third Party in relation to, or that may reasonably be expected to lead to, a Competing Proposal, or communicate any intention to do any of those things.

#### 16.2 No talk restriction

During the Exclusivity Period, Patties must not, and must ensure that none of its Related Bodies Corporate nor any of their Authorised Persons, (whether directly or indirectly):

- (a) negotiate or enter into or participate in negotiations or discussions with any person; or
  - (b) communicate any intention to do any of these things,
- in relation to, or that may reasonably be expected to lead to, a Competing Proposal, even if:
- (c) the Competing Proposal was not directly or indirectly solicited, invited, encouraged or initiated by Patties or any of its Related Bodies Corporate; or
  - (d) that person has publicly announced the Competing Proposal.

#### 16.3 No due diligence

During the Exclusivity Period, except with the prior written consent of BidCo, Patties must not, and must ensure that its Related Bodies Corporate and their respective Authorised Persons do not, directly or indirectly:



- (a) solicit, invite, initiate, or encourage, or facilitate or permit, any person (other than BidCo) to undertake due diligence investigations in respect of Patties, its Related Bodies Corporate, or any of their businesses and operations, in connection with such person formulating, developing or finalising, or assisting in the formulation, development or finalisation of, a Competing Proposal; or
- (b) make available to any person (other than BidCo) or permit any such person to receive any non-public information relating to Patties, its Related Bodies Corporate, or any of their businesses and operations, in connection with such person formulating, developing or finalising, or assisting in the formulation, development or finalisation of, a Competing Proposal.

#### **16.4 Notice of approach**

During the Exclusivity Period, Patties must promptly inform BidCo if it or any of its Related Bodies Corporate or any of their respective Authorised Persons:

- (a) receives any approach with respect to any Competing Proposal, and must, subject to clause 16.5, disclose to BidCo all material terms of the Competing Proposal (including the consideration contemplated) and the identity of any person making the approach;
- (b) receives any request for information relating to Patties or any of its Related Bodies Corporate or any of their businesses or operations or any request for access to the books or records of Patties or any of its Related Bodies Corporate, which Patties has reasonable grounds to suspect may relate to a current or future Competing Proposal, and must, subject to clause 16.5, disclose to BidCo the identity of any person making the request and details of the request (including the consideration contemplated); or
- (c) provides any information relating to Patties or any of its Related Bodies Corporate or any of their businesses or operations to any person in connection with or for the purposes of a current or future Competing Proposal, and must, subject to clause 16.5, disclose to BidCo the identity of any person provided with the relevant information and the details of the information provided (including the consideration contemplated).

#### **16.5 Exceptions**

Clauses 16.2 and 16.3 and, where stated, clause 16.4, do not apply if the Patties Board determines:

- (a) where there is a bona fide Competing Proposal (which was not solicited, invited, or initiated by Patties, its Related Bodies Corporate or its Authorised Persons in contravention of clauses 16.1, 16.2 and/or 16.3), that after consultation with its financial advisors, the Competing Proposal is or is reasonably likely to be a Superior Proposal; and
- (b) after receiving legal advice from Patties' external legal advisers, that failing to respond to the Competing Proposal, or that complying with clause 16.4 by disclosing to BidCo the material terms of the Competing Proposal or the identity of the person making the approach or provided information (or both) as the case may be, would be reasonably likely to constitute a breach of its fiduciary or statutory duties.

#### **16.6 Warranty**

Patties warrants to BidCo that as at the date of this deed:

- (a) neither it nor any of its Related Bodies Corporate or any of the Authorised Persons of Patties or of any of its Related Bodies Corporate is in discussions or negotiations with any party which may reasonably be expected to lead to a Competing Proposal; and
- (b) it, its Related Bodies Corporate and the Authorised Persons of Patties and any of its Related Bodies Corporate have ceased any existing discussions or negotiations with any party which may reasonably be expected to lead to a Competing Proposal.

#### **16.7 Matching right**

(a) During the Exclusivity Period, Patties:

- (i) must not enter into any legally binding agreement, arrangement or understanding to implement a Competing Proposal; and

## Appendix 4. Scheme Implementation Deed *continued*

- (ii) must use its reasonable endeavours to procure that none of the Patties Board members change his or her recommendation, or statement of intention to vote, in favour of the Scheme to publicly recommend or support a Competing Proposal (or recommend against, or cease supporting, the Scheme),

unless:

- (iii) the Competing Proposal is a Superior Proposal;
  - (iv) Patties has provided BidCo with the material terms and conditions of the Competing Proposal, including the identity of any person making or involved in the Competing Proposal, the price, conditions and proposed timing of the proposal;
  - (v) Patties has given BidCo at least 3 Business Days after the provision of all of the information referred to in clause 16.7(a)(iv) to provide a proposal that is superior to the Competing Proposal (**Matching Offer**); and
  - (vi) BidCo has not provided a Matching Offer which the Patties Board, acting in good faith, after consulting with its financial and legal advisers, determines would provide an outcome that is more favourable to Patties Shareholders as a whole than the relevant Competing Proposal (having regard to matters including consideration, conditionality, funding, certainty and timing) by the expiry of the period referred to in clause 16.7(a)(v).
- (b) Where BidCo has made a Matching Offer, this clause 16.6 has repeating applications so that if any further proposal which constitutes a Competing Proposal is made after BidCo has made a Matching Offer, Patties must comply with clauses 16.7(a)(i) and 16.7(a)(ii) in respect of the new Competing Proposal unless clauses 16.7(a)(iii) to 16.7(a)(vi) (inclusive) apply.
  - (c) The Patties Board must consider the Matching Offer and if it determines, acting in good faith, that the Matching Offer would provide an outcome that is more favourable to Patties Shareholders as a whole than the relevant Competing Proposal (having regard to matters including consideration, conditionality, funding, certainty and timing), Patties and BidCo must use their best endeavours to agree any amendments to this agreement and the contents of the Explanatory Booklet which are reasonably necessary to reflect the Matching Offer, and to enter into an appropriate amending deed to give effect to those amendments and to implement the Matching Offer, in each case as soon as reasonably practicable.

### 17. Modification of Patties Break Fee or exclusivity arrangements

#### 17.1 Modifications following regulatory intervention

If any of the following occurs:

- (a) a Governmental Agency finds that all or any part of the payment required to be made under clause 14 or an exclusivity arrangement under clause 16 is unacceptable or unenforceable; or
- (b) as a result of an application to the Takeovers Panel, the Takeovers Panel indicates that, in the absence of a written undertaking under section 201A of the Australian Securities and Investments Commission Act 2001 (Cth) to modify the amount of the Patties Break Fee or the circumstances in which it is to be paid or the circumstances in relation to an exclusivity arrangement under clause 16, it will make a declaration of unacceptable circumstances,

then, subject to clause 17.2:

- (c) the parties must amend clause 14 or 16 or both to the extent required to give effect to the requirements of the Governmental Agency or the Takeovers Panel (as the case may be) and (in circumstances referred to in clause 17.1(b)) must give the required undertaking(s); and
- (d) neither the occurrence of any of the events referred to in clause 17.1(a) or 17.1(b) nor the amendment of clause 14 and/or 16 will be taken to be a breach of, or permit any party to terminate, this deed.

### 17.2 No requirement to act unless decision final

The parties are only required to take steps under 17.1(c) in relation to any requirement of a Governmental Agency or the Takeovers Panel if:

- (a) no appeal or review proceeding is available from the decision to impose that requirement or the period for lodging an appeal or commencing review proceedings has expired without an appeal having been lodged or review proceedings commenced; or
- (b) BidCo and Patties agree in writing not to appeal or seek review of the decision to impose that requirement.

### 17.3 Appeals and review of regulatory decisions

Nothing in this deed requires either party to appeal or seek review of any decision of a Governmental Agency or the Takeovers Panel referred to in clause 17.1(a) or 17.1(b). If either BidCo and Patties wishes to appeal or seek review of any such decision then the other must make submissions in the course of those proceedings supporting the review made by the first party.

### 17.4 Determination by Governmental Agency

If a Governmental Agency determines that payment of all or any part of the Patties Break Fee is unacceptable, unlawful or involves a breach of the fiduciary or statutory duties of the members of the Patties Board (**Impugned Amount**) and either no appeal from that determination is available or the period for lodging an appeal has expired without having an appeal having been lodged then:

- (a) the obligation of Patties to pay the Patties Break Fee does not apply to the extent of the Impugned Amount; and
- (b) if BidCo has received any part of the Impugned Amount, it must refund it within 5 Business Days after that determination is made or the period for lodging has expired, whichever is later.

### 17.5 Obligations of parties

No party must undertake, or be involved in undertaking or supporting, any action that would trigger the operation of clause 17.1 or 17.4.

## 18. Notices

Any communication under or in connection with this deed:

- (a) must be in writing;
- (b) must be sent to the address for service of the addressee specified in the Details;
- (c) must be signed by the party making the communication or by a person duly authorised by that party;
- (d) must be delivered or posted by prepaid post to the address, or sent by email to the email address of the addressee, in accordance with the Details; and
- (e) will be deemed to be received by the addressee:
  - (i) **(in the case of prepaid post)** on the third Business Day after the date of posting to an address within Australia, and on the fifth Business Day after the date of posting to an address outside Australia;
  - (ii) **(in the case of delivery by hand)** on delivery at the address of the addressee as provided in the Details, unless that delivery is not made on a Business Day, or after 5.00pm on a Business Day, when that communication will be deemed to be received at 9.00am on the next Business Day; and
  - (iii) **(in the case of email)** on the earlier of:
    - (A) when the sending party's email system confirms delivery of the email by way of a delivery notification; or

## Appendix 4. Scheme Implementation Deed *continued*

- (B) when the recipient party confirms receipt to the sending party via email or telephone.

### 19. General

#### 19.1 Further acts

Each party will promptly do and perform 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 any other party to give effect to this deed.

#### 19.2 Timetable

The parties agree that the Timetable is indicative only and is not binding on the parties.

#### 19.3 Payments

Unless otherwise expressly provided in this deed, where an amount is required to be paid to a party (the Receiving Party) by another party under this deed, that amount shall be paid:

- (a) in immediately available and irrevocable funds by electronic transfer to a bank account or accounts notified by the Receiving Party in writing on or before the due date for payment, or in other such immediately payable funds as the parties may agree; and
- (b) without deduction, withholding or set-off, except where that deduction, withholding or set-off is required or compelled by law.

#### 19.4 Interest

- (a) If a party fails to pay any amount payable under this deed on the due date for payment, that party must pay interest on the amount unpaid at the higher of the Interest Rate plus 3% per annum or the rate (if any) fixed or payable under any judgment or other thing into which the liability to pay the amount becomes merged.
- (b) The interest payable under clause 19.4(a):
  - (i) accrues from day to day from and including the due date for payment up to the actual date of payment, before and, as an additional and independent obligation, after any judgment or other thing into which the liability to pay the amount becomes merged; and
  - (ii) may be capitalised by the person to whom it is payable at monthly intervals.

#### 19.5 Consents or approvals

A party may:

- (a) give conditionally or unconditionally; or
- (b) withhold,

its approval or consent in its absolute discretion unless this deed expressly provides otherwise.

#### 19.6 GST

- (a) Any reference in this clause 19.6 to a term defined or used in the *A New Tax System (Goods and Services Tax) Act 1999* is, unless the context indicates otherwise, a reference to that term as defined or used in that Act.
- (b) Unless expressly included, the consideration for any supply made under or in connection with this deed does not include GST.
- (c) To the extent that any supply made by a party (**Supplier**) to another party (**Recipient**) under or in connection with this deed is a taxable supply, the Recipient must pay to the Supplier, in addition to the consideration to be provided under this deed but for the application of this clause 19.6(c) for that supply, an amount equal to the GST payable on the supply. This clause 19.6(c) does not apply to any taxable supply under or in connection with this deed for which the consideration is expressly stated to include or be inclusive of GST.

- (d) The additional amount on account of GST payable in accordance with clause 19.6(c) will be paid at the same time as the other consideration for the supply is provided, subject to the Supplier first issuing a tax invoice in respect of the supply to the Recipient.
- (e) Any reference in the calculation of any consideration or of any indemnity, reimbursement or similar amount to a cost, expense or liability incurred by a person (**Relevant Expense**) is a reference to the Relevant Expense reduced by an amount equal to any input tax credit entitlement of that person (or of the representative member of any GST group to which the person is a member) in relation to the Relevant Expense.
- (f) If the GST payable in relation to a supply made under or in connection with this deed varies from the additional amount paid by the Recipient under clause 19.6(c) 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 payment, credit or refund under this clause 19.6(f) is deemed to be a payment, credit or refund of the additional amount payable under clause 19.6(c). Where there is an adjustment event, the Supplier must issue an adjustment note to the Recipient as soon as practicable after the Supplier becomes aware of the adjustment event.

#### **19.7 Stamp duty**

BidCo must pay all stamp duties (if any) and any fines and penalties with respect to stamp duty in respect of this deed or the Scheme or the steps to be taken under this deed or the Scheme (including without limitation the acquisition or transfer of Scheme Shares under the Scheme).

#### **19.8 Expenses**

Except as otherwise provided in this deed, each party will pay its own costs and expenses in connection with the negotiation, preparation, execution, and performance of this deed and the Explanatory Booklet and the proposed, attempted or actual implementation of this deed and the Scheme.

#### **19.9 Amendments**

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

#### **19.10 Assignment**

A party cannot assign, novate or otherwise transfer any of its rights or obligations under this deed without the prior written consent of each other party, which consent that other party may give or withhold in its absolute discretion.

#### **19.11 Business Day**

Except where otherwise expressly provided, where under this deed the day on which any act, matter or thing is to be done is a day other than a Business Day, such act, matter or thing will be done on the next Business Day.

#### **19.12 Waiver**

- (a) Failure to exercise or enforce or a delay in exercising or enforcing or the partial exercise or enforcement of any right, power or remedy provided by law or under this deed by any party will not in any way preclude, or operate as a waiver of, any 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) Any waiver or consent given by any party under this deed will only be effective and binding on that party if it is given or confirmed in writing by that party.
- (c) No waiver of a breach of any term of this deed will operate as a waiver of another breach of that term or of a breach of any other term of this deed.
- (d) Nothing in this deed obliges a party to exercise a right to waive any conditional term of this deed that may be in its power.

## Appendix 4. Scheme Implementation Deed *continued*

### 19.13 Counterparts

- (a) This deed may be executed in any number of counterparts and by the parties on separate counterparts. Each counterpart constitutes the agreement of each party who has executed and delivered that counterpart. Each counterpart is an original but the counterparts together are one and the same agreement.
- (b) This deed is binding on the parties on the exchange of duly executed counterparts.
- (c) The parties agree that a copy of an original executed counterpart sent by facsimile machine to the facsimile number of the other party specified in clause 19, instead of the original, is sufficient evidence of the execution of the original and may be produced in evidence for all purposes in place of the original.

### 19.14 Entire agreement

- (a) This deed:
  - (i) embodies the entire understanding of the parties and constitutes the entire terms agreed on between the parties; and
  - (ii) supersedes any prior agreement (whether or not in writing) between the parties.
- (b) Despite clause 19.14(a), the Confidentiality Agreement continues to apply to the parties in accordance with its terms, except to the extent of any express inconsistency, in which case this deed prevails.

### 19.15 No representation or reliance

- (a) Each party acknowledges that no party (nor any person acting on its behalf) has made any representation or other inducement to it to enter into this deed, except for representations or inducements expressly set out in this deed the Equity Commitment Letters or the Debt Commitment Letters.
- (b) Each party acknowledges and confirms that it does not enter into this deed in reliance on any representation or other inducement by or on behalf of any other party, except for any representation or inducement expressly set out in this deed the Equity Commitment Letters or the Debt Commitment Letters.

### 19.16 No merger

The rights and obligations of the parties will not merge on completion of any transaction under this deed. They will survive the execution and delivery of any assignment or other document entered into for the purpose of implementing any transaction.

### 19.17 Governing law

- (a) This deed is governed by and will be construed according to the laws of Victoria.
- (b) Each party irrevocably submits to the non-exclusive jurisdiction of the courts of Victoria and of the courts competent to determine appeals from those courts.

## Schedule 1 – Indicative Timetable

<b>Event</b>	<b>Date</b>
Enter into Scheme Implementation Deed	31 May 2016
Lodge Explanatory Booklet with ASIC for review and comment	30 June 2016
First Court Date	15 July 2016
Explanatory Booklet registered by ASIC	20 July 2016
Despatch Explanatory Booklet to Target Shareholders	25 July 2016
Scheme Meeting	25 August 2016
Second Court Date	2 September 2016
Effective Date – lodge office copy of Court order approving the Scheme with ASIC	5 September 2016
Record Date	7.00pm 15 September 2016
Implementation Date: Despatch cheques or electronically transfer funds to participants in the Scheme.	22 September 2016

## Appendix 4. Scheme Implementation Deed *continued*

### Schedule 2 – Deed Poll

[Not reproduced here – see Appendix 5 of Explanatory Booklet]



## Schedule 3 – Scheme

[Not reproduced here – see Appendix 2 of Explanatory Booklet]

## Appendix 4. Scheme Implementation Deed *continued*

### Schedule 4 – Shareholders Deed

[Not reproduced here – see Appendix 6 of Explanatory Booklet]

## Signing page

**EXECUTED** and delivered as a deed.

**Executed by Patties Foods Limited** in accordance with Section 127 of the *Corporations Act 2001*

\_\_\_\_\_  
Signature of director

\_\_\_\_\_  
Name of director (print)

\_\_\_\_\_  
Signature of director/company secretary  
(Please delete as applicable)

\_\_\_\_\_  
Name of director/company secretary (print)

**Executed by Australasian Foods BidCo Pty Limited ACN 612 643 795** in accordance with Section 127 of the *Corporations Act 2001*

\_\_\_\_\_  
Signature of director

\_\_\_\_\_  
Name of director (print)

\_\_\_\_\_  
Signature of director/company secretary  
(Please delete as applicable)

\_\_\_\_\_  
Name of director/company secretary (print)

## Appendix 5. Deed Poll



### Deed poll

Australasian Foods Bidco Pty Limited (**BidCo**)  
Australasian Foods Holdco Pty Limited (**TopCo**)  
Patties Foods Limited (**Patties**)

## Deed poll

---

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## Appendix 5. Deed Poll *continued*

### Details

Date

14 July 2016

### Parties

Name **Australasian Foods Bidco Pty Limited**  
 ACN 612 643 795  
 Short form name **BidCo**  
 Notice details Level 31, 126-130 Phillip Street, Sydney, NSW 2000  
 Email: tony.duthie@pep.com.au  
 Attention: Tony Duthie

Name **Australasian Foods Holdco Pty Limited**  
 ACN 612 640 329  
 Short form name **TopCo**  
 Notice details Level 31, 126-130 Phillip Street, Sydney, NSW 2000  
 Email: tony.duthie@pep.com.au  
 Attention: Tony Duthie

Name **Patties Foods Limited**  
 ABN 62 007 157 182  
 Short form name **Patties**  
 Notice details 161-169 Princes Highway, Barinsdale, Vic 3875  
 Email: msmith@patties.com.au  
 Attention: Mark Smith

### Background

- A On 1 June 2016, BidCo and Patties entered into the Scheme Implementation Deed to provide for (among other matters) the implementation of the Scheme.
- B The effect of the Scheme will be to transfer all Scheme Shares to BidCo in return for the Scheme Consideration.
- C BidCo and TopCo enter this deed poll to covenant in favour of Scheme Shareholders to:
- (i) perform the actions attributed to them respectively under the Scheme; and
  - (ii) provide the Scheme Consideration in accordance with the Scheme.

## Agreed terms

### 1. Defined terms & interpretation

#### 1.1 Defined terms

In this document:

**Scheme Implementation Deed** means the Scheme Implementation Deed dated 30 May 2016 between BidCo and Patties.

**Patties** means Patties Foods Limited ABN 62 007 157 182 as trustee for the Scheme Shareholders.

**Trust Account** has the meaning given in the Scheme.

#### 1.2 Terms defined in Scheme Implementation Deed

Words and phrases defined in the Scheme Implementation Deed have the same meaning in this deed poll unless the context requires otherwise.

#### 1.3 Incorporation by reference

The provisions of clauses 1.2, 1.3 and 1.4 of the Scheme Implementation Deed form part of this deed poll as if set out at length in this deed poll but with 'deed poll' substituted for 'deed' and with any reference to 'party' being taken to include the Scheme Shareholders.

### 2. Nature of this deed poll

Each of BidCo and TopCo agree that 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.

### 3. Conditions

#### 3.1 Conditions

Each of BidCo's and TopCo's obligations under clause 4 are subject to the Scheme becoming Effective.

#### 3.2 Termination

This deed poll and the obligations of BidCo and TopCo obligations under this deed poll will automatically terminate and this deed poll will be of no further force or effect if:

- (a) the Scheme Implementation Deed is terminated in accordance with its terms; or
- (b) the Scheme is not Effective by the End Date or any later date as the Court, with the consent of BidCo, TopCo and Patties, may order,

unless Patties, TopCo and BidCo otherwise agree in writing.

#### 3.3 Consequences of termination

If this deed poll terminates under clause 3.2, in addition and without prejudice to any other rights, powers or remedies available to them:

- (a) BidCo and TopCo are released from their obligations to further perform this deed poll; and
- (b) each Scheme Shareholder retains the rights they have against BidCo and TopCo in respect of any breach of this deed poll which occurred before it terminated.

## Appendix 5. Deed Poll *continued*

### 4. Performance of obligations

#### 4.1 Generally

Subject to clause 3, BidCo and TopCo covenant in favour of Scheme Shareholders to perform the actions attributed to them respectively under, and otherwise comply with, the Scheme as if BidCo and TopCo were parties to the Scheme.

#### 4.2 Provision of Scheme Consideration

- (a) Subject to clause 3, each of BidCo and TopCo undertake in favour of each Scheme Shareholder to provide or procure the provision of the Scheme Consideration to each Scheme Shareholder in accordance with the terms of the Scheme.
- (b) The obligations of BidCo and TopCo under clause 4.2(a) will be satisfied if, in respect of the Scheme Consideration:
  - (i) BidCo deposits, no later than the Business Day before the Implementation Date, an amount equal to the aggregate amount of the cash component of the Scheme Consideration payable to Scheme Shareholders in cleared funds to the Trust Account;
  - (ii) no later than 12.00 noon (or such later time as BidCo, and Patties may agree) on the Implementation Date, TopCo issues all of the Class B Shares which it is obliged to issue to Scheme Shareholders under the Scheme and BidCo provides Patties with written confirmation that TopCo has done so;
  - (iii) BidCo and TopCo no later than 12:00 noon (or such later time as BidCo and Patties may agree) on the Implementation Date procure that the name of each Scheme Shareholder (if any) entitled to receive Class B Shares under the Scheme is entered into TopCo's register of members as the holder of those Class B Shares (having the same holding name and address and other details as the holding of the relevant Scheme Shares); and
  - (iv) on or before the date that is five Business Days after the Implementation Date, BidCo sends or procures the sending of a certificate to each Scheme Shareholder entitled to receive Class B Shares under the Scheme, reflecting the issue of such Class B Shares,

in each case, in accordance with, and subject to, the provisions of the Scheme.

### 5. Warranties

Each of BidCo and TopCo represent and warrant to each Scheme Shareholder that:

- (a) **(status)** it is a corporation duly incorporated and validly existing under the laws of the place of its incorporation;
- (b) **(power)** it has the power to enter into and perform its obligations under this deed poll and to carry out the transactions contemplated by this deed poll;
- (c) **(corporate authorisations)** it has taken all necessary corporate action to authorise the entry into and performance of this deed poll and to carry out the transactions contemplated by this deed poll;
- (d) **(documents binding)** this deed poll is its valid and binding obligation enforceable in accordance with its terms;
- (e) **(transactions permitted)** the execution and performance by it of this deed poll and each transaction contemplated by this deed poll did not and will not violate in any respect a provision of:
  - (i) a law or treaty or a judgment, ruling, order or decree of a Governmental Agency binding on it;
  - (ii) its constitution or other constituent documents; or
  - (iii) any other document which is binding on it or its assets; and



- (f) **(solvency)** it is solvent and no resolutions have been passed nor has any other step been taken or legal action or proceedings commenced or threatened against it for its winding up or dissolution or for the appointment of a liquidator, receiver, administrator or similar officer over any or all of its assets.

## 6. Continuing Obligations

### 6.1 Deed poll irrevocable

This deed poll is irrevocable and, subject to clause 3, remains in full force and effect until the earlier of:

- (a) both BidCo and TopCo having fully performed their respective obligations under this deed poll; and
- (b) termination of this deed poll under clause 3.2.

### 6.2 Variation

A provision of this deed poll may not be varied unless:

- (a) before the Second Court Date, the variation is agreed to in writing by Patties; or
- (b) on or after the Second Court Date, the variation is agreed to in writing by Patties and is approved by the Court,

in which event BidCo and TopCo will enter into a further deed poll in favour of each Scheme Shareholder giving effect to the amendment.

## 7. Notices

Any notice, demand or other communication (a **Notice**) to BidCo and/or TopCo in respect of this deed poll:

- (a) must be in writing and signed by the sender or a person duly authorised by it;
- (b) must be delivered to the intended recipient by prepaid post (if posted to an address in another country, by registered airmail) or by hand, email or to the address or email address specified in the Details;
- (c) will be conclusively taken to be duly given or made:
  - (i) **(in the case of delivery in hand)**, when delivered at the address of the addressee as provided in the Details, unless that delivery is not made on a Business Day, or is made after 5.00pm on a Business Day, in which case that Notice will be deemed to be received at 9.00am on the next Business Day;
  - (ii) **(in the case of delivery by post)**, on the third Business Days after the date of posting (if posted to an address within Australia) or the fifth Business Days after the date of posting (if posted to an address outside Australia); or
  - (iii) **(in the case of email)**, on the earlier of:
    - (A) when the sending party's email system confirms delivery of the email by way of a delivery notification; or
    - (B) when the recipient party confirms receipt to the sending party via email or telephone.

## 8. General Provisions

### 8.1 Assignment

- (a) The rights and obligations of BidCo, TopCo and each Scheme Shareholder under this deed poll are personal. They cannot be assigned, charged, encumbered or otherwise dealt with at law or in equity without the prior written consent of BidCo, TopCo and Patties.
- (b) Any purported dealing in contravention of clause 8.1(a) is invalid.

## Appendix 5. Deed Poll *continued*

### 8.2 Cumulative rights

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

### 8.3 No waiver

- (a) Neither BidCo or TopCo may rely on the words or conduct of any Scheme Shareholder as a waiver of any right unless the waiver is in writing and signed by the Scheme Shareholder granting the waiver.
- (b) If a Scheme Shareholder does not exercise a right arising from a breach of this deed poll at a given time, it may, unless it has waived that right in writing, exercise the right at a later point in time.
- (c) No Scheme Shareholder may rely on words or conduct of either BidCo or TopCo as a waiver of any right unless the waiver is in writing and signed by BidCo or TopCo, as appropriate.
- (d) The meanings of the terms used in this clause 8.4 are set out below.

**conduct** includes delay in the exercise of a right.

**right** means any right arising under or in connection with this deed poll and includes the right to rely on this clause.

**waiver** includes an election between rights and remedies, and conduct which might otherwise give rise to an estoppel.

### 8.4 Stamp duty

BidCo must pay or procure the payment of all stamp duty (if any) any related fines, penalties and interest in respect of the Scheme and this deed poll (including the acquisition or transfer of Scheme Shares pursuant to the Scheme), the performance of this deed poll and each transaction effected by or made under or pursuant to the Scheme and this deed poll.

### 8.5 Further assurances

BidCo and TopCo will, at their own expense, do all things reasonably required of it to give full effect to this deed poll.

### 8.6 Governing law and jurisdiction

This deed poll is governed by the laws of the State of Victoria. In relation to it and related non-contractual matters BidCo and TopCo irrevocably:

- (a) submit to the non-exclusive jurisdiction of courts with jurisdiction there; and
- (b) waive any right to object to the venue on any ground.

## Signing page

**EXECUTED** and delivered as a deed poll.

**Executed by Australasian Foods Bidco Pty Limited** in accordance with Section 127 of the *Corporations Act 2001*



Signature of director

**Antony Duthie**

Name of director (print)




Signature of director/company secretary  
(Please delete as applicable)

**David Brown**

Name of director/company secretary (print)

**Executed by Australasian Foods Holdco Pty Limited** in accordance with Section 127 of the *Corporations Act 2001*



Signature of director

**Antony Duthie**

Name of director (print)



Signature of director/company secretary  
(Please delete as applicable)

**David Brown**

Name of director/company secretary (print)

**Executed by Patties Foods Limited** in accordance with Section 127 of the *Corporations Act 2001*

\_\_\_\_\_  
Signature of director

Name of director (print)

\_\_\_\_\_  
Signature of director/company secretary  
(Please delete as applicable)

Name of director/company secretary (print)

# Appendix 5. Deed Poll *continued*

## Signing page

**EXECUTED** and delivered as a deed poll.

**Executed by Australasian Foods Bidco Pty Limited** in accordance with Section 127 of the *Corporations Act 2001*

\_\_\_\_\_  
Signature of director

\_\_\_\_\_  
Name of director (print)

\_\_\_\_\_  
Signature of director/company secretary  
(Please delete as applicable)

\_\_\_\_\_  
Name of director/company secretary (print)

**Executed by Australasian Foods Holdco Pty Limited** in accordance with Section 127 of the *Corporations Act 2001*

\_\_\_\_\_  
Signature of director

\_\_\_\_\_  
Name of director (print)

\_\_\_\_\_  
Signature of director/company secretary  
(Please delete as applicable)

\_\_\_\_\_  
Name of director/company secretary (print)

**Executed by Patties Foods Limited** in accordance with Section 127 of the *Corporations Act 2001*

  
\_\_\_\_\_  
Signature of director

**STEVEN CHAUR**  
\_\_\_\_\_  
Name of director (print)

  
\_\_\_\_\_  
Signature of ~~director~~/company secretary  
(Please delete as applicable)

**CLINTON ORR**  
\_\_\_\_\_  
Name of ~~director~~/company secretary (print)

## Appendix 6. Shareholders' Deed

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### Shareholders' Deed

Australasian Foods Holdco Pty Limited

Deutsche Bank Place  
Corner Hunter and Phillip Streets  
Sydney NSW 2000 Australia  
T +61 2 9230 4000  
F +61 2 9230 5333  
[www.allens.com.au](http://www.allens.com.au)

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Allens is an independent partnership operating in alliance with Linklaters LLP.

## Appendix 6. Shareholders' Deed *continued*

Shareholders' Deed

Allens < Linklaters

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### Shareholders' Deed

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This Deed is made on [ ] 2016

### Parties

- 1 Australasian Foods Holdco Pty Limited (ACN 612 640 329) of Level 31, 126 Phillip Street, Sydney NSW 2000 (the **Company**).
- 2 The persons listed in Schedule 1 (each, an **PEP Shareholder**).

### Recitals

- A As at the date of this Deed, PEP Shareholders hold 100% of the Shares in the Company. The Shares held by PEP are Class A Shares.
- B PEP intends for the Company to (through a wholly owned Subsidiary) acquire and hold 100% of the issued shares in the Target by way of scheme of arrangement under Part 5.1 of the Corporations Act (**Scheme**).
- C If the Scheme becomes effective, PEP will subscribe for additional Class A Shares in the Company to finance the payment of consideration offered to Target shareholders under the Scheme, provide funding to meet transaction costs in connection with the Scheme, and to repay all or selected indebtedness of the Target.
- D The consideration offered to Target shareholders under the Scheme includes Class B Shares in the Company.
- E Following implementation of the Scheme, Managers of the Company and its Subsidiaries may be invited to participate in the Management Incentive Plan under which Options in the Company may be issued. New Shares issued on exercise of Options issued under the Management Incentive Plan, and other Shares that may be issued to Managers of the Company and its Subsidiaries, will be Class C Shares.
- F This Deed sets out provisions which regulate the holdings of Shareholders, and the management, control and financing of the Group.

It is agreed as follows.

### 1 Definitions and Interpretation

#### 1.1 Definitions

The following definitions apply unless the context requires otherwise.

**Accession Deed** means a deed poll of accession in the form set out in Schedule 3.

**Accounting Standards** means:

- (a) accounting standards approved under the Corporations Act and its requirements about the preparation and contents of account; and
- (b) Australia's equivalent to the International Financial Reporting Standards as approved by the Australian Accounting Standards Board.

**Affiliate** means:

- (a) with respect to PEP, an Investor Advisor and an Investor Affiliate; and

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- (b) with respect to a Class B Shareholder or Management Shareholder that is an individual, means:
- (i) any Family Entity of that individual;
  - (ii) any self-managed superannuation fund for that individual, the trustee of which is that individual, that individual and their spouse, or a Family Entity of that individual; and
  - (iii) a spouse of that individual.

**Audited Financial Statements** means the audited consolidated profit and loss account, consolidated balance sheet and statement of cash flow.

**Auditor** means the auditor of the Group approved by the Board from time to time.

**Bad Leaver** means:

- (a) a Leaver, where the cessation of employment or appointment of the Leaver is as a result of:
- (i) the relevant Leaver resigning or giving notice or ceasing to be employed, other than as a result of:
    - (A) retirement at age 65 years or older;
    - (B) Permanent Incapacity;
    - (C) a material diminution in position, duties or remuneration (other than those to which the Leaver agrees in writing);
    - (D) the Leaver's death;
    - (E) redundancy of the Leaver's position (other than a redundancy which the relevant Leaver agrees in writing will result in the Leaver being treated as a Bad Leaver for the purposes of this Deed);
    - (F) in the case of a Leaver employed under a fixed term service contract:
      - (1) the relevant Group Company determining not to renew (and not renewing) the Leaver's contract at the end of the fixed term or determining not to enter (and not entering) into a new contract with the Leaver on reasonable terms (having regard to the previous terms and market practice at the time); and
      - (2) there being no other circumstances at the time which could have reasonably led to Summary Dismissal; or
    - (G) a material breach of a Leaver's employment agreement by the relevant Group Company which remains un-remedied for a period of 30 days after written notice of the breach by the Leaver;
    - (H) the business unit in which the Leaver is employed ceasing to be part of the Group in circumstances where the business unit has met desired performance hurdles as determined by the Board (acting reasonably and having regard to the circumstances of and proceeds received from the sale); or
    - (I) the relevant Group Company terminating the Leaver's employment and there being no circumstances at the time which could have reasonably led to Summary Dismissal; or

## Appendix 6. Shareholders' Deed *continued*

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- (ii) Summary Dismissal; or
  - (b) a Leaver who has failed to comply in any material respect with the terms of any restrictive covenants set out in his or her Service Agreement,
- but does not include a person who the Board otherwise determines in its absolute discretion to be a Good Leaver.

**Beneficial Holders** means a person on whose behalf the Nominee holds Shares as bare trustee.

**Beneficial Shares** in relation to a Beneficial Holder, means the Shares held by the Nominee as bare trustee for that Beneficial Holder.

**Board** means all or some of the Directors acting as the board of the Company.

**Board Meeting** has the meaning in clause 5.2(a).

**Board Reserved Matters** includes all of the matters set out in Schedule 2.

**Budget** means a budget, including the consolidated profit and loss account, balance sheet and cash flow statement for the Group.

**Business** means the business of the Group.

**Business Day** means a day other than a Saturday, Sunday or public holiday in Victoria, Australia.

**Business Plan** means the one year programme current from time to time for the conduct of the Business during the current Financial Year, including the Budget for that Financial Year.

**Buyer** means a buyer (or a proposed buyer) of Securities who is a Third Party in relation to the seller (or proposed seller) of those Securities.

**CEO** means the person appointed as the chief executive officer of the Company from time to time.

**CFO** means the person appointed as the chief financial officer of the Company from time to time.

**Chairman** means the person appointed as chairman of the Board under clause 4.3 of this Deed.

**Change of Control** means:

- (a) the person or persons that have Control of a Shareholder cease to have Control of that Shareholder; or
- (b) a person or persons who did not have Control of a Shareholder gain Control of that Shareholder.

**Claim** means any allegation, debt, cause of action, liability, claim, proceeding, suit or demand of any nature howsoever arising and whether present or future, fixed or unascertained, actual or contingent whether at law, in equity, under statute or otherwise.

**Class A Share** means an ordinary share in the capital of the Company which is designated as a Class A Share and has the rights set out in this Deed.

**Class B Director** means a Director appointed by the Class B Shareholders pursuant to clauses 4.2(b) or 4.2(c).

**Class B Share** means an ordinary share in the capital of the Company which is designated as a Class B Share and has the rights set out in this Deed.

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**Class B Shareholder** means a holder of Class B Shares with respect only to their holding of Class B Shares.

**Class C Permitted Transfer** has the meaning given in clause 15.6.

**Class C Shares** means an ordinary share in the capital of the Company which is designated as a Class C Share and has the rights set out in this Deed.

**Company** means Australasian Foods Holdco Pty Limited (ACN 612 640 329) .

**Confidential Information** means all confidential information exchanged between the Shareholders relating to the Business or other affairs of the Group, the Shareholders or the Managers, including the terms of this Deed, but excludes any information that:

- (a) is in, or becomes part of, the public domain other than through breach of this Deed or an obligation of confidence owed to a Group Company; or
- (b) was already known to it at the time of disclosure by the Company or a Shareholder, other than as a result of a breach of an obligation of confidentiality; or
- (c) a party acquires from a source other than the Company or a Shareholder, where the source is entitled to disclose it.

**Constitution** means the constitution of the Company from time to time.

**Control** has the meaning given in section 50AA of the Corporations Act and, in addition, a person will also be taken to "Control" a trust if:

- (a) the person is the sole trustee of the trust;
- (b) the composition of the board of directors of any corporate trustee of the trust is determined by the person (alone or with its Affiliates); or
- (c) the board of directors of any trustee company of the trust is accustomed to act in accordance with the instructions, directions or wishes of the person (either alone or with its Affiliates);
- (d) the person holds or owns (alone or with its Affiliates) and whether directly or indirectly:
  - (i) the majority of the issued voting shares of any corporate trustee of the trust;
  - (ii) the majority of the units, securities or other rights granted by the trust entitling holders to distributions from the trust; or
- (e) the person has the power to appoint the trustees or beneficiaries of the trust,

and **Controlled** has a corresponding meaning.

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

**Cost** means, in respect of a Security:

- (a) where the Company issued that Security to the relevant Management Shareholder, the issue price paid for that Security; or
- (b) where the relevant Management Shareholder acquired that Security by way of purchase, the price it paid to acquire that Security (unless the Security was acquired from an Affiliate of the relevant Management Shareholder, in which case it is the earliest in time price paid to acquire that Security by any Affiliate of the relevant Management Shareholder from a person that was not an Affiliate of the relevant Management Shareholder).

## Appendix 6. Shareholders' Deed *continued*

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**Deal with** when used with respect to an item of property (including Securities), includes sell, offer for sale, dispose, transfer, deal with, assign, alienate the right to exercise the votes attached to, or decrease any economic interest in, or grant or allow to exist any Encumbrance, trust, option or other right in relation to the whole of any part of the item of property and agreeing to do any of those things or granting an option or making an offer that permits a person to require the doing of any of those things, and **Dealing** has a corresponding meaning.

**Directors** means all or some of the directors of the Company from time to time.

**Dividend** means a dividend declared and includes a bonus or other distribution in kind or in cash.

**Drag Notice** means a notice given in accordance with clause 16.2.

**Drag Price** has the meaning given in clause 16.2.

**Drag Proportion** has the meaning given in clause 16.2.

**Drag Sale Terms** has the meaning given in clause 16.2.

**Dragged Shares** has the meaning given in clause 16.2.

**EBITDA** means earnings from ordinary continuing activities of the Group before interest, tax, depreciation and amortisation calculated in accordance with the accounting policies and practices of the Group, including the Group's share of profits after income tax from associates and joint venture interests.

**Encumbrance** means any mortgage, lien, charge, pledge, assignment by way of security, security interest, title retention, preferential right or trust arrangement, Claim, covenant, profit à prendre, easement or any other security arrangement or any other arrangement having the same effect or any agreement to create any of them.

**Exit Event** or **Exit** means:

- (a) an IPO; or
- (b) a sale by PEP of all or substantially all of the Shares held by the PEP Shareholders (other than a sale to an Affiliate); or
- (c) a Trade Sale.

**Fair Market Value** means the value determined in accordance with clause 22.

**Family Entity** means, in respect of a Manager, a company or trust of which the Manager has Control and of which the ultimate beneficial owners (or, in the case of a trust, the beneficiaries or potential beneficiaries) are the Manager and/or a Relative(s) of the Manager and/or charities.

**Financial Year** means the 12-month period starting on 1 July and ending on 30 June each year (or other dates as the Board approves).

**FY16 EBITDA** means EBITDA for the Group for the Financial Year ending 30 June 2016, consistent with "underlying EBITDA" as defined in the Target's 2016 Annual Report.

**General Partner** means the general partner, or the general partner of a general partner, of PEP from time to time.

**Good Leaver** means a Leaver who is:

- (a) not a Bad Leaver; or
- (b) otherwise determined by the Board in its absolute discretion to be a Good Leaver.

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**Government Agency** means any governmental, semi-governmental, administrative, fiscal, judicial or quasi-judicial body, department, commission, authority, tribunal, agency or entity. It includes ASIC and ASX (and any other stock exchange).

**Group** means the Company and each of its Subsidiaries and each of its or their interests in joint ventures or other entities (including trusts), from time to time.

**Group Company** means a member of the Group from time to time.

**GST** has the same meaning as in the GST Law.

**GST Law** has the same meaning as in the *A New Tax System (Goods and Services Tax) Act 1999* (Cth).

**Immediately Available Funds** means cash, bank cheque or electronic funds transfer to an account nominated by the payee in writing, or any other form of payment that the payer and the payee agree in writing.

A person is **Insolvent** if:

- (a) it is (or states that it is) an insolvent under administration or insolvent (each as defined in the Corporations Act);
- (b) it is in liquidation, in provisional liquidation, under administration or wound up or has had a controller appointed to its property;
- (c) it is subject to any arrangement, assignment, moratorium or composition, protected from creditors under any statute or dissolved (in each case, other than to carry out a reconstruction or amalgamation while solvent on terms approved by the other parties to this Deed);
- (d) an application or order has been made (and, in the case of an application, it is not stayed, withdrawn or dismissed within 30 days), resolution passed, proposal put forward, or any other action taken, in each case in connection with that person, which is preparatory to or could result in any of paragraphs (a), (b) or (c) above;
- (e) it has or it is taken under section 459F(1) of the Corporations Act to have failed to comply with a statutory demand;
- (f) it is the subject of an event described in section 459(C)(2)(b) or section 585 of the Corporations Act (or it makes a statement from which another party to this Deed reasonably deduces it is so subject);
- (g) that person is otherwise unable to pay its debts when they fall due; or
- (h) something having a substantially similar effect to paragraphs (a) to (g) above happens in connection with that person under the law of any jurisdiction.

**Initial Acceptance Period** has the meaning given in clause 14.2(a)(v).

**Investor Advisor** means any entity that from time to time provides investment advice, whether directly or indirectly, to PEP.

**Investor Advisor Group** means with respect to an Investor Advisor, that Investor Advisor and its Related Bodies Corporate and **Investor Advisor Group Company** is to be construed accordingly.

**Investor Affiliate** means:

- (a) any Investor Advisor Group Company (other than the Investor Advisor);

## Appendix 6. Shareholders' Deed *continued*

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- (b) any partnership, limited partnership, venture capital limited partnership, trust, managed investment scheme, limited liability company or body corporate or other fund or entity of which any Investor Advisor Group Company or any person assuming the rights and obligations of such Investor Advisor Group Company, is the manager, trustee, responsible entity, general partner or investment advisor (*Investor Fund*);
- (c) any person Controlled by an Investor Fund; and
- (d) any partner, limited partner, unitholder, shareholder, trustee, responsible entity or custodian of any of the entities, funds, trusts or other things set out in any of paragraphs (a) to (c) above.

**Invitation to Tag** means in respect of the Shareholders, an invitation in the form contemplated by clause 17.2.

**Involved** includes direct or indirect involvement as a principal, agent, partner, employee, shareholder, unitholder, director, trustee, beneficiary, manager, contractor, subcontractor, consultant, advisor or financier.

**IPO** means an initial public offering of shares in the Company, shares in any Subsidiary of the Company or shares in a company of which the Company is or will be a wholly owned subsidiary in conjunction with an application for the quotation of those shares on the Stock Exchange.

**Issue Notice** has the meaning given in clause 14.2(a).

**Leaver** means a Manager who:

- (a) having been employed by a Group Company, ceases to be employed by any Group Company;
- (b) having been engaged by a Group Company as a consultant or contractor, ceases to be engaged by that or any other Group Company; or
- (c) having been a non-executive director of a Group Company, ceases to be a non-executive director of any Group Company.

**Leaver Notice** has the meaning given in clause 21.1.

**Leaver Sale Shares** has the meaning given in clause 21.1.

**Leaving Date** means, in relation to a Manager, the date that the Manager becomes a Leaver.

**Listco** has the meaning given in clause 19.1(b).

**LP Assets** has the meaning given in clause 29.3.

**LTM EBITDA** means EBITDA for the 12 consecutive months up to and including the month ending at least four weeks prior to the date of the action or resolution referred to in clause 7.2(a).

**Management Incentive Plan** means the management equity plan to be established by the Company under which the Company may issue Options to Managers of the Company.

**Management Representative** means a person appointed as Management Representative under clause 9.

**Management Shareholder** means a holder of Class C Shares (including Class C Shares issued on the exercise of Options) with respect only to their holding of Class C Shares that is:

- (a) a Manager or a Leaver;



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- (b) an Affiliate of a Manager or a Leaver; or
- (c) a person that the Board agrees in writing to treat as a "Management Shareholder", and who is or becomes a party to this Deed as a "Management Shareholder" by executing an Accession Deed.

**Manager** means a person that is:

- (a) invited by the Board to participate in a Management Incentive Plan; and
- (b) an employee, executive director or non-executive director of any Group Company at the time the Manager (or any Affiliate of the Manager) becomes a Management Shareholder,

and who is or becomes a party to this Deed as a "Manager" by executing an Accession Deed.

**Matrimonial Proceedings** means any proceedings instituted as a matrimonial cause (as defined in the *Family Law Act 1975 (Cth)*) in a court of law, including any incidental proceedings, and includes any substantially similar type of proceedings instituted in any other jurisdiction.

**Net Cost** means Cost less any capital returned to the relevant Management Shareholder on the relevant Option or Share by way of a return of capital or otherwise.

**New Shareholder** has the meaning given in clause 31.1.

**Nominee** means an independent third party trustee company appointed by the Company under clause 24.2 to hold Class B Shares on bare trust pursuant to the terms of the Nominee Deed and clause 24.

**Nominee Deed** means the nominee deed to be entered between the Company and the Nominee, substantially in the form set out in Schedule 4 (subject to any changes reasonably required by the Nominee in accordance with its usual business practices and accepted by the Company).

**Non-contributing Shareholder** has the meaning given in clause 14.2(c).

**Obligations** has the meaning given in clause 29.2.

**Observer** has the meaning given in clause 4.7.

**Options** means options to acquire Class C Shares issued pursuant to the Management Incentive Plan and the Option Terms of Issue.

**Option Terms of Issue** means the terms of issue applying to Options, as determined by the Board.

**PEP** means the PEP Shareholders, and any of their Affiliates who hold Shares, from time to time.

**PEP Director** means each of Antony Duthie, David Brown and Shannon Wolfers (for so long as they may be a Director) and any person appointed as a Director by the PEP Shareholders under clause 4.2(a).

**PEP Representative** means, in respect of each PEP Shareholder, the person or persons nominated by notice to the Company by the PEP Shareholder to be that PEP Shareholder's representative for the purposes of clause 8.

**Permanent Incapacity** means where a Manager is absent from work due to their own ill health or the terminal illness or death of their spouse or child (except where such ill health,

## Appendix 6. Shareholders' Deed *continued*

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terminal illness or death arises as a result of an abuse of alcohol or drugs) for any continuous period of 16 weeks in any 12 month period.

**Permitted Transferee** of a Shareholder means:

- (a) in relation to a Shareholder that is not an individual, a Related Entity of the Shareholder;
- (b) in relation to a Shareholder that is an individual, a Relative of the Shareholder; or
- (c) in relation to a Shareholder that is a PEP Shareholder who is a trustee, custodian, responsible entity or general partner of a trust or partnership, includes the person who is a replacement trustee, custodian, responsible entity or general partner of the same trust or partnership.

**Qualified Person** means a person who is not subject to any commercial or other conflict of interest in relation to the Business or operations of the Group, excluding any conflict arising solely from the person holding or having a relevant interest (as defined in the Corporations Act) in any Class B Shares. It is acknowledged that as at the date of this Deed, a Qualified Person shall include any person who is a director of the Target.

**Related Body Corporate** has the meaning given in the Corporations Act, interpreted so that 'subsidiary' has the meaning given to that term in this Deed.

**Related Entity** means, in relation to an entity (the **first entity**):

- (a) a Related Body Corporate of the first entity; or
- (b) a Controlled entity of the first entity;
- (c) an entity of which the first entity is a Controlled entity;
- (d) a Controlled entity of another entity of which the first entity is also a Controlled entity; and
- (e) in relation to a PEP Shareholder, includes any Affiliate of PEP.

**Relatives** means a spouse, former spouse, mother, father, brother, sister or child.

**Relevant Manager** means:

- (a) in relation to a Manager who is invited to participate in the Management Incentive Plan, the person nominated by the Company at the date of issue of Shares or Options to them as their Relevant Manager; and
- (b) in relation to any Management Shareholder who acquires Shares or Options as a Permitted Transferee of the Management Shareholder transferring Shares or Options, the person who is the Relevant Manager of the transferor.

**Relevant Proportion** means, in relation to a Shareholder:

- (a) subject to paragraph (b) below, the proportion which its aggregate holding of Shares bears to the aggregate of all issued Shares in the Company; and
- (b) where the context requires a "Relevant Proportion" to be determined with reference to a particular class of Shares, the proportionate holdings for the purposes of paragraph (a) is to be determined with reference to the relevant Shareholder's holdings of that particular class, that is, only Shares of the particular class will comprise the numerator and denominator for purposes of the calculation.

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**Representative** means, in relation to an entity, an employee, officer, director or adviser of that entity.

**Restraint** means the prohibitions and restraints contained in clause 21.

**Restraint Area** means Australia, and any geographic area in which the Business operates or into which products of the Business are distributed, or such lesser geographic area as determined by the Board from time to time.

**Restraint Period** has the meaning in clause 23.2.

**Scheme** means the scheme of arrangement under Part 5.1 of the Corporations Act under which a Group Company acquires 100% of the issued shares in the Target.

**Securities** means, as the context requires, Shares, Options, and/or any other securities issued by the Company from time to time.

**Service Agreement** means for a Manager, any employment contract, letter of appointment or other agreement between itself and any Group Company setting out the terms and conditions of the Manager's employment or appointment.

**Share** means an ordinary share in the capital of the Company and includes a Class A Share, a Class B Share or a Class C Share.

**Shareholder** means:

- (a) a registered holder of Shares from time to time (excluding the Nominee); and
- (b) a Beneficial Holder from time to time.

**Simple Majority** means:

- (a) in the case of Shareholders, Shareholders that together hold more than 50% of the total voting rights of all Shareholders present (in person or by proxy) at the meeting of Shareholders or sign the relevant written resolution (as the case may be) and entitled to vote on the resolution concerned; and
- (b) in the case of Directors, Directors that together hold more than 50% of the total voting rights of all Directors who attend the relevant Board Meeting or sign the relevant written resolution (as the case may be) and who are entitled to vote on the relevant resolution.

**Special Majority Resolution** means:

- (a) subject to paragraph (b) below, a resolution approved by:
  - (i) a majority of the votes cast by the PEP Shareholders who are present (in person or by proxy) at the meeting of Shareholders and entitled to vote on the resolution concerned; **and**
  - (ii) at least 75% of all votes cast by or on behalf of all PEP Shareholders and Class B Shareholders who are present at the meeting of Shareholders and entitled to vote on the resolution concerned.
- (b) for the purposes of clause 7.1(b), a resolution approved by 75% of all votes cast by Class B Shareholders who are present (in person or by proxy) at the meeting of Shareholders and entitled to vote on the resolutions concerned.

**Standstill Period** means the two year period commencing on the effective date of the Scheme.

## Appendix 6. Shareholders' Deed *continued*

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**Stock Exchange** means the Australian Securities Exchange or any other stock exchange approved by PEP.

**Subsidiary** has the meaning given in Part 1.2 Division 6 of the Corporations Act, interpreted so that:

- (a) a trust may be a subsidiary of an entity, for the purpose of which a unit or other beneficial interest will be regarded as a share; and
- (b) an entity may be a subsidiary of a trust if it would have been a subsidiary if that trust were a body corporate.

**Summary Dismissal** means being dismissed pursuant to the Manager's contract or letter of appointment where the relevant Group Company would not have been liable to pay him or her compensation for the cessation of his or her employment or appointment (other than compensation required by statute or statutory instrument or compensation awarded by an employment tribunal relating to a failure of the relevant Group Company to comply with a fair and proper procedure in connection with that dismissal).

**Tag Option** has the meaning given in clause 17.2.

**Tag Price** has the meaning given in clause 17.2.

**Tag Proportion** has the meaning given in clause 17.2.

**Tag Terms** has the meaning given in clause 17.2.

**Tagged Shares** has the meaning given in clause 17.2.

**Target** means Patties Foods Limited (ACN 007 157 182).

**Third Party** means a party other than a party or an Affiliate of the party.

**Trade Sale** means the sale of:

- (a) all or substantially all of the operating Group Companies; or
- (b) the whole or substantially all of the Business,

in each case to a Third Party.

**Transaction Documents** means:

- (a) this Deed;
- (b) the Constitution;
- (c) each Service Agreement; and
- (d) any other agreement or document that the parties agree is a Transaction Document.

**Transfer** means a transfer of a Shareholder's legal or beneficial interests in Securities, as the case may be.

**Trustee** means the trustee or responsible entity of any Shareholder that is a trust.

**Valuer** has the meaning in clause 22.1.

### 1.2 Interpretation

- (a) Headings are for convenience only and do not affect interpretation.
- (b) Mentioning anything after *includes, including, for example,* or similar expressions, does not limit what else might be included.

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- (c) Nothing in this Deed is to be interpreted against a party solely on the ground that the party put forward this Deed or a relevant part of it.
- (d) The following rules apply unless the context requires otherwise.
  - (i) The singular includes the plural and the converse also applies.
  - (ii) A gender includes all genders.
  - (iii) If a word or phrase is defined, its other grammatical forms have a corresponding meaning.
  - (iv) A reference to a person includes a corporation, trust, partnership, unincorporated body or other entity, whether or not it comprises a separate legal entity.
  - (v) A reference to a clause, Schedule or Annexure is a reference to a clause of, or Schedule or Annexure to, this Deed.
  - (vi) A reference to an agreement or document (including, without limitation, a reference to this Deed) is to the agreement or document as amended, novated or replaced, except to the extent prohibited by this Deed or that other agreement or document, and includes the recitals, schedules and annexures to that agreement or document.
  - (vii) A reference to writing or written includes any method of reproducing words, figures, drawings or symbols in a visible and tangible form but excludes a communication by electronic mail.
  - (viii) A reference to a party to this Deed or another agreement or document includes the party's successors, permitted substitutes and permitted assigns (and, where applicable, the party's legal personal representatives).
  - (ix) A reference to legislation or to a provision of legislation includes any modification or re-enactment of it, a legislative provision substituted for it and all regulations or statutory instruments issued under it.
  - (x) A reference to conduct includes an omission, statement or undertaking, whether or not in writing.
  - (xi) A reference to an *agreement* includes any undertaking, deed, agreement and legally enforceable arrangement, whether or not in writing, and a reference to a *document* includes an agreement (as so defined) in writing and any certificate, notice, instrument and document of any kind.
  - (xii) A reference to any professional body includes the successors of that body.
  - (xiii) A reference to dollars and \$ is to Australian currency.
  - (xiv) A word or phrase given a meaning in the Corporations Act has the same meaning in this Deed unless otherwise defined.
  - (xv) A word or phrase given a meaning in the GST Law has the same meaning in this Deed unless otherwise defined in this Deed or in the Corporations Act.
  - (xvi) All references to time are to Australian Eastern Standard time.

**1.3 Precedence of this Deed**

Where this Deed and the Constitution deal with the same or a similar topic differently:

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- (a) this Deed prevails in relation to that topic; and
- (b) if a Shareholder gives the Company a notice specifying the difference and requesting an amendment to the Constitution that will remove that difference, each Shareholder must take all necessary steps to amend the Constitution to make the Constitution consistent with this Deed.

### 2 Capital Structure

- (a) As at the date of this Deed, the only Shareholders in the Company are PEP Shareholders.
- (b) Prior to the effective date of the Scheme, the PEP Shareholders will subscribe for additional Class A Shares in the Company pursuant to clause 13.3(b) and the terms of the Scheme.

### 3 Business and Management of the Company

#### 3.1 Function of the Board

The function of the Board is to govern the management of the Group. Subject to the Corporations Act, the Board may do all things necessary or desirable in connection with this function including:

- (a) determining the overall business strategy and direction for the Group;
- (b) reviewing and approving annual business plans and budgets; and
- (c) determining any other matter in relation to the Group.

#### 3.2 Delegation and Board Reserved Matters

- (a) Subject to clause 3.2(c):
  - (i) the CEO will be responsible for the day-to-day management and operation of the Business; and
  - (ii) the Board may delegate to senior management of a Group Company matters which are part of the day-to-day management of the Group.
- (b) The Board may, in its absolute discretion and at any time, amend, revoke or replace any delegation made to senior management.
- (c) The Company must not do nor commit to do and must procure that no Group Company does or commits to do, and the parties must use all voting rights and any other powers of control available to them (whether as a shareholder, through a director or otherwise) to procure that no Group Company does, or commits to do, a thing listed in Schedule 2 without the prior approval of the Board (**Board Reserved Matters**).

#### 3.3 Business Plan and Budget

- (a) The Company must ensure that the Group conducts its Business in each Financial Year in accordance with the Business Plan and Budget approved and adopted by the Board for that Financial Year, or as may be amended by the Board from time to time.
- (b) The parties acknowledge that it is intended that the Target will continue to source raw materials from local producers where there is no additional cost in doing so, and equivalent quality and other trading terms, compared to alternative suppliers.

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#### **4 Directors**

##### **4.1 Minimum number of Directors**

The Board must consist of a minimum of three Directors and a maximum of seven Directors. As at the date of this Deed, the Shareholders acknowledge that the Board will be comprised of Antony Duthie, David Brown and Shannon Wolfers.

##### **4.2 Appointment of Directors**

- (a) The PEP Shareholders have the right to appoint, remove and replace a majority of directors to the Board by providing written notice to the Company.
- (b) Subject to clause 4.2(d), where the Class B Shareholders hold 25% or more of the Shares, the Class B Shareholders have the right to appoint, remove and replace two directors to the Board by providing written notice to the Company.
- (c) Subject to clause 4.2(d), where the Class B Shareholders hold less than 25% and more than 10% of the Shares, the Class B Shareholders have the right to appoint, remove and replace one director to the Board by providing written notice to the Company.
- (d) Any person nominated as a proposed director by the Class B Shareholders must be:
  - (i) a Qualified Person; and
  - (ii) approved by the PEP Directors (with such approval not to be unreasonably withheld).
- (e) Management Shareholders do not have the right to appoint, remove or replace any director.
- (f) The CEO will be appointed as a Director. The CEO will be immediately and automatically removed from office upon that Director ceasing to be the CEO.
- (g) For the avoidance of doubt and notwithstanding any other provision of this Deed, any Class B Director who ceases to be a Qualified Person may be removed by PEP.
- (h) A Class B Director cannot be removed by PEP if the Class B Director is a Qualified Person, unless clauses 4.2(b) or 4.2(c) require removal to ensure that the composition of the Board complies with the requirements of those clauses.

##### **4.3 Appointment of Chairman**

PEP has the right to appoint, remove and replace the Chairman. The initial Chairman will be Antony Duthie.

##### **4.4 Directors' Interests**

- (a) A Director is not disqualified from holding any office or place of profit with PEP or any of PEP's Affiliates or Related Entities. To avoid doubt, a Director may:
  - (i) be or become a director of or otherwise hold office or a place of profit in any entity promoted by PEP or in which PEP may be interested, unless the entity competes with the Target, in which case the Director will be disqualified from office. For the purposes of this clause 4.4(a)(i), the PEP investee company Pinnacle Bakery & Integrated Ingredients will not be regarded as competing with the Target; and

## Appendix 6. Shareholders' Deed *continued*

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- (ii) contract or make any arrangement with PEP or any of PEP's Affiliates or Related Entities.
- (b) A Director who has a material personal interest in a matter that relates to the Business (other than as a result of such Director's relationship with PEP or any of PEP's Affiliates or Related Entities) must give the other Directors notice of that interest. Decisions of the Board in relation to any such matters shall be determined by a majority decision of the Directors who are not conflicted.

### 4.5 Voting entitlements of Directors

- (a) The PEP Directors attending a Board Meeting must determine which of them will exercise the voting rights conferred under clause 4.5(c).
- (b) The Class B Directors attending a Board Meeting (if more than one), must determine which of them will exercise the voting rights conferred under clause 4.5(c) and if the Class B Directors cannot agree, the voting rights will be allocated between them in equal shares.
- (c) Subject to clause 4.4(b):
  - (i) the PEP Directors together are entitled to that number of votes which is equal to the number of Shares held by the PEP Shareholders; and
  - (ii) the Class B Directors together are entitled to that number of votes which is equal to the number of Shares held by the Class B Shareholders; and
  - (iii) the CEO is entitled to one vote.
- (d) For the avoidance of doubt, the Chairman does not have an additional or casting vote.

### 4.6 Alternate Directors

Each Director may appoint an alternate to represent him or her at meetings of the Board. That person may be appointed by notice in writing to the Company signed by the appointor and that person need not be approved by resolution of the Directors. An alternate director will be entitled to attend and vote at meetings of the Board and to be counted in determining whether a quorum is present, without the need for such alternate to be approved by the Board.

### 4.7 Observer

In addition to their rights to appoint members of the Board, PEP and the Class B Shareholders may, at any time after the date of this Deed, each appoint, by notice in writing to the Company, one person as an observer (**Observer**) in addition to, or in place of, appointing a person as a Director. An Observer has the right to be notified of and attend Board meetings (and receive copies of all Board papers and written resolutions), but does not have the right to vote nor the right to be counted in a quorum.

### 4.8 Directors' fees

The Company may pay (at its discretion) any Directors' fees.

### 4.9 Expenses of Directors and Observers

A Director or Observer is entitled to be reimbursed out of the funds of the relevant Group Company for reasonable travelling, accommodation and other expenses which the Director or Observer incurs when travelling to or from meetings of the Board or board meetings of any other Group Company (or a committee of the Board or board of any other Group Company) or



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when otherwise engaged on the business of a Group Company subject to, and in accordance with, any policy adopted by the Board from time to time relating to such expenses.

## 5 Board meetings

### 5.1 Regularity of Meetings

- (a) The Board must meet at least six times a year, unless otherwise determined by the Board.
- (b) A Director may convene a meeting of the Board at any time by notice to the other Directors that is given in accordance with the Constitution.

### 5.2 Quorum

- (a) The quorum for a meeting of the Board (**Board Meeting**) is two Directors, of whom at least one is a PEP Director.
- (b) If a quorum is not present within 60 minutes of the time set for the meeting, the meeting is adjourned to the same time and place two Business Days later and notice reconvening the adjourned meeting must be promptly given to all Directors.

### 5.3 Board Decisions

Subject to applicable law and the terms of this Deed, all actions or resolutions of the Board will be made by the affirmative vote of a Simple Majority of Directors.

## 6 Directors' and Officers' Insurance

- (a) The Company (and each of its Subsidiaries) must to the extent permitted by law, take out and maintain at all times directors' and officers' liability insurance cover for the benefit of all Directors on terms (including that the relevant Director is named as a beneficiary) and with an insurer approved by the Board (or the relevant Group Company board of directors) acting reasonably.
- (b) To the extent permitted by law, the parties will procure that each Group Company (including the Company) will indemnify each of its Directors against all claims, demands, costs, losses, damages and liabilities (of whatever nature) in any way incurred by such Director:
  - (i) in his or her capacity as a Director; and/or
  - (ii) in connection with the lawful exercise of all or any of the Directors' powers and authorities conferred upon them;
  - (iii) provided that such indemnification will be enforceable even if the relevant Director has been or is entitled to be reimbursed or indemnified by his appointor.
- (c) Nothing in this clause 6 constitutes an agreement by the Company or any of its Subsidiaries to pay a premium which it is prohibited from paying under the Corporations Act.

## Appendix 6. Shareholders' Deed *continued*

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### 7 Meetings and Resolutions of Shareholders

#### 7.1 Shareholder approvals

Subject to clause 7.2, the Company may not, and must ensure that each Group Company does not take any action or pass any resolution in respect of any of the following matters unless the action or resolution has been approved by a Special Majority Resolution:

- (a) (**Constitution**) the making of any amendment to its Constitution or the modification or abrogation of any rights attached to any class of Shares whether issued or unissued, provided that any such amendment that would have the effect of circumventing the protection afforded to the Class B Shareholders under clause 7.1(b) is also approved by Class B Shareholders for the purposes of clause 7.1(b);
- (b) (**Amendment to Shareholders' Deed**) the making of any amendment to this Deed that materially adversely affects the rights of Class B Shareholders under this Deed (other than to a minor extent or in a way which impacts holders of Class A Shares and Class B Shares equally), except where otherwise permitted by clause 24.3(c);
- (c) (**PEP Exit during Standstill Period**) Transfer of any Shares by any PEP Shareholder during the Standstill Period other than to a Permitted Transferee under clause 15.3(c);
- (d) (**Winding up**) the making of an application or the commencement of any proceedings or the taking of any other steps for the winding up, dissolution, deregistration or appointment or administrator of a Group Company, or the entering into by a Group Company of an arrangement, compromise or composition with or assignment for the benefit of its creditors, a class of them or any of them;
- (e) (**relocation of Bairnsdale plant**) the relocation of the Target's manufacturing plant at Bairnsdale or any decision that can reasonably be expected to result in a material reduction of production capacity at the plant;
- (f) (**Mergers and acquisitions**) the acquisition of, or entering into any agreement to acquire, any entity or business:
  - (i) with an enterprise value of \$50 million or more; or
  - (ii) which has a different nature to the Business and an enterprise value of \$30 million or more; or
- (g) (**Related party proposals**) any transaction that would if the Company were a public company be a transaction with a related party of the Company under the Corporations Act that involves a single transaction or a series of similar transactions with an aggregate value of \$500,000 or more, unless the transaction:
  - (i) would be one covered by section 210 of the Corporations Act;
  - (ii) is in the ordinary course of the Business; or
  - (iii) is otherwise permitted by the provisions of this Deed.

Subject to the Corporations Act, any action or resolution in respect of any matter other than the matters set out in this clause 7.1 will be made by the affirmative vote of a Simple Majority of Shareholders.

#### 7.2 Put Option

- (a) A Group Company may take any action, or pass any resolution, in respect of one of the matters set out in clauses 7.1(e), 7.1(f) or 7.1(g) if a meeting of Shareholders has

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been held, the action or resolution has not been approved by a Special Majority Resolution at that meeting, and:

- (i) PEP has notified the Class B Shareholders at or prior to the meeting of Shareholders that they may elect to sell, by giving written notice to PEP within 20 Business Days' after the date of the meeting, up to 100% of the Class B Shares which that Class B Shareholder holds in accordance with this clause 7.2; or
  - (ii) LTM EBITDA is more than 20% below the FY16 EBITDA.
- (b) In the event that a Class B Shareholder makes an election pursuant to clause 7.2(a)(i), the relevant Class B Shares must be acquired by PEP.
- (c) Each Class B Share to be sold pursuant to an election made in accordance with clause 7.2(a)(i) shall be sold:
- (i) at a price per Class B Share which is:
    - (A) if the election is made during the first 12 months after the implementation date of the Scheme, \$1.65 less the amount per Share of any Dividends paid in respect of that Class B Share after the implementation date of the Scheme; or
    - (B) if the election is made after the first 12 months after the implementation date of the Scheme, the price based upon a multiple of LTM EBITDA to be agreed by the PEP Representative and the Class B Directors (or if there are no Class B Directors appointed, to be agreed by the PEP Representative and Class B Shareholders holding at least 75% of the Class B Shares to be sold pursuant to the election). If the parties are unable to agree the applicable multiple of LTM EBITDA within 20 Business Days' after notification of the relevant action or resolution by the Company, the price shall be the Fair Market Value determined in accordance with clause 22; and
  - (ii) on the date that is 20 Business Days after the price per Class B Share has been determined in accordance with clause 7.2(c)(i),

and the Class B Shareholder shall not be required to give any warranties, representations or indemnities to PEP other than usual warranties as to unencumbered title, capacity and authority.

**7.3 Quorum**

- (a) A quorum for a meeting of Shareholders is constituted by the presence of two or more Shareholders, of whom at least one is a PEP Shareholder and, where the Class B Shareholders hold 10% or more of the Shares, at least one is a Class B Shareholder.
- (b) No business may be transacted at any meeting of Shareholders unless a quorum is present at the commencement of the meeting, except for the adjournment of the meeting.
- (c) If there is not a quorum at a meeting of Shareholders within thirty minutes after the time specified in the notice of meeting, the meeting will stand adjourned to the same day in the following week at the same time and place. If within thirty minutes after the time appointed for the adjourned meeting a quorum is not constituted, the Shareholders present will form the quorum.

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### 7.4 Voting by Shareholders

- (a) Subject to any voting rights prescribed by the Corporations Act, Class C Shares are non-voting shares.
- (b) Each Shareholder (other than a Management Shareholder) is entitled to that number of votes which is equivalent to the number of fully paid up Shares held by it.
- (c) If the number of Shareholders who are required to approve a matter sign and date a document (or two or more documents which are in identical terms) which was sent to all Shareholders (other than a Management Shareholder) and contains a statement to the effect that they are in favour of the matter set out in the document, then the matter is taken to have been approved (as of the date of the last signature required to reach the number of Shareholders required to approve such matter).

### 7.5 Meetings of Class B Shareholders

- (a) Meetings of Class B Shareholders (**Class B Meetings**) will be held in order to facilitate the exercise Class B Shareholders' rights to appoint, remove and replace directors under clause 4.2.
- (b) The provisions of clauses 7.3 and 7.4 apply to Class B Meetings, with the following changes:
  - (i) any action or resolution in a Class B Meeting will be made by the affirmative vote of a Simple Majority of Class B Shareholders;
  - (ii) a quorum for a Class B Meeting is constituted by the presence of two or more Class B Shareholders;
  - (iii) only Class B Shareholders are permitted to vote at a Class B Meeting.

## 8 PEP Representative

### 8.1 PEP Representative

When this Deed provides that:

- (a) any power may be exercised by;
- (b) any decision may be made by;
- (c) any action may be performed by;
- (d) any notice may be given by; or
- (e) any consent may be given by,

PEP, then, and unless the context otherwise requires, the exercise of that power, the making of that decision, the performance of that action, or the giving of that notice or consent, may be communicated to the Company by (for and on behalf of all the PEP Shareholders) any combination of PEP Representatives whose appointing PEP Shareholders hold Shares which together represent a majority of the total number of Shares held by all PEP Shareholders.

### 8.2 Dealing with Shares

- (a) Where a clause in this Deed refers to "PEP" acquiring or being offered Shares (including clauses 7.2(b) and 14.2(c)), the PEP Shareholders may elect as between themselves which PEP Shareholder or Affiliates will acquire those Shares.

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- (b) In clauses 15 and 16 and in paragraph (b) of the definition of "Exit Event", the reference to the proportion of Shares being sold or Dealt with is a reference to the proportion of Shares held by all of the PEP Shareholders in aggregate.

### 8.3 Provision of information to PEP

Any information or notice that is to be provided to "PEP" under this Deed is to be provided to each PEP Shareholder.

## 9 Management Representative

### 9.1 Appointment

Each Manager and Management Shareholder individually and irrevocably appoints each of the CEO and CFO (each a **Management Representative**) individually as its agent and representative on the terms of this clause 9.

### 9.2 Powers of Management Representative

A Management Representative has authority and power to act on each Manager's and Management Shareholder's behalf to give any consent or approval required from the Manager and/or the Management Shareholder under or in connection with this Deed or sign any document on that Manager and Management Shareholder's behalf where necessary to give effect to any consent or approval given in this Deed.

### 9.3 Liability of Management Representative

Each party agrees that a Management Representative is not liable to any Manager, Management Shareholder or any other person for any act or omission by it in its capacity as Management Representative, except for any act or omission involving fraud or wilful misconduct.

### 9.4 Dealings with Management Representative

The parties are entitled to deal with, and rely on, a Management Representative in connection with all matters arising under or in connection with this Deed relating to Managers and/or Management Shareholders within the power and authority of the Management Representative.

## 10 Management Incentive Plan

- (a) If the Scheme becomes effective, the Board may invite Managers of any Group Company to participate in the Management Incentive Plan.
- (b) The Board must at all times ensure that, unless approved by Special Majority Resolution, the maximum number of Class C Shares issued upon the exercise of Options granted under the Management Incentive Plan does not exceed 12% of the total number of Shares in the Company (on a fully diluted basis as if each Option had been exercised).
- (c) For the avoidance of doubt, the issue of Class C Shares upon the exercise of Options granted under the Management Incentive Plan will dilute the economic interest (and rights to distributions) of the PEP Shareholders, the Class B Shareholders and the existing Management Shareholders (if any) in the Company.
- (d) The ability of an Option to convert into a Class C Share, and the ability of an Option holder to participate in a dividend or a capital return, exercise rights in relation to

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clauses 16, 17, 18, or participate in an IPO, Trade Sale or other Exit will be governed by the Option Terms of Issue.

### 11 Audit and reporting obligations

#### 11.1 Information to PEP

- (a) The Company, and the CEO and CFO, must promptly deliver to, or as directed by, PEP such financial and other information relating to the Group as PEP may request, including any information required by any financiers or prospective financiers of the Company or the Group.
- (b) The Company must provide to each PEP Shareholder, upon request, full access to:
  - (i) inspect the assets of the Group;
  - (ii) inspect and take copies of documents relating to the Business or the Group; and
  - (iii) discuss the affairs, finances and accounts of the Group with the Group's officers, employees, agents, representatives or contractors and the Auditor.

#### 11.2 Information to Management Shareholders and Class B Shareholders

The Company must provide a copy of the latest Audited Financial Statements of the Group on request by a Management Shareholder or a Class B Shareholder, within a reasonable time of the request.

### 12 Dividends

#### 12.1 Decision to pay Dividend

Subject to the Corporations Act, a decision to pay and the amount of any Dividend will be at the sole discretion of the Board, subject to:

- (a) retention of such reasonable and proper reserves for working capital requirements, possible future acquisitions, capital expenditure, debt amortization or other actual or contingent liabilities or commitments of the Group as the Board considers reasonably appropriate; and
- (b) such Dividend not resulting in a breach of any covenant or undertaking of the Group to any bank or financial institution or under any other material contract of the Group.

#### 12.2 Entitlement to Dividend

- (a) Each Shareholder (as at the relevant record date) will be entitled to receive its Relevant Proportion of any Dividend declared by the Board.
- (b) The parties agree and acknowledge that there is no intention for any Dividends to be declared or paid during the Standstill Period.

#### 12.3 Dividend reinvestment plan

- (a) The Board may elect to establish a dividend reinvestment plan providing each Shareholder with the right to elect to apply the proceeds of any Dividend payable to it in respect of its Shares towards subscription for further Shares in the same class in the Company.

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- (b) Shares to be issued pursuant to a dividend reinvestment plan established under clause 12.3(a) will be issued at Fair Market Value.

### 13 Issue of Shares

#### 13.1 No obligation to provide further funding

No Shareholder is obliged to provide any further funding (by way of debt or equity, guarantee or otherwise) to the Group.

#### 13.2 New Shares

The Company must not issue any Shares unless the issue is:

- (a) a permitted issue, as set out in clause 13.3; or
- (b) a pro rata issue, as set out in clause 14.

#### 13.3 Permitted issues

Subject to clause 24, the Company may issue Shares if the issue is approved by the Board and is:

- (a) **(emergency funding)** to PEP, or an Affiliate of PEP, if the Board determines (acting reasonably), after having first considered other means of financing, that an injection of funds:
  - (i) is appropriate in order to ensure that a Group Company does not breach (or ceases to breach) a covenant or condition of its external finance facilities;
  - (ii) is otherwise required by its external financiers; or
  - (iii) is necessary to ensure that a Group Company does not become insolvent, provided that the process set out in clause 14 is followed after such injection of funds to give all other Shareholders the opportunity to subscribe for, or acquire from PEP, Shares on the same terms, to maintain their Relevant Proportion;
- (b) **(Class A Shares in connection with Scheme)** the issue of Class A Shares to any of the PEP Shareholders to provide funding to meet transaction costs in connection with the Scheme or to finance the payment of cash consideration under the Scheme to Target shareholders or to repay debts of the Target in place prior to implementation of the Scheme, such Class A Shares to be issued at an issue price equal to the implied value of Class B Shares issued pursuant to the Scheme and clause 13.3(c);
- (c) **(Class B Shares in connection with Scheme)** the issue of Class B Shares pursuant to the Scheme in consideration for the transfer of Target shares to a Group Company;
- (d) **(Manager)** an issue of Class C Shares to a Manager (or an Affiliate of a Manager) pursuant to the Management Incentive Plan (including upon exercise of Options granted under the Management Equity Plan);
- (e) **(acquisitions/mergers)** an issue of Shares at Fair Market Value where the issue price is to be satisfied other than in cash in respect of the bona fide, arm's length acquisition of, or merger with, a company, or the acquisition of a company, business or assets, by a Group Company, provided that any issue of Shares under this clause 13.3(e) is not to an Affiliate of PEP and does not involve Class B Shares being issued to a person other than an existing Class B Shareholder;

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- (f) **(dividend reinvestment plan)** an issue of Shares pursuant to a dividend reinvestment plan established under clause 12.3(a);
  - (g) **(IPO)** an issue of Shares pursuant to an IPO,
- provided that in the case of clauses 13.3(e) and 13.3(g), the issue of Shares does not unfairly discriminate between Shareholders.

### 13.4 Schedules

Following any issuance of Shares, the Company must update Schedule 1 as necessary to document the details of any New Shareholder.

## 14 Pro rata issue of Shares

### 14.1 Pro rata offer to Shareholders

Subject to clause 24, the Board may resolve to issue new Shares, provided that those Shares are offered to all Shareholders in accordance with this clause 14.

### 14.2 Basis of issue

The Company must ensure that the issue is conducted on the following basis:

- (a) the Company must serve notice on the holders of each class of Shares (**Issue Notice**) specifying the:
  - (i) terms of issue;
  - (ii) issue price per new Share in that class;
  - (iii) total number of new Shares to be issued (as well as the total number of new Shares to be issued in each class);
  - (iv) number of new Shares for which the Shareholder would need to subscribe to maintain its Relevant Proportion;
  - (v) the date on which acceptance of the offer must be received by the Company, which shall be no earlier than 3 Business Days after the date of the Issue Notice (**Initial Acceptance Period**); and
  - (vi) the date on which subscription monies for the new Shares must be paid to the Company (being not less than 10 Business Days after the date of the Issue Notice);
- (b) the issue must be for cash and each holder of Shares is entitled to apply for its Relevant Proportion of the amount of equity funding proposed to be raised;
- (c) in the event a Class B Shareholder or a Management Shareholder (**Non-contributing Shareholder**) does not take up its entitlement within the Initial Acceptance Period, PEP may give notice to the Company and the Non-contributing Shareholder that it wishes to subscribe for those new Shares not taken up, in which case PEP may subscribe for the new Shares not taken up by the Non-contributing Shareholder (in which case those new Shares will be issued to PEP as Class A Shares);
- (d) the Company may issue any new Class B Shares or Class C Shares that are not subscribed for by Shareholders in accordance with clauses 14.2(a) to 14.2(c) to any Shareholder or Shareholders or any Third Party or Third Parties approved by the



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Board within 60 Business Days of the date of service of the Issue Notice on terms no more beneficial to the subscriber than those set out in the Issue Notice; and

- (e) if the Company does not issue the new Class B Shares or Class C Shares within 60 Business Days of the date of service of the Issue Notice, it may not issue those new Shares without first complying again with clause 14.2.

**15 Dealings with Shares****15.1 Standstill**

During the Standstill Period, the PEP Shareholders must not Transfer their Shares except:

- (a) where approved by a Special Majority Resolution of Shareholders; or
- (b) to a Permitted Transferee under clause 15.3(b).

**15.2 Restrictions on Dealing**

A Shareholder must not Deal with some or all of its Shares unless:

- (a) the provisions of clause 31 are complied with; and
- (b) the Dealing is expressly permitted or provided for in clauses 15, 16, 17, 19, 20, 21 or 24 of this Deed.

**15.3 Permitted Transfers**

Subject to clause 24 and clause 15.4, provided that the requirements of clause 31 are complied with, the following Dealings may be effected without obtaining approval by a Special Majority Resolution of Shareholders:

- (a) **(Sale by PEP)** A PEP Shareholder may sell or Deal with some or all of its Shares at any time provided that where a Transfer is to a Buyer it complies with clause 17.
- (b) **(Permitted Transferee – PEP Shareholders)** A PEP Shareholder may Transfer all or any of its Shares to a person who is, at the time of Transfer, a Permitted Transferee of that Shareholder.
- (c) **(Permitted Transferee – Class B Shareholders)** A Class B Shareholder may Transfer all or any of its Class B Shares to a person who is, at the time of Transfer, a Permitted Transferee of that Shareholder.

**15.4 Ceasing to be Permitted Transferee**

If a person to whom Shares are Transferred under clause 15.3 (**Holder**) ceases to be a Permitted Transferee of the transferor (**Transferor**), unless otherwise permitted by the Board, the Holder must immediately upon ceasing to be a Permitted Transferee:

- (a) Transfer its entire legal and beneficial interest in the relevant Shares back to the Transferor; or
- (b) Transfer its entire legal and beneficial interest in the relevant Shares to another Permitted Transferee of the Transferor.

**15.5 Restrictions on Dealing by Management Shareholders**

A Management Shareholder may not Deal with any of its Shares or Options or permit an Encumbrance to exist over its Shares, including indirectly by way of a Change of Control, except pursuant to a Class C Permitted Transfer.

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### 15.6 Class C Permitted Transfers

A **Class C Permitted Transfer** means, in respect of a Management Shareholder:

- (a) permitting an Encumbrance to exist over the Management Shareholder's Shares as security in favour of the Company or PEP;
- (b) a Transfer by the Management Shareholder of its Shares:
  - (i) with the prior written consent of the Board (which the Board may withhold in its absolute discretion);
  - (ii) to an Affiliate of the Management Shareholder's Relevant Manager on prior written notice to the Board, provided that:
    - (A) the Affiliate remains at all times an Affiliate of the Relevant Manager; and
    - (B) if the Affiliate ceases to be an Affiliate of their Relevant Manager, the Management Shareholder must immediately transfer the Shares to their Relevant Manager or an Affiliate of their Relevant Manager; or
  - (iii) by way of a Transfer permitted under clause 16, clause 17 or clause 19, provided that where a Management Shareholder holds Shares, it may not (subject to clauses 16 and 17) Transfer any Shares of a given class, unless it also Transfers an equal proportion of each other class of Shares held by it (to the extent applicable) to that transferee.
- (c) To avoid doubt, a holder of Options may not in any circumstances Deal with an Option that has not vested except in accordance with its terms of issue.

### 16 Drag rights

#### 16.1 Right to give Drag Notice

If PEP wishes to sell any Shares to one or more Buyers pursuant to simultaneous transactions in a manner permitted under this Deed (including under clause 19), it may give a Drag Notice to each holder of Class B and Class C Shares (with a copy to the Company).

#### 16.2 Contents of Drag Notice

A Drag Notice must state:

- (a) the identity of the proposed Buyer (except where the identity of the Buyer is unknown due to the proposed sale being by way of auction or dual-track Trade Sale or IPO);
- (b) the number of Shares proposed to be sold by PEP and the percentage of the total number of Shares held by PEP proposed to be sold (in each case, a **Drag Proportion** of the relevant class of Shares, as applicable);
- (c) the sale price for each Share (except where the sale price is unknown due to the proposed sale being by way of auction or dual-track Trade Sale or IPO, in which case a minimum sale price must be specified or where the sale price is unknown due to the proposed sale being by way of IPO, in which case a price range must be specified) (**Drag Price**) to be sold by PEP (which need not be cash consideration) and any other terms of the proposed sale by PEP to the Buyer (**Drag Sale Terms**); and
- (d) that PEP requires the Class B Shareholder or Management Shareholder (as relevant) to sell the Drag Proportion of the Shareholder's Shares (**Dragged Shares**) to the

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Buyer at the Drag Price per Share and on terms no less favourable (subject to clause 18(a)) to the Class B Shareholder or Management Shareholder (as relevant) than the terms contained in the Drag Sale Terms.

### 16.3 Effect of Drag Notice

If a Drag Notice is given (and has not been withdrawn pursuant to clause 16.4), then:

- (a) the Class B Shareholder or Management Shareholder (as relevant) must sell its Dragged Shares to the Buyer on the terms stated in the Drag Notice;
- (b) the parties must do all things and execute such documentation as is reasonably necessary or is reasonably required by PEP to effect the proposed sale to the Buyer;
- (c) PEP must not complete the proposed sale to the Buyer unless at the same time, the Buyer offers to buy all the Dragged Shares of the Class B Shareholders and the Management Shareholders on the terms stated in the Drag Notice; and
- (d) Subject to clause 18(b), PEP may require each Class B Shareholder or Management Shareholder (as relevant) or their Relevant Manager to give reasonable representations and warranties under any agreements relating to the purchase of such Dragged Shares, the Business or the Group, provided that such representations and warranties are given on an equivalent basis by PEP.

### 16.4 Withdrawal of Drag Notice

- (a) A Drag Notice may be withdrawn by PEP at any time by written notice to each holder of Class B Shares and to each holder of Class C Shares (with a copy to the Company).
- (b) If the Drag Notice is withdrawn, each Class B Shareholder or Management Shareholder (as relevant) must be given an Invitation to Tag in respect of the Shares proposed to be sold, if required by clause 17.1.

### 16.5 Power of Attorney

Each Class B Shareholder and Management Shareholder irrevocably appoints the Company as its attorney in accordance with clause 33.7 on default by it of performance of its obligations under this clause 16.

### 16.6 Ongoing value of the Business

Each Management Shareholder acknowledges that:

- (a) if the Buyer wishes to offer the Manager participation in a management equity plan relating to the Business after the Buyer's acquisition, then the Manager will consider such opportunity in good faith and with a view to maximising the total value of the Business to that Buyer; and
- (b) to achieve a successful Exit Event the Manager is likely to be required to commit to continue working in the Business in an executive capacity, on market terms, as reasonably required by PEP following the Exit Event.

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### 17 Tag along rights

#### 17.1 Invitation to Tag

If PEP intends to Deal with any Class A Shares on issue to a Buyer, or wishes to sell any proportion of its Class A Shares pursuant to an IPO, and has not issued a Drag Notice to the holders of Class B Shares or Class C Shares or both classes of Shares (or has withdrawn such Drag Notice), it must give an Invitation to Tag to each of the Class B and Class C Shareholders (with a copy to the Company).

#### 17.2 Contents of Invitation to Tag

An Invitation to Tag must state:

- (a) the identity of the proposed Buyer (except where the identity of the Buyer is unknown due to the proposed sale being by way of auction or dual-track Trade Sale or IPO);
- (b) the number of Shares proposed to be sold by PEP and the percentage of the total number of Shares held by PEP proposed to be sold (in each case, a **Tag Proportion** of the relevant class of Share, as applicable);
- (c) the sale price for each Share (except where the sale price is unknown due to the proposed sale being by way of auction or dual-track Trade Sale or IPO, in which case a minimum sale price must be specified or where the sale price is unknown due to the proposed sale being by way of IPO, in which case a price range must be specified) (**Tag Price**) to be sold by PEP (which need not be cash consideration) and any other terms of the proposed sale by PEP to the Buyer (**Tag Terms**);
- (d) that the Class B Shareholder or Management Shareholder (as relevant) has an option (**Tag Option**) to direct PEP to include in the sale to the Buyer the Tag Proportion of the Class B Shareholder's or Management Shareholder's Shares, as applicable (the **Tagged Shares**), at the Tag Price per Tagged Share and on terms no less favourable (subject to clause 18(a)) to the Class B Shareholder or Management Shareholder (as relevant) than the terms contained in the Tag Terms; and
- (e) the period during which the Tag Option may be exercised, which must not be less than 10 Business Days from the date of the Invitation to Tag.

#### 17.3 Exercise of a Tag Option

A Tag Option may be exercised by notice in writing to PEP (with a copy to the Company) within the exercise period stated in the Invitation to Tag. Any exercise of a Tag Option must be for all Tagged Shares and is irrevocable.

#### 17.4 Effect of exercise of Tag Option

If a Class B Shareholder or Management Shareholder exercises its Tag Option:

- (a) that Shareholder must sell all Tagged Shares to the Buyer on the terms stated in the Invitation to Tag;
- (b) the parties must do all things and execute such documentation as is reasonably necessary or is reasonably required by PEP to effect the proposed sale to the Buyer;
- (c) PEP must not complete the proposed sale to the Buyer unless at the same time, the Buyer offers to buy all the Tagged Shares of each Class B Shareholder and Management Shareholder for which a valid notice of exercise has been provided on the terms stated in the respective Tag Notice; and

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- (d) Subject to clause 18(b), PEP may require each Class B Shareholder or Management Shareholder (as relevant) or their Relevant Manager to give reasonable representations and warranties under any agreements relating to the purchase of such Tagged Shares, the Business or the Group, provided that such representations and warranties are given on an equivalent basis to PEP.

#### **17.5 Power of Attorney**

Each Class B Shareholder and Management Shareholder irrevocably appoints the Company as its attorney in accordance with clause 33.7 on default by it of performance of its obligations under clause 17.

#### **18 Management Shareholders – Drag and Tag Sale Terms**

- (a) For the purposes of clauses 16.3(d) and 17.4(d), a Management Shareholder and/or their Relevant Manager may be required to give additional representations and warranties without such representations and warranties being given on an equivalent basis by PEP or the Class B Shareholders.
- (b) For the purposes of clauses 16.2(d) and 17.2(d), the giving of additional representations and warranties by a Management Shareholder or their Relevant Manager under clause 18(a) will not be considered as terms less favourable to the Management Shareholder than the terms contained in the Drag Sale Terms or Tag Terms (as relevant).

#### **19 IPO**

##### **19.1 IPO**

- (a) If the Board wishes to pursue an IPO, each Shareholder and each Relevant Manager will undertake the reasonable requests of the Board including:
  - (i) if a Manager, give all reasonable undertakings and commit to continue working in the Business in an executive capacity, on market terms, as reasonably required by PEP;
  - (ii) if recommended by the underwriters, joint lead managers or financial adviser in relation to the IPO, do all things reasonably necessary to effect a change in the number and mix of Shares issued by the Company (or its Subsidiary);
  - (iii) assist the Company in preparing a prospectus or similar disclosure document;
  - (iv) do all things reasonably necessary to obtain requisite Stock Exchange and shareholder approvals for the IPO;
  - (v) enter into an underwriting or offer management agreement or similar agreement on market terms;
  - (vi) provide all reasonable assistance for marketing activities, including road shows; and
  - (vii) take all actions reasonably required by the Company in order to effect a buyback, exchange or conversion of some or all of its Shares or other securities,

in each case to achieve an IPO on the terms and structure identified by the Board.

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- (b) For so long as PEP continues to hold any shares in the Company or in any of its Subsidiaries, or in a company of which the Company is or will be a wholly owned subsidiary after the IPO (the **Listco**), then each Management Shareholder and each Relevant Manager acknowledges and agrees to comply with any reasonable escrow arrangement or sell down restrictions as determined by PEP.
- (c) If the Board wishes to pursue an IPO, then each Management Shareholder, and Relevant Manager must enter into contractual arrangements granting a right for PEP (or its nominee) to acquire the Management Shareholder's options or shares in the Listco that are held subject to the escrow arrangements referred to in clause 19.1(b) if the Management Shareholder or the Relevant Manager (as the case may be) becomes a Bad Leaver during the period in which PEP continues to hold any shares in the Listco, at a price equal to the lower of Fair Value and Net Cost (on the basis that these concepts are adjusted to apply to the Management Shareholder's options or shares in the Listco).

### 19.2 Company's obligations

Without limiting the generality of clause 19.1 above, the Company must:

- (a) pay the costs of preparing the prospectus (or other relevant offer document), advisory fees, underwriting commissions (if any), expenses of due diligence investigations, Stock Exchange fees, fees of the relevant regulatory authorities, legal fees, expert's fees, printing expenses and postage expenses; and
- (b) use its best endeavours to satisfy all terms and conditions of admission to listing imposed by the Stock Exchange.

### 20 Compulsory acquisition

- (a) At any time after the end of the Standstill Period, Shareholders holding at least 90% of the total issued Shares in the Company (**Acquiring Shareholders**) may give written notice (**Compulsory Acquisition Notice**) to the Company stating that they wish to acquire the Class B Shares held by the other Shareholders (**Remaining Shareholders**) at Fair Market Value and setting out any other terms applying to the acquisition (including the proposed settlement date).
- (b) If there is more than one Acquiring Shareholder, each Acquiring Shareholder must acquire its pro rata share of the Shares held by the Remaining Shareholders (unless otherwise agreed by the Acquiring Shareholders).
- (c) Subject to clause 20(d), following delivery of the Compulsory Acquisition Notice to the Company:
  - (i) the Acquiring Shareholders must pay or transfer to the Company the amount or other consideration representing the price payable by the Acquiring Members for the Remaining Shares in accordance with the terms set out in the Compulsory Acquisition Notice;
  - (ii) the Company must, upon receipt of the consideration under clause 20(c)(i), register the Acquiring Members as the holders of the Remaining Shares; and
  - (iii) the Company must deposit proceeds received under clause 20(c)(i) into a separate bank account (which proceeds are held on trust by the Company for

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the Remaining Members) and must remit the proceeds to the Remaining Members as soon as practicable.

- (d) The Acquiring Shareholders may agree that, instead of the Acquiring Shareholders acquiring the Class B Shares held by the Remaining Shareholders, the Company will acquire those Shares by way of buy back or cancellation, as directed by the Company by notice to the Remaining Shareholders.

**21 Leavers****21.1 Mandatory sale**

- (a) If a Manager becomes a Leaver, the Board may at any time thereafter determine that:
- (i) the Manager and all Affiliates of that Manager that are Management Shareholders:
- (A) are required to dispose of any or all of the Class C Shares held by them (**Leaver Sale Shares**) to any other person (which may include the Company, any other Shareholder, Management Shareholder and/or a new Manager and/or any third party) by way of a sale to that person, in each case, as determined by the Board; or
- (B) may retain all or some of its Leaver Sale Shares; or
- (b) the Leaver Sale Shares are deemed to have expired in accordance with their terms of issue.
- (c) The Company must notify the relevant Management Shareholder promptly of any such determination (a **Leaver Notice**).
- (d) For the avoidance of doubt, any Options held by the Manager and their Affiliates are to be treated in accordance with the Option Terms of Issue.

**21.2 Leaver Notice**

If the relevant Management Shareholder and its Affiliates are required to dispose of its Leaver Sale Shares or its Leaver Sale Shares are deemed to have expired in accordance with their terms of issue, the Leaver Notice must specify for each Leaver Sale Security:

- (a) the Sale Price payable for the Leaver Sale Shares on disposal or expiry (as applicable) held by the relevant Management Shareholders will be an amount equal to:
- (i) if the Manager is a Bad Leaver, the lower of the Fair Market Value and the Net Cost of the Leaver Sale Shares;
- (ii) if the Manager is a Good Leaver, the Fair Market Value of the Leaver Sale Shares,
- in each case measured as at the date the Manager became a Leaver;
- (b) any conditions and other terms of the disposal or expiry (as applicable) required by the Board;
- (c) the Company's reasonable best estimate of the date for completion of the disposal or expiry (as applicable), which unless otherwise agreed between the Company and the Leaver, must be not less than 5 Business Days after the date the Sale Price for all

## Appendix 6. Shareholders' Deed *continued*

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Leaver Sale Shares has been agreed or determined (if applicable) in accordance with this Deed;

- (d) the documents required to be signed by the Leaver to give effect to the disposal or expiry (as applicable) of the Leaver Sale Shares, copies of which must accompany the Leaver Notice; and
- (e) such other arrangements as the Board reasonably requires to give effect to the disposal or expiry (as applicable) of the Leaver Sale Security.

### 21.3 Payment of Sale Price and completion

- (a) Upon determination of the Sale Price for the Leaver Sale Shares, the person acquiring the Leaver Sale Shares (as determined by the Board under clause 21.1(a)(i)(A)), must pay the Sale Price to the Management Shareholder in Immediately Available Funds .
- (b) If the person acquiring the Leaver Sale Shares is the Company, and the Company is not able to pay cash for the Sale Price, the Leaver Sale Shares are deemed to have expired in accordance with their terms of issue or are acquired by the Company.
- (c) The Management Shareholder must do anything (including execute any document) reasonably required by PEP (or the Company or the Company's nominee, as appropriate) to give effect to the sale of the Management Shareholder's Leaver Sale Shares free from any Encumbrance.

### 21.4 Consultation on Sale Price

The Company and the Management Shareholder disposing of Leaver Sale Shares or deeming such Leaver Sale Shares to have expired under this clause 21 may consult with each other within 10 Business Days of the Company issuing a Leaver Notice to agree on the Sale Price for each Leaver Sale Security where that Sale Price requires a determination of the Fair Market Value of that Leaver Sale Security. If agreement is reached within that time the Sale Price is the price agreed.

### 21.5 Power of attorney

In consideration of each other Shareholder entering into this Deed, a Management Shareholder that becomes a Leaver in accordance with this clause 21 irrevocably appoints PEP to be its attorney in accordance with clause 33.7 on default by it of any of its obligations under this clause 21.

## 22 Fair Market Value

### 22.1 Appointment of Valuer

- (a) Where this Deed requires a determination of Fair Market Value, the Board must, within 5 Business Days of the date on which the need for valuation arises, appoint an appropriate professional valuer (**Valuer**) to:
  - (i) determine the Fair Market Value in accordance with clause 22.2; and
  - (ii) as soon as reasonably practicable and, in any event, no later than 20 Business Days following the Valuer's appointment, provide a report to the Company setting out the results of its valuation, including its determination of the Fair Market Value of Shares, expressed as a price per Share, and an explanation of the methodologies used to conduct the valuation.



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- (b) The Company and each Shareholder must provide all information and assistance reasonably requested by the Valuer.
- (c) The Valuer acts as an independent expert and not as an arbitrator when valuing Shares or Options.

**22.2 Process for Valuation**

If Fair Market Value is required to be determined under this Deed, the Valuer must be instructed to conduct the valuation:

- (a) in accordance with the terms of this Deed;
- (b) as at the date specified by the Board;
- (c) in accordance with the valuation standards, practices and principles generally accepted in the Commonwealth of Australia;
- (d) on the basis of an arm's length transaction between an informed and willing seller and an informed and willing buyer under no compulsion to sell or buy, respectively;
- (e) assuming a reasonable period within which to negotiate the sale considering the state of the market on the valuation date;
- (f) assuming no account is taken of any prospective purchaser with unique attributes;
- (g) assuming the buyer would not have the benefit of any uncommon sale terms which would serve to increase or decrease the value of the Shares or the Group;
- (h) if relevant, assuming no allowance for any charges, mortgages or amounts owing on the Shares, or for any expenses or taxation which may be incurred or payable in effecting a sale (although an allowance will be made for any encumbrances, restrictions or outgoings of an onerous nature which are specific to the Shares and which would affect value if they would not be discharged in the ordinary course prior to a transfer;
- (i) in accordance with any one or more of the following valuation factors:
  - (i) the Business will be valued on a stand alone basis (without any attribution of value for a control premium and ignoring any synergies or special value which may accrue to a purchaser);
  - (ii) the Business will be valued as a going concern;
  - (iii) the prospects of the Group;
  - (iv) the discounted cash flow valuation methodology;
  - (v) the value of estimated future maintainable earnings of the Group;
  - (vi) the prospective yield that an open market investor would reasonably seek in acquiring shares;
  - (vii) the net tangible assets of the Group as disclosed in the most recent audited financial statements of the Group; and
  - (viii) the fact that any Shares being valued may comprise a minority shareholding in the Company is to be disregarded;
- (j) subject to the above, on any basis that it considers appropriate.

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### 22.3 Valuation binding

The Valuer's certificate of Fair Market Value is conclusive and binding on the Shareholders and the Company in the absence of manifest error.

### 22.4 Costs of Valuer

The parties agree that the costs of the Valuer in connection with the valuation are to be borne by the Company to the extent permitted by the Corporations Act.

## 23 Restraint on Management Shareholders

### 23.1 Restraint

Subject to this clause 23, for the purposes of promoting the commercial objectives of the Group and the Business, each Relevant Manager and their associated Management Shareholder that holds Class C Shares undertakes to the Company that during the Restraint Period, the Relevant Manager will not, and must procure that each of its Affiliates does not:

- (a) become Involved within the Restraint Area in any capacity in any business or activity which offers the same or substantially similar products or services as those offered by the Business of any Group Company;
- (b) directly or indirectly solicit the custom of any person who was a customer of the Business or any Group Company in the preceding 12 months in respect of the same or substantially similar products or services provided by the Business or any Group Company during that 12 month period; or
- (c) directly or indirectly entice or endeavour to entice from any Group Company any person who is, or was during the then preceding 12 months, an employee, consultant or officer in a managerial role of any Group Company.

### 23.2 Restraint Period

- (a) In this clause 23, **Restraint Period** means the period commencing on the date of execution and delivery of the Accession Deed relating to the Class C Shares acquired by the Management Shareholder or Relevant Manager and ending:
  - (i) in relation to:
    - (A) a Relevant Manager who is the CEO or CFO of the Company, the period of 24 months from the Relevant Manager's Leaving Date; or
    - (B) a Relevant Manager who is a Manager other than a Manager referred to under clause 23.2(a)(i)(A), the period of 12 months from the Relevant Manager's Leaving Date; and
  - (ii) in relation to a Management Shareholder, the date 6 months after the date on which the Management Shareholder Transfers its entire interest in the Company's Class C Shares and Options,
 

or such shorter period nominated by the Company (with Board approval).
- (b) To avoid doubt, if a Manager is promoted to the position of CEO or CFO after the date of this Deed, the Manager will be treated as CEO or CFO (as applicable) for the purposes of this clause 23.

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### 23.3 Acknowledgment

Each Management Shareholder and each Relevant Manager acknowledges that:

- (a) each Restraint is reasonable in the circumstances and necessary to protect the goodwill of the Business;
- (b) damages are not an adequate remedy if the Relevant Manager or their Management Shareholder breaches this clause 23;
- (c) it has received independent legal advice as to the operation and effect of this clause 23; and
- (d) this clause 23 survives termination of this Deed.

### 23.4 Deletion of restrictions

If any part of the Restraint goes beyond what is reasonable in the circumstances and necessary to protect the goodwill of the Business but would be reasonable and necessary if any activity were deleted or a period or area were reduced, then the Restraint applies with that activity deleted or period or area reduced by the minimum amount necessary to make the Restraint reasonable in the circumstances.

### 23.5 Severance

Each part of the Restraint has effect as a separate and severable restriction and is to be enforced accordingly.

### 23.6 Exceptions

This clause 23 does not restrict a Manager from:

- (a) performing any Service Agreement;
- (b) holding 5% or less of the shares of a listed company; or
- (c) holding Shares or Options.

### 23.7 Injunctive relief

The Company, PEP or any Group Company may apply for injunctive relief if it believes a Relevant Manager or their Affiliate is likely to breach this clause 23 or if a Relevant Manager or their Affiliate has breached or threatened to breach this clause 23.

## 24 Nominee Arrangements

### 24.1 Interpretation

In this clause, the following definitions apply unless the context requires otherwise:

**Expense** means any liability, cost, expense, loss or damage.

**Nominee Indemnity Provision** means clauses 9.2 and 9.3 of the Nominee Deed and clauses 24.9(c) and 24.9(d) of this Deed.

**Obligations** means all obligations and liabilities of whatever kind undertaken or incurred by, or devolving upon, the Nominee under or in respect of this document or the Nominee Deed.

**Overhead Cost** means overhead expenses, including rent, office maintenance and salaries.

**Relevant Trust** has the meaning given in clause 24.9(a).

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### 24.2 Proprietary company status

Despite any other provision in this Deed, but subject to clause 24.2(e):

- (a) the Company must not take any action (including to issue, redeem, or buy-back Shares), if, following such action, the Company would not continue to qualify as a proprietary company under section 45A of the Corporations Act;
- (b) a Shareholder must not (nor may it attempt to) Transfer all or any of its Shares, and must ensure that its interest in Shares held through a holding trust or other interposed vehicle is not Transferred, if, following such Transfer, the Company would not continue to qualify as a proprietary company under section 45A of the Corporations Act;
- (c) the Company must promptly (after becoming aware) of any actual or pending event or circumstances that could result in the Company ceasing to qualify as a proprietary company under section 45A of the Corporations Act:
  - (i) notify all of the Shareholders of such event or circumstances; and
  - (ii) appoint a Nominee to hold the Class B Shares of all Class B Shareholders (and if required, to hold the Class C Shares of all of the Management Shareholders);
- (d) following appointment of a Nominee under clause 24.2(c)(ii), each relevant Class B Shareholder and each Management Shareholder:
  - (i) must comply with the directions of the Company; and
  - (ii) agrees to irrevocably appoint the Company as its attorney in accordance with clause 33.7,

for the purposes of facilitating the transfer of its Shares to the Nominee in accordance with this clause 24 and arranging execution of the Nominee Deed by the Company on behalf of each relevant Class B Shareholder and each relevant Management Shareholder; and

- (e) clauses 24.2(a) and 24.2(c) have no application to any Transfer of Shares in connection with implementation of an Exit Event (excluding paragraph (b) of that definition).

### 24.3 General

- (a) The parties acknowledge that following appointment of a Nominee under clause 24.2, some parties to this Deed:
  - (i) have rights and obligations under this Deed as Shareholders; but
  - (ii) do not hold legal title to Shares and are instead Beneficial Holders in relation to Shares held by the Nominee as bare trustee on their behalf as contemplated by the Nominee Deed.
- (b) The provisions in this clause 24 (subject to any changes reasonably required by the Nominee and accepted by the Company) apply in these cases.
- (c) To the extent that the provisions of this clause 24 require amendment under clause 24.3(b) following appointment of a Nominee, the Board may amend this clause 24 (and make any additional necessary consequential changes to this Deed) without the approval of a Special Majority Resolution.

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#### 24.4 Beneficial Holders

- (a) Where a Shareholder is a Beneficial Holder, then for the purposes of any references in this Deed to the Shareholder's Shares, or to Shares held by the Shareholder (or any similar expression), the Shareholder is to be regarded as holding its Beneficial Shares. For the avoidance of doubt (but without limitation):
- (i) in the context of any requirement that an act be approved by Shareholders holding at least a given percentage of all Shares, Shareholders who are Beneficial Holders are to be treated as holding their Beneficial Shares; and
  - (ii) a requirement that a Shareholder maintain a minimum shareholding applies in relation to a Shareholder who is a Beneficial Holder by reference to the number of its Beneficial Shares;
- (b) The Nominee is not itself to be regarded for the purposes of this Deed as a 'Shareholder' in respect of, or to otherwise hold, Shares which it holds as bare trustee for Beneficial Holders.
- (c) Clauses 24.4(a) and 24.4(b) do not apply in relation to clauses 7 and 12. The parties recognise that the Nominee, as registered owner of the Shares it holds on behalf of the Beneficial Holders, is the person legally entitled to voting rights and dividends in respect of those Shares and that the Nominee is to be regarded as the relevant 'Shareholder' (to the exclusion of the relevant Beneficial Holders) for the purposes of clauses 7 and 12. However, the parties acknowledge:
- (i) instructions may be given by each Beneficial Holder to the Nominee under the Nominee Deed in relation to voting and other dealings in respect of the Beneficial Holder's Beneficial Shares; and
  - (ii) directions may be given by each Beneficial Holder to the Nominee in relation to dividends as provided in clause 24.7 below.
- (d) Obligations on Shareholders who are Beneficial Holders to exercise voting rights or take other steps as registered holder of Shares are to be interpreted as obligations to ensure that the Nominee takes the relevant steps (at the Beneficial Holder's direction, or by the Company on behalf of the Beneficial Holder, acting under power of attorney, or otherwise).
- (e) The Nominee agrees that it will comply with the terms of the Nominee Deed in relation to each Beneficial Holder's Beneficial Shares for the benefit of the relevant Beneficial Holder, as though each Beneficial Holder was a party to a separate Nominee Deed in place of the Company.
- (f) The Nominee and the Company agree that subject to any applicable laws, the Nominee Deed may only be amended with the written approval of the Nominee and Company (provided that any amendment does not result in any of the Separate Trusts (as defined in the Nominee Deed) created under the Nominee Deed ceasing to be bare trusts).

#### 24.5 Dealings in Shares

- (a) Clause 15 applies to a Shareholder who is a Beneficial Holder so that (for the avoidance of doubt) restrictions on Dealings with the Shareholder's Shares include any dealings in its beneficial interest in its Beneficial Shares and any dealings in the legal title to those Shares by the Nominee (at the Beneficial Holder's direction, or by

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the Company on behalf of the Beneficial Holder acting under power of attorney, or otherwise).

- (b) Where this Deed contemplates the sale, purchase or transfer of some or all of a Shareholder's Shares, the relevant provisions apply in relation to a Shareholder who is a Beneficial Holder so that references to the sale, purchase or transfer of the Shareholder's Shares are to be construed as references to:
  - (i) the sale, purchase or transfer by the Shareholder of its beneficial interest in its Beneficial Shares; and
  - (ii) (without limiting clause 24.6 below in circumstances where the Nominee is to retain legal title to the relevant Shares) the Shareholder procuring the concurrent transfer of legal title in those Beneficial Shares by the Nominee, and obligations on Shareholders who are Beneficial Holders to offer Shares for sale, purchase, or transfer are to be construed in a corresponding manner.
- (c) In the context of a transferor who is a Beneficial Holder, the relevant Share transfer form must be executed by the Nominee as registered holder.
- (d) Where this Deed permits any party to issue, transfer or sell Shares to any person, that includes permission to issue, transfer or sell Shares to the Nominee as bare trustee for the relevant person.
- (e) The restrictions on transfer in this Deed do not apply to prevent the transfer of bare legal title in Shares held by the Nominee as bare trustee for Beneficial Holders to a replacement trustee, as contemplated by the Nominee Deed.
- (f) Each Class B Shareholder and Management Shareholder irrevocably appoints the Company as its attorney in accordance with clause 33.7 on default by it of performance of its obligations under this clause 24.5.

### 24.6 Legal title to remain with Nominee

- (a) A Shareholder who is a Beneficial Holder must not without the consent of the Board direct the Nominee to Transfer (or otherwise procure the Transfer of) legal title to any of its Beneficial Shares to itself.
- (b) Unless the Board agrees otherwise in writing, a Shareholder who is a Beneficial Holder may transfer Shares to a Permitted Transferee under clause 15.3 on the basis that the Nominee is directed to hold legal title to the relevant Shares as bare trustee on behalf of the transferee (ie the Shareholder may only transfer the beneficial interest in its Beneficial Shares without a transfer of legal title).
- (c) Each party who is a Beneficial Holder irrevocably directs the other parties that if the Beneficial Holder becomes entitled to receive any additional Shares or Options, whether by way of issue or transfer (and whether under this Deed or otherwise), then unless the Company has consented to another holding arrangement in relation to the relevant transaction, the issue or transfer must be made in favour of the Nominee on the basis that the securities are to be held by the Nominee as bare trustee for the Beneficial Holder.
- (d) In relation to issues of Shares:
  - (i) an offer to a Shareholder who is a Beneficial Holder to participate in an issue of Shares or other equity securities on the basis that legal title to the relevant

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Shares will be issued to the Nominee as bare trustee for the Beneficial Holder will not be regarded for that reason alone as being on different terms from the terms offered to other Shareholders in circumstances where other Shareholders will receive legal and beneficial ownership; and

- (ii) clauses 13 and 14 apply in relation to an issue of Shares to the Nominee as bare trustee for a Beneficial Holder by reference to the ability of the Company to make an offer of the beneficial interest in the Shares to the relevant Beneficial Holder.
- (e) Each party who is a Beneficial Holder must give all necessary directions to the Nominee to ensure compliance with this clause 24.6.
- (f) Each Class B Shareholder and Management Shareholder irrevocably appoints the Company as its attorney in accordance with clause 33.7 on default by it of performance of its obligations under this clause 24.6.

**24.7 Dividends**

- (a) The parties acknowledge that the Nominee Deed entitles each Shareholder who is a Beneficial Holder to act as the Nominee's attorney in relation to the matters stated in the Nominee Deed, including giving directions to the Company in respect of the payment of dividends.
- (b) Each Shareholder who is a Beneficial Holder directs the Company to pay dividends in respect of Shares which are that Shareholder's Beneficial Shares directly to the Shareholder as Beneficial Holder. This clause does not affect the right of any party to change the direction from time to time.

**24.8 Indemnity and liability of Nominee**

- (a) The Nominee must, to the maximum extent permitted by law, and notwithstanding any other provision of this Deed, act on the direction of the Beneficial Holders under a power of attorney or otherwise, to the intent that each Beneficial Holder exercises day-to-day control over the operation of the trust under which its Beneficial Shares are held.
- (b) Each party who is a Beneficial Holder:
  - (i) indemnifies the Nominee under any Expense which the Nominee pays, suffers, incurs or is liable for arising out of or in connection with; and
  - (ii) covenants with the Nominee not to claim, sue or take any action against the Nominee in relation to,
 

anything done by the Nominee at the direction of or on behalf of the Beneficial Holder, or by reason of the Beneficial Holder's Beneficial Shares being registered in the name of the Nominee.
- (c) The indemnity and covenant in clause 24.8(b) does not apply to:
  - (i) any Expense which arises as a result of the Nominee's (or any of its officers', employees', or agents') fraud, negligence, dishonesty, wilful misconduct, breach of any of its obligations under this Deed or the Nominee Deed or breach of trust; or

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- (ii) the Overhead Costs of the Nominee, fees of a Related Body Corporate of the Nominee as custodian of the Nominee and fees of a subcustodian, nominee or other delegate of such a custodian of the Nominee; or
  - (iii) the extent that the Nominee is entitled to recover and is actually indemnified for any such Expenses or Overhead Costs by the Company under clause 10(c) of the Nominee Deed or from the assets of the relevant trust under clause 10(d) of the Nominee Deed.
- (d) Each party acknowledges that, the Nominee is obliged to act in accordance with the directions of the Beneficial Holders in relation to their respective Beneficial Shares. Any breach of this Deed that arises out of the Nominee complying with a direction given by a Beneficial Holder in relation to that Beneficial Holder's Beneficial Shares (**Directed Breach**) is to be construed for all purposes as a breach by the relevant Beneficial Holder and not by the Nominee, and, without limitation:
- (i) the Nominee is released from any claim, action, demand, suit or proceeding for damages, debt, specific performance or any other remedy in respect of any Directed Breach; and
  - (ii) each party (other than the Nominee) covenants to claim, sue or take any action against the Nominee in respect of any Directed Breach.
- (e) Each indemnity given by a Beneficial Holder in this clause 24.8:
- (i) is an additional, separate and independent obligation of the Beneficial Holder and no one indemnity limits the generality of any other indemnity; and
  - (ii) survives termination of this Deed and the Nominee Deed.

### 24.9 Limitation of Nominee's liability

This limitation of the Nominee's liability applies despite any other provisions of this Deed and extends to all Obligations of the Nominee in any way connected with any representation, warranty, conduct, omission, agreement or transaction related to this Deed.

- (a) Subject to clauses 24.9(f) and 24.9(g), the Nominee will be bound by this document only in its capacity as trustee of each trust created under the Nominee Deed (each a **Relevant Trust**) and in no other capacity.
- (b) Subject to clauses 24.9(f) and 24.9(g), the parties (other than the Nominee) acknowledge that the Nominee incurs the Obligation solely in its capacity as trustee of each Relevant Trust and that the Nominee will cease to have any Obligation under this document which arises after the time the Nominee ceases to be a legal holder of the relevant Beneficial Shares as trustee of the Relevant Trust.
- (c) Subject to clauses 24.9(f) and 24.9(g), the Nominee will not be liable to pay or satisfy any Obligations except to the extent that the Nominee is actually indemnified under the Nominee Indemnity Provisions or to the extent that and at the time the Nominee would, if the Nominee exercised its entitlement to be indemnified in respect of that liability under the Nominee Indemnity Provisions.
- (d) Subject to clauses 24.9(f) and 24.9(g), the parties (other than the Nominee) may enforce their rights against the Nominee arising from the non-performance of the Obligations only to the extent of the Nominee's right to be indemnified under the Nominee Indemnity Provisions.



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- (e) Subject to clauses 24.9(f) and 24.9(g), if a party (other than the Nominee) does not recover all money owing to it arising from the non-performance of the Obligations, it may not seek to recover the shortfall by:
  - (i) bringing proceedings against the Nominee in its personal capacity or
  - (ii) applying to have the Nominee put into administration or wound up or applying to have a receiver or similar person appointed to the Nominee or proving in the administration or winding up of the Nominee.
- (f) Subject to clauses 24.9(f) and 24.9(g), each party (other than the Nominee) waives its rights and releases the Nominee from any personal liability whatsoever, in respect of any loss or damage:
  - (i) which it may suffer as a result of any:
    - (A) breach by the Nominee of any of its Obligations; or
    - (B) non-performance by the Nominee of the Obligations; and
  - (ii) which cannot be paid or satisfied out of the proceeds of the indemnities given under the Nominee Indemnity Provisions.
- (g) The parties acknowledge that the whole of this document is subject to this clause 24.9 and that the Nominee shall in no circumstances be required to satisfy any liability of the Nominee arising under, or for non-performance or breach of any Obligations out of any funds, property or assets other than the proceeds of the indemnities given under the Nominee Indemnity Provisions as and when they are available to the Nominee to be applied in exoneration for such liability provided that, subject to clause 24.9(g), if the liability of the Nominee arising under, or for non-performance or breach of any Obligations is not fully satisfied out of the proceeds of the indemnities given under the Nominee Indemnity Provisions due to the negligence, breach of any obligations under the Nominee Deed or breach of trust (excluding any negligence or breach that arises as a result of any fraud, dishonesty, or wilful misconduct) by the Nominee or any of its officers, employees or agents in the performance of the Nominee's duties as trustee of the Relevant Trusts, the Nominee will be liable to pay out of its own funds, property and assets the unsatisfied amount of that liability, but will not be liable to pay an amount that is greater than the amount that the Nominee would have been able to recover under the Nominee Indemnity Provisions in relation to the relevant liability if its right to be indemnified under the Nominee Indemnity Provisions had not been prejudiced.
- (h) Clause 24.9(a) to 24.9(g) do not apply to any damages suffered by or amounts owing to another party which result from a breach or non-performance of an Obligation by the Nominee to the extent that those damages or amounts owing are not satisfied because the right of the Nominee to be indemnified under the Nominee Indemnity Provisions is prejudiced as a result of any fraud, dishonesty, or wilful misconduct by the Nominee or any of its officers, employees or agents in the performance of the Nominee's duties as trustee of the Relevant Trusts.
- (i) The parties (other than the Nominee) agree that no act or omission of the Nominee (including any related failure to satisfy any Obligations) will constitute fraud, negligence, breach of trust, breach of any obligations under the Nominee Deed, dishonesty or wilful misconduct of the Nominee or of any of its officers, employees or agents for the purposes of this clause 24.9 to the extent to which the act or omission

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was caused or contributed to by any failure of a party to this Deed (other than the Nominee) or any other person (other than an officer, employee or agent of the Nominee) to fulfil its obligations relating to the Relevant Trusts or by any other act or omission of a party to this Deed (other than the Nominee) or any other person (other than an officer, employee, or agent of the Nominee).

- (j) No attorney, agent, or other person appointed in accordance with this document has authority to act on behalf of the Nominee in a way which exposes the Nominee to any personal liability (except in accordance with the provisions of clause 24.9) and no act or omission of such a person will be considered fraud, negligence, dishonesty, wilful misconduct, breach of any obligations under the Nominee Deed or breach of trust by the Nominee or an officer, agent or employee of the Nominee for the purposes of this clause 24.9.

### 24.10 Indemnity from Beneficial Holders

- (a) If the Company suffers, incurs or is liable to the Nominee for any Expenses arising out of or in connection with any Shares held by the Nominee on behalf of a Beneficial Holder, subject to clause 24.10(b), the relevant Beneficial Holder must indemnify the Company against those Expenses.
- (b) The Company agrees with each Beneficial Holder that it will meet the Nominee's out-of-pocket expenses and any internal costs of the Nominee relating to actions and directions by the Beneficial Holder in relation to its Beneficial Shares in the ordinary course. This does not apply in relation to Expenses that would have been incurred in comparable circumstances by the Beneficial Holder had it been the registered holder of the relevant Shares.
- (c) For the avoidance of doubt, clause 24.10(b) does not apply in relation to:
  - (i) any taxes or duties in relation to any Shares or dealings in Shares; or
  - (ii) any expenses or liabilities arising in connection with any action or direction by a Beneficial Holder which is in breach of any legal or contractual obligation (including a breach of this Deed),

nor is it intended to require the Company to meet Expenses incurred as a result of actions or directions by a Beneficial Holder that are unreasonable or otherwise outside the ordinary course (for example persistent requests for copies of the register of Beneficial Holders or other documents beyond what would reasonably be expected).

## 25 Confidential Information

### 25.1 Disclosure of Confidential Information

- (a) A party may not disclose any Confidential Information to any person except:
  - (i) with the prior written consent of the party to whom the Confidential Information relates;
  - (ii) on a confidential basis to its Representatives, or to an existing or proposed financier (or its advisers) to a Shareholder, or the Company;
  - (iii) if it is required to do so by an applicable law or regulation or the Listing Rules;
  - (iv) that PEP may disclose Confidential Information:

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- (A) to an Affiliate of PEP, excluding any investee company that competes with the Target unless such disclosure has been approved by Special Majority Resolution;
  - (B) as part of an IPO; or
  - (C) to a prospective buyer of Shares or a buyer of the Business who gives an appropriate confidentiality deed poll for the benefit of the Company and each Shareholder.
- (b) A party who has received Confidential Information from another under this Deed must not use it except for the purpose of exercising its rights or performing its obligations under this Deed.

**25.2 Disclosure by recipient of Confidential Information**

Any party disclosing information under clause 25.1 must use all reasonable endeavours to ensure that each recipient of the information complies in all respects with the disclosing party's obligations under this clause 25 as if the recipient were a party to this Deed.

**25.3 Ceasing to hold Shares**

- (a) If a Shareholder ceases to hold Shares or Options, it must immediately destroy or deliver to the Company all documents or other materials containing or referring to the Confidential Information that are in its power or control.
- (b) The rights and obligations of a holder of Shares or Options under this clause 25 continue to apply to such holder even after it ceases to hold Shares or Options.

**26 GST**

- (a) Any consideration or amount payable under this Deed, including any non-monetary consideration (as reduced in accordance with subparagraph (e)(i) if required) (**Consideration**) is exclusive of GST.
- (b) If GST is or becomes payable on a Supply made under or in connection with this Deed, an additional amount (**Additional Amount**) is payable by the party providing consideration for the Supply (**Recipient**) equal to the amount of GST payable on that Supply as calculated by the party making the Supply (**Supplier**) in accordance with the GST Law.
- (c) The Additional Amount payable under paragraph (b) is payable at the same time and in the same manner as the Consideration for the Supply, and the Supplier must provide the Recipient with a Tax Invoice within the same month where reasonably practicable and, in any event, no later than 14 days after the time of payment of the Additional Amount.
- (d) If for any reason (including, without limitation, the occurrence of an Adjustment Event) the amount of GST payable on a Supply (taking into account any Decreasing or Increasing Adjustments in relation to the Supply) varies from the Additional Amount payable by the Recipient under paragraph (b):
  - (i) the Supplier must provide a refund or credit to the Recipient, or the Recipient must pay a further amount to the Supplier, as appropriate;
  - (ii) the refund, credit or further amount (as the case may be) will be calculated by the Supplier in accordance with the GST Law; and

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- (iii) the Supplier must notify the Recipient of the refund, credit or further amount within the same month where reasonably practicable and, in any event, no later than 14 days after becoming aware of the variation to the amount of GST payable. Any refund or credit must accompany such notification or the Recipient must pay any further amount within 7 days after receiving such notification, as appropriate. If there is an Adjustment Event in relation to the Supply, the requirement for the Supplier to notify the Recipient will be satisfied by the Supplier issuing to the Recipient an Adjustment Note within the same month where reasonably practicable and, in any event, no later than 14 days after becoming aware of the occurrence of the Adjustment Event.
- (e) Despite any other provision in this Deed, if an amount payable under or in connection with this Deed (whether by way of reimbursement, indemnity or otherwise) is calculated by reference to an amount incurred by a party, whether by way of cost, expense, outlay, disbursement or otherwise (**Amount Incurred**), the amount payable must be reduced by the amount of any Input Tax Credit to which that party is entitled in respect of that Amount Incurred before the Additional Amount is calculated.
- (f) Any reference in this clause to an Input Tax Credit to which a party is entitled includes an Input Tax Credit arising from a Creditable Acquisition by that party but to which the Representative Member of the GST Group of which the party is a Member is entitled.

### 27 Representations and warranties

#### 27.1 Capacity representations and warranties

Each Shareholder severally represents and warrants that:

- (a) they have full power and authority to enter into and perform their obligations under this Deed;
- (b) they have taken all necessary action to authorise the execution, delivery and the performance of this Deed; and
- (c) this Deed constitutes their legal, valid and binding obligations, enforceable in accordance with the Deed's terms.

#### 27.2 Continuing obligation

The representations and warranties given under clause 27.1 are given as at the date of this Deed and repeated daily for the term of this Deed.

### 28 Term

#### 28.1 Commencement

This Deed comes into effect on the date of this Deed, and, subject to clause 28.2, remains in effect until:

- (a) with respect to a holder of Shares or Options, the holder has transferred all of their Shares and/or Options (as relevant) in a manner contemplated by this Deed (other than a transfer to the Nominee under clause 24);

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- (b) with respect to a Relevant Manager, when none of the Relevant Manager's Affiliates holds any Shares or Options, and such cessation has occurred in a manner contemplated by this Deed (other than a transfer to the Nominee under clause 24);
- (c) the parties agree to terminate this Deed;
- (d) completion of an Exit Event; or
- (e) completion of an IPO occurs.

**28.2 Certain provisions continue**

The termination of this Deed with respect to a party does not affect:

- (a) any obligation of that party which accrued prior to that termination and which remains unsatisfied; and
- (b) clauses 21, 25 or 27 or any other provision of this Deed which is expressed to come into effect on, or to continue in effect after, termination of this Deed.

**29 Limitation of liability – General Partner****29.1 Capacity of General Partner**

Each General Partner enters into this Deed as general partner of PEP and in no other capacity.

**29.2 Obligations only as general partner**

The obligations and liabilities of whatever kind undertaken or incurred by, or devolving upon, a General Partner under or in respect of this Deed (**Obligations**) are incurred by that General Partner solely in its capacity as general partner of its PEP Shareholder, and a General Partner will cease to have any obligation under this Deed if the General Partner ceases for any reason to be the general partner of its PEP Shareholder. Each General Partner must, prior to ceasing to be the general partner of its PEP Shareholder, cause any successor of it as the general partner of its PEP Shareholder to execute such documents required by the Company to ensure that this Deed is binding on its successor.

**29.3 Scope of liability**

No General Partner will be liable to pay or satisfy any Obligations except out of the assets, property and right, real and personal, of any value whatsoever against which it is entitled to be indemnified in respect of any liability incurred as general partner of its PEP Shareholder (**LP Assets**).

**29.4 Limitation of Liability**

If a party does not recover all money owing to it arising from non-performance or breach of the Obligations, it may not seek to recover the shortfall by applying to have any General Partner wound up or proving in the winding up of a General Partner.

**29.5 General Partner's liability**

Notwithstanding anything in this clause 29, each General Partner is liable and is not released to the extent that a liability under this Deed arises out of a General Partner's own fraud, negligence or default, which disentitles it from an indemnity out of the LP Assets in relation to the relevant liability.

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### 29.6 Attorney

No attorney or agent appointed in accordance with this Deed has the authority to act on behalf of a PEP Shareholder in a way which exposes that PEP Shareholder to any liability in excess of any amount for which a PEP Shareholder may be liable under clause 29.1.

### 29.7 Liability of the Shareholders

The maximum aggregate amount which the other parties to this Deed may recover from a Shareholder or holder of Options in respect of all claims arising from or in relation to any breach of a warranty or obligation under this Deed is limited, from time to time, to the amount invested by that Shareholder or holder of Options under this Deed.

## 30 Limitation of liability – Trustee

- (a) A Trustee enters into this Deed only in its capacity as trustee of the relevant trust and in no other capacity. A liability arising under or in connection with this letter is limited to and can be enforced against a Trustee only to the extent to which it can be satisfied out of assets of the relevant trust out of which the Trustee is actually indemnified for the liability. This limitation of the Trustee's liability applies despite any other provision of this letter or any other document and extends to all liabilities and obligations of the Trustee in any way connected with any representation, warranty, conduct, omission, agreement or transaction related to this letter.
- (b) The parties other than a Trustee may not sue a Trustee in any capacity other than as trustee of the relevant trust, including seeking the appointment of a receiver (except in relation to property of the relevant trust), a liquidator, an administrator or any similar person to that Trustee or prove in the liquidation, administration or arrangement of or affecting that Trustee (except in relation to property of the relevant trust).
- (c) No attorney, agent, receiver or receiver and manager appointed in accordance with this Deed has authority to act on behalf of a Trustee in a way which exposes that Trustee to any personal liability.
- (d) A Trustee is not obliged to do or refrain from doing anything under this Deed (including, without limitation, incur any liability) unless that Trustee's liability is limited in the same manner as set out in paragraphs (a) to (c) of this clause 30.

## 31 Accession Deed

### 31.1 New Shareholder

The Company may only issue Shares to a person not a party to this Deed if the person (**New Shareholder**) has executed and delivered to the Company an Accession Deed (except for an issue in connection with an IPO). If the New Shareholder is a Manager or an Affiliate of a Manager, the Manager must also execute and deliver to the Company an Accession Deed as a Relevant Manager of the New Shareholder.

### 31.2 Transferee

A Shareholder who wishes to Deal with its Shares must ensure that the proposed transferee executes and delivers an Accession Deed to the Company (except in the case of an IPO or where the proposed transferee is already party to this Deed).

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### 31.3 Acknowledgement by Existing Parties

Where a proposed transferee or a New Shareholder is required to execute an Accession Deed, and does so, the Company, each Shareholder and each existing Relevant Manager agrees to comply with all obligations and covenants agreed to by that Shareholder or Relevant Manager (as the case may be) under this Deed, for the benefit of the New Shareholder.

## 32 Notices and other communications

### 32.1 Form – all communications

Unless expressly stated otherwise in this Deed, all notices, certificates, consents, approvals, waivers and other communications in connection with this Deed must be:

- (a) in writing;
- (b) in English or accompanied by a certified translation into English;
- (c) signed by the sender (if an individual) or an authorised representative of the sender; and
- (d) marked for the attention of the person identified set out opposite the party's name in Schedule 1 or, if the recipient has notified otherwise, then marked for attention in the way last notified.

### 32.2 Form – communications sent by email

Communications sent by email need not be marked for attention in the way stated in clause 32.1. However, the email must state the first and last name of the sender. Communications sent by email are taken to be signed by the named sender.

### 32.3 Delivery

Communications must be:

- (a) left at the address set out opposite the party's name in Schedule 1; or
- (b) sent by prepaid ordinary post (airmail if appropriate) to the address set out opposite the party's name in Schedule 1; or
- (c) sent by fax to the fax number set out opposite the party's name in Schedule 1; or
- (d) sent by email to the address set out opposite the party's name in Schedule 1; or
- (e) given in any other way permitted by law.

However, if the intended recipient has notified a changed address, fax number or email address, then communications must be to that address, fax number or email address.

### 32.4 When effective

Communications take effect from the time they are received or taken to be received under clause 32.5 (whichever happens first) unless a later time is specified.

### 32.5 When taken to be received

Communications are taken to be received:

- (a) if sent by post, three days after posting (or seven days after posting if sent from one country to another); or

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- (b) if sent by fax, at the time shown in the transmission report as the time that the whole fax was sent; or
- (c) if sent by email:
  - (i) when the sender receives an automated message confirming delivery; or
  - (ii) four hours after the time sent (as recorded on the device from which the sender sent the email) unless the sender receives an automated message that the email has not been delivered,
 whichever happens first.

### 32.6 Receipt outside business hours

Despite clauses 32.4 and 32.5, if communications are received or taken to be received under clause 32.5 after 5.00pm in the place of receipt or on a non-Business Day, they are taken to be received at 9.00am on the next Business Day and take effect from that time unless a later time is specified.

## 33 General

### 33.1 Amendment or variation

Subject to applicable laws and clause 7.1(b), for so long as PEP is a Shareholder, this Deed may be amended by the Board without Shareholder approval. Each party is bound by any variation of this Deed made pursuant to this clause and notified to the party.

### 33.2 Waiver

A provision of this Deed, or a right created under it, may not be waived except in writing and signed by the party giving the waiver.

### 33.3 No merger

The warranties, undertakings and indemnities in this Deed do not merge on termination of this Deed.

### 33.4 Further steps

Each party agrees, at its own expense, to do anything reasonably requested by another party to give effect to the provisions of this Deed and the transactions contemplated by it.

### 33.5 Entire agreement

This deed and the Constitution constitute the entire agreement of the parties about the subject matter and supersede all previous agreements, understandings and negotiations on that subject matter.

### 33.6 Counterparts

This deed may consist of a number of copies, each signed by one or more parties to the deed. If so, the signed copies are treated as making up the one document and the date on which the last counterpart is executed is the date of the deed.



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**33.7 Powers of Attorney**

- (a) Each appointment of an attorney by a Shareholder or Relevant Manager under clauses 16.5, 17.5, 21.5, 24.2(d)(ii), and 24.5(f) (**Appointor**) is made on the following terms:
- (i) the Appointor irrevocably appoints the Company as its attorney to complete and execute such instruments and resolutions for and on its behalf as the attorney thinks necessary to give effect to any of the transactions contemplated by the relevant clause;
  - (ii) the Appointor agrees to ratify and confirm whatever the attorney lawfully does, or causes to be done, under the appointment;
  - (iii) the Appointor agrees to indemnify the attorney against all Claims, demands and costs arising in any way in connection with the lawful exercise of all or any of the attorney's powers and authorities under that appointment except in respect of Claims, demands and costs arising as a result of that attorney's fraud, negligence or wilful default; and
  - (iv) the Appointor agrees to deliver to the Company on demand any power of attorney, instrument of transfer or other instruments as the Company may require for the purposes of any of the transactions contemplated by the relevant clause.
- (b) Whenever an Appointor appoints an attorney under clauses 16.5, 17.5 and 21.5, it hereby appoints the Company as its agent as follows:
- (i) the Company will hold the purchase moneys on trust for the Appointor;
  - (ii) receipt by the Company of the purchase moneys will be good discharge of the buyer's obligation to the Appointor and the buyer will not be bound to see to the application of it; and
  - (iii) the Company must pay the purchase moneys to the Appointor on surrender of the relevant share certificates or other instruments of ownership (as appropriate for Shares other than shares),
- and if the relevant default relates to the provision of share certificates, the Appointor indemnifies the buyer against any Claims, demands and costs arising in any way in connection with the non-provision of those share certificates.

**33.8 Discretion in exercising rights**

A party may exercise a right or remedy or give or refuse its consent in any way it considers appropriate (including by imposing conditions), unless this Deed expressly states otherwise.

**33.9 Partial exercising of rights**

If a party does not exercise a right or remedy fully or at a given time, the party may still exercise it later.

**33.10 No liability for loss**

A party is not liable for loss caused by the exercise or attempted exercise of, failure to exercise, or delay in exercising a right or remedy under this Deed.

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### **33.11 Approvals and consents**

By giving its approval or consent a party does not make or give any warranty or representation as to any circumstance relating to the subject matter of the consent or approval.

### **33.12 Assignment**

Except as otherwise provided in this Deed, no Manager nor Management Shareholder may assign, declare a trust over, or otherwise deal or dispose with any of its rights under this Deed, or allow any interest in them to arise or be varied in each case, without consent of PEP. This does not apply to the extent of any security interest granted by any Group Company under any financing documents from time to time.

## **34 Governing law**

### **34.1 Governing law**

This deed is governed by the law in force in New South Wales.

### **34.2 Jurisdiction**

Each party submits to the non-exclusive jurisdiction of the courts of New South Wales and courts of appeal from them. Each party waives any right it has to object to an action being brought in those courts including, without limitation, by claiming that the action has been brought in an inconvenient forum or that those courts do not have jurisdiction.

Shareholders' Deed

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**Schedule 1****Initial Shareholders****Part A – PEP Shareholders**

	<b>Name</b>	<b>Notice Details</b>
<b>1</b>	<b>Pacific Equity Partners Fund V L.P.</b> (a Delaware Limited Partnership) acting via its general partner Pacific Equity Partners Fund V GP (Jersey) Ltd	<b>Address:</b> Bedell Fund Services Limited, 26 New Street, St Helier, Jersey JE2 3RA <b>Facsimile:</b> +44 (0) 1534 8 14815 <b>Email:</b> <a href="mailto:Claire.LeBrocq@bedellgroup.com">Claire.LeBrocq@bedellgroup.com</a> <b>Attention:</b> Claire Le Brocq
<b>2</b>	<b>Pacific Equity Partners Fund V-A L.P.</b> (a Delaware Limited Partnership) acting via its general partner Pacific Equity Partners Fund V GP (Jersey) Ltd	<b>Address:</b> Bedell Fund Services Limited, 26 New Street, St Helier, Jersey JE2 3RA <b>Facsimile:</b> +44 (0) 1534 8 14815 <b>Email:</b> <a href="mailto:Claire.LeBrocq@bedellgroup.com">Claire.LeBrocq@bedellgroup.com</a> <b>Attention:</b> Claire Le Brocq
<b>3</b>	<b>Pacific Equity Partners Fund V-B L.P.</b> (a Delaware Limited Partnership) acting via its general partner Pacific Equity Partners Fund V GP (Jersey) Ltd	<b>Address:</b> Bedell Fund Services Limited, 26 New Street, St Helier, Jersey JE2 3RA <b>Facsimile:</b> +44 (0) 1534 8 14815 <b>Email:</b> <a href="mailto:Claire.LeBrocq@bedellgroup.com">Claire.LeBrocq@bedellgroup.com</a> <b>Attention:</b> Claire Le Brocq
<b>4</b>	<b>Pacific Equity Partners Fund V-C L.P.</b> (a Delaware Limited Partnership) acting via its general partner Pacific Equity Partners Fund V GP (Jersey) Ltd	<b>Address:</b> Bedell Fund Services Limited, 26 New Street, St Helier, Jersey JE2 3RA <b>Facsimile:</b> +44 (0) 1534 8 14815 <b>Email:</b> <a href="mailto:Claire.LeBrocq@bedellgroup.com">Claire.LeBrocq@bedellgroup.com</a> <b>Attention:</b> Claire Le Brocq

## Appendix 6. Shareholders' Deed *continued*

Shareholders' Deed

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	Name	Notice Details
5	<b>PEP Investment Pty Limited</b> (ACN 083 026 984)	<b>Address:</b> Level 31, 126 Phillip Street, Sydney NSW 2000 <b>Facsimile:</b> +61 2 8238 2690 <b>Email:</b> <a href="mailto:Sam.Kong@pep.com.au">Sam.Kong@pep.com.au</a> <b>Attention:</b> Sam Kong
6	<b>Eagle Coinvestment Pty Limited</b> (ACN 119 182 688) as trustee for Pacific Equity Partners Fund V Co-investment Trust A	<b>Address:</b> Level 31, 126 Phillip Street, Sydney NSW 2000 <b>Facsimile:</b> +61 2 8238 2690 <b>Email:</b> <a href="mailto:Sam.Kong@pep.com.au">Sam.Kong@pep.com.au</a> <b>Attention:</b> Sam Kong
7	<b>Pacific Equity Partners Investors Administration Pty Ltd</b> (ACN 161 245 263) as trustee for the Pacific Equity Partners Fund V (Australasia) Unit Trust	<b>Address:</b> Level 31, 126 Phillip Street, Sydney NSW 2000 <b>Facsimile:</b> +61 2 8238 2690 <b>Email:</b> <a href="mailto:Sam.Kong@pep.com.au">Sam.Kong@pep.com.au</a> <b>Attention:</b> Sam Kong

Shareholders' Deed

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**Schedule 2****Board Reserved Matters**The **Board Reserved Matters** are:

- 1 **(Senior management employment terms)** Appoint or remove the CEO, the CFO or the CEO's direct reports, or materially change or negotiate the terms of engagement, role or responsibilities of those positions.
- 2 **(Budgets)** Adopt or vary any Budget, business financial plan or any operating, capital or cash budget.
- 3 **(Employee share option and share plans)** Adopt or vary the terms of any employee share option plan, employee share purchase plan or any arrangement giving employees of the Group the right or entitlement to acquire Securities.
- 4 **(New Directors)** Appoint a Director of the Company except in accordance with clause 4.2.
- 5 **(Remuneration)** Increase the remuneration per annum payable to a Director.
- 6 **(Bonuses)** Pay any profit or other bonus to a Director.
- 7 **(Shares)** Issue or allot or grant any right to issue or allot Shares.
- 8 **(Borrowings)** Borrow or accept a financial accommodation of more than \$100,000.
- 9 **(Encumbrances)** Create any mortgage, charge, pledge or other encumbrance that is not included in the Budget over an asset or undertaking and is outside the ordinary course of business of the Company.
- 10 **(Guarantee)** Give or enter into any guarantee, letter of comfort or performance bond.
- 11 **(Auditors)** Appoint or remove the Auditors.
- 12 **(Constitution)** Amend the Constitution.
- 13 **(Acquisitions and disposals)** Effect a Trade Sale or acquire or dispose of the Business or any company or business.
- 14 **(Assets)** Sell or buy assets (either tangible or intangible) having a value in aggregate or in an individual amount of more than \$300,000 in a Financial Year, except stock sold in the ordinary course of business or otherwise in accordance with the Budget.
- 15 **(Winding up)** Take a step to dissolve or wind up the Company or any of its Subsidiaries.
- 16 **(Capital expenditure)** Commit to or incur capital expenditure on any particular item of more than \$150,000 in a Financial Year other than in accordance with the Budget.
- 17 **(Related party transactions)** Enter into any contract or other arrangement with, or make any payment to (excluding reimbursement of business related expenses), a Management Shareholder or any associate of such persons.
- 18 **(Change in nature of business)** Stop to carry on, or materially alter the scale of operations of, the Business or commence any business or operational activities other than the Business.
- 19 **(Listing)** Apply to a Stock Exchange for a listing or for quotation of any Shares or appoint an underwriter in relation to an IPO, or both.
- 20 **(Finance and operating leases)** Enter into any finance or operating lease costing more than \$100,000 per annum other than in accordance with the Budget.

## Appendix 6. Shareholders' Deed *continued*

### Shareholders' Deed

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- 21     **(Contracts)** Enter into, terminate, amend or vary a contract outside the ordinary course of business.
- 22     **(Accounting Standards and principles)** Materially alter the Accounting Standards or principles previously adopted by the Company for the preparation or presentation of individual or consolidated financial statements except if required to do so by law.
- 23     **(Balance date)** Change the balance date or alter the accounting period of the Company.
- 24     **(Loans)** Make a loan, give credit or other financial accommodation to a person except in the ordinary course of business or otherwise in accordance with the Budget.
- 25     **(Financial Assistance)** Give a loan or other financial assistance to a Director or an associate of a Director or vary the terms of a loan or other financial assistance previously given to a Director or an associate of a Director.
- 26     **(Disputes)** Commence or conduct any dispute or litigation (including with any tax authority) other than debt collection in the ordinary course of business.
- 27     **(Transaction Documents)** Terminate, amend, vary or waive a right under a Transaction Document or agree to do any of those things.
- 28     **(Committees of Directors)** Appoint, dissolve or alter the composition of a committee of the Board.
- 29     **(Dividends)** Declare, make or pay a dividend or other distribution.
- 30     **(Partnerships and joint ventures)** Enter into, amend or vary a partnership or joint ventures.
- 31     **(Insurance)** Materially amend or reduce the insurance cover over the Company's assets or the Business or any key man insurance policy.

Shareholders' Deed

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**Schedule 3**

**Accession Deed**

## Appendix 6. Shareholders' Deed *continued*

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### Accession Deed Poll

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Corner Hunter and Phillip Streets  
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Accession Deed Poll

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## Appendix 6. Shareholders' Deed *continued*

Accession Deed Poll

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**This Deed** is made on

**By** [New Shareholder] (ACN [\*]) of [insert address] (the **New Shareholder**); and  
 [[Manager or Affiliate of Manager] of [insert address] (the **Relevant Manager**).]

**In favour of** Each person specified in Schedule 1 (each a **Current Party**).

### Recitals

- A The Current Parties are parties to the Shareholders' Deed. The Current Parties wish to admit the New Shareholder as a party to the Shareholders' Deed.
- B The New Shareholder [and the Relevant Manager of the New Shareholder] has [have each] agreed to become a party to the Shareholders' Deed and to be bound by the terms of that deed.
- C The New Shareholder [and the Relevant Manager of the New Shareholder each] confirms that it has received a copy of the Shareholders' Deed.

**It is declared** as follows.

## 1 Definitions and Interpretation

### 1.1 Definitions

The following definitions apply unless the context requires otherwise.

**Effective Date** means [insert date] or such other date on which Shares or Options are issued or transferred to the New Shareholder.

**Shareholders' Deed** means the deed dated [insert date] between the Company and its shareholders (as amended from time to time).

### 1.2 Definitions and interpretation in Shareholders' Deed

- (a) Unless expressly defined in this Deed, terms defined in the Shareholders' Deed have the same meaning where used in this Deed.
- (b) Clause 1.2 of the Shareholders' Deed applies to this Deed.

## 2 Admission of New Shareholder

### 2.1 Accession

- (a) With effect from the Effective Date, the New Shareholder agrees to be bound by and to comply with the Shareholders' Deed as if it were a party [and a 'Management Shareholder'] for the purposes of the Shareholders' Deed.
- (b) [The Relevant Manager of the New Shareholder agrees to be bound by and to comply with the Shareholders' Deed as if it were a party [and a 'Manager'] for the purposes of the Shareholders' Deed.]

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## 2.2 New Shareholder's rights and obligations

From the Effective Date, the New Shareholder:

- (a) must comply with, and perform all obligations under, the Shareholders' Deed that apply to a party of the type identified in clause 2.1(a) above; and
- (b) has and may exercise all the rights, powers and discretions under the Shareholders' Deed that a party of the type identified in clause 2.1(a) above has.

## 2.3 [Relevant Manager of a New Shareholder's rights and obligations

From the Effective date, the Relevant Manager of a New Shareholder:

- (a) must comply with, and perform all obligations under, the Shareholders' Deed that apply to a party of the type identified in clause 2.1(b) above; and
- (b) has and may exercise all the rights, powers and discretions under the Shareholders' Deed that a party of the type identified in clause 2.1(b) above has.]

## 2.4 [Relationship between New Shareholder and the Relevant Manager of a New Shareholder

For the purposes of the Shareholders' Deed if a New Shareholder is a Manager or an Affiliate of a Manager, the Manager is a Relevant Manager of a New Shareholder.]

## 2.5 Notice

Notice may be given to the New Shareholder [and the Relevant Manager of a New Shareholder] under the Shareholders' Deed at the address set out at the commencement of this Deed.

## 2.6 Compliance with constitution

The New Shareholder acknowledges that (unless it is a Beneficial Holder with legal title held by the Nominee) the New Shareholder is bound by the Company's Constitution.

## 3 Warranties

The New Shareholder [and the Relevant Manager of a New Shareholder each] represents and warrants to each Current Party that:

- (a) if the relevant party is an individual – neither the execution and performance by the New Shareholder of this document nor any transaction contemplated under the Shareholders' Deed will breach in any respect any provision of:
  - (i) any document, agreement or other arrangement binding upon the New Shareholder or his or her assets; or
  - (ii) any law or direction of any Government Agency and;
- (b) if the relevant party is a body corporate or trustee of a trust:
  - (i) it has the power to enter into and perform its obligations under this Deed and the Shareholders' Deed;
  - (ii) it has taken all necessary action to authorise the entry into and performance of its obligations under this Deed and the Shareholders' Deed;
  - (iii) its obligations under this Deed are valid and binding;

## Appendix 6. Shareholders' Deed *continued*

Accession Deed Poll

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- (iv) the entry into and performance of its obligations under this Deed and the Shareholders' Deed will not breach in any respect any provision of its constituent documents (including any constitution or any trust deed), any other document, agreement or other arrangement binding upon it or its assets, or any law or direction of any Government Agency.

### 4 Nature of Deed Poll

The New Shareholder acknowledges and agrees that this Deed:

- (a) is for the benefit of each Current Party, including the Company; and
- (b) may be relied on and enforced by each Current Party (including the Company), in accordance with the terms of this Deed (even though the Company is not party to this Deed).

### 5 Amendment

No amendment or variation of this Deed is valid or binding unless:

- (a) the amendment or variation is agreed to in writing by the Current Parties (including the Company); and
- (b) the New Shareholder enters into a further deed poll in favour of the Current Parties giving effect to that amendment or variation.

### 6 General

- (a) This Deed is governed by the laws of New South Wales. In relation to it and related non-contractual matters, the New Shareholder irrevocably submits to the non-exclusive jurisdiction of the courts of New South Wales, and waives any right to object to the venue on any ground.
- (b) The New Shareholder must do all things and execute all further document necessary to give full effect to this Deed.
- (c) This Deed may be executed in any number of counterparts. All counterparts, taken together, constitute one instrument. A party may execute this Deed by signing any counterpart. A party who executed a counterpart of this Deed is bound by this Deed and may enforce it against other parties who execute counterparts of this Deed.

Accession Deed Poll

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**Schedule 1**

**Current Parties**

## Appendix 6. Shareholders' Deed *continued*

Accession Deed Poll

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**Executed and delivered as a Deed Poll.**

Shareholders' Deed

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**Schedule 4**

**Nominee Deed**

## Appendix 6. Shareholders' Deed *continued*

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### Nominee Deed

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Nominee Deed

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Nominee Deed

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**This Deed** is made on

**Parties**

- 1 **[insert name of nominee]** (ACN [\*)] of **[insert address]** (the **Nominee**).
- 2 Australasian Foods Holdco Pty Limited (ACN 612 640 329) of Level 31, 126 Phillip Street, Sydney NSW 2000 (the **Company**).
- 3 Each person listed in Schedule 1 (each, an **Initial Beneficial Holder**).

**Recitals**

- A At the request of the Company, the Nominee agrees to act as trustee of each Separate Trust on the terms set out in this Deed.
- B In consideration for the Nominee acting as trustee of each Separate Trust, the Company has agreed to indemnify the Nominee on the terms set out in this Deed.

**It is agreed** as follows.

**1 Definitions and Interpretation**

**1.1 Definitions**

The following definitions apply unless the context requires otherwise.

**Accretions** means in respect of each Separate Trust, all accretions, rights and benefits attaching to the Separate Trust Property including, all rights to receive dividends and any other distributions and to receive or subscribe for shares, stock, units, notes, options or other securities declared, paid or issued by the Company but excluding amounts or other property that are paid or delivered by the Company directly to the Beneficial Holder under the Shareholders' Deed.

**Acquisition Date** means, in the case of each Separate Trust, the date and time at which the Nominee becomes the registered holder of that number of Shares that are acquired and held on behalf of the relevant Beneficial Holder of the Separate Trust as shown in the Trusts Register.

**Adjustment Note** has the meaning given by the GST Law.

**Authorised Person** has the meaning given to that term in clause 7.1.

**Beneficial Holder** means an Initial Beneficial Holder, and any person or persons inscribed on the Trusts Register as the holder or holders of the beneficial interest in the Separate Trust Property held by the Nominee under a Separate Trust.

**Business Day** means a day which is not a Saturday, Sunday or a public holiday in Victoria, Australia.

**Company** means Australasian Foods Holdco Pty Limited (ACN 612 640 329).

**Consideration** has the meaning given by the GST Law.

**Effective Date** means, in relation to each Separate Trust, the date and time at which the Nominee first becomes the registered holder of Shares on trust for the relevant Beneficial Holder.

**Expense** means any liability, cost, expense, loss or damage.

**GST** has the meaning given by the GST Law.

**GST Amount** means in relation to a Taxable Supply the amount of GST payable in respect of that Taxable Supply.

## Appendix 6. Shareholders' Deed *continued*

Nominee Deed

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**GST Group** has the meaning given by the GST Law.

**GST Law** has the meaning given by the *A New Tax System (Goods and Services Tax) Act 1999* (Cth).

**Initial Beneficial Holder** means each person listed in Schedule 1.

**Income** includes an amount equal to net income as defined in section 95 of the *Income Tax Assessment Act 1936* (Cth).

**Input Tax Credit** has the meaning given by the GST Law and a reference to an Input Tax Credit entitlement of a party includes an Input Tax Credit for an acquisition made by that party but to which another member of the same GST Group is entitled under the GST Law.

**Instruction** means a written instruction to the Nominee in respect of or in connection with the Separate Trust Property which is signed by a Beneficial Holder, or an Authorised Person on behalf of a Beneficial Holder, and which also satisfies each of the following matters (provided that the Nominee is entitled to treat any such instruction as an Instruction even if it does not satisfy one or more of these matters, in its discretion):

- (a) the instruction states that it is an Instruction for the purposes of this Deed; and
- (b) where the instruction includes a requirement for the Nominee to execute a document, it includes appropriate details of the terms and purpose of the document.

**Loss** means any fee, tax or penalty of any kind, cost, expense, liability, claim, loss or damage.

**Nominee Indemnity Provision** means clauses 9.2 and 9.3 of this Deed and clauses 24.9(c) and 24.9(d) of the Shareholders' Deed.

**Obligations** means all obligations and liabilities of whatever kind undertaken or incurred by, or devolving upon, the Nominee under or in respect of this Deed or the Shareholders' Deed.

**Overhead Cost** means overhead expenses, including rent, office maintenance and salaries.

**Related Body Corporate** has the meaning given in the Shareholders' Deed.

**Separate Trust** means each trust established in accordance with clause 2.2.

**Separate Trust Property** means, in the case of each Separate Trust, the number and class of Shares held by the Nominee for and on behalf of the relevant Beneficial Holder, as shown in the Trusts Register.

**Scheme Implementation Deed** means the agreement for the acquisition of shares in the Target by the Company or one of its wholly owned subsidiaries pursuant to a scheme of arrangement under Part 5.1 of the Corporations Act.

**Shareholders' Deed** means the agreement dated [ ] between the Shareholders of the Company in relation to the finance, control and management of the Company.

**Shares** means, in relation to each Separate Trust, that number of Class B Shares and/or Class C Shares in the Company that are to be acquired by the Nominee on the Acquisition Date and held by the Nominee (as the registered legal owner) on trust for the relevant Beneficial Holder as contemplated by clause 25 of the Shareholders' Deed.

**Target** means Patties Foods Limited (ACN 007 157 182).

**Taxable Supply** has the meaning given by the GST Law excluding the reference to section 84-5 of the *A New Tax System (Goods and Services Tax) Act 1999* (Cth).

**Tax Invoice** has the meaning given by the GST Law.

**Trusts Register** means the register of Separate Trusts established and maintained by the Company in accordance with clause 4.

Nominee Deed

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## 1.2 Interpretation

Headings are for convenience only and do not affect interpretation. The following rules apply unless the context requires otherwise.

- (a) The singular includes the plural and conversely.
- (b) If a word or phrase is defined, its other grammatical forms have a corresponding meaning.
- (c) A reference to a person, corporation, trust, partnership, unincorporated body or other entity includes any of them.
- (d) A reference to a clause is a reference to a clause of this Deed.
- (e) The meaning of general words is not limited by specific examples introduced by **including**, or **for example**, or similar expressions.
- (f) A reference to conduct includes an omission, statement or undertaking, whether or not in writing.
- (g) A reference to an agreement or document (including without limitation, a reference to this Deed) is to the agreement or document as amended, varied, supplemented, novated or replaced, except to the extent prohibited by this Deed or that other agreement or document.
- (h) A reference to legislation or to a provision of legislation includes a modification or re-enactment of it, a legislative provision substituted for it and a regulation or statutory instrument issued under it.
- (i) A reference to a party is to a party to this Deed.
- (j) A reference to a party to this Deed or another agreement or document includes the party's successors, permitted substitutes and assigns (and, where applicable, the party's legal personal representatives).
- (k) A reference to 'wilful default' in relation to the Nominee means any intentional failure by the Nominee to comply with, or any intentional breach by the Nominee of, its obligations under this Deed, other than a failure or breach which:
  - (i) arose as a result of a breach or act or omission by a person other than the Nominee; and
  - (ii) the performance of the action (or the non-performance) which gave rise to such breach, is a precondition to the Nominee performing that obligation;
  - (iii) is in accordance with a lawful court order or direction or required by law; or
  - (iv) is in accordance with a proper Instruction or directions given by the relevant Beneficial Holder of a Separate Trust or its Authorised Person, or is in accordance with an Instruction or direction given to it by any person in circumstances where the Nominee determines in its absolute discretion that the person is entitled to do so.

## 1.3 Definitions and interpretation in Shareholders' Deed

Unless expressly defined in this Deed, terms defined in the Shareholders' Deed have the same meaning where used in this Deed.

## Appendix 6. Shareholders' Deed *continued*

Nominee Deed

Allens < Linklaters

### 1.4 Trust Deed binding

This Deed binds the Nominee and, in the case of each Separate Trust, the Beneficial Holder and any other person with an interest in the Separate Trust and any person claiming through the Beneficial Holder as if each of them had been a party to this Deed.

## 2 Declaration of Trusts

### 2.1 Appointment of Nominee

The Nominee agrees to act as trustee of each Separate Trust.

### 2.2 Declaration of Separate Trusts

- (a) The Nominee declares that, in respect of each Beneficial Holder, it holds the right, title and interest in the Separate Trust Property and any Accretions on a separate bare trust for that Beneficial Holder absolutely (**Separate Trust**).
- (b) For the avoidance of doubt, each Beneficial Holder has a vested and indefeasible interest in, and is absolutely entitled as against the Nominee, to the capital, assets and Income of its respective Separate Trust.

### 2.3 Separate Trust Property in each Separate Trust to be treated separately

The Nominee shall at all times treat the Separate Trust Property included in each Separate Trust separately from the Separate Trust Property included in all other Separate Trusts.

### 2.4 Nominee's obligations

The Nominee must on the Instruction and at the cost of the relevant Beneficial Holder:

- (a) transfer to the Beneficial Holder or otherwise deal with the Nominee's legal right, title and interest in any or all of the relevant Separate Trust Property and any Accretions as the Beneficial Holder (or its Authorised Person) may from time to time direct; and
- (b) take all steps, execute all documents and do all things necessary to vest the Nominee's legal right, title and interest in any or all of the Separate Trust Property and any Accretions in the Beneficial Holder as the Beneficial Holder (or its Authorised Person) may from time to time direct,

provided that the Nominee will not be held liable for any failure to comply with these obligations to the extent that such failure is due to any act, refusal to act or omission by that Beneficial Holder, its Authorised Person or any other person (including any failure to provide any information that is properly required by the Nominee or any competent authority) or due to the operation of law.

### 2.5 Beneficial Holder's reservation of rights

Nothing in this Deed entitles the Nominee to beneficial ownership of the Separate Trust Property and any Accretions, or operates to deprive a Beneficial Holder of the rights of beneficial ownership (including the right of possession) of the Separate Trust Property and any Accretions. The Nominee declares that it has no beneficial interest whatsoever in the Separate Trust Property or any Accretions.

### 2.6 Limitations on the Nominee

The Nominee shall have no powers, duties, discretions or liabilities under a Separate Trust except those expressly set out in this Deed.

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## **2.7 Nominee may appoint attorneys**

The Nominee may appoint any one or more persons as its attorney (jointly or severally if more than one) with power to execute documents on behalf of the Nominee for the day to day administration of a Separate Trust.

## **3 Rights and Duties of the Parties**

### **3.1 Role of the Nominee**

- (a) The Company directs, on behalf of, and as attorney for each relevant Beneficial Holder, the Nominee to acquire the Shares held by that Beneficial Holder including by entering into and executing an Accession Deed to the Shareholders' Deed on behalf of that Beneficial Holder.
- (b) To the extent reasonably practicable, the Nominee must:
  - (i) attend meetings of Shareholders which the Nominee is directed by an Instruction to attend and which the Nominee is entitled to attend (and in the absence of an Instruction, the Nominee will not attend any meetings);
  - (ii) vote at meetings of Shareholders as the Nominee is directed by an Instruction to vote at and at which the Nominee is entitled to vote (and in the absence of an Instruction, the Nominee will not vote at any meetings); and
  - (iii) if required by an Instruction, execute all proxies, powers of attorney and other documents which are necessary or desirable to enable the relevant Beneficial Holder to vote in the place of the Nominee at meetings of Shareholders as that Beneficial Holder directs.

### **3.2 Instructions**

- (a) The Nominee has no obligation to verify the purpose, merits or propriety of an Instruction or any document the subject of an Instruction, and is entitled to rely solely on the relevant Beneficial Holder or its Authorised Person in respect of all matters relating to an Instruction and any transaction the subject of an Instruction. The Nominee is entitled to request further details from the relevant Beneficial Holder or its Authorised Person in respect of any Instruction, and is entitled to a reasonable period to consider any matter related to or arising from an Instruction, but this does not impose any obligation on the Nominee to do so, and does not otherwise limit the effect of this paragraph.
- (b) If the Nominee considers that it is unable to wholly or partially act on an Instruction of a Beneficial Holder or its Authorised Person, it must promptly (and in any event, within two Business Days) notify the relevant Beneficial Holder or its Authorised Person (as applicable). Upon receipt of such notice, the relevant Beneficial Holder or its Authorised Person (as applicable) may either:
  - (i) withdraw the specific Instruction with which the Nominee is unable to comply in accordance with this clause; or
  - (ii) re-issue or clarify the Instruction, in which case the Instruction will not operate until it has been re-issued or clarified.

## **4 Register of Separate Trusts**

### **4.1 Register of Beneficial Holders**

- (a) The Company shall, at its sole cost and expense, establish and maintain a register of Separate Trusts at the cost and expense of the Company.

## Appendix 6. Shareholders' Deed *continued*

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- (b) The following particulars shall be entered into the Trusts Register in respect of each Separate Trust:
- (i) the name, address and description of any Beneficial Holder (or the Beneficial Holder's nominee or custodian (if any));
  - (ii) the number and identifying designation of Shares that are held on trust for that Beneficial Holder;
  - (iii) the date at which the name of the Beneficial Holder was noted in the Trusts Register in respect of the Separate Trust Property held on trust for that Beneficial Holder; and
  - (iv) any other details considered necessary by the Nominee.

### 4.2 Nominee to be provided with a copy of the Trusts Register

The Company must, or must procure that its registrar, provide a copy of the Trusts Register to the Nominee:

- (a) on, or as soon as practicable after the date of this Deed;
- (b) as and when any information in the Trusts Register is updated; and
- (c) within 2 Business Days of being requested to do so by the Nominee.

### 4.3 No certificate

No certificates will be issued to a Beneficial Holder in respect of the number of Shares held under Separate Trust for that Beneficial Holder.

### 4.4 Cessation of notation as a Beneficial Holder

Upon termination of a Separate Trust in respect of a Beneficial Holder, the Beneficial Holder shall cease to be noted in the Trusts Register as the Beneficial Holder of the Separate Trust Property held under that Separate Trust.

### 4.5 Changes

Every Beneficial Holder must promptly notify the Nominee of any change of name or address and the Nominee must alter the Trusts Register accordingly.

## 5 Undertaking by Company

The Company undertakes to the Nominee that it will:

- (a) promptly provide the Nominee with all necessary information and assistance as the Nominee may reasonably require to enable the Nominee to comply with its obligations, including those under the Shareholders' Deed;
- (b) without limitation to clause 5(a), provide the Nominee with written notice of any of the following events (as soon as practicable, but in any case no later than 5 Business Days, after becoming aware of any such events):
  - (i) any event that may result in a change in the beneficial ownership of a Share;
  - (ii) any transfer of the beneficial interest in a Share to a Beneficial Holder in accordance with the Shareholders' Deed;
  - (iii) any purported transfer by a Beneficial Holder of its beneficial interest in Shares in breach of the Shareholders' Deed,

and, on request, provide the Nominee with any information reasonably required by the Nominee in relation to any such event or events.



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## **6 Company Proceedings and Information**

### **6.1 Shareholder information and dividends**

The Company undertakes to the Nominee that at the same time as it:

- (a) gives, makes available or despatches any document or information to Shareholders, the Company will also give, make available or despatch that notice or information to each Beneficial Holder; and
- (b) makes or pays any distribution or dividend of any kind whatsoever to its Shareholders, the Company will procure that the distribution or dividend that would otherwise be paid to the Nominee as a Shareholder will be paid to the Beneficial Holder in place of the Nominee pro-rata according to the number of Shares that are held on trust for each Beneficial Holder under a Separate Trust.

### **6.2 Shareholder meetings**

The Company undertakes to the Nominee that at the same manner as it gives, makes available or despatches a notice of meeting to Shareholders, the Company will also despatch to the Beneficial Holder a copy of the notice of meeting.

### **6.3 No meetings of Beneficial Holders**

For the removal of doubt, there shall be no meetings of the Beneficial Holders of the Separate Trusts.

## **7 Authorised Persons**

### **7.1 Authorised Persons**

A Beneficial Holder may notify the Nominee of persons who are authorised to make any written communication or take action on behalf of that Beneficial Holder under this Deed (the **Authorised Persons**).

### **7.2 Variation of Authorised Person**

A Beneficial Holder may vary its Authorised Persons by written notice to the Nominee.

### **7.3 Nominee's action**

The Nominee must accept all communications or actions concerning this Deed made by Authorised Persons of a Beneficial Holder, provided that those communications or actions are in accordance with this Deed. The Nominee is not obliged to take any action if the communication or action is not made by an Authorised Person, nor to enquire as to the identity of any person if it reasonably believes the person is an Authorised Person.

### **7.4 Beneficial Holder not liable**

A Beneficial Holder is not liable in respect of any action or omission by the Nominee in reliance on any communication or action given or taken by any person acting or purporting to act on behalf of the Beneficial Holder who is not:

- (a) an Authorised Person, or
  - (b) a person reasonably believed by the Nominee to be an Authorised Person,
- but the Beneficial Holder may ratify the action or omission, in which case it is liable.

## Appendix 6. Shareholders' Deed *continued*

Nominee Deed

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### 7.5 Nominee's reliance on an Instruction

If the Nominee receives an Instruction from a Beneficial Holder in accordance with this Deed in circumstances where it is reasonable for the Nominee to assume it was from an Authorised Person of the Beneficial Holder, the Nominee is not liable for any properly performed action or omission of the Nominee in reliance on that Instruction.

## 8 Change of Nominee

### 8.1 Retirement of the Nominee

The Nominee may, by giving 30 Business Days' written notice (or such lesser notice period agreed by all of the Beneficial Holders) to the Beneficial Holders, retire as the trustee of all (but not some) of the Separate Trusts. If the Nominee retires under this clause 8.1, such retirement shall have effect as at the last day of the relevant notice period.

### 8.2 New Nominee

- (a) If the Nominee retires under clause 8.1, a person nominated by the Company shall be appointed as the replacement trustee for each Separate Trust, or if no person is nominated by the Company by the date of the Nominee's retirement, the Nominee will, acting reasonably, nominate a person as a replacement trustee and the person so nominated shall be appointed as the replacement trustee of each Separate Trust.
- (b) The Company and the Nominee must do all things reasonably necessary to facilitate the change of trustee.
- (c) Despite anything else in this Deed, the retirement of the Nominee and the appointment of a replacement trustee is not complete until the new trustee executes a deed by which it covenants to be bound by this Deed as if it had originally been a party to it.

### 8.3 Release

When the Nominee retires in accordance with clause 8.1, the Nominee is released from all obligations in relation to the Separate Trusts arising after the time it retires, except that the Nominee is still obliged to comply with clause 8.2(b) including by delivering all books and records relating to the Separate Trusts in its possession at the relevant time to the replacement trustee.

### 8.4 Costs of replacing the Nominee

All reasonable costs incurred by the Nominee and all costs of any new nominee and the Company in connection with the retirement or removal and replacement of the Nominee shall be borne by the Beneficial Holders in equal proportions.

## 9 Limitation of Liability and Indemnities

### 9.1 Indemnity and liability of Nominee

- (a) The Nominee must, to the maximum extent permitted by law, and notwithstanding any other provision of this Deed, act on the direction of the Beneficial Holders under a power of attorney or otherwise, to the intent that each Beneficial Holder exercises day-to-day control over the operation of the trust under which its Beneficial Shares are held.
- (b) Each party who is a Beneficial Holder:
  - (i) indemnifies the Nominee for any Expense which the Nominee pays, suffers, incurs or is liable for arising out of or in connection with; and
  - (ii) covenants with the Nominee not to claim, sue or take any action against the Nominee in relation to,

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anything done by the Nominee at the direction of or on behalf of the Beneficial Holder, or by reason of the Beneficial Holder's Beneficial Shares being registered in the name of the Nominee.

- (c) The indemnity and covenant in clause 9.2(b) does not apply to:
- (i) any Expense which arises as a result of the Nominee's (or any of its officers', employees', or agents') fraud, negligence, dishonesty, wilful misconduct, breach of any of its obligations under this Deed or the Shareholders' Deed or breach of trust; or
  - (ii) the Overhead Costs of the Nominee, fees of a Related Body Corporate of the Nominee as custodian of the Nominee and fees of a subcustodian, nominee or other delegate of such a custodian of the Nominee; or
  - (iii) the extent that the Nominee is entitled to recover and is actually indemnified for any such Expenses or Overhead Costs by the Company under clause 10(c) of this Deed or from the assets of the relevant trust under clause 9.3 of this Deed.
- (d) Each party acknowledges that the Nominee is obliged to act in accordance with the directions of the Beneficial Holders in relation to their respective Beneficial Shares. Any breach of this Deed that arises out of the Nominee complying with a direction given by a Beneficial Holder in relation to that Beneficial Holder's Beneficial Shares (**Directed Breach**) is to be construed for all purposes as a breach by the relevant Beneficial Holder and not by the Nominee, and, without limitation:
- (i) the Nominee is released from any claim, action, demand, suit or proceeding for damages, debt, specific performance or any other remedy in respect of any Directed Breach; and
  - (ii) each party (other than the Nominee) covenants to claim, sue or take any action against the Nominee in respect of any Directed Breach.
- (e) Each indemnity given by a Beneficial Holder in this clause 9.2:
- (i) is an additional, separate and independent obligation of the Beneficial Holder and no one indemnity limits the generality of any other indemnity; and
  - (ii) survives termination of this Deed and the Shareholders' Deed.

## 9.2 Limitation of Nominee's liability

This limitation of the Nominee's liability applies despite any other provisions of this Deed and extends to all Obligations of the Nominee in any way connected with any representation, warranty, conduct, omission, agreement or transaction related to this Deed.

- (a) Subject to clauses 9.3(f) and 9.3(g), the Nominee will be bound by this document only in its capacity as trustee of each Separate Trust and in no other capacity.
- (b) Subject to clauses 9.3(f) and 9.3(g), the parties (other than the Nominee) acknowledge that the Nominee incurs the Obligation solely in its capacity as trustee of each Separate Trust and that the Nominee will cease to have any Obligation under this document which arises after the time the Nominee ceases to be a legal holder of the relevant Beneficial Shares as trustee of the Separate Trust.
- (c) Subject to clauses 9.3(f) and 9.3(g), the Nominee will not be liable to pay or satisfy any Obligations except to the extent that the Nominee is actually indemnified under the Nominee Indemnity Provisions or to the extent that and at the time the Nominee would, if

## Appendix 6. Shareholders' Deed *continued*

Nominee Deed

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the Nominee exercised its entitlement to be indemnified in respect of that liability under the Nominee Indemnity Provisions.

- (d) Subject to clauses 9.3(f) and 9.3(g), the parties (other than the Nominee) may enforce their rights against the Nominee arising from the non-performance of the Obligations only to the extent of the Nominee's right to be indemnified under the Nominee Indemnity Provisions.
- (e) Subject to clauses 9.3(f) and 9.3(g), if a party (other than the Nominee) does not recover all money owing to it arising from the non-performance of the Obligations, it may not seek to recover the shortfall by:
  - (i) bringing proceedings against the Nominee in its personal capacity or
  - (ii) applying to have the Nominee put into administration or wound up or applying to have a receiver or similar person appointed to the Nominee or proving in the administration or winding up of the Nominee.
- (f) Subject to clauses 9.3(f) and 9.3(g), each part (other than the Nominee) waives its rights and releases the Nominee from any personal liability whatsoever, in respect of any loss or damage:
  - (i) which it may suffer as a result of any:
    - (A) breach by the Nominee of any of its Obligations; or
    - (B) non-performance by the Nominee of the Obligations; and
  - (ii) which cannot be paid or satisfied out of the proceeds of the indemnities given under the Nominee Indemnity Provisions.
- (g) The parties acknowledge that the whole of this document is subject to this clause 9.3 and that the Nominee shall in no circumstances be required to satisfy any liability of the Nominee arising under, or for non-performance or breach of any Obligations out of any funds, property or assets other than the proceeds of the indemnities given under the Nominee Indemnity Provisions as and when they are available to the Nominee to be applied in exoneration for such liability provided that, subject to this clause 9.3(g), if the liability of the Nominee arising under, or for non-performance or breach of any Obligations is not fully satisfied out of the proceeds of the indemnities given under the Nominee Indemnity Provisions due to the negligence, breach of any obligations under this Deed or breach of trust (excluding any negligence or breach that arises as a result of any fraud, dishonesty, or wilful misconduct) by the Nominee or any of its officers, employees or agents in the performance of the Nominee's duties as trustee of the Separate Trusts, the Nominee will be liable to pay out of its own funds, property and assets the unsatisfied amount of that liability, but will not be liable to pay an amount that is greater than the amount that the Nominee would have been able to recover under the Nominee Indemnity Provisions in relation to the relevant liability if its right to be indemnified under the Nominee Indemnity Provisions had not been prejudiced.
- (h) Clause 9.3(a) to 9.3(g) do not apply to any damages suffered by or amounts owing to another party which result from a breach or non-performance of an Obligation by the Nominee to the extent that those damages or amounts owing are not satisfied because the right of the Nominee to be indemnified under the Nominee Indemnity Provisions is prejudiced as a result of any fraud, dishonesty, or wilful misconduct by the Nominee or

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any of its officers, employees or agents in the performance of the Nominee's duties as trustee of the Separate Trusts.

- (i) The parties (other than the Nominee) agree that no act or omission of the Nominee (including any related failure to satisfy any Obligations) will constitute fraud, negligence, breach of trust, breach of any obligations under this Deed, dishonesty or wilful misconduct of the Nominee or of any of its officers, employees or agents for the purposes of this clause 9.3 to the extent to which the act or omission was caused or contributed to by any failure of a party to this Deed (other than the Nominee) or any other person (other than an officer, employee or agent of the Nominee) to fulfil its obligations relating to the Separate Trusts or by any other act or omission of a party to this Deed (other than the Nominee) or any other person (other than an officer, employee, or agent of the Nominee).
- (j) No attorney, agent, or other person appointed in accordance with this Deed has authority to act on behalf of the Nominee in a way which exposes the Nominee to any personal liability (except in accordance with the provisions of clause 9.3) and no act or omission of such a person will be considered fraud, negligence, dishonesty, wilful misconduct, breach of any obligations under this Deed or breach of trust by the Nominee or an officer, agent or employee of the Nominee for the purposes of this clause 9.3.

**9.3 The Nominee not to incur liability**

Despite any other provision of this Deed, the Nominee is not required to do anything under or in connection with this Deed (including enter into any contract or commitment) which involves it:

- (a) incurring any liability (actual or contingent) unless its liability is limited in a manner set out in clause 9.3; and
- (b) executing any instrument, entering into any agreement or incurring any obligation unless the Nominee has first received independent legal advice (if required by the Nominee) in relation to the instrument, agreement or obligation.

**9.4 Legal actions by the Nominee**

If a Beneficial Holder suffers any Loss as a result of negligence, fraud or wilful default on the part of any attorney or agent appointed under the Shareholders' Deed, the Nominee agrees to cooperate and provide all reasonable assistance with legal proceedings against such attorney or agent in accordance with Instruction from the Beneficial Holder and at the expense of the Beneficial Holder.

**10 Fees and Costs**

- (a) The Company must pay to the Nominee the fees set out in Schedule 2 for acting as trustee of each Separate Trust.
- (b) The Company must reimburse the Nominee for all out-of-pocket expenses and any internal costs of the Nominee relating to actions and directions by the Beneficial Holder in relation to its Beneficial Shares in the ordinary course. This does not apply in relation to Expenses that would have been incurred in comparable circumstances by the Beneficial Holder had it been the registered holder of the relevant Shares.
- (c) For the avoidance of doubt, clause 10(b) does not apply in relation to:
  - (i) any taxes or duties in relation to any Shares or dealings in Shares; or
  - (ii) any expenses or liabilities arising in connection with any action or direction by a Beneficial Holder which is in breach of any legal or contractual obligation (including a breach of this Deed),

## Appendix 6. Shareholders' Deed *continued*

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nor is it intended to require the Company to meet Expenses incurred as a result of actions or directions by a Beneficial Holder that are unreasonable or otherwise outside the ordinary course (for example persistent requests for copies of the register of Beneficial Holders or other documents beyond what would reasonably be expected).

### 11 Duration of Separate Trusts

#### 11.1 Commencement date

Each Separate Trust commences on the Effective Date.

#### 11.2 Termination and termination date

Each Separate Trust will terminate on the earlier of:

- (a) the date on which the Beneficial Holder is registered on the register held by the Company as the legal owner of all of the Shares comprising the Separate Trust Property;
- (b) the date on which the Nominee ceases to be registered on the register held by the Company as the legal owner of all of the Shares comprising the Separate Trust Property and the holder of any Accretions;
- (c) if the Company is wound up, the date on which that proportion of the proceeds of realisation payable in respect of the Shares comprising the Separate Trust Property is distributed to the Beneficial Holder or, if no proceeds of realisation are to be distributed to the Beneficial Holder, the date on which the Company is wound up;
- (d) the date on which the Separate Trust is terminated by the operation of any applicable laws; and
- (e) the date that is 80 years from the date of the Separate Trust.

### 12 GST

- (a) Any consideration or amount payable under this Deed, including any non-monetary consideration (as reduced in accordance with subparagraph (e)(i) if required) (**Consideration**) is exclusive of GST.
- (b) If GST is or becomes payable on a Supply made under or in connection with this Deed, an additional amount (**Additional Amount**) is payable by the party providing consideration for the Supply (**Recipient**) equal to the amount of GST payable on that Supply as calculated by the party making the Supply (**Supplier**) in accordance with the GST Law.
- (c) The Additional Amount payable under paragraph (b) is payable at the same time and in the same manner as the Consideration for the Supply, and the Supplier must provide the Recipient with a Tax Invoice within the same month where reasonably practicable and, in any event, no later than 14 days after the time of payment of the Additional Amount.
- (d) If for any reason (including, without limitation, the occurrence of an Adjustment Event) the amount of GST payable on a Supply (taking into account any Decreasing or Increasing Adjustments in relation to the Supply) varies from the Additional Amount payable by the Recipient under paragraph (b):
  - (i) the Supplier must provide a refund or credit to the Recipient, or the Recipient must pay a further amount to the Supplier, as appropriate;
  - (ii) the refund, credit or further amount (as the case may be) will be calculated by the Supplier in accordance with the GST Law; and

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- (iii) the Supplier must notify the Recipient of the refund, credit or further amount within the same month where reasonably practicable and, in any event, no later than 14 days after becoming aware of the variation to the amount of GST payable. Any refund or credit must accompany such notification or the Recipient must pay any further amount within 7 days after receiving such notification, as appropriate. If there is an Adjustment Event in relation to the Supply, the requirement for the Supplier to notify the Recipient will be satisfied by the Supplier issuing to the Recipient an Adjustment Note within the same month where reasonably practicable and, in any event, no later than 14 days after becoming aware of the occurrence of the Adjustment Event.
- (e) Despite any other provision in this Deed, if an amount payable under or in connection with this Deed (whether by way of reimbursement, indemnity or otherwise) is calculated by reference to an amount incurred by a party, whether by way of cost, expense, outlay, disbursement or otherwise (**Amount Incurred**), the amount payable must be reduced by the amount of any Input Tax Credit to which that party is entitled in respect of that Amount Incurred before the Additional Amount is calculated.

Any reference in this clause to an Input Tax Credit to which a party is entitled includes an Input Tax Credit arising from a Creditable Acquisition by that party but to which the Representative Member of the GST Group of which the party is a Member is entitled.

**13 Notices**

Notice required to be given under this Deed (**Notice**):

- (a) must be in writing and signed by a person duly authorised by the sender;
- (b) must be delivered to the intended recipient by prepaid post (if posted to an address in another country, by registered airmail) or by hand or fax to the address or fax number last notified by the intended recipient to the sender:
- (c) will be taken to be duly given or made:
  - (i) in the case of delivery in person, when delivered;
  - (ii) in the case of delivery by post, two Business Days after the date of posting (if posted to an address in the same country) or seven Business Days after the date of posting (if posted to an address in another country); and
  - (iii) in the case of fax, on receipt by the sender of a transmission control report from the despatching machine showing the relevant number of pages and the correct destination fax number or name of recipient and indicating that the transmission has been made without error,
  - (iv) but if the result is that a Notice would be taken to be given or made on a day that is not a Business Day in the place to which the Notice is sent or at later than 4.00pm (local time), it will be taken to have been duly given or made at the start of business on the next Business Day in that place.

**14 Amendments to Deed**

Subject to any applicable laws, this Deed may only be amended with the written approval of the Nominee and Company provided that the amendment does not result in the Separate Trusts ceasing to be bare trusts.

## Appendix 6. Shareholders' Deed *continued*

Nominee Deed

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### **15 Further Assurances**

Each party agrees to do all such things and execute all such deeds, instruments, transfers or other documents as may be necessary or desirable to give full effect to the provisions of this Deed and the transactions contemplated by it.

### **16 Waiver**

No failure to exercise nor any delay in exercising any right, power or remedy by a party operates as a waiver. A single or partial exercise of any right, power or remedy does not preclude any other or further exercise of that or any other right, power or remedy. A waiver is not valid or binding on the party granting that waiver unless made in writing.

### **17 Governing Law and Jurisdiction**

The Deed is governed by the laws of the State of New South Wales. The Nominee, the Company, and each Beneficial Holder submit to the non-exclusive jurisdiction of courts exercising jurisdiction there in connection with matters concerning this Deed.

### **18 Severability**

If any provision of this Deed is held or found to be void, invalid or otherwise unenforceable then so much of it as is necessary to render it valid and enforceable is deemed to be severed but the remainder of this Deed remains in full force and effect.

### **19 Counterparts**

This Deed may be executed in any number of counterparts. All counterparts will be taken to constitute one instrument.



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### Schedule 1

#### Initial Beneficial Holders

	Holder
1	[redacted] (ACN [redacted]) of [redacted]
2	[redacted] (ACN [redacted]) of [redacted]

## Appendix 6. Shareholders' Deed *continued*

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**Schedule 2**

**Nominee Fees**

Nominee Deed

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**Executed and delivered as a Deed.**

**Company**

**Executed** as a deed in accordance with section 127 of the *Corporations Act 2001* by Australasian Foods Holdco Pty Limited (ACN 612 640 329):

\_\_\_\_\_  
Director Signature

\_\_\_\_\_  
Director/Secretary Signature

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Print Name

**Initial Beneficial Holder**

**Executed** as a deed in accordance with section 127 of the *Corporations Act 2001* by Australasian Foods Holdco Pty Limited (ACN 612 640 329) as attorney for each Initial Beneficial Holder:

\_\_\_\_\_  
Director Signature

\_\_\_\_\_  
Director/Secretary Signature

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Print Name

[Nominee signature block to be inserted.]

## Appendix 6. Shareholders' Deed *continued*

Shareholders' Deed

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**Executed and delivered as a Deed** in Sydney.

**PEP Shareholders**

**Executed** as a deed in accordance with section 127 of the *Corporations Act 2001* by **Eagle Coinvestment Pty Limited ACN 119 182 688** as trustee for **Pacific Equity Fund V Coinvestment Trust A:**

\_\_\_\_\_  
Director Signature

\_\_\_\_\_  
Director/Secretary Signature

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Print Name

**Executed** as a deed in accordance with section 127 of the *Corporations Act 2001* by **Pacific Equity Partners Investors Administration Pty Limited ACN 161 245 263** as trustee for **Pacific Equity Partners Fund V (Australasia) Unit Trust:**

\_\_\_\_\_  
Director Signature

\_\_\_\_\_  
Director/Secretary Signature

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Print Name

**Executed** as a deed in accordance with section 127 of the *Corporations Act 2001* by **PEP Investment Pty Limited ACN 083 026 984:**

\_\_\_\_\_  
Director Signature

\_\_\_\_\_  
Director/Secretary Signature

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Print Name

Shareholders' Deed



Signed for **Pacific Equity Partners Fund V, L.P.** by a director of **Pacific Equity Partners Fund V GP (Jersey) Limited** which is a General Partner of Pacific Equity Partners Fund V, L.P., in the presence of:

\_\_\_\_\_  
Director Signature

\_\_\_\_\_  
Director/Secretary Signature

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Print Name

Signed for **Pacific Equity Partners Fund V, L.P.** by a director of **Pacific Equity Partners Fund V GP (Jersey) Limited** which is a General Partner of Pacific Equity Partners Fund V-A, L.P., in the presence of:

\_\_\_\_\_  
Director Signature

\_\_\_\_\_  
Director/Secretary Signature

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Print Name

Signed for **Pacific Equity Partners Fund V, L.P.** by a director of **Pacific Equity Partners Fund V GP (Jersey) Limited** which is a General Partner of Pacific Equity Partners Fund V-B, L.P., in the presence of:

\_\_\_\_\_  
Director Signature

\_\_\_\_\_  
Director/Secretary Signature

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Print Name

Signed for **Pacific Equity Partners Fund V, L.P.** by a director of **Pacific Equity Partners Fund V GP (Jersey) Limited** which is a General Partner of Pacific Equity Partners Fund V-C, L.P., in the presence of:

\_\_\_\_\_  
Director Signature

\_\_\_\_\_  
Director/Secretary Signature

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Print Name

## Appendix 6. Shareholders' Deed *continued*

Shareholders' Deed

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**Company**

**Executed** as a deed in accordance with section 127 of the *Corporations Act 2001* by **Australasian Foods Holdco Pty Limited** ACN 612 640 329:

\_\_\_\_\_  
Director Signature

\_\_\_\_\_  
Director/Secretary Signature

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Print Name

## Appendix 7. Constitution of HoldCo

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### Constitution of Australasian Foods Holdco Pty Limited

ACN 612 640 329

The Corporations Act  
A proprietary company limited by shares  
Registered in Victoria

Level 31, Deutsche Bank Place  
126 Phillip Street  
Sydney NSW 2000

Alpens is an independent partnership operating in alliance with Linklaters LLP.

## Appendix 7. Constitution of HoldCo *continued*

Constitution of Australasian Foods Holdco Pty Limited

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Constitution of Australasian Foods Holdco Pty Limited

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Constitution of Australasian Foods Holdco Pty Limited (ACN 612 640 329), a proprietary company limited by shares.

## General

### 1 Definitions

The following definitions apply in this Constitution unless the context requires otherwise:

**Board** means all or some of the Directors for the time being acting as a board.

**call** includes any instalment of a call and any amount due on the issue of any share.

**Class A Share** means an ordinary share in the capital of the company which is designated as a Class A Share and has the rights set out in this Constitution and the Shareholders' Deed.

**Class B Share** means an ordinary share in the capital of the company which is designated as a Class B Share and has the rights set out in this Constitution and the Shareholders' Deed.

**Class C Shares** means an ordinary share in the capital of the Company which is designated as a Class C Share and has the rights set out in this Constitution and the Shareholders' Deed.

**company** means Australasian Foods Holdco Pty Limited (ACN 612 640 329).

**Constitution** means this constitution.

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

**Director** means a person appointed or elected to the office of director of the company in accordance with this Constitution and, where appropriate, includes an alternate Director and a sole Director.

**Dividend** means any dividend, including an interim dividend declared and includes a bonus or other distribution in kind or in cash.

**Managing Director** means a person appointed as managing director in accordance with rule 53.

**Secretary** means a person appointed as, or to perform the duties of, secretary of the company.

**Securities** includes shares (and any class of shares), rights to shares, options to acquire shares and other securities with rights of conversion to equity, in each case as issued or granted by the company.

**Shareholders' Deed** means an agreement in relation to the finance, control and management of the company to be entered into by the company and all of its shareholders.

**Shareholder Present** means, in connection with a general meeting, a shareholder present at the venue or venues for the meeting, in person or by proxy, by attorney or, where the shareholder is a body corporate, by representative.

### 2 Interpretation

- (a) Headings are for convenience only and do not affect interpretation.
- (b) The following rules apply unless the context requires otherwise.
  - (i) The singular includes the plural, and the converse also applies.
  - (ii) If a word or phrase is defined, its other grammatical forms have a corresponding meaning.
  - (iii) A reference to a person includes a corporation, trust, partnership, unincorporated body or other entity, whether or not it comprises a separate legal entity.

## Appendix 7. Constitution of HoldCo *continued*

Constitution of Australasian Foods Holdco Pty Limited

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- (iv) A reference to a rule is a reference to a rule of this Constitution.
- (v) A reference to legislation or to a provision of legislation includes a modification or re-enactment of it, a legislative provision substituted for it and a regulation or statutory instrument issued under it.
- (vi) A word or phrase given a meaning in the Corporations Act has the same meaning in this Constitution unless otherwise defined.

### 3 Written agreements between the shareholders

If there is (at any time) any inconsistency between the provisions of this Constitution, the Shareholders' Deed and the provisions of any other written agreement between the shareholders, the Shareholders' Deed and the written agreement will prevail to the extent of the inconsistency.

### 4 Replaceable Rules

The replaceable rules contained in the Corporations Act do not apply to the company.

### 5 Proprietary Company Provisions

The company is a proprietary company.

## Capital

### 6 Securities

#### 6.1 Issue of Securities

Unless otherwise agreed by the Company and its shareholders:

- (a) subject to the Corporations Act, this Constitution and any special rights conferred on the holders of any Securities, the issue of Securities is under the control of the Board, which may issue and cancel Securities and grant options over unissued Securities, on the terms the Board considers appropriate;
- (b) without affecting any special rights conferred on the holders of any Securities, any Securities may be issued with preferred, deferred or other special rights, obligations or restrictions, whether in regard to dividends, voting, return of share capital, payment of calls or otherwise, as the Board may determine and on any terms the Board considers appropriate; and
- (c) unless otherwise provided by the terms of issue, the issue of any new Securities ranking equally with existing Securities is not a variation of the rights conferred on the holders of the existing Securities.

#### 6.2 Classes of Shares

- (a) There will initially be only Class A shares on issue.
- (b) Class B Shares and Class C Shares may be issued by the company pursuant to the terms of the Shareholders' Deed.

### 7 Recognition of Third Party Interests

Unless otherwise agreed by the Company and its shareholders:

- (a) except as required by law, the company is not bound to recognise a person as holding a Security on any trust.

## Constitution of Australasian Foods Holdco Pty Limited

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- (b) whether or not it has notice of the rights or interests concerned, the company is not bound to recognise:
- (i) any equitable, contingent, future or partial claim to, or interest in, any Security or unit of a Security; or
  - (ii) any other right in respect of a Security,
- except an absolute right of ownership of the Security holder or as otherwise provided by this Constitution or by law.

**8 Surrender of Securities**

In its discretion, the Board may accept a surrender of Securities by way of compromise of any question as to whether or not those Securities have been validly issued or in any other case where the surrender is within the powers of the company. Any Securities surrendered may be sold or re-issued in the same manner as forfeited shares.

**9 Joint Holders**

Where two or more persons are registered as the holders of any Securities, they are considered to hold the Securities as joint tenants with benefits of survivorship, subject to the following provisions:

- (a) the company is not bound to register more than three persons as the holders of the Securities (except in the case of personal representatives of a deceased Security holder);
- (b) the joint holders of the Securities are liable severally as well as jointly in respect of all payments which ought to be made in respect of the Securities;
- (c) on the death of any one of the joint holders, the remaining joint holders are the only persons recognised by the company as having any title to the Securities but the Board may require evidence of death and the estate of the deceased joint holder is not released from any liability in respect of the Securities;
- (d) any one of the joint holders may give a receipt for any Dividend, bonus or return of capital payable to the joint holders in respect of the Securities;
- (e) only the person whose name stands first in the Securities register as one of the joint holders of the Securities is entitled, if the company determines to issue certificates for Securities, to delivery of a certificate relating to the Securities or to receive notices from the company and any notice given to that person is considered notice to all the joint holders; and
- (f) any one of the joint holders may vote at any general meeting of the company in person, or by properly authorised representative, proxy or attorney, in respect of the Securities as if that joint holder was solely entitled to the Securities. If more than one of the joint holders tender a vote in person or by properly authorised representative, proxy or attorney, only the vote of the joint holder whose name appears first in the Securities register counts.

**Certificates for Securities****10 Certificates**

The Board may decide to issue certificates for Securities and to cancel any certificates on issue and to replace lost, destroyed or defaced certificates on issue on the basis and in the form it determines from time to time.

## Appendix 7. Constitution of HoldCo *continued*

Constitution of Australasian Foods Holdco Pty Limited

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### Forfeiture

#### 11 Liability to Forfeiture

- (a) If a shareholder fails to pay when due any sum payable in respect of any shares (including amounts payable on issue, calls, instalments, interest or expenses) the Board may serve a notice on the shareholder requiring payment of the unpaid sum, together with accrued interest and all expenses of the company incurred by reason of the non-payment.
- (b) The notice must:
  - (i) specify:
    - (A) a time by which payment must be made, which must not be earlier than close of business (local time at the registered office of the company) 14 days after the date of service of the notice; and
    - (B) the required manner of payment; and
  - (ii) state that the shares are liable to be forfeited, if payment is not made as required by the notice.

#### 12 Power to Forfeit

If the requirements of a notice with respect to a share under rule 11 are not complied with, then at any time the share may be forfeited by a resolution of the Board to that effect unless, before the resolution the payment required by the notice is paid together with interest (if determined by the Board) at the rate determined by the Board.

#### 13 Consequences of Forfeiture

- (a) A person whose shares have been forfeited:
  - (i) ceases to be a shareholder in respect of the forfeited shares at the time and on the date of the passing of a resolution of the Board approving the forfeiture;
  - (ii) has no claims or demands against the company in respect of those shares including any Dividends;
  - (iii) has no other rights incident to the shares; and
  - (iv) unless otherwise approved by the company in general meeting, remains liable to pay to the company all money that, at the date of forfeiture, was payable by the person to the company in respect of the shares (including, if the Board determines, interest from the date of forfeiture at the rate the Board determines). The Board may enforce the payment of all or any part of the money as it determines.
- (b) If any amounts due in respect of any shares (including amounts payable on issue, calls, instalments, interest or expenses) are unpaid by the shareholder:
  - (i) the shareholder is not entitled to any rights or privileges as a shareholder;
  - (ii) the company is entitled to set off any amount owed by it to the shareholder against the amounts the shareholder owes to it; and
  - (iii) the company may refuse to register a transfer of the shares.
- (c) Nothing in this rule 13 affects any other right or remedy of the company against the shareholder or anyone else.

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#### **14 Notice of Forfeiture**

When any share is forfeited, the company will note it in the share register and notify the affected shareholder. Failure to do so does not invalidate the forfeiture. At any time before any forfeited share is cancelled or reissued, the Board may annul the forfeiture on any conditions it determines.

#### **15 Reissue of Forfeited Shares**

Unless otherwise agreed by the Company and its shareholders:

- (a) subject to applicable law, the Board may reissue the forfeited shares in any manner it determines and, to the extent permitted by law, with or without any money previously paid on the shares being credited as paid up;
- (b) the acquirer of a reissued share is:
  - (i) discharged from liability for any calls which may have been due before the reissue of the forfeited share; and
  - (ii) not bound to see to the application of any money paid as consideration.
- (c) subject to the terms of issue of the forfeited shares, the proceeds from the acquisition of the reissued shares must be applied to pay:
  - (i) first, the company's expenses of the reissue;
  - (ii) then, any expenses necessarily incurred in respect of the forfeiture; and
  - (iii) then, the calls or other sums payable to the company in respect of the forfeited shares that are due and unpaid.

The balance, if any, must be paid to the person whose shares were forfeited.

#### **16 Transfers After Forfeiture and Sale**

- (a) The company may:
  - (i) receive the consideration (if any) given for a forfeited share on any sale or disposition of the share; and
  - (ii) effect a transfer of the share in favour of the person to whom the share is sold or disposed of.
- (b) On the completion of the transfer, the transferee is to be registered as the holder of the share and is not bound to see to the application of any money paid as consideration.

#### **Payments by the Company**

##### **17 Payments by the Company**

- (a) If the law of any place imposes or purports to impose any immediate or future or possible liability on the company to make any payments or empowers any government or taxing authority or government official to require the company to make any payment:
  - (i) in respect of any Securities held either jointly or solely by any holder;
  - (ii) in respect of any transfer of those Securities;
  - (iii) in respect of any interest, Dividends, bonuses or other moneys due or payable or accruing or which may become due or payable to the holder by the company on or in respect of any Securities; or

## Appendix 7. Constitution of HoldCo *continued*

Constitution of Australasian Foods Holdco Pty Limited

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- (iv) for or on account or in respect of any holder of Securities, then rules 17(b) and 17(c) apply, in addition to any right or remedy the company may otherwise have.
- (b) The company is fully indemnified by:
  - (i) the holder;
  - (ii) the holder's trustee, executor or administrator; or
  - (iii) any person who becomes registered as the holder of the Securities on the distribution of the deceased holder's estate.
- (c) The company may recover any moneys paid as described in rule 17(a), which exceeded any Dividend, bonus or other money then due or payable by the company to the holder, together with interest at a rate the Board may determine from time to time from the date of payment to the date of repayment, as a debt due from:
  - (i) the holder;
  - (ii) the holder's trustee, executor or administrator; or
  - (iii) any person who becomes registered as holder of the Securities on the distribution of the deceased holder's estate.
- (d) The Board may:
  - (i) exempt a Security from all or part of this rule 17; and
  - (ii) waive or compromise all or part of any payment due to the company under this rule 17.

### Call on Shares and Interest on Sums Due to the Company

#### 18 Board's Power to Make Calls

- (a) Subject to the terms of issue of any shares, the Board may make calls on the relevant shareholders in respect of any money unpaid on the shares.
- (b) Each shareholder must pay the amount of the call on that shareholder's shares in the manner, by the time or times, and at the place, specified by the Board.
- (c) The Board may revoke or postpone a call.
- (d) A call may be required to be paid by instalments.
- (e) A call is made at the time of or as specified in the resolution of the Board authorising the call.
- (f) The non-receipt of a notice of a call by, or the accidental omission to give notice of a call to, any shareholder does not invalidate the call.
- (g) If the Board thinks fit, the company may receive from any shareholder all or any part of the moneys unpaid on all or any of the shares held by that shareholder beyond the sums actually called up and then due and payable either as a loan repayable or as a payment in advance of calls. The company may pay interest on the moneys advanced at the rate and on the terms agreed by the Board and the shareholder paying the sum in advance.



**19 Interest on Unpaid Amounts**

- (a) If a sum called or otherwise payable to the company in respect of a share is not paid before or on the day for payment, the person from whom the sum is due must pay:
- (i) interest on the sum from the due date to the time of actual payment at the rate determined by the Board; and
  - (ii) any costs and expenses incurred by the company by reason of non-payment or late payment of the sum.
- (b) The Board may waive payment of some or all of the interest, costs and expenses under rule 19(a).

**20 Differentiation between Holders**

The Board may differentiate on the issue of shares between the holders as to the amount of calls to be paid and the times of payment.

**Transfer of Securities****21 Transfers**

Unless otherwise agreed by the Company and its shareholders:

- (a) no transfer of any Securities may be registered unless a proper instrument of transfer, in writing in the usual or common form or in any form the Board may prescribe or in a particular case accept, signed by the transferor and the transferee and properly stamped (if necessary) is delivered to the company (but the Board may dispense with the execution of the instrument by the transferee if the Board thinks fit); and
- (b) the transferor is considered to remain the holder of the Securities transferred until the name of the transferee is entered on the Securities register.

**22 Board may Refuse to Register**

Subject to rule 23, the Board may in its discretion refuse to register any transfer of Securities and may decline to give its reasons and grounds for doing so. The decision of the Board relating to the registration of a transfer is absolute. Where the Board resolves to refuse to register a transfer of Securities, the Board must notify the transferee within two months after the date of lodgement of the transfer with the company. Failure to give notice of refusal to register any transfer as may be required under the Corporations Act does not invalidate the decision of the Board.

**23 Board must Register Certain Transfers**

Despite any other provision of this Constitution, the Board must register a transfer of Securities in accordance with this Constitution where the transferor or the transferee is a person entitled to the benefit of any mortgage or charge granted in respect of those Securities or any receiver, receiver and manager, agent or attorney appointed or purported to be appointed under that mortgage or charge, or any person who has purchased those Securities as a result of the exercise of a person's rights under that mortgage or charge.

**24 Transfer and Certificate**

- (a) Every transfer must be left for registration at the registered office of the company or any other place the Board determines. Without limiting rule 24(b), the transfer is to be accompanied by such evidence that the Board may require to prove the title of the

## Appendix 7. Constitution of HoldCo *continued*

Constitution of Australasian Foods Holdco Pty Limited

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transferor, the transferor's right to transfer the Securities, execution of the transfer or compliance with the provisions of any applicable laws.

- (b) Unless the Board otherwise determines either generally or in a particular case, each application to register the transfer of any Securities, or to register any person as the holder in respect of any Securities transmitted to that person by operation of law or otherwise, is to be accompanied by the certificate for the relevant Securities. The certificate is considered to have been cancelled on such registration.
- (c) Each transfer that is registered may be retained by the company for any period determined by the Board, after which the company may destroy it.
- (d) Without limiting any other entitlement the company may have to charge fees, the company may charge a reasonable fee in relation to any transfer of Securities or the issue of any certificates for Securities.

### 25 Suspension of Transfers

The registration of transfers of Securities of the company may be suspended at any time and for any period as the Board may from time to time decide. The aggregate of those periods must not exceed 30 days in any calendar year.

### Transmission of Securities

#### 26 Transmission on Death

- (a) Where a Security holder dies:
  - (i) the legal personal representatives of the deceased, where the Security holder was a sole holder or a joint holder holding as a tenant in common; and
  - (ii) the survivor or survivors, where the Security holder was a joint holder,
 are the only persons recognised by the company as having any title to the Security holder's interest in the Securities (as the case may be).
- (b) Subject to the Corporations Act, the Board may require evidence of a Security holder's death as it determines.
- (c) This rule 26 does not release the estate of a deceased joint holder from any liability in respect of any Security that had been jointly held by the holder with other persons.

#### 27 Transmission by Operation of Law

A person (a **transmittee**) who establishes to the satisfaction of the Board that the right to any Securities has devolved on the transmittee by will or by operation of law may be registered as a holder in respect of the Securities or may (subject to the provisions in this Constitution relating to transfers) transfer the Securities. The Board has the same right to refuse to register the transmittee as if the transmittee was the transferee named in a transfer presented for registration.

### Alteration of Capital

#### 28 Power to Alter Share Capital

Unless otherwise agreed by the Company and its shareholders:

- (a) the company may reduce or alter its share capital in any manner provided for by the Corporations Act; and

Constitution of Australasian Foods Holdco Pty Limited

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- (b) the Board may do anything that is required to give effect to any resolution authorising reduction or alteration of the share capital of the company and, without limitation, may make provision for the issue of fractional certificates or the sale of fractions of shares and the distribution of net proceeds as it thinks fit.

### General Meetings

#### 29 General Meetings

- (a) A Director may convene a general meeting of the company whenever the Director thinks fit.
- (b) Any Director may cancel or postpone any meeting convened by that Director by notice in writing to all persons who were entitled to receive notice of that meeting, except where the cancellation or postponement would be contrary to the Corporations Act. Any failure to give notice of cancellation or postponement does not invalidate the cancellation or postponement or any resolution passed at a postponed general meeting.

#### 30 Notice of General Meetings

- (a) Where the Board has called a general meeting, notice of the meeting may be given in the form and manner in which the Board determines, subject to the Corporations Act.
- (b) The non-receipt of a notice convening a general meeting by, or the accidental omission to give notice to, any person entitled to receive notice does not invalidate the proceedings at or any resolution passed at the meeting.

#### 31 Business of General Meetings

No person may move at any general meeting either any resolution (except in the form set out in the notice of meeting) or any amendment of any resolution, except with the approval of the Board, with the permission of the chair of the meeting or under the Corporations Act.

#### 32 Quorum for General Meetings

Unless otherwise agreed by the Company and its shareholders:

- (a) no business may be transacted at any general meeting except, subject to rule 33, the election of a chair of the meeting unless a quorum of shareholders is present at the time when the meeting proceeds to business.
- (b) except as otherwise provided in this Constitution, two Shareholders Present constitutes a quorum.
- (c) if there is not a quorum at a general meeting within 30 minutes after the time specified in the notice of the meeting, the meeting is dissolved unless the chair of the meeting or the Board adjourns the meeting to a date, time and place determined by that chair or the Board. If no quorum is present at any adjourned meeting within 30 minutes after the time for the meeting, the meeting is dissolved.

#### 33 Conduct of General Meetings

- (a) Subject to rule 33(b), the chair of the Board is entitled to preside as chair at every general meeting.
- (b) Where a general meeting is held and:
  - (i) there is no chair of the Board; or

## Appendix 7. Constitution of HoldCo *continued*

Constitution of Australasian Foods Holdco Pty Limited

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- (ii) the chair of the Board is not able to be present at the meeting or is not present within 15 minutes after the time appointed for the meeting, or despite being so present is unable or unwilling to act as chair of the meeting,  
the deputy chair of the Board is entitled to chair the meeting or, if the circumstances in rule 33(b)(i) or 33(b)(ii) apply to the deputy chair of the Board, the Directors present may choose one of their number or, in the absence of all Directors or if none of the Directors present wish to act, the Shareholders Present may elect one of their number to be chair of the meeting.
- (c) The general conduct of each general meeting of the company and the procedures to be adopted at the meeting are as determined at, during or prior to the meeting by the chair of the meeting.
- (d) The chair of a general meeting of the company may make rulings without putting the question (or any question) to a vote if that chair considers action is required to ensure the orderly conduct of the meeting.
- (e) The chair of a general meeting of the company may require the adoption of any procedures that are in that chair's opinion necessary or desirable for the proper and orderly casting or recording of votes at the meeting, whether on a show of hands or on a poll.
- (f) If at any time the chair of a general meeting of the company considers it necessary or desirable for the proper and orderly conduct of the meeting, that chair may demand the cessation of debate or discussion on any business, question, motion or resolution being considered by the meeting and require the business, question, motion or resolution to be put to a vote of the Shareholders Present.
- (g) Any determination by the chair of a general meeting in relation to matters of procedure (including any procedural motions moved at, or put to, the meeting) or any other matter arising directly or indirectly from the business is final (including any procedural motions moved at, or put to, the meeting). Any challenge to a right to vote (whether on a show of hands or on a poll) or to a determination to allow or disregard a vote may only be made at the meeting and may be determined by the chair of the meeting whose decision is final.
- (h) If a person purports to cast a vote at a general meeting in contravention of the Corporations Act, the chair of the meeting may determine that the vote be disregarded and treated as not having been cast.
- (i) Nothing contained in this rule 33 limits the powers conferred on a chair of a general meeting by law.

### 34 Acting Chair

- (a) If during any general meeting the chair of the meeting acting under rule 33 is unwilling to chair any part of the proceedings, that chair may withdraw during the relevant part of the proceedings and may nominate any person who immediately before the general meeting was a Director or who has been nominated for election as a Director at the meeting to be acting chair of the meeting during the relevant part of the proceedings. On the conclusion of the relevant part of the proceedings the acting chair of the meeting is to withdraw and the chair of the meeting acting under rule 33 is to resume to chair the meeting.
- (b) Where an instrument of proxy appoints the chair of a general meeting as proxy for the part of the proceedings for which an acting chair of the meeting has been nominated, the instrument of proxy is taken to be in favour of that acting chair for the relevant part of the proceedings.

**35 Adjournment of General Meetings**

- (a) During the course of a general meeting the chair of the meeting may adjourn the meeting or any business, motion, question or resolution being considered or remaining to be considered by the meeting or any debate or discussion, either to a later time at the same meeting or to an adjourned meeting to be held at the time and place determined by that chair.
- (b) If the chair of a general meeting exercises a right of adjournment of the meeting under this rule 35, that chair has the sole discretion to decide whether to seek the approval of the Shareholders Present to the adjournment and, unless that chair exercises that discretion, no vote may be taken by the Shareholders Present in respect of the adjournment.
- (c) No business may be transacted at any adjourned general meeting other than the business left unfinished at the meeting from which the adjournment took place.

**36 Voting at General Meetings**

Unless otherwise agreed by the Company and its shareholders:

- (a) subject to the requirements of the Corporations Act, any question submitted to a general meeting is to be decided by a simple majority of votes validly cast on the question at the meeting;
- (b) subject to the requirements of the Corporations Act, any question submitted to a general meeting is to be decided in the first instance by a show of hands of the Shareholders Present and entitled to vote, unless a poll is demanded;
- (c) unless a poll is demanded, a declaration by the chair of a general meeting following a vote on a show of hands at the meeting that a resolution has been passed or lost is conclusive, without proof of the number or proportion of the votes recorded in favour of or against the resolution;
- (d) at any general meeting, a poll may be demanded by a shareholder in accordance with the Corporations Act (and not otherwise) or by the chair of the meeting. No poll may be demanded on the election of a chair of the meeting or, unless that chair otherwise determines, the adjournment of the meeting. A demand for a poll may be withdrawn.

**37 Special Meetings**

All the provisions of this Constitution as to general meetings apply to any special meeting of any class of shareholders that may be held under the operation of this Constitution or the Corporations Act.

**38 Procedure for Polls**

- (a) When demanded at a general meeting, a poll may be taken in the manner and at the time that the chair of the meeting directs.
- (b) The result of a poll may be announced in the manner and at the time (whether during the relevant meeting or afterwards) that the chair of the meeting considers appropriate.
- (c) The result of a poll is the resolution of the meeting at which the poll was demanded.
- (d) The demand for a poll does not prevent a meeting from continuing for the transaction of any business other than that on which a poll has been demanded. Subject to rules 35 and 36(d), a poll demanded on any question of adjournment is to be taken at the meeting and without adjournment.

## Appendix 7. Constitution of HoldCo *continued*

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### 39 Chair has Casting Vote

In the case of an equality of votes on a show of hands or on a poll at a general meeting of the company, the chair of the meeting has a casting vote in addition to any vote to which that chair may be entitled as a shareholder or as a proxy, attorney or properly appointed representative of a shareholder.

### 40 Representation and Voting of Shareholders

Unless otherwise agreed by the Company and its shareholders, subject to this Constitution and any rights or restrictions for the time being attached to any class or classes of shares:

- (a) at meetings of shareholders or a class of shareholders each shareholder entitled to attend and vote may:
  - (i) attend and vote in person; or
  - (ii) be represented and vote by proxy, by attorney or (where the shareholder is a body corporate) by representative;
- (b) a shareholder may only vote by one of the permitted methods in rule 40(a) in respect of a share although, without limiting rule 44(b), a shareholder may attend and participate in a meeting even though the shareholder has previously appointed a proxy or attorney in respect of that meeting;
- (c) on a show of hands in respect of a resolution:
  - (i) subject to rules 40(c)(ii) and 40(c)(iii), each Shareholder Present has one vote;
  - (ii) where a shareholder has appointed more than one person as representative, proxy or attorney for the shareholder, none of the representatives, proxies or attorneys is entitled to vote; and
  - (iii) where a person is entitled to vote because of rule 40(c)(i) in more than one capacity, that person is entitled only to one vote; and
- (d) on a poll in respect of a resolution, subject to rule 40(b), only Shareholders Present may vote and every Shareholder Present having the right to vote on the resolution has:
  - (i) one vote for each fully paid share they hold; and
  - (ii) in the case of a partly paid share, that fraction of a vote equivalent to the proportion that the amount paid up on that shareholder's share bears to the total amount paid and payable for that share. Amounts paid in advance of a call are ignored when calculating the proportion.

### 41 Restriction on Voting Rights

A shareholder is not entitled to attend or vote at a general meeting or to be counted for the purpose of constituting a quorum unless all calls and other sums presently payable by the shareholder in respect of shares have been paid.

### 42 Form of Proxy

- (a) A shareholder who is entitled to attend and vote at a meeting of the company may appoint a person as a proxy to attend and vote for the shareholder in accordance with the Corporations Act but not otherwise. A proxy appointed in accordance with the Corporations Act to attend and vote may exercise the rights of the shareholder on the basis and subject to the restrictions provided in the Corporations Act but not otherwise.

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- (b) An appointment of a proxy is valid if it is in accordance with the Corporations Act or in any form (including electronic) that the Board may prescribe or accept.
- (c) If a proxy appointment is not properly executed or validated, incomplete or unclear, the following provisions apply. Nothing obliges the Board or the company to do anything referred to in those provisions.
  - (i) If the name of the proxy is not included, the name of any Director or Secretary may be inserted by the Secretary on the authority of the Board (which may occur later than the time specified in the relevant notice of meeting for the receipt of proxy appointments).
  - (ii) If the appointment has not been duly signed or validated, the company may:
    - (A) return the appointment to the appointing shareholder; and
    - (B) request that the shareholder sign or validate the appointment and return it to the company within a period decided by the Board (which may be later than the time specified in the relevant notice of meeting for the receipt of proxy appointments).
  - (iii) If the appointment is otherwise incomplete or unclear, the company may, by written or oral communication, clarify with a shareholder any instruction on the appointment and complete or amend the contents of any appointment to reflect any clarification in instruction received from the shareholder (which completion or amendment may occur later than the time specified in the relevant notice of meeting for the receipt of proxy appointments). For this purpose, the shareholder appoints the company as its attorney.
- (d) Where a notice of meeting provides for electronic lodgement of proxy appointments, an appointment lodged at the electronic address or by the electronic means specified in the notice is taken to have been received at the registered office of the company and validated by the shareholder if there is compliance with the requirements set out in the notice.

**43 Number of Proxies**

- (a) A shareholder may appoint not more than two proxies. A proxy need not be a shareholder.
- (b) If a shareholder appoints two proxies and the appointment does not specify the proportion or number of the shareholder's votes each proxy may exercise, each proxy may exercise half of the votes.
- (c) If a shareholder appoints two proxies, neither proxy is entitled to vote on a show of hands. Otherwise, a proxy is entitled to vote on a show of hands.

**44 Validity of Proxies, Attorneys and Representatives**

- (a) A vote exercised in accordance with the terms of a proxy appointment, a power of attorney or other relevant instrument of appointment is valid despite:
  - (i) the previous death or unsoundness of mind of the principal;
  - (ii) the revocation of the appointment, power or instrument (or of the authority under which it was made or given); or
  - (iii) the transfer of the share in respect of which the appointment, power or instrument is made or given,

## Appendix 7. Constitution of HoldCo *continued*

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if no notice in writing of the death, unsoundness of mind, revocation or transfer (as the case may be) has been received by the company at its registered office before the commencement of the meeting or adjourned meeting at which the instrument is used or the power is exercised.

- (b) A proxy appointment or power of attorney (subject to its terms) is not revoked by the principal attending and taking part in the relevant meeting unless the principal actually votes at the meeting on a resolution for which the proxy appointment or power of attorney is proposed to be used.
- (c) Voting instructions given by a shareholder to a Director or employee of the company who is appointed as proxy (**Company Proxy**) are valid only if contained in the form of appointment of the Company Proxy. If a shareholder wishes to give a Company Proxy appointed by the shareholder new instructions or variations to earlier instructions, the new or varied instructions are only valid if either they are received at the registered office of the company before the meeting or adjourned meeting by a notice in writing signed by the shareholder or they are otherwise validated by the shareholder in a manner acceptable to the Board in its discretion prior to the commencement of the meeting.

### Appointment, Removal and Remuneration of Directors

#### 45 Number of Directors

- (a) All Directors are to be natural persons.
- (b) Unless otherwise agreed by the Company and its shareholders, the number of Directors (not including alternate Directors) must not be less than one.

#### 46 Appointment and Removal of Directors

- (a) The first Director or Directors of the company are the persons specified in the application to register the company lodged under the Corporations Act and who have consented to become Directors of the company.
- (b) Unless otherwise agreed by the Company and its shareholders, the holder or holders of a majority of the issued shares in the capital of the company conferring the right to vote at all general meetings of the company may:
  - (i) appoint any person as a Director either to fill a casual vacancy or as an addition to the Board; and
  - (ii) remove a Director from office.
- (c) Unless otherwise agreed by the Company and its shareholders, the Board (or, where there is only one Director in office at the relevant time, that Director) may at any time appoint any person as a Director either to fill a casual vacancy or as an addition to the Board.
- (d) Unless otherwise agreed by the Company and its shareholders, any appointment or removal of a Director by the shareholders must be in writing signed by or on behalf of the holder or holders of a majority of the issued shares in the capital of the company conferring the right to vote at all general meetings of the company. Any such appointment or removal takes effect immediately on delivery of the instrument of appointment or removal to the registered office of the company.

#### 47 Remuneration of Directors

- (a) The Directors may be paid for their services as Directors.



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- (b) Any remuneration for services to be paid under rule 47(a) is to be paid out of the funds of the company. Each Director may be paid a sum per annum (accruing from day to day) determined by the company in general meeting or approved by the shareholders unanimously. The Board may determine to suspend, reduce or postpone payment of any remuneration if it thinks fit. The expression **remuneration** in this rule does not include any amount that may be paid by the company under any of rules 47(e), 47(f), 49 and 76.
- (c) A Director who is remunerated as an executive Director must not be paid fees under rule 47(a).
- (d) The remuneration to which a Director is entitled may be provided to a Director in cash or in any other form as is agreed between the company and the Director. A Director may elect to forgo some or all of the Director's entitlement to cash remuneration in favour of another agreed form of remuneration and vice versa, provided the total cost to the company of that Director's remuneration is not increased above the maximum amount for that Director under rule 47(b).
- (e) The Directors are also entitled to be paid or reimbursed for all travelling and other expenses properly incurred by them in attending and returning from any meeting of the Board or of a committee of the Board or any general meeting of the company, or otherwise in connection with the business or affairs of the company.
- (f) If any Director, with the approval of the Board, performs extra services or makes any special exertions for the benefit of the company, the Board may approve the payment to that Director of special and additional remuneration as the Board determines having regard to the value to the company of the extra services or special exertions. Any special or additional remuneration must not include a commission on or percentage of profits or operating revenue or turnover.
- (g) Unless otherwise agreed by the Company and its shareholders, an executive Director may be appointed on terms as to remuneration, tenure of office and otherwise as may be determined by the Board.
- (h) Subject to the Corporations Act, a Director may be engaged by the company in any other capacity (other than auditor) and may be appointed on such terms as to remuneration, tenure of office and otherwise as may be determined by the Board.

**48 Vacation of Office of Director**

- (a) In addition to the circumstances in which the office of a Director becomes vacant:
  - (i) under the Corporations Act; and
  - (ii) under rule 46(b)(ii),
 the office of a Director becomes vacant if the Director:
  - (iii) becomes of unsound mind or a person whose person or estate is liable to be dealt with in any way under the law relating to mental health;
  - (iv) resigns by notice in writing to the company;
  - (v) is absent without the consent of the Board from meetings of the Board held during a continuous period of six months; or
  - (vi) dies.
- (b) The office of a Director who is an employee of the company or any of its subsidiaries is terminated on the Director ceasing to be employed but the person concerned is eligible for reappointment or re-election as a Director.

## Appendix 7. Constitution of HoldCo *continued*

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### 49 Retirement Allowance for Directors

- (a) Subject to the Corporations Act, the company may pay, provide or make any payment, pension, retiring allowance or other benefit (whether in the form of Securities, securities in any other corporation or otherwise) to any Director or a director of a subsidiary or any other person in connection with the Director's retirement, resignation from or loss of office or death while in office.
- (b) Subject to rule 49(a) the Board may:
  - (i) make contracts or arrangements with a Director or a person about to become a Director or a director of a subsidiary under which the Director or any person nominated by the Director is paid or provided with a payment, pension, retiring allowance or other benefit (whether in the form of Securities, securities in any other corporation or otherwise) on or after the Director or person about to become a Director or a director of a subsidiary ceases to hold office for any reason; and
  - (ii) establish any fund or scheme to provide payments, pensions, retiring allowances or other benefits (whether in the form of Securities, securities in any other corporation or otherwise) for:
    - (A) Directors or directors of any subsidiary, on them ceasing to hold office; or
    - (B) any person including a person nominated by the Director or a director of a subsidiary, in the event of the Director's or director's death while in office,
 and from time to time pay to the fund or scheme any sum as the company considers necessary to provide those benefits.
- (c) Without limiting rules 49(a) and 49(b), the company may pay superannuation contributions for each Director to the extent necessary for the avoidance or minimisation of any penalty, charge, tax, or other impost on the company under any applicable legislation which imposes a penalty, charge, tax or other impost on employers if a minimum level of superannuation contributions is not paid for an employee (within the meaning of the legislation).

### 50 Directors May Lend to the Company

Any Director may lend money to the company at interest with or without security or may, for a commission or profit, guarantee the repayment of any money borrowed by the company or underwrite or guarantee the subscription of Securities or securities of any corporation in which the company may be interested without being disqualified in respect of the office of Director and without being liable to account to the company for the commission or profit.

### 51 Exercise of Voting Power in Other Corporations

The Board may exercise the voting power conferred by the shares in any corporation held or owned by the company as the Board determines (including the exercise of the voting power in favour of any resolution appointing the Directors or any of them directors of that corporation or voting or providing for the payment of remuneration to the directors of that corporation) and a Director may vote in favour of the exercise of those voting rights, despite the fact that the Director is, or may be about to be appointed, a director of that other corporation and may be interested in the exercise of those voting rights.

**52 Alternate Directors**

Subject to this Constitution, each Director may appoint any person (who, if there are other Directors, is approved by a majority of the other Directors) to act as an alternate Director in the Director's place, either for a stated period or until the happening of a specified event, whenever by absence or illness or otherwise the Director is unable to attend to duties as a Director. The appointment must be in writing and signed by the Director and a copy of the appointment must be given to the registered office of the company or to a meeting of the Board. The appointment takes effect on (if there are other Directors) approval by a majority of the other Directors or, where the approval has been granted, at any later time specified in the appointment. The following provisions apply to any alternate Director:

- (a) the appointment of the alternate Director is terminated or suspended on receipt at the registered office of the company of notice in writing signed by the Director by whom the alternate Director was appointed;
- (b) the alternate Director is entitled to receive notice of meetings of the Board and to attend and vote at the meetings if the Director by whom the alternate Director was appointed is not present;
- (c) the alternate Director is entitled to exercise all the powers (except the power to appoint an alternate Director) and perform all the duties of a Director, to the extent the Director by whom the alternate Director was appointed has not exercised or performed them or they have not been limited by the instrument appointing the alternate Director;
- (d) the alternate Director is not, unless the Board otherwise determines, (without affecting the right to reimbursement for expenses under rule 47(e)) entitled to receive any remuneration as a Director from the company, and any remuneration (not including remuneration authorised by the Board or reimbursement for expenses) paid to the alternate Director as a Director by the company is to be deducted from the remuneration of the Director by whom the alternate Director was appointed;
- (e) unless previously terminated, the office of the alternate Director is terminated on the death of, or termination of office by, the Director by whom the alternate Director was appointed;
- (f) the alternate Director is not to be taken into account in determining the number of Directors; and
- (g) the alternate Director is, while acting as a Director, responsible to the company for the alternate Director's own acts and defaults and is not the agent of the Director by whom the alternate Director was appointed.

**Managing Director and Powers of the Board****53 Appointment of a Managing Director**

- (a) The Board may appoint one or more Directors to the office of Managing Director for the period and on the terms as it determines. Subject to the terms of any agreement entered into in a particular case, the Board may at any time revoke any such appointment, with or without cause.
- (b) If a person appointed as a Managing Director under this rule 53 ceases to be a Director, then the appointment automatically terminates, subject to any contrary determination by the Board.

## Appendix 7. Constitution of HoldCo *continued*

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### 54 Powers of the Board and Managing Director

- (a) The business of the company is managed by the Board, which may exercise all powers of the company that are not, by the law or this Constitution, required to be exercised by the company in general meeting.
- (b) The Board may, on the terms and conditions and with any restrictions as it determines, delegate to a Managing Director any of the powers exercisable by it and may at any time withdraw, suspend or vary any of those powers conferred on the Managing Director.

### Proceedings of the Board

#### 55 Proceedings of the Board

- (a) The Board may meet together for the dispatch of business and adjourn and otherwise regulate its meetings as it determines.
- (b) Until otherwise determined by the Board, two Directors form a quorum.
- (c) A Board meeting may be called by a Director giving reasonable notice to every other Director.
- (d) Notice of a meeting of the Board may be given by mail (electronic or otherwise), personal delivery, facsimile transmission or other electronic means to the usual place of business or residence of the Director or at any other address given to a Secretary by the Director or by any technology agreed by all the Directors.

#### 56 Meetings of the Board by Technology

- (a) For the purposes of the Corporations Act, each Director, by consenting to be a Director (or by reason of the adoption of this Constitution), consents to the use of each of the following technologies for holding a Board meeting:
  - (i) video;
  - (ii) telephone;
  - (iii) any other technology that permits each Director to communicate with every other Director; or
  - (iv) any combination of these technologies.

A Director may withdraw the consent given under this rule in accordance with the Corporations Act.
- (b) Where the Directors are not all in attendance at one place and are holding a meeting using technology and each Director can communicate with the other Directors:
  - (i) the participating Directors are, for the purpose of every provision of this Constitution concerning meetings of the Board, taken to be assembled together at a meeting and to be present at that meeting; and
  - (ii) all proceedings of the Board conducted in that manner are as valid and effective as if conducted at a meeting at which all of the participating Directors were physically present in the one location.

#### 57 Chair of the Board

- (a) Unless otherwise agreed by the Company and its shareholders, the Board may elect one of their number as chair of the Board and another as deputy chair of the Board and

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may decide the period for which that chair and that deputy chair are to hold office as chair and deputy chair, respectively.

- (b) Where a meeting of the Board is held and:
- (i) a chair of the Board has not been elected as provided by rule 57(a); or
  - (ii) the chair of the Board is not able to be present at the meeting or is not present within 15 minutes after the time appointed for the meeting, or despite being so present is unable or unwilling to chair the meeting,

the deputy chair of the Board is entitled to chair the meeting or, if the circumstances in rule 57(b)(i) or 57(b)(ii) apply to the deputy chair of the Board, the Directors present may elect one of their number to chair the meeting.

**58 Directors' Voting Rights and Exercise of Powers**

- (a) Without limiting rule 61, a meeting of the Board of which notice has been given to all Directors and at which a quorum is present, is competent to exercise any of the authorities, powers and discretions for the time being vested in or exercisable by the Board. Nothing in this rule 58(a) limits the exercise of any authority, power or discretion of the Board which has been delegated by the Board in accordance with law or this Constitution.
- (b) Unless otherwise agreed by the Company and its shareholders, subject to this Constitution, questions arising at a meeting of the Board are decided (where there is more than one Director) by a majority of votes of Directors present and voting.
- (c) In the case of an equality of votes at a meeting of the Board, the chair of the meeting does not have a casting vote in addition to that chair's deliberative vote.
- (d) Unless otherwise agreed by the Company and its shareholders, subject to rule 59 and the Corporations Act, a Director:
  - (i) who has an interest in a matter may vote in respect of that matter if it comes before the Board and be counted as part of the quorum;
  - (ii) may enter into contracts with, or otherwise have dealings with, the company;
  - (iii) may hold any other office or place of profit in the company, except as auditor; and
  - (iv) may hold any other office or place of profit in any other company, body corporate, trust or entity promoted by the company or in which the company has an interest of any kind.
- (e) A Director is not disqualified from the Director's office by contracting with the company or any related body corporate of the company in any capacity by reason of holding the office of Director.
- (f) A Director is not liable to account to the company for any profit realised by any contract, dealings, office or place of profit contemplated by rule 58(d), by reason only of holding the office of Director or of the fiduciary relationship established by the office of Director.
- (g) Subject to the Corporations Act, a Director or any person who is an associate of a Director may participate in any issue by the company of financial products.
- (h) Despite having an interest in any contract or arrangement a Director may participate in the execution of any document evidencing or connected with the contract or arrangement, whether by signing, sealing or otherwise.

## Appendix 7. Constitution of HoldCo *continued*

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### 59 Material Personal Interests of Directors

- (a) In relation to a contract or arrangement in which a Director has a material personal interest:
  - (i) the fact that the Director signed the document evidencing the contract or arrangement will not in any way affect its validity;
  - (ii) a contract or arrangement made by the company or any related body corporate with a Director may not be avoided merely because the Director is a party to the contract or arrangement or otherwise interested in it; and
  - (iii) the Director will not be liable to account to the company for any profit derived in respect of the contract or arrangement merely because of the Director's office or the fiduciary relationship it entails.
- (b) If a Director has a material personal interest in a matter that relates to the affairs of the company and that interest has been disclosed in accordance with the Corporations Act or is of a type that does not require disclosure:
  - (i) the Director may vote on matters that relate to the interest;
  - (ii) any transactions that relate to the interest may proceed;
  - (iii) the Director can retain benefits from the transaction even though the Director has the interest; and
  - (iv) the company cannot avoid the transaction merely because of the existence of the interest.
- (c) If the material personal interest of a Director requires disclosure in accordance with the Corporations Act, rule 59(b)(iii) and rule 59(b)(iv) only apply if the disclosure is made before the transaction is entered into.
- (d) Nothing in this rule 59 affects the duty of a Director:
  - (i) who holds any office or possesses any property whereby, directly or indirectly, duties or interests might be created in conflict with the Director's duties or interests as a Director, to declare at a meeting of the Board, the fact and the nature, character and extent of the conflict; or
  - (ii) to comply with the Corporations Act.
- (e) Rules 59(c) and 59(d) do not apply to a Director who is a sole Director.

### 60 Committees of the Board

- (a) The Board may delegate any of its powers to committees consisting of any one or more Directors or any other person or persons as the Board thinks fit. In the exercise of delegated powers, any committee formed or person or persons appointed to the committee must conform to any regulations that may be imposed by the Board. A delegate of the Board may be authorised to sub-delegate any of the powers for the time being vested in the delegate.
- (b) The meetings and proceedings of any committee are to be governed by the provisions of this Constitution for regulating the meetings and proceedings of the Board so far as they are applicable and are not in conflict with or superseded by any regulations made by the Board under rule 60(a).
- (c) Nothing in this rule 60 limits the power of the Board to delegate.

**61 Written Resolutions of Directors**

- (a) Unless otherwise agreed by the company and its shareholders, the Board may pass a resolution without a Board meeting being held if all Directors, or a majority of the Directors (where notice of the resolution has been given to all Directors), who are entitled to vote on the resolution (not being less than the number required for a quorum at a meeting of the Board) assent to a document containing a statement that they are in favour of the resolution set out in the document.
- (b) Unless otherwise agreed by the company and its shareholders, a Director may signify assent to a document under this rule 61 by signing the document or by notifying a Secretary of the assent of the Director by any technology including fax or email. The resolution is passed when the last Director, or the last of the Directors constituting a majority (as applicable), has assented to the document.
- (c) Separate copies of a document may be used for signing by the Directors if the wording of the resolution and statement is identical in each copy.
- (d) Where a Director signifies assent to a document under rule 61(b) other than by signing the document, the Director must by way of confirmation sign the document before or at the next meeting of the Board attended by that Director. The resolution the subject of a document is not invalid if a Director does not comply with this requirement.
- (e) For the purpose of this rule 61, the references to Directors include any alternate Director appointed by a Director who is not available to assent to the document or is otherwise unable to assent to the document within a reasonable time, but do not include any other alternate Directors.

**62 Single Director Decisions**

- (a) Where the Board consists of one person only, nothing in this Constitution limits the powers of that person under the Corporations Act to:
  - (i) pass a resolution; or
  - (ii) make a declaration,by recording it and signing the record.
- (b) Where the Board or a committee consists of one person only, a document signed by that person that records a decision of the person:
  - (i) constitutes a decision of the Board or committee as the case may be, and is valid and effective as if it were a decision made at a meeting of the Board or the committee; and
  - (ii) has effect as a minute of that decision.

**63 Defects in Appointments of Directors**

- (a) All actions at any meeting of the Board or by a committee or by any person acting as a Director are, despite the fact that it is afterwards discovered that there was some defect in the appointment of any of the Directors or the committee or the person acting as a Director or that any of them were disqualified, as valid as if every person had been properly appointed and was qualified and continued to be a Director or a member of the committee.
- (b) If the number of Directors is reduced below the minimum number fixed under this Constitution, the continuing Directors (if any) may act for the purpose of increasing the

## Appendix 7. Constitution of HoldCo *continued*

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number of Directors to that number or of calling a general meeting of the company but for no other purpose.

### Secretaries and Other Officers

#### 64 Secretaries

- (a) A Secretary of the company holds office on the terms and conditions as to remuneration and otherwise, as the Board decides.
- (b) The Board may at any time terminate the appointment of a Secretary.
- (c) Where the company has one Director only and that Director is also the Secretary, the shareholders may terminate the appointment of the Secretary.

#### 65 Other Officers

- (a) The Board may from time to time:
  - (i) create any other position or positions in the company with the powers and responsibilities as the Board may from time to time confer; and
  - (ii) appoint any person, whether or not a Director, to any position or positions created under rule 65(a)(i).
- (b) The Board may at any time terminate the appointment of a person holding a position created under rule 65(a)(i) and may abolish the position.

### Seals

#### 66 Seals and their Use

- (a) The company may have a common seal and a duplicate common seal. If the company has any such seal:
  - (i) it may only be used with the authority of the Board; and
  - (ii) every document to which it is affixed must be signed by a Director and be countersigned by another Director, a Secretary or another person appointed by the Board to countersign that document or a class of documents in which that document is included.
- (b) If the company has a sole Director and no Secretary, a document is taken to be duly executed by the company if it is signed by that Director.

### Dividends, Interest and Reserves

#### 67 Reserves

The Board may, before paying any Dividend to shareholders:

- (a) set aside any sums as it thinks proper as a reserve, which at the discretion of the Board may be applied for any purpose it decides, including being used in the business of the company or invested in investments selected by the Board (and the Board may vary and deal with those investments as it decides); or
- (b) carry forward any amount which the Board decides not to distribute or to transfer to a reserve; or
- (c) carry out the steps in both rules 67(a) and 67(b).



**68 Power to Declare or Determine Dividends and Pay Interest**

- (a) Subject to any special rights or restrictions attached to any shares, the Board may from time to time declare or determine that a Dividend is payable.
- (b) The Board may fix the amount, the time for payment and the method of payment of a Dividend. The method of payment may include the payment of cash, the issue of Securities, the grant of options and the transfer of assets, including securities in another corporation (or any combination of them).
- (c) No Dividend bears interest against the company.

**69 Crediting of Dividends**

- (a) Subject to any special rights or restrictions attached to any shares, every Dividend on a share in the company is to be paid as follows, unless otherwise determined by the Board:
  - (i) if the share to which a particular Dividend relates is fully paid and was fully paid during the whole period in respect of which the Dividend is to be paid, that Dividend is equal to the Dividend paid on each other share which was fully paid during the whole period in respect of which the Dividend is to be paid; and
  - (ii) if the share to which a particular Dividend relates is partly paid, or is fully paid but was not fully paid during the whole of the period in respect of which the Dividend is to be paid, that Dividend is apportioned, and paid proportionately to the amounts paid (not credited) on the share in respect of which the Dividend is to be paid with respect to the issue price of the share (excluding amounts credited) during any part or parts of the period in respect of which the Dividend is to be paid.
- (b) An amount paid on a share in advance of a call is not taken for the purposes of rule 69(a)(ii) to be paid on the share.
- (c) Subject to any special rights or restrictions attached to any shares, the Board may from time to time resolve that Dividends are to be paid out of a particular source or particular sources, and in those circumstances the Board may in its absolute discretion:
  - (i) allow each or any shareholder to elect from which specified sources that particular shareholder's Dividend may be paid by the company; and
  - (ii) where elections are permitted and any shareholder fails to make an election, identify the particular source from which Dividends are payable.

**70 Deduction of Unpaid Amounts**

The Board may apply any part of any Dividend otherwise payable to a shareholder towards satisfaction of all sums of money presently payable by the shareholder to the company on account of calls or otherwise in relation to shares in the company.

**71 Distributions in Kind**

If the Board has declared or determined to pay a Dividend or if the company is to reduce its capital in accordance with rule 28, wholly or partly by the distribution of specific assets (including by the issue of Securities or other financial products or by the transfer of securities or financial products), the Board may do one or more of the following:

- (a) if a difficulty arises in regard to that distribution, settle the matter as it determines and fix the value for distribution of the specific assets or any part of those assets;

## Appendix 7. Constitution of HoldCo *continued*

### Constitution of Australasian Foods Holdco Pty Limited

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- (b) decide that cash payments may be made, and make the payments to any shareholders on the basis of the value fixed by the Board in order to appropriately adjust the rights of all shareholders as the Board determines in its discretion;
- (c) vest any specific assets in trustees;
- (d) sell or cause to be sold any specific assets distributed (or which, save for the operation of this rule 71, would otherwise have been distributed) to any shareholders (or group of shareholders) determined by the Board in any way and on such terms as the Board determines in its discretion, including by transferring the assets to a nominee or agent determined by the Board to sell those assets on behalf of such shareholders, and distributing to such shareholders their proportion of the net proceeds of that sale (as determined by the Board);
- (e) authorise any person to make, on behalf of all the shareholders entitled to any securities or financial products, an agreement with the company (or other relevant body corporate) providing for the issue or transfer to them of any further securities or financial products and, in executing the document, the person acts as agent and attorney for the shareholders; and
- (f) if the Dividend or reduction of capital is by way of a distribution of shares or other securities in another corporation, then each shareholder is taken to have agreed to become a shareholder or securityholder of that corporation and to have agreed to be bound by the constitution of that corporation. Each shareholder also appoints each Director and each Secretary their agent and attorney to:
  - (i) agree to the shareholder becoming a shareholder or securityholder of that corporation;
  - (ii) agree to the shareholder being bound by the constitution of that corporation; and
  - (iii) execute any transfer of shares or securities, or other document required to give effect to the distribution of shares or other securities to that shareholder.

Nothing in any of paragraphs (a) to (f) above limits anything in any of those other paragraphs.

### 72 Payment of Distributions

- (a) Any Dividend, interest or other money payable in cash in respect of Securities may be paid in any manner and by any means determined by the Board, at the sole risk of the intended recipient. Without limiting any other means of payment which the Board may adopt, any payment may be made:
  - (i) by cheque sent through the post directed to:
    - (A) the address of the Security holder as shown in the Securities register or, in the case of joint holders, to the address shown in the Securities register as the address of the joint holder first named in that Securities register; or
    - (B) any other address as the Security holder or joint holders in writing directs or direct; or
  - (ii) by electronic funds transfer to an account with a bank or other financial institution nominated by the Security holder or joint holders in writing and acceptable to the company.
- (b) Without limiting rule 72(d), if the Board decides to make a payment by electronic funds transfer under rule 72(a) and an account is not nominated by the shareholder or joint holders in accordance with the requirements of rule 72(a), the company may hold the

## Constitution of Australasian Foods Holdco Pty Limited

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amount payable in a separate account of the company until the holder or joint holders nominate an account in accordance with the requirements of rule 72(a).

- (c) Payments of Dividends and other distributions by the company may be made in Australian dollars or any other currency determined by the Board in its discretion. Payments in different currencies may be made to different Security holders as determined by the Board in its discretion. If a payment is made in a currency other than Australian dollars the Board may determine in its discretion the appropriate exchange rate and the time of calculation to calculate the amount payable in the relevant currency. The determinations of the Board are, in the absence of manifest error, final.
- (d) Subject to law, all Dividends unclaimed may be invested or otherwise used by the Board for the benefit of the company until claimed or otherwise disposed of according to law.

**Capitalisation of Profits****73 Capitalisation of Profits**

- (a) The company in general meeting or the Board may resolve:
  - (i) to capitalise any sum, being the whole or a part of the amount for the time being standing to the credit of any reserve account, profit and loss account or otherwise available for distribution to Security holders; and
  - (ii) that the sum referred to in rule 73(a)(i) be applied, in any of the ways mentioned in rule 73(b), for the benefit of Security holders in full satisfaction of their interest in the capitalised sum, in the proportions to which those Security holders would have been entitled in a distribution of that sum by way of Dividend or if there is no proportional entitlement, as the Board determines.
- (b) The ways in which a sum may be applied for the benefit of Security holders under rule 73(a) are:
  - (i) in paying up any amounts unpaid on Securities held by Security holders;
  - (ii) in paying up in full unissued Securities to be issued to Security holders as fully paid;
  - (iii) partly as mentioned in rule 73(b)(i) and partly as mentioned in rule 73(b)(ii); or
  - (iv) any other application permitted by law.
- (c) Where the conditions of issue of a partly paid Security provide, the holder is entitled to participate in any application of a sum under rule 73(b) to a greater extent than would have been the case had those funds been distributed by Dividend but not to any greater extent than permitted by the terms of issue.
- (d) The Board may do all things that it considers necessary to give effect to the resolution and, in particular, to the extent it considers necessary to adjust the rights of the Security holders amongst themselves; may:
  - (i) fix the value for distribution of the specific assets or any part of those assets;
  - (ii) issue fractional certificates or make cash payments in cases where Securities become issuable in fractions or determine that fractions may be disregarded or that any fractional entitlements are to be increased to the next whole number;
  - (iii) vest any cash or specific assets in trustees on trust for the persons entitled as it determines; and

## Appendix 7. Constitution of HoldCo *continued*

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- (iv) authorise any person to make, on behalf of all the Security holders entitled to any further Securities on the capitalisation, an agreement with the company providing for the issue to them, credited as fully paid up, of any further Securities or for the payment by the company on their behalf the amounts or any part of the amounts remaining unpaid on their existing Securities by the application of their respective proportions of the sum resolved to be capitalised and any agreement made under that authority is effective and binding on all the Security holders concerned.

### Service of Documents

#### 74 Service of Documents

In this rule 74, a reference to a document includes a notice. Subject to the Corporations Act:

- (a) A document may be given by the company to any Security holder by, in the company's discretion:
  - (i) serving it on the Security holder personally;
  - (ii) sending it by post to the Security holder or leaving it at the Security holder's address as shown in the Securities register or the address nominated by the Security holder to the company for the giving of documents;
  - (iii) sending it to the fax number nominated by the Security holder to the company for the giving of documents;
  - (iv) sending it to the electronic address nominated by the Security holder to the company for the giving of documents or by other electronic means nominated by the Security holder;
  - (v) if a Security holder nominates any electronic means by which the Security holder may be notified that documents are available and may access documents, sending a notification that the document is available for access, in each case by the relevant electronic means; or
  - (vi) serving it in any manner contemplated in this rule 74(a) on a Security holder's attorney as specified by the Security holder in a notice given under rule 74(b).
- (b) By written notice to a Secretary left at or sent to the registered office of the company or the company's Securities registry, a Security holder may request that all documents to be given by the company or the Board be served on the Security holder's attorney at an address, or by the electronic means, nominated in the notice and the company may do so in its discretion.
- (c) A document may be sent to a Security holder whose address for documents is outside Australia by airmail, air courier, or fax or otherwise be sent or made available electronically (including as contemplated by rule 74(a)(v)).
- (d) Any document sent by post is conclusively considered to have been served at the expiration of 24 hours after the envelope containing the document is posted and, in proving service, it is sufficient to prove that the envelope containing the document was properly addressed and posted. Any document served on a Security holder personally or left at the Security holder's registered address is conclusively considered to have been served when delivered. Any document sent to a Security holder by fax or other electronic means is conclusively considered to have been served when the fax or other electronic transmission is sent. Any document made available to a Security holder by electronic means as contemplated by rule 74(a)(v) is conclusively considered to have been served when notification that the document is available for access by that means is sent.

## Constitution of Australasian Foods Holdco Pty Limited

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- (e) Every person who, by operation of law, transfer or any other means, becomes entitled to be registered as the holder of any Securities is bound by every document that, prior to the person's name and address being entered in the Securities register in respect of the Securities, was properly given to the person from whom the person derived title to those Securities.
- (f) A document served in accordance with this Constitution is (despite the fact that the Security holder is then dead and whether or not the company has notice of the Security holder's death) conclusively considered to have been properly served in respect of any registered Securities, whether held solely or jointly with other persons by the Security holder, until some other person is registered in the Security holder's place as the holder or joint holder. The service is sufficient service of the document on the Security holder's personal representative and any persons jointly interested with the Security holder in the Securities.

**Winding Up****75 Winding Up**

In a winding up of the company, the liquidator may distribute in specie the whole or any part of the company's property among the shareholders.

**Indemnity****76 Indemnity of Officers, Insurance and Access**

- (a) The company indemnifies each officer of the company and, if the Board considers it appropriate, any officer of a wholly-owned subsidiary of the company out of the assets of the company to the relevant extent against any liability incurred by the officer in or arising out of the conduct of the business of the company or the wholly-owned subsidiary (as the case may be) or in or arising out of the discharge of the duties of the officer, unless incurred in circumstances that the Board resolves do not justify indemnification.
- (b) Where the Board considers it appropriate, the company may execute a documentary indemnity in any form in favour of any officer of the company or a wholly-owned subsidiary of the company, provided that such terms are not inconsistent with this rule 76.
- (c) Where the Board considers it appropriate, the company may:
  - (i) make payments by way of premium in respect of any contract effecting insurance on behalf or in respect of an officer of the company or a wholly-owned subsidiary of the company against any liability incurred by the officer in or arising out of the conduct of the business of the company or the wholly-owned subsidiary (as the case may be) or in or arising out of the discharge of the duties of the officer; and
  - (ii) bind itself in any contract or deed with any officer of the company or a wholly-owned subsidiary of the company to make the payments.
- (d) Where the Board considers it appropriate, the company may:
  - (i) give a former Director access to certain papers, including documents provided or available to the Directors and other papers referred to in those documents; and
  - (ii) bind itself in any contract with a Director or former Director to give the access.

## Appendix 7. Constitution of HoldCo *continued*

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(e) In this rule 76:

(i) **officer** means:

- (A) a director, secretary, or senior manager; or
- (B) a person appointed as a trustee by, or acting as a trustee at the request of, the company or a wholly-owned subsidiary of the company,

and includes a former officer.

(ii) **duties of the officer** includes, in any particular case where the Board considers it appropriate, duties arising by reason of the appointment, nomination or secondment in any capacity of an officer by the company or, where applicable, a subsidiary of the company to any other corporation.

(iii) to the relevant extent means:

- (A) to the extent the company is not precluded by law from doing so;
- (B) to the extent and for the amount that the officer is not otherwise entitled to be indemnified and is not actually indemnified by another person (including, but without limitation, a subsidiary or an insurer under any insurance policy);
- (C) where the liability is incurred in or arising out of the conduct of the business of another corporation or in the discharge of the duties of the officer in relation to another corporation, to the extent and for the amount that the officer is not entitled to be indemnified and is not actually indemnified out of the assets of that corporation; and
- (D) in the case of an employee who is not a director, secretary or senior manager, to the extent that the conduct of the employee did not constitute serious and wilful misconduct.

(iv) **liability** means all costs, charges, losses, damages, expenses, penalties and liabilities of any kind including, in particular, legal costs incurred in defending any proceedings (whether criminal, civil, administrative or judicial) or appearing before any court, tribunal, government authority or other body.

### 77 Dividend Reinvestment Plans

(a) The Board may:

- (i) establish one or more plans under which some or all shareholders may elect that Dividends to be paid in respect of some or all of the shares from time to time held by the shareholder are to be satisfied by the issue or transfer of fully paid shares;
- (ii) on or after establishment of any plan, extend participation in it, in whole or in part, to some or all of the holders of debt obligations of the company in respect of interest on those obligations as if that interest were Dividends; and
- (iii) vary, suspend or terminate the plan.

(b) Any plan takes effect in accordance with its terms and the Board may do all things necessary and convenient for the purpose of implementing the plan, including the making of each necessary allotment or transfer of shares and of each necessary appropriation, capitalisation, application, payment and distribution of funds which may lawfully be appropriated, capitalised, applied, paid or distributed for the purpose of the allotment or transfer.

## Constitution of Australasian Foods Holdco Pty Limited

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- (c) For the purpose of giving effect to a plan, appropriations, capitalisations, applications, payments and distributions as referred to in this rule 77 may be made and the powers of the Board under this rule 77 apply and may be exercised (with any adjustments as may be required) even if only some of the shareholders or holders of shares of any class participate in the appropriation, capitalisation, application, payment or distribution.
- (d) In offering opportunities to shareholders to participate in a plan, the Board may give information that in its opinion may be useful to assist shareholders in assessing the opportunity and making requests to their best advantage. The Directors, the company and its officers are not responsible for, nor are they obliged to provide, any legal, taxation or financial advice in respect of the choices available to shareholders.
- (e) The Board is under no obligation:
  - (i) to admit any shareholder as a participant in any plan; nor
  - (ii) to comply with any request made by a shareholder who is not admitted as a participant in a plan.
- (f) In establishing and maintaining a plan, the Board may exercise the powers conferred on it by the terms of the plan, by this Constitution or by the Corporations Act.
- (g) This rule 77 does not affect the validity of any plan referred to in rule 77(a)(i) established before the adoption of this Constitution.




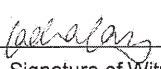
## Appendix 7. Constitution of HoldCo *continued*

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### Consent to Terms of this Constitution




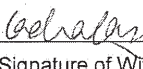
Each of the people named below as a shareholder consents to becoming a shareholder of the company, agrees to the terms of this Constitution and agrees to take up the number of the class of shares set out against the shareholder's name for the amount specified which will be fully paid on registration.

Name and signature of shareholder	Number and class of shares	Amount paid per share	Amount unpaid per share
<p><b>Signed, Sealed and Delivered</b> for and on behalf of <b>Pacific Equity Partners Fund V GP (Jersey) Limited</b> as general partner for <b>Pacific Equity Partners Fund V, LP</b> by or in the presence of:</p> <p> _____ Signature of Director</p> <p> _____ Signature of Witness</p> <p><u>CLAIRE LE BROcq</u> Name of Director</p> <p><u>NATCHANA KAY</u> Name of Witness</p>	534 Class A Shares	\$534	Nil
<p><b>Signed, Sealed and Delivered</b> for and on behalf of <b>Pacific Equity Partners Fund V GP (Jersey) Limited</b> as general partner for <b>Pacific Equity Partners Fund V-A, LP</b> by or in the presence of:</p> <p> _____ Signature of Director</p> <p> _____ Signature of Witness</p> <p><u>CLAIRE LE BROcq</u> Name of Director</p> <p><u>NATCHANA KAY</u> Name of Witness</p>	238 Class A Shares	\$238	Nil



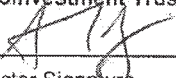



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Name and signature of shareholder	Number and class of shares	Amount paid per share	Amount unpaid per share
<p><b>Signed, Sealed and Delivered</b> for and on behalf of <b>Pacific Equity Partners Fund V GP (Jersey) Limited</b> as general partner for <b>Pacific Equity Partners Fund V-B, LP</b> by or in the presence of:</p> <p></p> <p>Signature of Director</p> <p><u>CLAIRE LE BROcq</u></p> <p>Name of Director</p> <p></p> <p>Signature of Witness</p> <p><u>NATACHA KAY</u></p> <p>Name of Witness</p>	48 Class A Shares	\$48	Nil
<p><b>Signed, Sealed and Delivered</b> for and on behalf of <b>Pacific Equity Partners Fund V GP (Jersey) Limited</b> as general partner for <b>Pacific Equity Partners Fund V-C, LP</b> by or in the presence of:</p> <p></p> <p>Signature of Director</p> <p><u>CLAIRE LE BROcq</u></p> <p>Name of Director</p> <p></p> <p>Signature of Witness</p> <p><u>NATACHA KAY</u></p> <p>Name of Witness</p>	146 Class A Shares	\$146	Nil
<p><b>Executed in accordance with section 127 of the Corporations Act 2001 (Cth) by Pacific Equity Partners Investors Administration Pty Ltd as trustee for Pacific Equity Partners Fund V (Australasia):</b></p> <p>Signature of Director</p> <p>Name of Director</p> <p>Signature of Secretary/Director</p> <p>Name of Secretary/Director</p>	18 Class A Shares	\$18	Nil

## Appendix 7. Constitution of HoldCo *continued*

Name and signature of shareholder	Number and class of shares	Amount paid per share	Amount unpaid per share
<p>Signed, Sealed and Delivered for and on behalf of Pacific Equity Partners Fund V GP (Jersey) Limited as general partner for Pacific Equity Partners Fund V-B, LP by or in the presence of:</p>	48 Class A Shares	\$48	Nil
_____ Signature of Director	_____ Signature of Witness		
_____ Name of Director	_____ Name of Witness		
<p>Signed, Sealed and Delivered for and on behalf of Pacific Equity Partners Fund V GP (Jersey) Limited as general partner for Pacific Equity Partners Fund V-C, LP by or in the presence of:</p>	146 Class A Shares	\$146	Nil
_____ Signature of Director	_____ Signature of Witness		
_____ Name of Director	_____ Name of Witness		
<p>Executed in accordance with section 127 of the <i>Corporations Act 2001</i> (Cth) by Pacific Equity Partners Investors Administration Pty Ltd as trustee for Pacific Equity Partners Fund V (Australasia):</p>	18 Class A Shares	\$18	Nil
<p>_____ Signature of Director <b>Tim Sims</b></p>	<p>_____ Signature of Secretary/Direc <b>Rickard Gardell</b></p>		
_____ Name of Director	_____ Name of Secretary/Director		

Name and signature of shareholder	Number and class of shares	Amount paid per share	Amount unpaid per share
<p>Executed as a deed in accordance with section 127 of the <i>Corporations Act 2001</i> by Eagle Coinvestment Pty Limited ACN 119 182 688 as trustee for Pacific Equity Fund V Coinvestment Trust A:</p>	<p>6 Class A Shares</p>	<p>\$6</p>	<p>Nil</p>
<p>                      _____                      Director Signature  <b>David Brown</b></p>	<p>                      _____                      Director/Secretary Signature  <b>Antony Duthie</b></p>		
<p>Print Name</p>	<p>Print Name</p>		
<p>Executed in accordance with section 127 of the <i>Corporations Act 2001</i> (Cth) by PEP Investment Pty Limited:</p>	<p>10 Class A Shares</p>	<p>\$10</p>	<p>Nil</p>
<p>                      _____                      Signature of Director  <b>Tim Sims</b></p>	<p>                      _____                      Signature of Secretary/Director  <b>Rickard Gardell</b></p>		
<p>Name of Director</p>	<p>Name of Secretary/ Director</p>		

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# Corporate Directory

## Patties Foods Limited

**ABN 62 007 157 182**

161-169 Princes Highway  
Bairnsdale Victoria 3875

Telephone: 1800 650 069

Facsimile: +61 3 5152 1054

Website: [www.pattiesfoods.com.au](http://www.pattiesfoods.com.au)

## Directors

Mark Smith  
Curt Leonard  
Steven Chaur  
John Schmoll  
Richard Rijs  
Harry Rijs  
Greg Dhnaram

## Company Secretary

Clinton Orr

## Appointed Auditor

PricewaterhouseCoopers  
Freshwater Place, 2 Southbank Boulevard  
Southbank VIC 3006

Telephone: +61 3 8603 1000

Fax: +61 3 8603 1999

## Share Registry

Computershare Investor Services Pty Limited  
Yarra Falls, 452 Johnston Street  
Abbotsford VIC 3067

## Legal adviser

Minter Ellison  
Rialto Towers, 525 Collins Street  
Melbourne VIC 3000

Telephone: +61 3 8608 2000

Fax: +61 3 8608 1000

## Financial adviser

Greenhill & Co. Australia Pty Limited  
Level 30, 101 Collins Street  
Melbourne VIC 3000

Telephone: +61 3 9935 6800

Fax: +61 3 9935 6850

## Independent Expert

Deloitte Corporate Finance Pty Limited  
Grosvenor Place  
225 George Street  
Sydney NSW 2000

Telephone: +61 2 9322 7000

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[www.pattiesfoods.com.au](http://www.pattiesfoods.com.au)