



ASX / MEDIA RELEASE

FOR IMMEDIATE RELEASE

7 September 2012

BINDING PROPOSAL RECEIVED FROM NEWS TO ACQUIRE CMH

Sydney: Consolidated Media Holdings Limited (CMH) (ASX:CMJ) announced today that the conditions of the Indicative Proposal announced on 20 June 2012 have been satisfied and it has received a binding proposal from News.

CMH has today entered into a Scheme Implementation Deed (the **SID**) with News Limited and News Pay TV Financing Pty Limited (**News**), 100 per cent owned subsidiaries of News Corporation under which, subject to the satisfaction of a number of conditions, News (or another entity within the News group) will acquire CMH for \$3.45 cash per share (the **Scheme Consideration**) by way of a scheme of arrangement (the **Scheme**).

CMH announced a fully franked dividend of 6 cents per share at its full year results on 21 August 2012 (the **Dividend**). CMH shareholders on the register on Friday 28 September 2012 (the **Dividend Record Date**) will receive the fully franked final dividend of 6 cents per share. The Dividend will be paid on Friday 5 October 2012.

This means that shareholders on both the Dividend Record Date of 28 September 2012 and the Scheme Record Date (detailed below) will receive a total of \$3.51 cash per share, reflecting the Dividend of 6 cents per share and the Scheme Consideration of \$3.45 per share, assuming the Scheme is approved and implemented.

The Scheme Consideration of \$3.45 represents an implied multiple of 9.4x EV/EBITDA (2012PF)¹ based on a proportional consolidation of CMH's main investments in FOXTEL and FOX SPORTS.

The Scheme Consideration also represents a premium of approximately 15% to CMH's volume weighted average price over the three month period to 3 May 2012, being the last trading day before the announcement by CMH that it had had very preliminary discussions concerning a potential control transaction.

¹ This multiple is calculated based on the enterprise value of CMH at the Scheme Consideration price and net debt adjusted for the payment of the final dividend and to include a proportional consolidation of FOXTEL (25%) and FOX SPORTS (50%) net debt. EBITDA is based on CMH EBITDA (excluding non-operating items) and the SeekAsia dividend, in addition to the proportional consolidation of the FOXTEL pro forma EBITDA (25%) and FOXS PORTS EBITDA (50%).

The Recommending Directors² unanimously consider the Scheme to be in the best interests of shareholders and recommend that CMH shareholders vote in favour of the Scheme in the absence of a superior proposal and subject to the Independent Expert concluding that the Scheme is in the best interests of CMH shareholders.

The Deputy Chairman, Mr James Packer, who is a substantial shareholder in CMH through his private group Consolidated Press Holdings (CPH), intends to vote in favour of the Scheme in the absence of a superior cash proposal. Each of the other Directors of CMH who hold or control CMH shares intend to vote in favour of the Scheme in the absence of a superior proposal.

John Alexander, Executive Chairman of CMH said today:

"The Scheme represents an opportunity for CMH shareholders to realise their investment in CMH for cash at an attractive valuation, without incurring brokerage fees.

The Recommending Directors consider the Scheme to be in the best interests of CMH shareholders in the absence of a superior proposal and subject to the Independent Expert concluding that the Scheme is in the best interests of CMH shareholders."

James Packer, Executive Chairman of CPH, one of CMH's major shareholders, said today:

"I am delighted that CMH and News have reached agreement on the terms and conditions, and as I said in June, CPH will support the Scheme in the absence of a superior cash proposal.

In my view, this is a great outcome for CMH shareholders and for News and it reflects a fair price.

I have had the opportunity to work with some of the best media executives in the country through my shareholding in CMH: John Alexander, Executive Chairman of CMH, who also sits with me on the boards of some of CPH's other investments; Kim Williams, the former chief executive of FOXTEL, who I expect in his new role will guide News from strength-to-strength; as well as the representatives of CMH's second largest shareholder – Ryan Stokes and Peter Gammell, and of course Seven Group Chairman Kerry Stokes, who have been not only excellent supporters of CMH, but also great friends."

The implementation of the Scheme is subject to a number of customary conditions including, but not limited to, CMH shareholder and Court approvals, the Independent Expert concluding that the Scheme is in the best interests of CMH shareholders, and there being no material adverse change. News has

² The Recommending Directors are Mr John Alexander, Mr James Packer, Mr Christopher Corrigan, Mrs Rowena Danziger AM, Mr Geoffrey Dixon, Mr Ashok Jacob, Mr Guy Jalland and Mr Christopher Mackay. Each of Mr Peter Gammell and Mr Ryan Stokes does not wish to make a recommendation. Each is a director of CMH who was nominated by the Seven Group Holdings (SGH) group which holds 25.3% of CMH shares. SGH announced on 20 June 2012 that it was considering its options in relation to the Indicative Proposal of News which has been followed by the announcement by CMH and News of the Scheme.

already received regulatory approvals from the Australian Competition and Consumer Commission and the Foreign Investment Review Board.

The Scheme Implementation Deed is attached to this announcement. It includes, amongst other items, the conditions to the Scheme, certain exclusivity arrangements (subject to standard fiduciary carve-outs) and the circumstances in which CMH may be required to pay a break fee of \$19 million to News.

Set out below is an indicative timetable:

Event	Indicative Date
First Court Date	24 September 2012
Dividend Record Date (note that this date will not change)	28 September 2012
Dividend Payment Date (note that this date will not change)	5 October 2012
Deadline for receipt of proxy forms for Scheme Meeting	29 October 2012
Time and date for determining eligibility to vote at Scheme Meeting	7pm on 29 October 2012
Scheme Meeting and Annual General Meeting	31 October 2012
Second Court Date	2 November 2012
Effective Date	5 November 2012
Scheme Record Date	13 November 2012
Scheme Implementation Date	20 November 2012
Scheme Consideration paid to CMH shareholders	On or before 23 November 2012

Unless stated otherwise, the above dates are indicative only and may be subject to change depending on a number of factors some of which are outside the control of CMH. Any changes to the above timetable will be announced to the ASX and placed on the CMH website

CMH has retained the services of UBS AG as financial adviser and Ashurst Australia as legal adviser.

ENDS

COPIES OF RELEASES

Copies of previous ASX announcements issued by CMH are available at CMH's website at www.cmh.com.au

Allens > < Linklaters

Scheme Implementation Deed

Consolidated Media Holdings Limited

News Pay TV Financing Pty Limited

News Limited

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Date	7 September 2012
Parties	
1.	Consolidated Media Holdings Limited (ABN 52 009 071 167) of Level 2, 54 Park Street, Sydney, NSW, 2000 (the <i>Company</i>).
2.	News Pay TV Financing Pty Limited (ACN 157 820 338) of 2 Holt Street, Surry Hills, NSW, 2010 (the <i>Bidder</i>).
3.	News Limited (ABN 47 007 871 178) of 2 Holt Street, Surry Hills, NSW, 2010 (the <i>Parent</i>).
Recitals	
A	The parties have agreed that a member of the Bidder Group will acquire all of the shares in the Company by means of a scheme of arrangement under Part 5.1 of the Corporations Act between the Company and its shareholders.
B	The Company has agreed to propose and implement, and Bidder has agreed to assist the Company to propose and implement, the scheme of arrangement on the terms of this Deed.
C	The Parent has agreed to guarantee the Bidder's performance of its obligations under this Deed on the terms of this Deed.

It is agreed as follows.

1. Definitions and interpretation

1.1 Definitions

The following definitions apply unless the context requires otherwise.

Acquirer means the Bidder or a member of the Bidder Group nominated in writing by Bidder to the Company.

Adviser means, in relation to an entity, a person who in the ordinary course of its business provides services as a financier, financial adviser, corporate adviser, legal adviser, or technical or other expert adviser or consultant and who has been engaged in that capacity in connection with the Transaction, or any response to it, by the entity.

Agreed Public Announcement means the public announcement to be made by the Company in the form set out at Annexure 4.

ASIC means the Australian Securities and Investments Commission.

ASIC Regulatory Guides means the regulatory guides published by ASIC from time to time.

ASIC Review Draft means the draft of the Scheme Booklet which is provided to ASIC:

- (a) for approval pursuant to section 411(2) of the Corporations Act; and
- (b) for ASIC review pursuant to ASIC Regulatory Guide 74.

ASIC Review Period means the period during which ASIC is provided an opportunity to review a copy of the ASIC Review Draft, as required by section 411(2) of the Corporations Act.

ASX means ASX Limited (ABN 98 008 624 691) or, as the context requires, the financial market known as the Australian Securities Exchange operated by it.

ASX Listing Rules means the official listing rules of ASX.

Bidder Group means NAH and its Subsidiaries (excluding, at any time, the Company and its Subsidiaries to the extent that the Company and its Subsidiaries are subsidiaries of NAH at that time). A reference to a member of the **Bidder Group** is a reference to NAH or any such Subsidiary.

Bidder Information means information about the Bidder Group provided by Bidder to the Company in writing for inclusion in the Scheme Booklet.

Bidder Representations and Warranties means the representations and warranties of Bidder set out in Schedule 1.

Board means the board of directors of the Company (as constituted from time to time), and includes any authorised committee of directors.

Break Fee has the meaning given in clause 16.1.

Business Day means a day on which the banks are open for business in Sydney, Australia, excluding a Saturday, Sunday or public holiday.

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.

Company Group means the Company and its Subsidiaries. A reference to a member of the **Company Group** is a reference to Company or any such Subsidiary.

Company Information means all information included in the Scheme Booklet other than the Bidder Information and Independent Expert's Report.

Company Representations and Warranties mean the representations and warranties of the Company set out in Schedule 2.

Competing Proposal means any expression of interest, proposal, offer, transaction or arrangement by or with any Third Party which, if entered into or completed, would result in a Third Party:

- (a) directly or indirectly acquiring or obtaining an interest (including an economic interest) in all or a substantial part or material part of the business conducted by, or assets or property of, the Company Group;

- (b) acquiring Control of the Company or PBL Pay TV Pty Limited (ACN 084 940 367);
or
- (c) otherwise acquiring, or merging with, the Company or PBL Pay TV Pty Limited (ACN 084 940 367) (including by way of takeover bid, scheme of arrangement, capital reduction, sale of assets, sale of securities, strategic alliance, joint venture or partnership).

Conditions Precedent has the meaning given in clause 3.1.

Confidentiality Agreement means the confidentiality agreement dated 12 April 2012 between Bidder and the Company as amended by an amendment deed dated 12 July 2012.

Control has the meaning given in section 50AA of the Corporations Act.

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

Court means the Federal Court of Australia or such other court of competent jurisdiction under the Corporations Act agreed to in writing by Bidder and the Company.

Data Room means the online data room maintained on behalf of the Company and made available to the Bidder and its Representatives for the purposes of providing access to information and materials relating to the Company for the purposes of assessing the Transaction.

Deed Poll means a deed poll to be executed by Parent and Acquirer in favour of Scheme Shareholders substantially in the form of Annexure 2.

Disclosure Letter means the letter from the Company to Bidder entitled "Disclosure Letter" dated the same date as this Deed and countersigned by Bidder.

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) (and, if applicable section 411(6)) of the Corporations Act in relation to the Scheme.

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

End Date means 21 December 2012, or such later date as may be agreed by Bidder and the Company.

Exclusivity Period means the period commencing from the date of this Deed to the earlier of:

- (a) the termination of this Deed; and
- (b) the End Date.

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

FOXTEL means FOXTEL Management Pty Limited (ACN 068 671 938) on behalf of the FOXTEL Partnership.

FOX Sports means FOX Sports Australia Pty Limited (ACN 065 445 418) (formerly Premier Media Group Pty Limited).

Headcount Test means the requirement imposed by 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 the Shareholders present and voting, whether in person or by proxy.

Independent Expert means the independent expert in respect of the Scheme appointed by the Company to prepare the Independent Expert's Report.

Independent Expert's Report means the report from the Independent Expert for inclusion in the Scheme Booklet, including any update to such a report or any supplementary or replacement report, stating an opinion whether or not the Scheme is in the best interests of Shareholders, and setting out its reasons for that opinion.

Insolvency Event means, in the case of any entity:

- (a) it ceases, suspends, or threatens to cease or suspend the conduct of all or a substantial part of its business or disposes of or threatens to dispose of all or a substantial part of its assets;
- (b) it stops or suspends or threatens to stop or suspend payment of all or a class of its debts;
- (c) it is, or under legislation is presumed or taken to be, insolvent (other than as the result of a failure to pay a debt or Claim the subject of a good faith dispute);
- (d) it has an administrator, controller or similar officer appointed, or any step preliminary to the appointment of such an officer is taken;
- (e) an application or an order is made, proceedings are commenced, a resolution is proposed, an application to a court or other steps are taken for:
 - (i) its winding up, dissolution or administration; or
 - (ii) it entering into an arrangement, compromise or composition with or assignment for the benefit of its creditors or a class of them,(other than frivolous or vexatious applications, orders, proceedings, notices or steps);
- (f) (i) a receiver, receiver and manager, administrative receiver or similar officer is appointed to;
 - (ii) a security interest becomes enforceable or is enforced over; or
 - (iii) a distress, attachment or other execution is levied or enforced or applied for over,all or a substantial part of its assets; or
- (g) anything analogous to anything referred to in the above paragraphs, or which has substantially similar effect, occurs with respect to it, including under any foreign law.

Legally Privileged Documents means the documents subject to legal privilege relating to the Company which were made available by the Company for inspection by News' Representatives at Ashurst Australia's Sydney offices prior to the date of this Deed identified in the document entitled "Legally Privileged Documents – Index" which has been initialled by the Company and Bidder.

Liabilities means Claims, losses, liabilities, costs or expenses of any kind and however arising, including penalties, fines and interest and including those which are prospective or contingent and those the amount of which for the time being is not ascertained or ascertainable.

Material Adverse Change means one or more changes, events, occurrences or matters occurs which (whether individually or when aggregated with all such changes, events, occurrences or matters of a like kind) has had or is reasonably likely to have (whether now or in the future) the effect of:

- (a) diminishing consolidated net assets of the Company Group as set out in the Company's audited financial report as at 30 June 2012 (calculated on the basis of AIFRS) by an amount of \$13 million or more;
- (b) diminishing, on a recurring basis, the Company's share of the annual earnings (before interest, income tax, depreciation and amortisation and after any movement in reserves ordinarily required to be taken to other comprehensive income (as required by AIFRS)) of FOXTEL and FOX Sports in aggregate by an amount of \$20 million or more;
- (c) the anti-siphoning scheme, as it applies to the NRL premiership for the period 2013-2017 inclusive, being changed in any way that prevents the acquisition or exercise by FOX Sports or FOXTEL of exclusively live television rights to at least 5 weekly NRL premiership games, or such a change is proposed by the Government or agreed to by the Government; or
- (d) diminishing, on a recurring basis, the Company's annual earnings before interest, income tax, depreciation and amortisation and after any movement in reserves ordinarily required to be taken to other comprehensive income as required by AIFRS, and excluding items related to FOXTEL and FOX Sports (being the Company's equity accounted share of FOXTEL and FOX Sports earnings, as well as its share of any movements in reserves of those investments), by an amount of \$20 million or more,

other than an event, occurrence or matter which:

- (e) in respect of paragraph (a) above, would be accounted for in the line item in the Company's audited financial report as at 30 June 2012 entitled "Investments in associates";
- (f) in respect of paragraph (a) above, occurs as a consequence of:
 - (i) the recognition of a dividend paid or an advance made (consistent with previous practice) to a member of the Company Group from an associate;

- (ii) any reduction in the deferred tax assets of the Company Group (as recorded in Note 4(c) to the Company's audited financial report as at 30 June 2012); or
- (iii) any write-down or accelerated amortisation in the facility establishment costs for the bank debt (as recorded in Note 15(c) to the Company's audited financial report as at 30 June 2012);
- (g) is contemplated by this Deed or required to be done to give effect to the Transaction;
- (h) arises directly or indirectly as a consequence of:
 - (i) the broadcasting and IPTV rights agreement announced by the Australian Rugby League Commission on 21 August 2012, under which the Nine Network and FOX Sports hold the broadcasting and IPTV rights for rugby league in Australia for a term of 5 years; or
 - (ii) any other programming or content agreements entered into by FOXTEL or FOX Sports;
- (i) in respect of paragraph (b) above, is a one-off, non-cash item that does not have a recurring future cash impact that would otherwise trigger the Material Adverse Change in that paragraph;
- (j) the Company has fairly disclosed in an announcement made to ASX, the Disclosure Letter or in documentation contained in the Data Room or the Legally Privileged Documents, prior to entry into this Deed;
- (k) is, in relation to FOXTEL and FOX Sports, already known by the Bidder Group as at the date of this Deed;
- (l) arises in consequence of any change to legislation or regulation in relation to tax or any accounting standards;
- (m) arises in consequence of an act of war, terrorism, or natural disaster;
- (n) is the payment of the Company's final dividend of \$0.06 per share or less in relation to the financial year ended 30 June 2012 announced to ASX on 21 August 2012; or
- (o) took place with the fully informed written consent of the Bidder.

NAH means News Australia Holdings Pty Limited (ABN 32 105 197 028).

Prescribed Occurrence has the meaning set out in Schedule 3.

Public Authority means any government or any governmental, semi-governmental, statutory or judicial entity or authority, or any minister, department, office or delegate of any government, whether in Australia or elsewhere. It also includes any self-regulatory organisation established under statute and any stock exchange.

Recommending Directors means all of the members of the Board other than any director who states in the Scheme Booklet that he or she does not desire to make, or does not consider himself or herself justified in making, a recommendation in relation to the Scheme.

Relevant Date means, in relation to a condition precedent, the date or time specified in this Deed for its fulfilment (or where no such date or time is specified, the Business Day before the End Date), subject to extension under clause 3.4.

Representative means, in relation to a person:

- (a) a Subsidiary of the person;
- (b) an Officer of the person or any of the person's Subsidiaries; or
- (c) an Adviser to the person or any of the person's Subsidiaries.

Scheme means the scheme of arrangement under Part 5.1 of the Corporations Act between the Company and the Scheme Shareholders in the form of Annexure 1 (or such other form as may be agreed between the Company and Bidder).

Scheme Booklet means the information described in clause 6.1(b) to be approved by the Court and despatched to Shareholders and which must include the Scheme, an explanatory statement complying with the requirements of the Corporations Act, the Independent Expert's Report, the Deed Poll, notice of the Scheme Meeting and proxy form for the Scheme Meeting.

Scheme Consideration means, in respect of each Scheme Share, \$3.45 cash.

Scheme Implementation Date means the fifth Business Day after the Scheme Record Date or such other date agreed to in writing between Bidder and the Company.

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

Scheme Record Date means 7.00pm (Sydney time) on the fifth Business Day after the Effective Date or such other date agreed to in writing between Bidder and the Company.

Scheme Share means a Share held by a Scheme Shareholder.

Scheme Shareholders means the Shareholders at the Scheme Record Date.

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.

SEEKAsia means SEEKAsia Limited a company incorporated in the Cayman Islands, Registered Company No. 243337.

Share means an ordinary share issued in the capital of the Company.

Shareholder means a registered holder of one or more Shares.

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

Share Registry means Computershare Investor Services Pty Limited or any replacement provider of share registry services to the Company.

Share Splitting means the splitting, prior to the record date for the Scheme Meeting, of a holding of Shares into two or more parcels of Shares but which does not result in any change in beneficial ownership of the Shares.

Subsidiary has the meaning given in the Corporations Act.

Superior Proposal means a bona fide publicly announced Competing Proposal that is received by the Company (and not resulting from a breach by the Company of its obligations under clause 15) which the Board has determined, acting in good faith and in order to satisfy what the members of the Board consider to be their fiduciary or statutory duties:

- (a) is reasonably capable of being valued, taking into account all aspects of the Competing Proposal and the person making it; and
- (b) if completed substantially in accordance with its terms, would be more favourable to Shareholders (as a whole) than the Scheme, taking into account all the terms and conditions of the Competing Proposal including the likelihood of the conditions of the Competing Proposal being satisfied and the identity of the person making the Competing Proposal.

Tax means a tax, levy, charge, impost, fee, deduction, withholding or duty of any nature, including, without limitation, stamp and transaction duty or any goods and services tax, value added tax or consumption tax, which is imposed or collected by a Public Authority. This includes, but is not limited to, any interest, fine, penalty, charge, fee or other amount imposed in addition to those amounts.

Third Party means a person other than an entity within the Bidder Group.

Timetable means the indicative timetable for the implementation of the Transaction set out in Annexure 3.

Transaction means the acquisition of the Company by Acquirer through the implementation of the Scheme in accordance with the terms of this Deed.

1.2 Interpretation

In this Deed, headings are for convenience only and do not affect interpretation. The following rules apply in this Deed 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* includes a corporation, trust, partnership, unincorporated body or other entity, whether or not it comprises a separate legal entity.
- (e) A reference to a clause, schedule or annexure is a reference to a clause of, or schedule or annexure to, this Deed.
- (f) A reference to writing includes any method of representing or reproducing words, figures, drawings or symbols in a visible and tangible form but excludes a communication by electronic mail.
- (g) A reference to conduct includes an omission, statement or undertaking, whether or not in writing.

- (h) 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).
- (i) A reference to legislation or to a provision of legislation includes:
 - (i) a modification of it (including, in respect of the Corporations Act or a provision of that Act, a modification made by ASIC);
 - (ii) a re-enactment of it;
 - (iii) a legislative provision substituted for it; and
 - (iv) a regulation or statutory instrument issued under it.
- (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 an agreement or document (including a reference to this Deed) is to the agreement or document as amended, supplemented, novated or replaced, except to the extent prohibited by this Deed or that other agreement or document.
- (l) A reference to *Australian dollars, dollars* and *\$* is to Australian currency.
- (m) Mentioning anything after *includes, including, for example* or similar expressions, does not limit what else might be included.
- (n) 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.
- (o) A reference to any time is a reference to that time in Sydney, Australia.
- (p) Where a Company Representation and Warranty is given "to the Company's knowledge", the Company will be deemed to have the knowledge or awareness of any fact, matter or circumstance that relates to that Company Representation and Warranty if, and only if, it is actually known by any member of the Board or either of the Company Secretary or the Chief Financial Officer of the Company as at the date of this Deed.

1.3 Consents and 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, such consent or approval may be given or such discretion may be exercised conditionally or unconditionally or withheld by the party in its absolute discretion (unless this Deed specifies otherwise).

1.4 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 must be done on the next Business Day.

2. Agreement to proceed with Scheme

2.1 Company to propose the Scheme

The Company agrees to propose and implement the Scheme on and subject to the terms of this Deed.

2.2 Bidder to assist

Bidder agrees to assist the Company to propose and implement the Scheme, and to procure Acquirer to assist the Company to propose and implement the Scheme, on and subject to the terms of this Deed.

3. Conditions Precedent

3.1 Conditions Precedent

Subject to this clause 3, the Scheme will not become Effective, and the obligations of Bidder under clause 4.2 are not binding, unless each of the following conditions precedent (the *Conditions Precedent*) is satisfied or waived in accordance with clauses 3.2 and 3.3:

Conditions precedent for the benefit of all parties

- (a) **(Shareholder approval)** Shareholders approve the Scheme by the requisite majorities under section 411(4)(a)(ii) of the Corporations Act at the Scheme Meeting;
- (b) **(no restraints)** no judgment, order, decree statute, law, ordinance, rule or regulation or other temporary restraining order, preliminary or permanent injunction, restraint or prohibition entered, enacted, promulgated, enforced or issued by any court (except that in the case of a court outside of Australia, only where the relevant judgment, order, injunction or other restraint was entered, issued or enforced by the court following an application made to that court by a Public Authority) or any Public Authority of competent jurisdiction is in effect at 8.00 a.m. on the Second Court Date that prohibits, materially restricts, makes illegal or restrains the completion of the Transaction;
- (c) **(Court approval)** the Court approves the Scheme in accordance with section 411(4)(b) of the Corporations Act;

Conditions precedent for the benefit of Bidder only

- (d) **(no Material Adverse Change)** no Material Adverse Change is announced, or is otherwise discovered by Bidder (whether or not it becomes public), between the date of this deed and 8.00 a.m. on the Second Court Date;
- (e) **(no Prescribed Occurrence)** no Prescribed Occurrence occurs between the date of this Deed and 8.00 a.m. on the Second Court Date;
- (f) **(Company Representations and Warranties)** each Company Representation and Warranty is true and correct at 8.00 a.m. on the Second Court Date (or if only given on an earlier date, at that date);

- (g) **(Independent Expert's Report)** the Independent Expert provides the Independent Expert's Report to the Company, stating that in its opinion the Scheme is in the best interests of Shareholders, and the Independent Expert does not change its opinion or withdraw the Independent Expert's Report by notice in writing to the Company prior to 8.00 a.m. on the Second Court Date; and
- (h) **(Board recommendation)** a majority of the Board (comprising the Recommending Directors) have, in the Scheme Booklet, unanimously stated that they consider the Scheme to be in the best interests of Shareholders and recommended that Shareholders vote in favour of the Scheme, in the absence of a Superior Proposal, and the Recommending Directors have not withdrawn, qualified or varied those statements or recommendations before the Condition Precedent at (a) is satisfied.

3.2 Satisfaction

- (a) Bidder and the Company must each use reasonable endeavours to procure that:
 - (i) the Conditions Precedent in clauses 3.1(a), 3.1(b) and 3.1(c) are satisfied; and
 - (ii) there is no occurrence within the control of an entity within the Bidder Group or the Company Group (as the context requires) that would prevent any Condition Precedent in clause 3.1 being satisfied.
- (b) The Company must use reasonable endeavours to procure that the Conditions Precedent in clauses 3.1(d), 3.1(e), 3.1(f), 3.1(g) and 3.1(h) are satisfied.
- (c) Bidder and the Company must each:
 - (i) promptly notify the other if it becomes aware that any Condition Precedent has been satisfied; and
 - (ii) promptly notify the other of any failure to satisfy a Condition Precedent or of any fact or circumstance which becomes known to that party that will result in a Condition Precedent becoming incapable of being satisfied or that may result in a Condition Precedent not being satisfied in accordance with its terms (having regard to the obligations of the parties under this clause).
- (d) Bidder and the Company must each:
 - (i) give the Court on the Second Court Date a certificate confirming (in respect of matters within its knowledge) whether or not the Conditions Precedent in clause 3.1 (other than 3.1(c)) have been satisfied or waived; and
 - (ii) give the other a draft of its certificate by 5.00 p.m. on the Business Day prior to the Second Court Date.

3.3 Waiver of Conditions Precedent

- (a) The Conditions Precedent in clauses 3.1(a), and 3.1(c) may not be waived.

- (b) The Conditions Precedent in clauses 3.1(b) and 3.1(g) are for benefit of both Bidder and the Company and may only be waived by both Bidder and the Company in writing.
- (c) The Conditions Precedent in clauses 3.1(d), 3.1(e), 3.1(f) and 3.1(h) are for the sole benefit of Bidder and may only be waived by Bidder in writing.
- (d) A party entitled to waive a Condition Precedent may do so conditionally or unconditionally in its absolute discretion.
- (e) If a party waives the breach or non-fulfilment of a Condition Precedent, that waiver will not preclude it from bringing action against the other party for any breach of this Deed that resulted from the breach or non-fulfilment of the Condition Precedent that was waived or arising from the same event which gave rise to the breach or non-fulfilment of the Condition Precedent.
- (f) Waiver of a breach or non-fulfilment in respect of a Condition Precedent does not constitute:
 - (i) a waiver of breach or non-fulfilment of any other Condition Precedent resulting from the same event; or
 - (ii) a waiver of breach or non-fulfilment of that Condition Precedent resulting from any other event.

3.4 If a Condition Precedent is not fulfilled or waived

If a Condition Precedent cannot be fulfilled (or has not been fulfilled or waived) by the Relevant Date, or the Scheme has not become Effective by the End Date, Bidder and the Company must consult in good faith to determine whether:

- (a) the Scheme may proceed by way of alternative means or methods and, if so, agree on the terms of such alternative means or methods;
- (b) to extend the Relevant Date and the End Date; and/or
- (c) to adjourn or change the date of the Scheme Meeting.

Without limiting the foregoing, if a condition precedent is not satisfied by the date contemplated in the Timetable as the Second Court Date, Bidder and the Company agree (unless there is no reasonable prospect that the Condition Precedent will be satisfied) that the Second Court Date be deferred until such date (not later than the Business Day before the End Date) as reasonably required to enable more time to satisfy the Condition Precedent.

3.5 Termination on failure of Condition Precedent

- (a) If:
 - (i) the Scheme has not become Effective by the End Date; or
 - (ii) any event occurs which would, or in fact does, prevent a Condition Precedent being satisfied and that Condition Precedent is not waived by the Company or Bidder or both (as applicable) before the End Date in accordance with clause 3.3,

then either party may terminate this Deed. If a party terminates this Deed under this clause 3.5(a) they will not have any liability to the other party because of that termination, unless the relevant occurrence, or the failure of the satisfaction of a Condition Precedent, or of the Scheme becoming Effective, arises out of a breach of this Deed by the party seeking to terminate this Deed.

- (b) Subject to any rights or obligations arising under or pursuant to clauses that are expressed to survive termination of this Deed, on termination of this Deed no party will have any rights against or obligations to any other party under this Deed except for those rights and obligations which accrued prior to termination.

4. Scheme and Scheme Consideration

4.1 Scheme

The Company must propose a scheme of arrangement under which:

- (a) all of the Scheme Shares will be transferred to Acquirer; and
- (b) the Scheme Shareholders will be entitled to receive the Scheme Consideration, in the form of Annexure 1 (or in such other form as the parties agree in writing (such agreement not to be unreasonably withheld)).

4.2 Scheme Consideration

Bidder undertakes and warrants to the Company that, in consideration of the transfer to Acquirer of each Scheme Share held by a Scheme Shareholder under the terms of the Scheme, on the Scheme Implementation Date it will procure that Acquirer:

- (a) accepts that transfer; and
- (b) before 12.00 noon, pays the Scheme Consideration for each Scheme Share to the Company as trustee for the Scheme Shareholders for payment to Scheme Shareholders in accordance with the Scheme and the Deed Poll.

5. Timetable

- (a) The parties must use their reasonable endeavours to take all necessary steps and exercise all rights necessary to implement and give effect to the Scheme in accordance with the Timetable.
- (b) The Company must keep Bidder informed of the progress of the Timetable and consult with Bidder on a regular basis about its progress and each party must notify the other immediately if it believes or it becomes apparent to it that any of the dates in the Timetable are not achievable.
- (c) To the extent that any of the dates or timeframes set out in the Timetable become not achievable due to matters outside of a party's control, the parties will consult in good faith to agree any necessary extension to the Timetable to ensure that such matters are completed within the shortest possible timeframe.

6. Implementation of Scheme

6.1 Company's obligations

The Company must do all things as may be reasonably necessary or expedient on its part for the implementation and performance of the Scheme, including the following matters.

- (a) **(Independent Expert)** promptly appoint the Independent Expert and provide all assistance and information reasonably requested by the Independent Expert to enable it to prepare its Independent Expert's Report for the Scheme Booklet as soon as practicable.
- (b) **(Preparation of Scheme Booklet)** prepare the Scheme Booklet so that it:
 - (i) contains all information necessary to ensure that it complies with all applicable laws, ASIC Regulatory Guide 60 (and all other ASIC Regulatory Guides) and the ASX Listing Rules; and
 - (ii) is not misleading or deceptive in any material respect (whether by omission or otherwise).
- (c) **(Consultation with Bidder)** consult with Bidder as to the content and presentation of the Scheme Booklet, such consultation to include providing Bidder with a near to final draft of the ASIC Review Draft within a reasonable time before it is finalised and taking into account in good faith the reasonable comments of the Bidder when preparing the final draft of the ASIC Review Draft, and obtaining Bidder's consent to the inclusion of the Bidder Information.
- (d) **(Approval of ASIC Review Draft)** as soon as practicable after preparation of the ASIC Review Draft, procure that a meeting of the Board is convened to approve the ASIC Review Draft as being in a form appropriate for provision to ASIC for review.
- (e) **(Lodgement of ASIC Review Draft)** as soon as practicable after the meeting of the Board referred to in clause 6.1(d):
 - (i) provide a copy of the ASIC Review Draft to ASIC, as required by section 411(2) of the Corporations Act; and
 - (ii) apply to ASIC for a production of an indication of intent letter stating that it does not intend to appear at the Court hearing on the First Court Date.
- (f) **(ASIC Review Period)** during the ASIC Review Period, keep Bidder informed of any matters raised by ASIC in relation to the Scheme Booklet, the Scheme or the Transaction generally, and use best endeavours to take into consideration in resolving such matters any issues raised or comments made by Bidder (which will include allowing Bidder and/or its Representatives to participate in any Company meetings or discussions with ASIC where it is appropriate for them to do so).
- (g) **(Approval of Scheme Booklet)** as soon as practicable after the end of the ASIC Review Period, procure that a meeting of the Board is convened to approve the Scheme Booklet for despatch to Shareholders.

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- (h) **(ASIC registration)** request ASIC to register the Scheme Booklet in accordance with section 412(6) of the Corporations Act.
- (i) **(Section 411(17)(b) statement)** apply to ASIC for the production of a statement under section 411(17)(b) of the Corporations Act stating that ASIC has no objection to the Scheme.
- (j) **(Court direction)** apply to the Court for orders directing the Company to convene the Scheme Meeting, and obtain the prior consent of Bidder as to the content of all relevant originating process, affidavits, submissions and draft minutes of Court orders.
- (k) **(Scheme Meeting)** convene the Scheme Meeting and send the Scheme Booklet to Shareholders in accordance with the Court order, and put the Scheme to a vote of Shareholders at the Scheme Meeting.
- (l) **(Update Scheme Booklet)** if at any time between the end of the ASIC Review Period and the Second Court Date, the Company becomes aware:
- (i) of new information which, were it known at the time the Scheme Booklet was prepared should have been included in the Scheme Booklet; or
 - (ii) that any part of the Scheme Booklet (other than Bidder Information) is misleading or deceptive in a material respect (whether by omission or otherwise),
- then, in either case, if considered by the Company that supplementary disclosure is required, provide supplementary disclosure to Shareholders after consulting with Bidder as to the content and presentation of that supplementary disclosure.
- (m) **(Court approval)** subject to all Conditions Precedent in clause 3.1 (other than that in clause 3.1(c)) being satisfied or waived in accordance with this Deed, apply to the Court for orders approving the Scheme, and obtain the prior consent of Bidder as to the content of all relevant affidavits, submissions and draft minutes of Court orders.
- (n) **(Certificate)** at the hearing on the Second Court Date provide to the Court a certificate confirming (in respect of matters within its knowledge) whether or not the Conditions Precedent (other than the Condition Precedent in clause 3.1(c)) have been satisfied or waived in accordance with this document. A draft of such certificate shall be provided by the Company to Bidder by 5.00 p.m. on the Business Day prior to the Second Court Date.
- (o) **(Completion steps)**
- (i) If the Court approves the Scheme in accordance with sections 411(4)(b) and 411(6) of the Corporations Act, as soon as practicable on the following Business Day lodge with ASIC an office copy of the order approving the Scheme in accordance with section 411(10) of the Corporations Act.
 - (ii) Use its best endeavours to procure ASX to suspend trading in Shares from the close of trading on the Effective Date.

- (iii) Close the Share Register as at the Scheme Record Date to determine the identity of the Scheme Shareholders and their entitlements to the Scheme Consideration.
- (iv) Subject to the Bidder complying with its obligations under clause 6.2(g), on the Scheme Implementation Date:
 - (A) execute proper instruments of transfer of and effect transfer of the Scheme Shares to Acquirer in accordance with the Scheme; and
 - (B) register all transfers of Shares held by Scheme Shareholders to Acquirer.
- (v) Provide all necessary information about the Scheme Shareholders that Bidder or Acquirer reasonably requires in order for Acquirer to provide the Scheme Consideration to the Scheme Shareholders in accordance with the Scheme.
- (vi) Do all other things contemplated by or necessary to give effect to the Scheme and the orders of the Court.
- (p) **(ASX listing)** use reasonable endeavours to maintain the Company's admission to the official list of ASX and the quotation of Shares on ASX up to and including the Scheme Implementation Date.
- (q) **(Public Authority)** keep Bidder fully informed of any matters raised by any Public Authority with the Company in relation to the Scheme (including matters raised by ASIC or ASX in relation to the Scheme Booklet) and use all reasonable endeavours to co-operate with Bidder to resolve any such matters, and generally must use its reasonable endeavours to obtain any regulatory approvals (including ASIC or ASX relief or waivers), and keep Bidder informed of progress in obtaining any such regulatory approvals and must consult with Bidder in relation to the foregoing.

6.2 Bidder's obligations

Bidder must do all things that may be reasonably necessary or expedient on its part for the implementation and performance of the Scheme, including the following matters.

- (a) **(Bidder Information)** prepare and provide to the Company the Bidder Information for inclusion in the Scheme Booklet. The Bidder Information must:
 - (i) contain all information about the Bidder Group necessary to ensure that the Scheme Booklet complies with all applicable laws, ASIC Regulatory Guide 60 (and all other ASIC Regulatory Guides) and the ASX Listing Rules; and
 - (ii) not be misleading or deceptive in any material respect (whether by omission or otherwise).
- (b) **(Assistance)** provide all assistance and information reasonably required by the Independent Expert in connection with the preparation of the Independent Expert's Report.

- (c) **(Update Bidder Information)** if at any time after the despatch of the Scheme Booklet, Bidder becomes aware:
- (i) of new information which, were it known at the time of despatch, should have been included in any Bidder Information provided previously to the Company; or
 - (ii) that any part of the Bidder Information provided previously to the Company is misleading or deceptive in any material respect (whether by omission or otherwise),
- it must advise the Company so that the Company can determine whether supplementary disclosure to Shareholders is required.
- (d) **(Consent)** provide a consent in such form as the Company reasonably requires in relation to the inclusion of the Bidder Information in the Scheme Booklet.
- (e) **(Certificate)** at the hearing on the Second Court Date provide to the Court a certificate confirming (in respect of matters within its knowledge) whether or not the Conditions Precedent (other than the Condition Precedent in clause 3.1(c)) have been satisfied or waived in accordance with this document. A draft of such certificate shall be provided by Bidder to the Company by 5.00 p.m. on the Business Day prior to the Second Court Date.
- (f) **(Deed Poll)** prior to the First Court Date, enter into and procure that Acquirer enters into the Deed Poll.
- (g) **(Scheme Consideration)** if the Scheme becomes Effective, procure Acquirer to pay the Scheme Consideration in the manner and amount contemplated by clause 4.2 and the Scheme on the Scheme Implementation Date.

7. Other Scheme implementation matters

7.1 Register details

- (a) The Company must give all necessary directions to the Share Registry to ensure that any information Bidder reasonably requests in relation to the Share Register and the Scheme Shareholders, including any CHESS sub-register and any issuer-sponsored subregister, is as soon as reasonably practicable provided to Bidder and, where requested by Bidder, the Company must procure that such information is made available to Bidder in such electronic form as is reasonably requested by Bidder.
- (b) The Company must upon request by Bidder as soon as reasonably practicable provide to Bidder:
- (i) a copy of the register maintained by the Company in accordance with section 672DA of the Corporations Act and any information which it has and which is required to be included in that register but which has not been included at the date the request is made; and

- (ii) any further information or reports the Company possesses in relation to the underlying beneficial ownership of the Shares.

7.2 Assistance of Representatives

Each party must procure that its Representatives work in good faith and in a timely and co-operative manner with the other party and its Representatives to implement the Transaction in accordance with this Deed.

7.3 Scheme Booklet preparation and responsibility statements

- (a) If, after a reasonable period of consultation and compliance by the Company with its obligations under clause 6.1, the parties, acting reasonably and in good faith, are unable to agree on the form or content of the Scheme Booklet, then:
 - (i) if the disagreement relates to the form or content of the Bidder Information (or any information solely derived from, or prepared solely in reliance on, the Bidder Information), the Company will, acting in good faith, make such amendments to that information in the Scheme Booklet as Bidder may reasonably require; and
 - (ii) if the disagreement relates to the form or content of the Company Information, the Company will, acting in good faith, decide the final form of that information in the Scheme Booklet.
- (b) The Scheme Booklet will contain a responsibility statement to the effect that:
 - (i) the Company has provided, and is responsible for, the Company Information and that Bidder and its Representatives do not assume any responsibility for the accuracy or completeness of that Company Information;
 - (ii) Bidder has provided, and is responsible for, the Bidder Information, and that the Company and its Representatives do not assume any responsibility for the accuracy or completeness of that Bidder Information; and
 - (iii) the Independent Expert has provided and is responsible for the Independent Expert's Report, and that:
 - (A) Bidder and its Representatives do not assume any responsibility for the accuracy or completeness of the Independent Expert's Report; and
 - (B) the Company and its Representatives do not assume any responsibility for the accuracy or completeness of the Independent Expert's Report.

7.4 Re-constitution of Board

The Company must, as soon as practicable:

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- (a) after the Second Court Date (provided the Scheme has become Effective), take all actions necessary to cause the appointment of up to two nominees of Bidder to the Board;
 - (b) on the Scheme Implementation Date, after the Acquirer has paid the Scheme Consideration in the manner and amount contemplated by the Scheme:
 - (i) take all actions necessary to cause the appointment of such number of additional nominees of the Bidder to the Board as notified by the Bidder to the Company; and
 - (ii) ensure that all directors on the Board (other than the Bidder's nominees), resign and release the Company from any Claims they may have against the Company; and
 - (c) on the Scheme Implementation Date, after the Acquirer has paid the Scheme Consideration in the manner and amount contemplated by the Scheme, take all actions to ensure that all directors on the boards of each Company Group entity (other than the nominees of the Bidder) resign and to cause the appointment of nominees of Bidder to those boards.

8. Board Recommendation

- (a) The Agreed Public Announcement to be issued by the Company in accordance with 14.1 must state:
 - (i) that a majority of the Board (comprising the Recommending Directors) unanimously consider the Scheme to be in the best interests of Shareholders and recommend that Shareholders vote in favour of the Scheme at the Scheme Meeting, in the absence of a Superior Proposal and subject to the Independent Expert concluding that the Scheme is in the best interests of Shareholders (on the basis of written statements or resolutions made by each of the Recommending Directors); and
 - (ii) that each member of the Board who holds Shares, or who has control over voting rights attaching to Shares, intends to vote in favour of the Scheme, or procure that the Shares the voting rights of which the member of the Board has control over are voted in favour of the Scheme, in the absence of a Superior Proposal and subject to the Independent Expert concluding that the Scheme is in the best interests of Shareholders (on the basis of written statements or resolutions made by each of such directors).
- (b) The Company must use its best endeavours to procure that the Board and each member of the Board:
 - (i) does not change or withdraw the statements and recommendations set out in the Agreed Public Announcement;
 - (ii) in the Scheme Booklet, states that a majority of the Board (comprising the Recommending Directors) unanimously consider the Scheme to be in the best interests of Shareholders and recommend that Shareholders approve

the Scheme Resolution, in the absence of a Superior Proposal, and do not change or withdraw those statements or recommendations once made; and

- (iii) does not make any public statement or any statement to brokers, analysts, journalists, Shareholders or professional or institutional investors to the effect, or suggests, that the Scheme is no longer so considered or recommended or take any other action that is inconsistent with the recommendations set out in the Agreed Public Announcement,

unless:

- (iv) the Company receives a Competing Proposal and a majority of the Recommending Directors determine, in good faith and acting reasonably, that the Competing Proposal constitutes a Superior Proposal; or
- (v) the Independent Expert concludes in the Independent Expert's Report that the Scheme is not in the best interests of Shareholders (including in any update to its report).

9. Promotion of Transaction and communications

9.1 Promotion of Transaction

From the date of this Deed until the end of the Scheme Meeting, the Company will procure that the executive chairman of directors and such other senior executives as reasonably requested by Bidder will participate in efforts reasonably required by Bidder to promote the merits of the Transaction, including:

- (a) meeting with key Shareholders if requested to do so by Bidder; and
- (b) communicating with the Company's employees, customers and distributors.

9.2 Communications regarding Transaction

The Company undertakes to do the following:

- (a) develop and implement a communications programme, in a form to be agreed with Bidder, to explain all aspects of the Transaction (including the merits of the Transaction) to Shareholders;
- (b) other than the Scheme Booklet (the content of which is required to be prepared in accordance with clauses 6 and 7.3), agree with Bidder the content of all communications and advertisements issued to, or directed at, Shareholders in relation to the Transaction (which agreement must not be unreasonably withheld or delayed by the Bidder);
- (c) use reasonable endeavours to ensure that beneficial holders of Shares are in a position to cast, and have their votes counted, for the purposes of the Scheme resolution at the Scheme meeting; and
- (d) consult with the Bidder with respect to any proxy solicitation processes which are undertaken by either of the Company or the Bidder in respect of Shareholders.

10. Conduct of business

- (a) From the date of this Deed up until and including the Scheme Implementation Date, the Company must ensure that it and the other entities within the Company Group:
- (i) conduct their businesses in the ordinary and proper course;
 - (ii) make all reasonable efforts to:
 - (A) keep available the services of their officers and employees; and
 - (B) preserve their relationships with Public Authorities, customers, suppliers, landlords, trade unions, licensors, licensees and others with whom they have business dealings;
 - (iii) not enter any lines of business or other activities in which the Company Group is not engaged at the date of this Deed;
 - (iv) respond to any reasonable request from Bidder for information concerning the Company Group and its business and operations; and
 - (v) subject to the confidentiality undertakings in clause 18, provide Bidder and its Representatives reasonable access to officers and employees, offices and other facilities, and books and records of members of the Company Group, and otherwise provide reasonable co-operation to Bidder and its Representatives, for the purpose of:
 - (A) Bidder and its Representatives understanding the business and operation of the Company Group;
 - (B) Bidder and its Representatives doing all things necessary or desirable under this Deed or in connection with the Transaction; or
 - (C) Bidder and its Representatives planning for the integration of the Company Group into the Bidder Group following the Scheme Implementation Date.
- (b) Nothing in clause 10(a)(i), 10(a)(ii) or 10(a)(iii) restricts the ability of Company to take any action which:
- (i) is required by this Deed or the Scheme;
 - (ii) the Company has fairly disclosed in an announcement made to ASX, or in documentation contained in the Data Room, prior to the date of this Deed; or
 - (iii) has been agreed to in writing by Bidder.

11. Court approval

11.1 Court refuses to make orders

- (a) If the Court refuses to make an order under sub-section 411(1) of the Corporations Act to convene the Scheme Meeting or to make an order to approve the Scheme

under sub-section 411(4)(b) of the Corporations Act, the Company must appeal the Court's decision to the fullest extent possible except where:

- (i) the parties agree otherwise; or
- (ii) each of the Company and Bidder is advised by their respective legal counsel that an appeal would have either no reasonable prospect or a low probability of success.

(b) The costs of any appeal shall be borne equally by the parties.

11.2 Scheme voted down

(a) If:

(i) prior to, or immediately following, the Scheme Meeting a party reasonably believes that there is evidence to suggest that:

- (A) Share Splitting has taken place; or
- (B) other activities or circumstances have occurred or exist which may unfairly influence, or may have unfairly influenced, the outcome of the Headcount Test,

(each a *Relevant Event*); or

(ii) the Scheme is not approved by Shareholders at the Scheme Meeting by reason of the non-satisfaction of the Headcount Test,

then, in either case, the Company shall provide to Bidder and its Representatives, for such period and at such times as Bidder reasonably requires, access to the Share Register for the purpose of investigating whether a Relevant Event may have occurred or may have caused or materially contributed to the Headcount Test not having been satisfied (a *Headcount Test Investigation*).

(b) The Company must, and must procure that its Representatives and Share Registry, co-operate with and provide Bidder and its Representatives with all such assistance as they reasonably require in connection with their Headcount Test Investigation.

(c) In addition to Bidder undertaking a Headcount Test Investigation, the Company must, upon the reasonable request of Bidder, as soon as reasonably practicable, also undertake a Headcount Test Investigation and report the findings of that investigation to Bidder including, without limitation, the extent to which it appears that a Relevant Event has caused or materially contributed to the Headcount Test not having been satisfied.

(d) If, following the Headcount Test Investigations under this clause 11.2, both parties consider that a Relevant Event may have caused or materially contributed to the Headcount Test not having been satisfied then the Company must:

- (a) seek Court approval of the Scheme under subsection 411(4)(b) of the Corporations Act, notwithstanding that the Headcount Test has not been satisfied; and

- (b) make such submissions to the Court and file such evidence in connection with the application as Bidder reasonably requires.

12. Conduct at Court proceedings

- (a) The Company and Bidder are entitled to separate representation at all Court proceedings relating to the Scheme.
- (b) Nothing in this Deed shall be taken to give a party any right or power to give undertakings to the Court for or on behalf of the other party without that party's consent.
- (c) Each party must give all undertakings to the Court in all Court proceedings which are reasonably required to obtain Court approval and confirmation of the Scheme.

13. Representations and warranties

13.1 Bidder representations and warranties

- (a) Bidder represents and warrants to the Company that, except as expressly consented to by the Company in writing, each Bidder Representation and Warranty is true and correct.
- (b) Unless expressed to be given at a particular time (in which case it is given at that time), each Bidder Representation and Warranty is given:
 - (i) at the date of this Deed; and
 - (ii) at 8.00 a.m. on the Second Court Date; and
 - (iii) immediately prior to implementation of the Scheme.

13.2 Indemnity by Bidder

Bidder agrees with the Company to indemnify the Company against any Liability suffered or incurred by reason of any breach of the Bidder Representations and Warranties.

13.3 Company Representations and Warranties

- (a) The Company represents and warrants to Bidder that, except as expressly consented to by Bidder in writing, each Company Representation and Warranty is true and correct.
- (b) Unless expressed to be given at a particular time (in which case it is given at that time), each Company Representation and Warranty is given:
 - (i) at the date of this Deed; and
 - (ii) at 8.00 a.m. on the Second Court Date; and
 - (iii) immediately prior to implementation of the Scheme.
- (c) Each Company Representation and Warranty is given subject to matters which have been fairly disclosed:

- (i) in an announcement made to ASX;
 - (ii) in documentation contained in the Data Room,
 - (iii) in the Legally Privileged Documents,
- prior to the date of entry into this Deed.
- (d) Any matter described in the Disclosure Letter cannot, despite any provision to this Deed to the contrary, constitute:
- (i) a Prescribed Occurrence;
 - (ii) a breach of a Company Representation and Warranty or a fact, matter or circumstances which could cause a Company Representation and Warranty not to be true or correct; or
 - (iii) a breach by the Company or any obligation imposed on the Company under this Deed.

13.4 Indemnity by the Company

The Company agrees with Bidder to indemnify the Bidder against any Liability suffered or incurred by reason of any breach of the Company Representations and Warranties.

13.5 Survival of representations

Each Bidder Representation and Warranty and Company Representation and Warranty:

- (a) is severable; and
- (b) survives the termination of this Deed.

13.6 Survival of indemnities

Each indemnity in this Deed (including those in clauses 13.2 and 13.4):

- (a) is severable;
- (b) is a continuing obligation;
- (c) constitutes a separate and independent obligation of the party giving the indemnity from any other obligations of that party under this Deed; and
- (d) survives the termination of this Deed.

13.7 Reliance by parties

Each party acknowledges that:

- (a) in entering into this Deed the other party has relied on the representations and warranties provided by it under this clause 13; and
- (b) it has not entered into this Deed in reliance on any warranty or representation made by or on behalf of the other party except those warranties and representations set out in this Deed. This acknowledgment does not prejudice the rights any party may have in relation to the Company Information, the Bidder Information, or any information filed by the other party with ASX or ASIC.

14. Public announcements

14.1 Announcement of the Scheme

As soon as reasonably practicable after the execution of this Deed:

- (a) the Company must issue the Agreed Public Announcement; and
- (b) the Bidder must issue an announcement in relation to the Transaction in a form previously agreed to in writing by the parties.

14.2 Other public announcements

Subject to clause 14.3, each party must use its best endeavours to consult with the other party prior to making any public announcements in connection with the Transaction.

14.3 Required announcement

Where a party is required by applicable law or stock exchange rules to make any announcement or make any disclosure relating to matters the subject of the Transaction, it may do so only after it has, to the maximum extent possible in the circumstances:

- (a) given the other party as much notice as is reasonably practicable in the context of any deadlines imposed by law or a Public Authority; and
- (b) consulted with the other party as to the content of that announcement or disclosure.

15. Exclusivity

15.1 Cease existing discussions

The Company warrants that, as at the time of execution of this Deed, it is not in any discussions or negotiations, and has ceased any discussions or negotiations, in respect of any Competing Proposal with any Third Party.

15.2 No shop restriction

During the Exclusivity Period, the Company must not, and must ensure that none of its Representatives, directly or indirectly solicit or invite 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.

15.3 No talk restriction

During the Exclusivity Period the Company must not, and must ensure that none of its Representatives, enters into, continues or participates in, negotiations or discussions with any Third Party regarding a Competing Proposal, or if to do so may be reasonably likely to lead to a Competing Proposal, even if:

- (a) the Competing Proposal was not directly or indirectly solicited, initiated, or encouraged by the Company or any of its Representatives; or

- (b) the Competing Proposal has been publicly announced, unless the Competing Proposal was not brought about by a breach by the Company of its obligations under this clause 15 and;
- (c) a majority of the Recommending Directors has determined, in good faith and acting reasonably, that the Competing Proposal is, or may reasonably be expected to lead to, a Superior Proposal; or
- (d) the Board has determined, in good faith and acting reasonably, that not undertaking that act could constitute a breach of their statutory or fiduciary duties owed by the directors of the Company.

15.4 No due diligence

Without limiting the general nature of clause 15.3, during the Exclusivity Period, the Company must not, and must ensure that its Representatives do not, make available to any Third Party, or permit any Third Party, to receive any non-public information relating to any entity within the Company Group in connection with such Third Party formulating, developing or finalising, or assisting in the formulation, development or finalisation of, a Competing Proposal, unless all of the following requirements are satisfied:

- (a) a majority of the Recommending Directors has determined, in good faith and acting reasonably that the Competing Proposal is, or may reasonably be expected to lead to, a Superior Proposal or which the Board has determined in good faith that not undertaking that act could constitute a breach of the statutory or fiduciary duties owed by the directors of the Company;
- (b) the Third Party has first entered into a written agreement in favour of the Company regarding the use and disclosure of the confidential information and that restricts the Third Party's ability to solicit the employees of the Company Group; and
- (c) to the extent that such information has not previously been provided to Bidder, the Company provides that information to Bidder at the same time as it is provided to the Third Party.

15.5 Notification and matching right

- (a) During the Exclusivity Period, the Company must immediately notify Bidder if:
 - (i) it or, so far as it is aware, any of its Representatives, is approached (directly or indirectly) by any Third Party to engage in any activity or take any other action of a kind referred to in clause 15.3; or
 - (ii) it proposes to take any action of a kind referred to in clause 15.4, unless the Board has determined, in good faith and acting reasonably, that notifying the Bidder could constitute a breach of the statutory or fiduciary duties owed by the directors of the Company.
- (b) If the Company receives a Competing Proposal that it determines to be a Superior Proposal:

- (i) the Board must not cause or allow the Company to enter into any agreement, arrangement or understanding (whether or not in writing) to undertake a Competing Proposal; or
- (ii) the Recommending Directors must not publicly change, withdraw or modify the Recommending Directors' recommendation of the Scheme in favour of the Competing Proposal or the Board must not publicly recommend the Competing Proposal,

unless the Company has:

- (iii) complied with its notification obligations under clause 15.5(a);
 - (iv) first given Bidder at least 5 clear Business Days notice in writing of the proposed action described in clause 15.5(b)(i) or 15.5(b)(ii); and
 - (v) provided to Bidder with that notice all material terms of the Competing Proposal, including details of the proposed price or implied value, conditions, timing and break fee (if any). The Company must ask the person who has made the Competing Proposal (the *Competing Party*) for their consent to their name and other identifying details which may identify the Competing Party (*Identifying Details*) being provided by the Company to Bidder on a confidential basis. If consent is refused, the Company may only withhold the Identifying Details from Bidder if the Board has determined, in good faith and acting reasonably, that failing to do so would be likely to constitute a breach of the statutory or fiduciary duties owed by the directors of the Company.
- (c) During the 5 clear Business Day period referred to in clause 15.5(b)(iv), Bidder will have the right to offer a counter proposal (a *Bidder Counter Proposal*) that will provide an equivalent or superior outcome for Shareholders than the applicable Competing Proposal, and if it does so offer:
- (i) the Company and Bidder must agree any amendments to this Deed and the other transaction documents that are reasonably necessary to reflect the Bidder Counter Proposal; and
 - (ii) the Board must recommend the Bidder Counter Proposal to Shareholders and not the applicable Competing Proposal.
- (d) Any material modification to any Competing Proposal (which will include any modification relating to the price or value of any Competing Proposal) will be taken to make that proposal a new Competing Proposal in respect of which the Company must comply with its obligations under this clause 15.

15.6 Normal provision of information

Nothing in this clause 15 prevents a party from:

- (a) providing information to its Representatives;
- (b) providing information to any Public Authority;

- (c) providing information to its auditors, Advisers, customers, joint venturers and suppliers acting in that capacity in the ordinary course of business;
- (d) providing information required to be provided by law, including to satisfy its obligations of disclosure under any stock exchange listing rules or to any Public Authority; or
- (e) making presentations to brokers, portfolio investors, analysts and other third parties in the ordinary course of business.

15.7 Time of the essence

Time is of the essence in this clause 15.

16. Break Fee

16.1 Undertaking to pay Break Fee

The Company undertakes to pay a compensating amount of A\$19 million (plus any GST) (the *Break Fee*), to Bidder if any of the following events occurs:

- (a) at any time prior to the End Date, any Recommending Director fails to recommend or withdraws or adversely modifies his or her support of the Scheme or his or her recommendation that Shareholders vote in favour of the Scheme, or makes a public statement indicating that they no longer support the Scheme or that they support a Competing Proposal, other than:
 - (i) as a result of the Independent Expert concluding in the Independent Expert's Report, or in any update to its report, that the Scheme is not in the best interests of Shareholders provided that the Independent Expert's conclusion is not reached as a result of a Competing Proposal having been announced or made public; or
 - (ii) as a result of the Conditions Precedent in clause 3.1(a), (b), (c) or (g) not being satisfied or becoming incapable of being satisfied (other than as a result of breach by the Company of clause 3.2(a) or (b));
- (b) at any time prior to the End Date a Competing Proposal is announced or made and is completed at any time within a 6 month period following the End Date and, as a result, a Third Party acquires Control of the Company or has a relevant interest in more than 50% of the Shares; or
- (c) the Bidder is entitled to terminate this Deed, and has terminated this Deed, pursuant to clause 17.1(a).

16.2 Company acknowledgement

The Company acknowledges that:

- (a) the amount of the Break Fee is reasonable in the context of the Scheme;
- (b) significant benefits will flow to the Company and its Shareholders from the implementation of the Scheme; and

- (c) the Company's entering into the obligations set out in this clause 16 is necessary to induce Bidder to enter into this Deed.

16.3 Payment

- (a) Despite any other term of this Deed, the Break Fee will not be payable to Bidder if the Company is entitled to terminate this Deed under clause 17.1.
- (b) Any demand by Bidder for payment of the Break Fee must be in writing.
- (c) The Company must pay that amount to Bidder within 5 Business Days of receipt of the demand. The demand may only be made after the occurrence of an event referred to in clause 16.1.
- (d) The Company will not be required to pay the Break Fee more than once.

16.4 Nature of payment

- (a) The Break Fee payable by the Company to Bidder under clause 16.1 is an amount to compensate Bidder for:
 - (i) advisory costs (including costs of Advisers other than success fees);
 - (ii) costs of management and directors' time;
 - (iii) out-of-pocket expenses; and
 - (iv) opportunity costs incurred in pursuing the Scheme or in not pursuing other alternative acquisitions or strategic initiatives which could have been developed to further business and objectives,incurred by the entities within the Bidder Group in circumstances where the Scheme is not ultimately implemented.
- (b) The parties acknowledge and agree that the costs actually incurred by Bidder as described in clause 16.4(a) will be of such nature that they cannot be accurately ascertained, but that the Break Fee is a genuine and reasonable pre-estimate of the cost and loss that would actually be suffered by the Bidder Group.

16.5 Compliance with law

If:

- (a) it is found by the Takeovers Panel or a Court that all or any part of the payment of the Break Fee required to be made under clause 16.1 is unlawful, involves a breach of directors' duties or constitutes Unacceptable Circumstances and the period for lodging an application for review or a notice of appeal (as applicable) has expired without such an application or notice having been lodged; or
- (b) an application for review or a notice of appeal having been lodged with the Takeovers Panel or a Court within the prescribed period, it is found by the relevant review panel or appeal Court that all or any part of the payment of the Break Fee required to be made under clause 16.1 is unlawful, involves a breach of directors' duties or constitutes Unacceptable Circumstances,

then:

- (c) the undertaking under clause 16.1 (as the case may be) does not apply in respect of that part of the payment which is found to be unlawful, involving a breach of director's duties or constituting Unacceptable Circumstances; and
- (d) Bidder must refund that part of the payment paid to Bidder under this Deed.

16.6 Limitations on liabilities

- (a) Notwithstanding any other provision contained in this Deed, the Company's total aggregate liability to Bidder in respect of all claims against the Company in relation to this Deed (including under the indemnity in clause 13.4 and in relation to any event referred to clause 16.1) is limited to an amount equal to A\$19 million (plus any GST).
- (b) Notwithstanding any other provision contained in this Deed, Bidder's total aggregate liability to the Company in respect of all claims against Bidder in relation to this Deed (including under the indemnity in clause 13.2) is limited to an amount equal to A\$19 million (plus any GST).

17. Termination

17.1 General rights

Either Bidder or the Company may terminate this Deed by written notice to the other:

- (a) at any time before 8.00 a.m. on the Second Court Date, if:
 - (i) the other has materially breached this Deed (including any material breach of any Company Representation and Warranty (except that in the case of the Company Representations and Warranties set out in clauses 7, 8, 9, 10 and 11, the material breach must have or must be reasonably likely to have a material adverse impact on the value of the Company) or Bidder Representation and Warranty);
 - (ii) the party wishing to terminate has given written notice to the other in a timely manner setting out the relevant circumstances and stating an intention to terminate this Deed; and
 - (iii) the relevant circumstances continue to exist for five Business Days from the time the notice of intention to terminate is given (or any shorter period ending at 5.00 p.m. on the Business Day before the Second Court Date);
or
- (b) in the circumstances set out in, and in accordance with, clause 3.5.

17.2 Termination by Bidder

This Deed may be terminated by Bidder by notice to the Company if any of the Recommending Directors fails to recommend or withdraws or adversely modifies their support of the Scheme or their recommendation that Shareholders vote in favour of the Scheme, or makes a public statement indicating that they no longer support the Scheme or that they support a Competing Proposal.

17.3 Termination by the Company

This Deed may be terminated by the Company by notice to Bidder if a majority of the Board (comprising the Recommending Directors) either:

- (a) withdraw their recommendation of the Scheme as a result of the Independent Expert concluding in the Independent Expert's Report, or in any update to its report, that the Scheme is not in the best interests of Shareholders, provided that the Independent Expert's conclusion is not reached as a result of a Competing Proposal having been announced or made public; or
- (b) recommends a Competing Proposal.

17.4 Effect of termination

If this Deed is terminated by a party under clause 3.5, 17.1, 17.2 or 17.3, except to the extent that the termination results from a breach by a party of its obligations under this Deed, this Deed will be of no force or effect, without any liability or obligation on the part of any party, other than in relation to rights and obligations that accrued prior to termination and the provisions of this clause and of clauses 1, 13, 16, 18, 19, 20 and 21, which will remain in force after the termination.

18. Confidentiality

Each party acknowledges and agrees that it continues to be bound by the Confidentiality Agreement (for so long as that document remains in force) in respect of all information received by it from the other party on, before or after the date of this Deed. However, the parties hereby agree that to the extent that there is any further inconsistency between the Confidentiality Agreement and this Deed, the terms of this Deed will prevail.

19. Guarantee

- (a) In consideration of the Company entering into this Deed and to induce the Company to enter into this Deed, the Parent:
 - (i) unconditionally and irrevocably guarantees to the Company on demand the due and punctual performance by Bidder of all its obligations under this Deed;
 - (ii) represents and warrants to the Company that each Bidder Representation and Warranty is true and correct, at the times and subject to the terms of clause 13.1, as if the references to the Bidder in that clause and Schedule 1 were to the Parent; and
 - (iii) separately indemnifies the Company against any Liabilities incurred by the Company in connection with any default or delay by Bidder in performing any of its obligations under this Deed.
- (b) Neither this Deed nor the obligations of the Parent under it will be affected by anything which but for this provision might operate to release, prejudicially affect or

discharge them or in any way relieve the Parent from any obligation (whether with or without the consent or knowledge of the Parent). This includes:

- (i) the grant to any person of any time, waiver or other indulgence, or the discharge or release of any person from any liability or obligation;
 - (ii) any transaction or arrangement between the Company and any person;
 - (iii) the insolvency, administration, liquidation, winding up or bankruptcy of the Bidder or any other person;
 - (iv) the failure or omission or any delay by the Company or any person to notify the Parent of any default by the Bidder or any other person under this Deed; and
 - (v) any legal limitation, disability, incapacity or other circumstances related to the Bidder or any other person.
- (c) This clause 19 is a principal and independent obligation of the Parent and is not ancillary or collateral to another right or obligation.
- (d) This Deed is a continuing guarantee and indemnity and remains in full force and effect for so long as the Bidder has any liability or obligation to the Company and until the Parent has completely performed its obligations under this Deed.
- (e) The Parent must make all payments due under this Deed without deducting any taxes, duties, levies, imposts, deductions, charges and withholdings. If the Parent is compelled by law to deduct any tax, duty, levy, impost, deduction, charge or withholding, it must pay to the Company an additional amount equal to that deduction.
- (f) The Parent must not set off, deduct or withhold any money that it is or may be liable to pay to the Company under this Deed against any money that the Company is liable to pay to the Bidder or the Parent, whether under this Deed or otherwise.
- (g) If for any reason (including under any law relating to insolvency, fiduciary obligations or the protection of creditors):
- (i) all or part of any transaction of any nature (including any payment or transfer) that affects or relates in any way to the money that the Parent is or may be liable to pay to the Company under this Deed is void, set aside or voidable;
 - (ii) any claim that anything contemplated by sub-paragraph (i) is so upheld, conceded or compromised; or
 - (iii) the Company is required to return or repay any money or asset received by it under any transaction or the equivalent in value of that money or asset,
- the Company will immediately become entitled against the Parent to all rights in respect of that money that it would have had if all or the relevant part of the transaction or receipt had not taken place. The Parent indemnifies the Company

against any resulting Liabilities that may be incurred directly or indirectly by the Company.

20. Notices

Any communication under or in connection with this Deed:

- (a) must be in writing;
 - (b) must be addressed as shown below:
 - (i) to the Company: Address: Level 2, 54 Park Street, Sydney, NSW, 2000
Attention: General Counsel and Company Secretary
Fax No: (02) 9282 8828;
 - (ii) to Bidder: Address: 2 Holt Street, Surry Hills, NSW, 2010
Attention: Chief General Counsel (with copy to Company Secretary)
Fax No: (02) 9288 3291;
 - (iii) to Parent: Address: 2 Holt Street, Surry Hills, NSW, 2010
Attention: Chief General Counsel (with copy to Company Secretary)
Fax No: (02) 9288 3291;
- (or as otherwise notified by that party to the other parties from time to time);
- (c) must be signed by the party making the communication or by a person duly authorised by that party;
 - (d) must be delivered or sent by fax to the number, of the addressee, in accordance with clause 20(b); 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 fax) at the local time (in the place of receipt of that fax) which then equates to the time at which that fax is sent as shown on the transmission report which is produced by the machine from which that fax is sent and which confirms transmission of that fax in its entirety, unless that local time is not a Business Day, or is after 5.00 pm on a Business Day, when that communication will be deemed to be received at 9.00 am on the next Business Day; and
 - (iii) (in the case of delivery by hand) on delivery at the address of the addressee as provided in paragraph (b) unless that delivery is not made on

a Business Day, or after 5.00 pm on a Business Day, when that communication will be deemed to be received at 9.00 am on the next Business Day.

21. General

21.1 GST

- (a) Unless otherwise expressly stated, all amounts payable under this Deed are expressed to be exclusive of GST. If GST is payable on a Taxable Supply made under or in connection with this Deed, the recipient of the supply must pay the supplier, an additional amount equal to the GST payable on that supply provided that the supplier first issues a tax invoice for that supply.
- (b) Without limiting clause 21.1(a), if an amount payable under this Deed is calculated by reference to a liability incurred by a party, then the amount of the liability must be reduced by the amount of any Input Tax Credit to which that party is entitled in respect of the acquisition of the supply to which that liability relates. A party will be assumed to be entitled to a full Input Tax Credit unless it demonstrates that its entitlement is otherwise prior to the date on which payment must be made.
- (c) Words and expressions used in this clause 21.1 have the same meaning as in *A New Tax System (Goods and Services) Tax Act 1999 (Cth)*.

21.2 Entire agreement

This Deed contains the entire agreement between the parties with respect to its subject matter. It sets out the only conduct relied on by the parties and supersedes all earlier conduct and prior agreements and understandings between the parties in connection with its subject matter.

21.3 Assignment

Neither party may assign or otherwise transfer any of its rights arising under this Deed without the prior written consent of the other party.

21.4 Severability

Any provision of this Deed which is prohibited or unenforceable in any jurisdiction will be ineffective in that jurisdiction to the extent of the prohibition or unenforceability. That will not invalidate the remaining provisions of this Deed nor affect the validity or enforceability of that provision in any other jurisdiction.

21.5 No waiver

A failure to exercise or a delay in exercising any right, power or remedy under this Deed does not operate as a waiver. A single or partial exercise or waiver of the 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.

21.6 Variation

A variation of any term of this Deed must be in writing and signed by the parties.

21.7 Costs and expenses

Subject to clause 16, each party must pay its own legal costs and expenses in respect of the negotiation, preparation, completion and stamping of this Deed.

21.8 Further assurances

Each party must do all things and execute all further documents necessary to give full effect to this Deed.

21.9 Governing law

This Deed is governed by the laws of New South Wales. Each party submits to the non-exclusive jurisdiction of courts exercising jurisdiction there, and waives any right to claim that those courts are an inconvenient forum.

21.10 Counterparts

This Deed may be executed in any number of counterparts. All counterparts taken together will be taken to constitute one agreement. The parties agree that a facsimile copy of a counterpart received from a party shall be regarded as an original copy of that counterpart received from that party.

Schedule 1 – Bidder Representations and Warranties

The Bidder

1. **(Status)** Bidder is a corporation duly incorporated and validly existing under the laws of the place of its incorporation.
2. **(Solvency)** Bidder is not affected by an Insolvency Event.
3. **(Power)** Bidder has the power to enter into and perform its obligations under this Deed to carry out the transactions contemplated by this Deed.
4. **(Corporate authorisations)** Bidder has taken all necessary corporate action to authorise the entry into and performance of this Deed and to carry out the transactions contemplated by this Deed.
5. **(Documents binding)** This Deed is Bidder's valid and binding obligation enforceable in accordance with its terms, subject to any necessary stamping and registration.
6. **(Transactions permitted)** The execution and performance by Bidder of this Deed and each transaction contemplated under this Deed did not and will not violate in any respect a provision of:
 - (a) a law or treaty or a judgment, ruling, order or decree of a Public Authority binding on it;
 - (b) its constitution or other constituent documents; or
 - (c) any other document which is binding on it or its assets.

The Acquirer

7. **(Status)** The Acquirer is a corporation duly incorporated and validly existing under the laws of the place of its incorporation.
8. **(Solvency)** the Acquirer is not affected by an Insolvency Event.
9. **(Power)** Bidder has the power to carry out the actions this Deed contemplates will be carried out by the Acquirer.
10. **(Corporate authorisations)** The Acquirer has taken all necessary corporate action to authorise the performance of the actions this Deed contemplates will be carried out by the Acquirer.
11. **(Transactions permitted)** The performance by the Acquirer of each action this Deed contemplates will be carried out by the Acquirer will not violate in any respect a provision of:
 - (a) a law or treaty or a judgment, ruling, order or decree of a Public Authority binding on it;
 - (b) its constitution or other constituent documents; or
 - (c) any other document which is binding on it or its assets.

Schedule 2 - Company Representations and Warranties

1. **(Status)** The Company is a corporation duly incorporated and validly existing under the laws of the place of its incorporation.
2. **(Solvency)** No entity within the Company Group is affected by an Insolvency Event.
3. **(Power)** The Company has the power to enter into and perform its obligations under this Deed to carry out the transactions contemplated by this Deed.
4. **(Corporate authorisations)** The Company has taken all necessary corporate action to authorise the entry into and performance of this Deed and to carry out the transactions contemplated by this Deed.
5. **(Documents binding)** This Deed is the Company's valid and binding obligation enforceable in accordance with its terms, subject to any necessary stamping and registration.
6. **(Transactions permitted)** The execution and performance by the Company of this Deed and each transaction contemplated under this Deed did not and will not violate in any respect a provision of:
 - (a) a law or treaty or a judgment, ruling, order or decree of a Public Authority binding on it;
 - (b) its constitution or other constituent documents; or
 - (c) any other document which is binding on it or its assets.
7. **(Capital structure)** The Company's capital structure, including all securities issued and outstanding at the date of this Deed is as set out in Schedule 4. No entity within the Company Group is subject to any obligation (including any contingent obligation) to issue or have transferred to any person securities in or of it or any other entity of the Company Group.
8. **(Continuous disclosure)** To the Company's knowledge, the Company is in compliance with its continuous disclosure obligations under ASX Listing Rule 3.1 and there is no information that the Company is withholding pursuant to Listing Rule 3.1A.
9. **(Information for Independent Expert)** All information provided by or on behalf of the Company to the Independent Expert to enable its report to be prepared will be provided in good faith and on the understanding that the Independent Expert will rely on that information for the purpose of preparing its report for inclusion in the Scheme Booklet.
10. **(Due diligence information)** The Company has used reasonable endeavours in good faith to provide Bidder and its Representatives, to the Company's knowledge, all material information reasonably requested by Bidder or its Representatives prior to the date of this Deed, and to the Company's knowledge the Company has not knowingly or recklessly:
 - (a) omitted anything from such information such as to make any part of that information materially false, misleading or deceptive, or likely to mislead or deceive; or

- (b) included anything that is materially false, misleading or deceptive, or likely to mislead or deceive, in such information.
- 11. **(Prescribed Occurrences)** no Prescribed Occurrence has occurred between 20 June 2012 and the date of this Deed.

Schedule 3 – Prescribed Occurrences

A Prescribed Occurrence means the occurrence of any of the following:

1. The Company converting all or any of its shares into a larger or smaller number of shares.
2. The Company resolving to reduce its share capital in any way or reclassifying, combining, splitting or redeeming or repurchasing directly or indirectly any of its shares.
3. The Company:
 - (a) entering into a buy-back agreement; or
 - (b) resolving to approve the terms of a buy-back agreement under the Corporations Act.
4. The Company declaring, paying or distributing any dividend, bonus or other share of its profits or assets or agreeing to return any capital to its members.
5. The Company issuing securities or incurring any obligation (including any contingent obligation) to issue or have transferred to any person securities in it.
6. A member of the Company Group:
 - (a) acquiring or disposing of;
 - (b) agreeing to acquire or dispose of; or
 - (c) offering, proposing, announcing a bid or tendering for, any business, assets, entity or undertaking, the value of which in aggregate exceeds \$15 million.
7. A member of the Company Group entering into any agreement or understanding restraining any member of the Company Group from competing with any person or conducting activities in any market.
8. A member of the Company Group creating, or agreeing to create, any mortgage, charge, lien or other encumbrance over the whole, or substantially all, of its business or property otherwise than:
 - (a) in the ordinary course of business; or
 - (b) a lien which arises by operation of law securing an obligation that is not yet due.
9. A member of the Company Group:
 - (a) entering into, or offering to enter into, any agreement or understanding requiring payments, the incurring of expenditure or the foregoing of revenue by members of the Company Group in excess of an aggregate of \$2 million or involving a commitment of more than 12 months;
 - (b) agreeing to any variation to the terms of any agreement or understanding (including any variation made pursuant to a right or obligation in an agreement to vary or renegotiate terms of that agreement) which is material to the business, operations or financing arrangements of the Company Group;

- (c) incurring or agreeing or committing to incur any capital expenditure which is in excess of an aggregate of \$2 million;
 - (d) incurring, agreeing to incur or otherwise becoming exposed to a Liability or contingent liability with an amount or value greater than an aggregate of \$5 million (other than as a consequence of an advance received by a member of the Company Group from an associate relating to dividends that have not been paid by that associate);
 - (e) waiving any third party default where the financial impact on the Company Group will be in excess of \$2 million; or
 - (f) accepting as a compromise of a matter less than the full compensation due to a member of the Company Group where the result of the compromise is that the member will receive an amount which is in excess of \$2 million less than the amount of full compensation.
10. A member of the Company Group modifying or replacing its constitution.
11. A member of the Company Group entering into any agreement with respect to derivative instruments (including swaps, futures contracts, forward commitments, commodity or currency derivatives or options) or similar instruments.
12. A member of the Company Group suffering an Insolvency Event.
13. A member of the Company Group entering into a transaction with any related party of the Company as defined in section 228 of the Corporations Act.
14. A member of the Company Group, other than in the ordinary course of business:
- (a) materially increasing the remuneration of, or paying any bonuses or issuing any securities to;
 - (b) accelerating any rights to benefits of any kind of;
 - (c) paying or agreeing to pay a termination payout (including a 'golden parachute') to; or
 - (d) materially amending any employment, consulting, board appointment, indemnification, severance or similar arrangement of or with, any of its officers or employees,
15. A member of the Company Group changing any accounting policy applied by them to report their financial position other than any change in policy required by a change in Accounting Standards.
16. A member of the Company Group doing anything that would result in a de-consolidation of the Company's 'Consolidated Tax Group'.

Excluding the occurrence of any of the following:

- (a) the announcement and payment (on 21 August 2012 and 5 October 2012, respectively) of the Company's final dividend of \$0.06 per Share, fully franked, in relation to the financial year ended 30 June 2012;
- (b) any matter contemplated by this Deed or required to give effect to the Transaction;

- (c) any matters which have been fairly disclosed:
 - (i) in an announcement made to ASX;
 - (ii) in documentation contained in the Data Room,
 - (iii) in the Legally Privileged Documents,prior to the date of entry into this Deed;
- (d) any action undertaken by the Company with fully informed written consent of the Bidder;
- (e) the provision of additional funding to SEEKAsia of up to HK\$77.3 million, through the subscription for additional shares in SEEKAsia, for the purposes of SEEKAsia purchasing the final 20% tranche in JobsDB Inc. (as disclosed on page 57 of the Company's 2011 Annual Report); or
- (f) any matters in relation to FOXTEL or FOX Sports that are known to News as at the date of this Deed.

Schedule 4 - Company capital structure

Security	Number on issue at the date of this Deed
Ordinary Shares	561,834,996

Executed and delivered as a Deed in Sydney.

Each attorney executing this Deed states that he or she has no notice of revocation or suspension of his or her power of attorney.

Executed as a deed in accordance with section 127 of the *Corporations Act 2001* by Consolidated Media Holdings Limited:

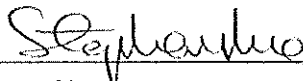
Director Signature

Director/Secretary Signature

Print Name

Print Name

Executed as a deed in accordance with section 127 of the *Corporations Act 2001* by News Pay TV Financing Pty Limited:



Director Signature

STEPHEN RUE

Print Name

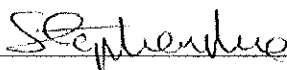


Director/Secretary Signature

ALASTAIR PAUL SINTON

Print Name

Executed as a deed in accordance with section 127 of the *Corporations Act 2001* by News Limited:



Director Signature

STEPHEN RUE

Print Name



Director/Secretary Signature

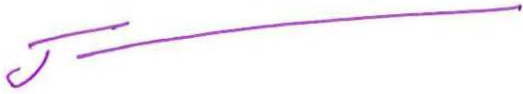
ALASTAIR PAUL SINTON

Print Name

Executed and delivered as a Deed in Sydney.

Each attorney executing this Deed states that he or she has no notice of revocation or suspension of his or her power of attorney.

Executed as a deed in accordance with section 127 of the *Corporations Act 2001* by Consolidated Media Holdings Limited:



Director Signature

JOHN HENRY ALEXANDER

Print Name



Director/Secretary Signature

LOUISE LANE

Print Name

Executed as a deed in accordance with section 127 of the *Corporations Act 2001* by News Pay TV Financing Pty Limited:

Director Signature

Print Name

Director/Secretary Signature

Print Name

Executed as a deed in accordance with section 127 of the *Corporations Act 2001* by News Limited:

Director Signature

Print Name

Director/Secretary Signature

Print Name

Annexure 1 - Form of Scheme

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

BETWEEN:

- (1) Consolidated Media Holdings Limited ACN 009 071 167 ("**CMH**"); and
- (2) Each Scheme Participant.

THE PARTIES AGREE AS FOLLOWS:

1. **INTERPRETATION**

1.1 **Definitions**

The following definitions apply in this document.

"**Account Trustee**" means CMH as trustee for the Scheme Participants.

"**[Acquirer]**" means [*].

"**ASIC**" means the Australian Securities and Investments Commission.

"**ASX**" means the Australian Securities Exchange or ASX Limited (ABN 98 008 624 691), as the context requires.

"**Business Day**" means a day which is not a Saturday, Sunday or public holiday in Sydney, New South Wales.

"**CHESS**" means the clearing house electronic subregister system for the electronic transfer of securities operated by ASX Settlement Pty Limited (ABN 49 008 504 532).

"**CMH Shares**" means fully paid ordinary shares in the capital of CMH.

"**CMH Shareholder**" means a registered holder of CMH Shares.

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

"**Court**" means the Federal Court of Australia.

"**Deed Poll**" means the deed poll dated [*] under which:

- (a) [Acquirer] covenants in favour of each Scheme Participant to perform its obligations under this Scheme; and
- (b) News agrees to procure that [Acquirer] performs its obligations under the Deed Poll, including the payment of the Scheme Consideration in accordance with the terms of this Scheme.

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

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

"**Implementation Date**" means the fifth Business Day after the Scheme Record Date, or such other date (after the Effective Date) as CMH and News may agree in writing.

"News" means News Limited ABN 47 007 871 178.

"Register" means the register of members of CMH.

"Registered Address" means, in relation to a CMH Shareholder, the address of the shareholder shown in the Register.

"Scheme" means the scheme of arrangement under Part 5.1 of the Corporations Act between CMH and the Scheme Participants, set out in this document, subject to any alterations or conditions made or required to be made pursuant to section 411(6) of the Corporations Act.

"Scheme Consideration" means \$3.45 cash for each CMH Share held as at the Scheme Record Date.

"Scheme Implementation Deed" means the agreement between News, News Pay TV Financing Pty Limited and CMH dated [*] relating to the implementation of this Scheme.

"Scheme Meeting" means the meeting of CMH Shareholders, as ordered by the Court pursuant to section 411(1) of the Corporations Act, to consider this Scheme.

"Scheme Participant" means a person who is a CMH Shareholder as at the Scheme Record Date.

"Scheme Record Date" means 7.00 pm on the fifth Business Day after the Effective Date, or such other date (after the Effective Date) as CMH and News may agree in writing.

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

"Share Registry" means Computershare Investor Services Pty Limited (ACN 078 279 277), or such other person that provides share registry services to CMH from time to time.

"Share Scheme Transfer" means, for each Scheme Participant, a duly completed and executed proper instrument of transfer of the CMH Shares held by that Scheme Participant for the purposes of section 1071B of the Corporations Act, which may be a master transfer of all CMH Shares.

"Sunset Date" means 21 December 2012 or such later date as may be agreed by CMH and News.

"Trust Account" means the trust account referred to in clause 6.2 to be operated by CMH to hold the Scheme Consideration on trust for the purpose of paying the Scheme Consideration to the Scheme Participants in accordance with this Scheme.

"Unpaid Dividend" means CMH's final dividend of \$0.06 per CMH Share in relation to the financial year ended 30 June 2012 announced to the ASX on 21 August 2012.

"Unpaid Dividend Record Date" means 28 September 2012.

1.2 Rules for interpreting this document

Headings and catchwords are for convenience only, and do not affect interpretation. The following rules also apply in interpreting this document, except where the context makes it clear that a rule is not intended to apply.

- (a) A reference to:
 - (i) a legislative provision or legislation (including subordinate legislation) is to that provision or legislation as amended, re-enacted or replaced, and includes any subordinate legislation issued under it;
 - (ii) a document (including this document) or agreement, or a provision of a document (including this document) or agreement, is to that document, agreement or provision as amended, supplemented, replaced or novated;
 - (iii) a party to this document or to any other document or agreement includes a permitted substitute or a permitted assign of that party;
 - (iv) a person includes any type of entity or body of persons, whether or not it is incorporated or has a separate legal identity, and any executor, administrator or successor in law of the person; and
 - (v) anything (including a right, obligation or concept) includes each part of it.
- (b) A singular word includes the plural, and vice versa.
- (c) A word which suggests one gender includes the other genders.
- (d) If a word or phrase is defined, any other grammatical form of that word or phrase has a corresponding meaning.
- (e) If an example is given of anything (including a right, obligation or concept), such as by saying it includes something else, the example does not limit the scope of that thing.
- (f) All references to time in this document are references to time in Sydney, New South Wales, Australia.
- (g) A reference to "\$" or "dollar" is to Australian currency.

1.3 Corporations Act

In this document, unless the contrary intention appears:

- (a) a word or expression defined in the Corporations Act (but not defined in this document) has the same meaning when used in this document; and
- (b) a word or expression defined in the Corporations Act and also defined in this document has the meaning given to it by the defined term in this document.

2. BACKGROUND TO SCHEME

2.1 CMH

- (a) CMH is:
 - (i) a public company limited by shares incorporated in Australia;
 - (ii) registered in Western Australia; and
 - (iii) admitted to the official list of ASX.
- (b) As at the Second Court Date there were 561,834,996 CMH Shares on issue.

2.2 **[Acquirer]**

[Acquirer] is a company incorporated in [*]. Neither [Acquirer] nor any related body corporate of [Acquirer] is the registered holder of any CMH Shares.

2.3 **What happens if Scheme becomes Effective**

To facilitate this Scheme, CMH and News have entered into the Scheme Implementation Deed. If this Scheme becomes Effective then, subject to receipt of the Scheme Consideration from [Acquirer] in accordance with the terms of this Scheme and the Deed Poll:

- (a) all CMH Shares held by the Scheme Participants will be transferred to [Acquirer] and CMH will enter [Acquirer]'s name in the Register as the holder of all such CMH Shares;
- (b) each Scheme Participant will be entitled to receive the Scheme Consideration; and
- (c) the Scheme Consideration will be provided to Scheme Participants in accordance with the provisions of this Scheme.

2.4 **Deed Poll**

- (a) [Acquirer] has executed the Deed Poll under which it covenants to carry out its obligations under this Scheme including to pay (or procure the payment of) the Scheme Consideration in accordance with the terms of this Scheme.
- (b) News has executed the Deed Poll under which it agrees to procure that [Acquirer] performs its obligations under the Deed Poll including the payment of the Scheme Consideration in accordance with the terms of this Scheme.

3. **CONDITIONS PRECEDENT**

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

- (a) all the conditions precedent set out in clause [3.1] of the Scheme Implementation Deed (including, without limitation, the Court approving this Scheme pursuant to section 411(4)(b) of the Corporations Act), having been satisfied or waived in accordance with the terms of the Scheme Implementation Deed;
- (b) as at 8.00 am on the Second Court Date, that neither the Scheme Implementation Deed nor the Deed Poll has been terminated in accordance with its terms; and
- (c) the coming into effect, pursuant to section 411(10) of the Corporations Act, of the orders of the Court made under section 411(4)(b) of the Corporations Act (and, if applicable, section 411(6) of the Corporations Act) in relation to this Scheme.

4. **SCHEME – SUNSET DATE**

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

- (a) the Effective Date has not occurred on or before the Sunset Date; or
- (b) the Scheme Implementation Deed is terminated in accordance with its terms before the Effective Date.

5. IMPLEMENTATION OF SCHEME

5.1 CMH to lodge orders with ASIC

If the conditions precedent set out in clause 3 of this Scheme (other than the condition precedent in clause 3(c)) are satisfied, CMH must lodge with ASIC, in accordance with section 411(10) of the Corporations Act, an office copy of the Court order approving this Scheme as soon as practicable after, and in any event by no later than 4.00 pm on the first Business Day following, the date on which the Court approves this Scheme or such later date as determined by the Court.

5.2 Transfer of CMH Shares

On the Implementation Date, but subject to [Acquirer] making (or procuring) the payment of the Scheme Consideration for the CMH Shares held by the Scheme Participants in the manner contemplated by clause 6.2, and [Acquirer] having provided CMH with written confirmation thereof:

- (a) all the CMH Shares held by the Scheme Participants, together with all rights and entitlements attaching to those shares as at the Implementation Date other than the Unpaid Dividend (which for the avoidance of doubt will be paid to the holders of CMH Shares who are registered as such on the Unpaid Dividend Record Date), will be transferred to [Acquirer] without the need for any further act by any Scheme Participant (other than acts performed by CMH or its directors and officers as attorney and agent for the Scheme Participants under this Scheme) by:
 - (i) CMH delivering to [Acquirer] a duly completed Share Scheme Transfer executed on behalf of the Scheme Participants for execution by [Acquirer]; and
 - (ii) [Acquirer] duly executing the Share Scheme Transfer and delivering it to CMH for registration; and
- (b) CMH will, as soon as practicable following receipt of the duly executed Share Scheme Transfer from [Acquirer] under clause 5.2(a)(ii), enter the name and address of [Acquirer] in the Register in respect of the CMH Shares held by Scheme Participants.

5.3 Entitlement to Scheme Consideration

On the Implementation Date, in consideration for the transfer of the CMH Shares by the Scheme Participants to [Acquirer], each Scheme Participant will be entitled to receive the Scheme Consideration in respect of each of their CMH Shares in accordance with clause 6.

6. PROVISION OF SCHEME CONSIDERATION

6.1 Payment of Scheme Consideration

- (a) Within five Business Days after the Implementation Date, subject to receipt of the Scheme Consideration from [Acquirer] in accordance with the terms of this Scheme (in particular clause 6.2) and the Deed Poll, the Account Trustee as agent for and on behalf of [Acquirer] must pay to each Scheme Participant an amount equal to the Scheme Consideration in consideration for each CMH Share transferred to [Acquirer] on the Implementation Date by that Scheme Participant in accordance with clause 5.2.
- (b) Unless otherwise directed by the Scheme Participant prior to the Scheme Record Date, the amounts referred to in clause 6.1(a) must be paid:

- (i) if the Scheme Participant has a payment direction for an Australian bank account recorded by the Share Registry in relation to dividends that are paid by CMH as at the Scheme Record Date, then the Scheme Participant will be deemed to have authorised the payment of the Scheme Consideration by direct credit to that bank account in accordance with the direction; or
 - (ii) otherwise, by cheque drawn in Australian currency to the Scheme Participant by pre-paid post to their Registered Address as at the Scheme Record Date.
- (c) If there is any surplus in the amount held by the Account Trustee in the Trust Account, that surplus must be paid by the Account Trustee to [Acquirer] following the satisfaction of the Account Trustee's obligations under this clause 6.1.
- (d) If any amount is required under any Australian law or by any Australian governmental, semi-governmental or judicial entity or authority to be:
- (i) withheld from an amount payable under clause 6.1(a) or 6.1(c) and paid to that entity or authority; or
 - (ii) retained by the Account Trustee out of an amount payable under clause 6.1(a) or 6.1(c),

such payment or retention by the Account Trustee (or the Share Registry) will constitute the full discharge of the Account Trustee's obligations under clauses 6.1(a), 6.1(b) or 6.1(c) with respect to the amount so paid or retained until, in the case of clause 6.1(d)(ii), it is no longer required to be retained.

6.2 [Acquirer] – deposit into Trust Account

The obligation of [Acquirer] to pay the Scheme Consideration under clause 5.2 will be deemed to be satisfied if [Acquirer], before 11am on the Implementation Date, deposits (or procures the deposit) in cleared funds the aggregate Scheme Consideration payable to all Scheme Participants into an account nominated by CMH (the details of which must be notified by CMH to [Acquirer] at least five Business Days before the Implementation Date), such amount to be held on trust by CMH (as Account Trustee) for the Scheme Participants (except that any interest on the amount will be for the account of [Acquirer] after the deduction of any costs, expenses or applicable taxes) and for the purpose of CMH paying the Scheme Consideration to each Scheme Participant.

6.3 Unclaimed monies

- (a) CMH or the Account Trustee may cancel a cheque or deposit issued or made under clause 6.1 if:
- (i) it is returned to CMH; or
 - (ii) in the case of a cheque, it has not been presented for payment within six months after the date on which the cheque was sent.
- (b) During the period of one year commencing on the Implementation Date, on the request from a Scheme Participant, CMH must reissue a cheque that was previously cancelled under this clause.
- (c) In the event that CMH believes that a Scheme Participant is not known at the Scheme Participant's registered address and no account has been notified for the purposes of clause 6.1(b)(i), or a deposit into such an account is rejected or refunded, CMH may credit the amount payable to the relevant Scheme Participant to a separate bank account of CMH to be held on trust by CMH for the Scheme

Participant until the Scheme Participant claims the amount or the amount is dealt with in accordance with any applicable unclaimed money legislation (except that any interest accruing on the amount will be for the account of [Acquirer] after the deduction of any costs, expenses or applicable taxes). An amount credited to the account is to be treated as having been paid to the Scheme Participant when credited to the account. CMH must maintain records of the amount paid, the people who are entitled to the amounts and any transfer of the amounts.

6.4 Joint holders

In the case of CMH Shares held by Scheme Participants in joint names, the Scheme Consideration is payable to, and must be paid to, the holder whose name appears first in the Register as at the Scheme Record Date.

7. DEALINGS IN CMH SHARES

7.1 Dealings in CMH Shares by Scheme Participants

To establish the persons who are Scheme Participants, dealings in CMH Shares will only be recognised if:

- (a) In the case of dealings of the type to be effected using CHESS, the transferee is registered in the Register as the holder of the relevant CMH Shares on or by the Scheme Record Date; and
- (b) In all other cases, registrable transfers or transmission applications in respect of those dealings are received at the Share Registry on or before 5.00pm on the Scheme Record Date (in which case CMH must register such transfers by the Scheme Record Date),

and CMH will not accept for registration, or recognise for the purpose of establishing who are Scheme Participants, any transmission application or transfer in respect of CMH Shares received after such times on the Scheme Record Date.

7.2 No disposals after Effective Date

If this Scheme becomes Effective, a Scheme Participant (and any person claiming through that holder) must not dispose of, or purport to agree to dispose of, any CMH Shares or any interest in them after the Effective Date in any way except as set out in this Scheme and any such disposal will be void and of no legal effect whatsoever.

7.3 CMH to maintain Register to determine entitlements

In order to determine entitlements to the Scheme Consideration, CMH will maintain, or procure the maintenance of, the Register in accordance with this clause 7 until the Scheme Consideration has been paid to Scheme Participants and [Acquirer] has been entered in the Register as the holder of all CMH Shares. The Register in this form will solely determine entitlements to the Scheme Consideration.

7.4 Holding statements no effect from Scheme Record Date

From the Scheme Record Date, all holding statements for CMH Shares (other than statements of holding in favour of [Acquirer] or any of its related bodies corporate) will cease to have effect as documents of title, and, subject to the provision of the Scheme Consideration by [Acquirer] and registration of the transfer to [Acquirer] contemplated in clause 5.2, each entry on the Register at the Scheme Record Date (other than entries in respect of [Acquirer] or any of its related bodies corporate) will cease to have any effect

other than as evidence of the entitlements of Scheme Participants to the Scheme Consideration.

7.5 CMH to provide contact information for Scheme Participants

As soon as practicable after the Scheme Record Date, and in any event within one Business Day after the Scheme Record Date, CMH will give to [Acquirer] or procure that [Acquirer] be given details of the name, Registered Address and the number of CMH Shares held by each Scheme Participant, as shown in the Register at the Scheme Record Date, in whatever form [Acquirer] reasonably requires.

7.6 Suspension of trading

CMH must apply to ASX for suspension of trading of CMH Shares on ASX with effect from the close of trading on the Effective Date.

7.7 CMH to apply for termination of quotation of CMH Shares

On a date after the Implementation Date to be determined by [Acquirer], CMH will apply for termination of the official quotation on ASX of CMH Shares and must apply to have itself removed from the official list of ASX.

8. GENERAL PROVISIONS

8.1 Appointment of CMH as agent and attorney

- (a) Each Scheme Participant, without the need for any further act, irrevocably appoints CMH as its agent and attorney for the purpose of:
 - (i) executing any document or doing any other act necessary, expedient or incidental to give full effect to this Scheme and the transactions contemplated by it, including the Share Scheme Transfer; and
 - (ii) enforcing the Deed Poll against [Acquirer] and News,and CMH accepts such appointment.
- (b) CMH, as agent of each Scheme Participant, may sub-delegate its functions, authorities or powers under this clause 8.1 to all or any of its directors and officers (jointly, severally or jointly and severally).

8.2 Scheme Participants' consent

Each Scheme Participant irrevocably consents to CMH and [Acquirer] doing all things and executing all deeds, instruments, transfers or other documents as may be necessary, expedient or incidental to give full effect to this Scheme and the transactions contemplated by it.

8.3 Scheme Participant's agreements

Under this Scheme, each Scheme Participant agrees to the transfer of their CMH Shares, together with all rights and entitlements attaching to those CMH Shares and agrees to the variation, cancellation or modification of the rights attached to their CMH Shares constituted by or resulting from this Scheme, to [Acquirer], in accordance with the terms of this Scheme.

8.4 Warranty by Scheme Participants

Each Scheme Participant is deemed to have warranted to [Acquirer], in its own right and for the benefit of [Acquirer] as agent and attorney for the Scheme Participant by virtue of this clause, that:

- (a) all of their CMH Shares (including any rights and entitlements attaching to those CMH Shares) will, as at the time of the transfer of them to [Acquirer] under this Scheme, be fully paid and free from all mortgages, charges, liens, encumbrances, pledges, security interests and other interests of third parties of any kind, whether legal or otherwise, and from any restrictions on transfer of any kind; and
- (b) they have full power and capacity to sell and to transfer their CMH Shares (including any rights and entitlements attaching to those shares) to [Acquirer] under this Scheme.

8.5 Transfer free of encumbrances

To the extent permitted by law, all CMH Shares held by Scheme Participants (including any rights and entitlements attaching to those shares) which are transferred to [Acquirer] under this Scheme will, as at the date of transfer of them to [Acquirer], vest in [Acquirer] free from all mortgages, charges, liens, encumbrances and interests of third parties of any kind, whether legal or otherwise, and free from any restrictions on transfer of any kind not referred to in this Scheme.

8.6 Title to CMH Shares

Subject to the provision of the Scheme Consideration for the CMH Shares in the manner contemplated by clauses 5.3 and 6, on and from the Implementation Date and pending registration by CMH of [Acquirer] in the Register as holder of all of the CMH Shares, [Acquirer] will be beneficially entitled to all of the CMH Shares transferred to it under this Scheme.

8.7 Appointment of [Acquirer] as sole proxy

On and from the Implementation Date but subject to [Acquirer] satisfying its obligation under clause 6.2, and pending registration by CMH of [Acquirer] in the Register as the holder of all of the CMH Shares held by the Scheme Participants, each Scheme Participant:

- (a) is deemed to have irrevocably appointed [Acquirer] as its attorney and agent (and directed [Acquirer] in such capacity) to appoint any director, secretary or agent nominated by [Acquirer] as its sole proxy and, where applicable, corporate representative, to attend shareholders' meetings of CMH, exercise the votes attached to the CMH Shares registered in their name and sign any shareholders' resolutions, whether in person, by proxy or by corporate representative;
- (b) must not attend or vote at any shareholders' meetings of CMH, or sign any resolutions, whether in person, by proxy or by corporate representative, other than in accordance with this clause 8.7;
- (c) must take all other actions in the capacity of the registered holder of the CMH Shares as [Acquirer] directs; and
- (d) acknowledges and agrees that in exercising the powers referred to in this clause 8.7, [Acquirer] and any director, officer, secretary or agent nominated by [Acquirer] under this clause 8.7 may act in the best interests of [Acquirer] as the intended registered holder of the CMH Shares.

8.8 Alteration or conditions to this Scheme

If the Court proposes to approve this Scheme subject to any alterations or conditions, CMH may, by its counsel or solicitors, but subject to the prior written approval of [Acquirer], consent on behalf of all persons concerned, including each Scheme Participant, to those alterations or conditions.

8.9 Scheme is binding

This Scheme binds CMH and all Scheme Participants (including those who do not attend the Scheme Meeting, do not vote at that meeting or vote against this Scheme) and, to the extent of any inconsistency and, to the extent permitted by law, overrides the constitution of CMH.

8.10 Enforcement of Deed Poll

CMH undertakes in favour of each Scheme Participant to enforce the Deed Poll against [Acquirer] and News on behalf of and as agent and attorney for the Scheme Participants.

8.11 Notices

- (a) Where a notice, transfer, transmission application, direction or other communication referred to in this Scheme is sent by post to CMH, it will be deemed to be received on the date (if any) on which it is actually received at CMH's registered office and on no other date.
- (b) The accidental omission to give notice of the Scheme Meeting to, or the non-receipt of such notice by, any CMH Shareholder will not, unless so ordered by the Court, invalidate the Scheme Meeting or the proceedings of the Scheme Meeting.

8.12 Further assurances

CMH will execute all documents and do all acts and things (on its own behalf and on behalf of each Scheme Participant) as may be necessary or desirable to give full effect to this Scheme and the transactions contemplated by it.

8.13 Stamp duty

[Acquirer] will pay all stamp duty (including any fines, penalties and interest) payable on the transfer by the Scheme Participants of the CMH Shares to [Acquirer].

8.14 Governing law

- (a) This document is governed by the law in force in New South Wales, Australia.
- (b) Each party submits to the non-exclusive jurisdiction of the courts exercising jurisdiction in New South Wales, Australia, and any court that may hear appeals from any of those courts, for any proceedings in connection with this document, and waives any right it might have to claim that those courts are an inconvenient forum.

8.15 No Liability when acting in good faith

Neither CMH nor [Acquirer] nor any director, officer or secretary of any of those companies will be liable for anything done or omitted to be done in the performance of this Scheme or the Deed Poll in good faith.

Annexure 2 - Deed Poll

ashurst

Deed Poll

By [**Acquirer**] and **News Limited** in favour of each
Scheme Participant

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THIS DEED is made on

2012

PARTIES:

[Acquirer] ("Acquirer"); and [Note: Prior to execution of this document the reference to "Acquirer" will be replaced with the name of the member of the News Group nominated by News in writing to CMH to be the acquirer of the CMH shares under the Scheme]

News Limited (ABN 47 007 871 178) ("News")

in favour of each Scheme Participant

RECITALS:

- (A) On [*insert date*], Consolidated Media Holdings Limited (ACN 009 071 167) ("CMH"), News and News Pay TV Financing Pty Limited entered into a Scheme Implementation Deed ("**Scheme Implementation Deed**").
- (B) [Acquirer] and News are entering into this document for the purpose of covenanting in favour of the Scheme Participants to perform their respective obligations under the Scheme Implementation Deed and the Scheme.

OPERATIVE PROVISIONS:

1. INTERPRETATION

1.1 Definitions

- (a) In this document, "**Scheme**" means the proposed scheme of arrangement under Part 5.1 of the Corporations Act between CMH and the Scheme Participants that is contemplated by the Scheme Implementation Deed.
- (b) Terms that are not defined in this document and that are defined in the Scheme have the same meaning in this document as given to the term in the Scheme, unless the context makes it clear that a definition is not intended to apply.
- (c) Terms that are not defined in either this document or the Scheme but are defined in the Scheme Implementation Deed have the same meaning in this document as given to the term in the Scheme Implementation Deed, unless the context makes it clear that a definition is not intended to apply.

1.2 Rules for interpreting this document

The rules specified in clause 1.2 of the Scheme apply to the interpretation of this document, unless the context makes it clear that a rule is not intended to apply.

2. SCHEME PARTICIPANTS MAY RELY ON THIS DOCUMENT

[Acquirer] and News acknowledge that this document may be relied on and enforced by any Scheme Participant in accordance with its terms even though the Scheme Participants are not party to it.

3. CONDITIONS PRECEDENT AND TERMINATION

3.1 Conditions Precedent

[Acquirer] and News' obligations under clause 5 are subject to the Scheme becoming Effective.

3.2 Termination

[Acquirer] and News' obligations under this document will automatically terminate and the terms of this document 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 does not become Effective by the Sunset Date,

unless CMH, [Acquirer] and News otherwise agree in writing.

3.3 Consequences of Termination

If this document is terminated under clause 3.2 then, in addition and without prejudice to any other rights, powers or remedies available to it:

- (a) [Acquirer] and News are released from their respective obligations to further perform this document except those obligations contained in clause 10.2; and
- (b) each Scheme Participant retains any rights, powers or remedies it has against [Acquirer] and News in respect of any breach which occurred before this document is terminated.

4. PERFORMANCE OF OBLIGATIONS GENERALLY

[Acquirer] will comply with its obligations under the Scheme subject to and in accordance with the terms of the Scheme.

5. PAYMENT OF SCHEME CONSIDERATION

5.1 Scheme Consideration

Subject to clause 3, [Acquirer] and News undertake in favour of each Scheme Participant that [Acquirer] will pay, and News will procure that [Acquirer] pays, the aggregate amount of the Scheme Consideration payable to all Scheme Participants in cleared funds into the Trust Account.

5.2 Manner of Payment

The obligation of [Acquirer] to pay, and of News to procure the payment of, the Scheme Consideration under clause 5.1 will be deemed to be satisfied if [Acquirer], before 11am on the Implementation Date, deposits (or procures the deposit) in cleared funds the aggregate Scheme Consideration payable to all Scheme Participants into an account nominated by CMH (the details of which must be notified by CMH to [Acquirer] at least five Business Days before the Implementation Date), such amount to be held on trust by CMH (as Account Trustee) for the Scheme Participants (except that any interest on the amount will be for the account of [Acquirer] after the deduction of any costs, expenses or applicable taxes) and for the purpose of Account Trustee paying the Scheme Consideration to each Scheme Participant.

6. REPRESENTATIONS AND WARRANTIES

[Acquirer] and News each represent and warrant that:

- (a) **(status)** It is a company validly existing under the laws of its place of incorporation;
- (b) **(power)** It has full legal capacity and power to;

- (i) own its property and to carry on its business; and
- (ii) enter into this document and to carry out the transactions that this document contemplates;
- (c) **(corporate authority)** it has taken all corporate action that is necessary or desirable to authorise its entry into this document and its carrying out the transactions this document contemplates;
- (d) **(documents effective)** this document constitutes its legal, valid and binding obligations, enforceable against it in accordance with its terms (except to the extent limited by equitable principles and laws affecting creditors' rights generally) subject to any necessary stamping;
- (e) **(transactions permitted)** the execution and performance by it of this document and each transaction contemplated by this document did not and will not violate in any respect a provision of:
 - (i) a law, judgment, ruling, order or decree binding on it; or
 - (ii) its constitution or other constituent documents;
- (f) **(solvency)** as at the date of this document, it is solvent and no resolutions have been passed nor has any other step been taken or legal 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; and
- (g) **(regulatory action)** as at the date of this document and so far as it is aware, no regulatory action of any nature has been taken which would prevent, inhibit or otherwise have a material adverse effect on its ability to fulfil its obligations under this document.

7. CONTINUING OBLIGATIONS

This document is irrevocable and, subject to clause 3, remains in full force and effect until:

- (a) [Acquirer] and News have fully performed their respective obligations under this document; or
- (b) the earlier termination of this document under clause 3.2.

8. NOTICES

8.1 How to give a notice

A notice, consent or other communication under this document is only effective if it is:

- (a) in writing, signed by or on behalf of the person giving it;
- (b) addressed to the person to whom it is to be given; and
- (c) either:
 - (i) delivered or sent by pre-paid mail (by airmail, if the addressee is overseas) to that person's address;
 - (ii) sent by fax to that person's fax number and the machine from which it is sent produces a report that states that it was sent in full.

8.2 When a notice is given

A notice, consent or other communication that complies with this clause is regarded as given and received:

- (a) If it is delivered or sent by fax:
 - (i) by 5.00 pm (local time in the place of receipt) on a Business Day – on that day; or
 - (ii) after 5.00 pm (local time in the place of receipt) on a Business Day, or on a day that is not a Business Day – on the next Business Day;
- (b) if it is sent by mail:
 - (i) within Australia – three Business Days after posting; or
 - (ii) to or from a place outside Australia – seven Business Days after posting.

8.3 Address for notices

A person's mail and email address and fax number are those set out below, or as the person notifies the sender:

News

Address: [insert]
Fax number: [insert]
Attention: [insert]
with a copy by email to [insert]

[Acquirer]

Address: [insert]
Fax number: [insert]
Attention: [insert]
with a copy by email to [insert]

9. AMENDMENT AND ASSIGNMENT

9.1 Amendment

A provision of this document may not be varied unless:

- (a) before the Second Court Date, the variation is agreed to in writing by CMH; or
- (b) on or after the Second Court Date, the variation is agreed to in writing by CMH and is approved by the Court; and
- (c) [Acquirer] and News enters into a further deed poll in favour of Scheme Participants giving effect to that amendment.

9.2 Assignment

The rights and obligations of [Acquirer], News and each Scheme Participant under this document are personal. They cannot be assigned, encumbered, charged or otherwise dealt with at law or in equity without the prior written consent of [Acquirer] and News, and no person shall attempt or purport to do so. Any purported dealing in contravention of this clause 9.2 is invalid.

10. GENERAL

10.1 Governing law

- (a) This document is governed by the law in force in New South Wales, Australia.
- (b) [Acquirer] and News submit to the non-exclusive jurisdiction of the courts exercising jurisdiction in New South Wales, Australia, and any court that may hear appeals from any of those courts, for any proceedings in connection with this document, and waives any right it might have to claim that those courts are an inconvenient forum.

10.2 Stamp duty

[Acquirer] will, and News must procure that [Acquirer]:

- (a) pay all stamp duty (including fines, penalties and interest) on or in connection with this document, the performance of this document and each transaction effected by or made, or any instrument executed, under this document (including the transfer of the CMH Shares to [Acquirer]); and
- (b) indemnify each Scheme Participant on demand against any liability arising from failure to comply with clause 10.2(a).

10.3 Waiver of rights

A right may only be waived in writing, signed by the party giving the waiver, and:

- (a) no other conduct of a party (including a failure to exercise, or delay in exercising, the right) operates as a waiver of the right or otherwise prevents the exercise of the right;
- (b) a waiver of a right on one or more occasions does not operate as a waiver of that right if it arises again; and
- (c) the exercise of a right does not prevent any further exercise of that right or of any other right.

10.4 Operation of this document

- (a) Any right that a person may have under this document is in addition to, and does not replace or limit, any other right that the person may have.
- (b) Any provision of this document which is unenforceable or partly unenforceable is, where possible, to be severed to the extent necessary to make this document enforceable, unless this would materially change the intended effect of this document.

10.5 Further Assurances

[Acquirer] and News will each execute all deeds and other documents and do all acts and things (on its own behalf or on behalf of each Scheme Participant) as may be necessary or desirable to give full effect to this document and the transactions contemplated by it.

10.6 Cumulative Rights

The rights, powers and remedies of [Acquirer] and News and of each Scheme Participant under this document are cumulative and do not exclude any other rights, powers or remedies provided by law or equity independently of this document.

EXECUTED as a deed poll.

EXECUTED by [Acquirer]:

Signature of director

Signature of director/secretary

Name

Name

EXECUTED by **News Limited**:

Signature of director

Signature of director/secretary

Name

Name

Annexure 3 - Indicative timetable

Event	Indicative date
Announcement and signing of this Deed	Friday 7 September 2012
Scheme Booklet provided to ASIC	Friday 7 September 2012
First Court Date	Monday 24 September 2012
Despatch Scheme Booklet	Tuesday 2 October 2012
Deadline for receipt of proxy forms for Scheme Meeting	Monday 29 October 2012
Time and date for determining eligibility to vote at Scheme Meeting	7pm, Monday 29 October 2012
Scheme Meeting	Wednesday 31 October 2012
Second Court Date	Friday 2 November 2012
Effective Date	Monday 5 November 2012
Scheme Record Date	Tuesday 13 November 2012
Scheme Implementation Date	Tuesday 20 November 2012

Annexure 4 – Agreed Public Announcement
