

# Market Announcement

24 December 2020

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## DWS Limited (ASX: DWS) – Suspension from Official Quotation

### Description

The securities of DWS Limited ('DWS') will be suspended from quotation at the close of trading today, Thursday, 24 December 2020, in accordance with Listing Rule 17.2, following lodgement of the Federal Court of Australia orders with the Australian Securities and Investments Commission approving the scheme of arrangement by which HCL Australia Services Pty Limited will acquire all of the issued ordinary shares in DWS.

### Issued by

#### **Dean Litis**

Principal Adviser, Listings Compliance (Melbourne)



**DWS Limited**  
**ACN 085 656 088**

Manager Companies  
Company Announcements Office  
ASX Limited  
Level 4, Stock Exchange Centre  
20 Bridge Street  
SYDNEY NSW 2000

24 December 2020

Dear Sir/Madam

**Request for suspension of securities**

DWS Limited (ASX:DWS) (**DWS or the Company**) has recently announced that the scheme of arrangement pursuant to which HCL Australia Services Pty. Limited (**HCL**) will acquire all of the issued ordinary shares in DWS (**Scheme**) is now legally effective.

In accordance with Listing Rule 17.2 and consistent with Appendix 7A of the Listing Rules, the Company requests that its securities be suspended from quotation with effect from the close of trading today.

For the purposes of Listing Rule 17.2, the Company provides the following information:

- 1 Given the Scheme is now legally effective, DWS is seeking the suspension in accordance with Appendix 7A of the Listing Rules and to allow the Scheme to be implemented in an orderly manner.
- 2 DWS expects that the suspension will last for no longer than 5 business days.
- 3 Shortly after implementation of the Scheme occurs (which is expected to occur on Tuesday 5 January 2021), DWS will apply for the removal of DWS from the official list of the ASX. This will end the suspension.
- 4 DWS is not aware of any reason why its securities should not be suspended.

Stuart Whipp  
Company Secretary  
DWS Limited

**Level 4, 500 Collins Street, Melbourne, VIC 3000**  
**Phone +61 3 9650 9777**  
**DWS Ltd ABN 83 085 656 088**  
[www.dws.com.au](http://www.dws.com.au)



Federal Court of Australia

District Registry: Victoria

Division: General

No: VID663/2020

**IN THE MATTER OF DWS LIMITED**

**DWS LIMITED ACN 085 656 088**

Plaintiff

**ORDER**

**JUDGE:** JUSTICE BEACH

**DATE OF ORDER:** 23 December 2020

**WHERE MADE:** Melbourne

**OTHER MATTERS:**

- A. The Court notes that there has been produced to the Court a statement in writing by the Australian Securities and Investments Commission (ASIC) in accordance with s 411(17)(b) of the *Corporations Act 2001* (Cth) stating that ASIC has no objection to the Scheme of Arrangement between the plaintiff and its members referred to in this order.

**THE COURT ORDERS THAT:**

1. Pursuant to s 411(4)(b) of the *Corporations Act 2001* (Cth) (Act), the Scheme of Arrangement between the plaintiff and its members agreed to by the said members at the meeting held on 3 December 2020, the terms of which are as set out in Annexure A to these orders (Scheme), be and is hereby approved.
2. Pursuant to s 411(12) of the Act, the plaintiff be exempted from compliance with s 411(11) of the Act in relation to the Scheme.
3. Pursuant to r 39.34 of the *Federal Court Rules 2011* (Cth), these orders be entered forthwith.

Date that entry is stamped: 23 December 2020

  
Registrar



## ANNEXURE A

### Scheme of Arrangement

Pursuant to section 411 of the Corporations Act

DWS Limited  
Scheme Participants

**SBA Law**

Level 15, 607 Bourke Street  
Melbourne, Victoria 3000  
Tel: +61 3 9614 7000  
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DX: 31315 Midtown  
[www.sbalaw.com](http://www.sbalaw.com)



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## Parties

**DWS Limited** ACN 085 656 088 of Level 4, 500 Collins Street, Melbourne, Victoria 3000 (**'Target'**)

## Scheme Participants

## Agreed terms

### 1 Definitions and interpretation

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#### 1.1 Definitions

In this document the following definitions apply:

**ASIC** means the Australian Securities and Investments Commission;

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

**ASX Listing Rules** means the official listing rules of ASX;

**Bidder** means HCL Australia Services Pty. Limited ACN 081 196 983 of Level 8, 1 Pacific Highway, North Sydney, New South Wales 2060;

**CHESS** means the Clearing House Electronic Subregister System, which facilitates electronic security transfer in Australia, operated by ASX Settlement and Transfer Corporation Pty Limited ACN 008 504 532;

**Corporations Act** means *The Corporations Act 2001* (Cth);

**Court** means the Federal Court of Australia or any other court of competent jurisdiction under the Corporations Act determined by Target;

**Cut Off Time** means 8.00 am on the Second Court Date;

**Deed Poll** means the deed poll to be executed by Bidder in favour of the Scheme Participants, a copy of which is to be annexed to the Scheme Booklet, under which Bidder covenants in favour of each Scheme Participant to comply with all of Bidder's obligations under the Scheme Implementation Agreement and to perform the actions attributed to Bidder under this Scheme, including to provide the Scheme Consideration in accordance with this Scheme;

**Effective** means the time at which the Scheme Order takes effect pursuant to section 411(10) of the Corporations Act;

**Effective Date** means the date on which the Scheme becomes Effective;

**End Date** means 31 March 2021 or such later date as Bidder and Target agree in writing;

**Excluded Share** means a Target Share held by Bidder or a Related Body Corporate of Bidder;

**GST** means the meaning given to that term in the *A New Tax System (Goods & Services Tax) Act 1999* (Cth);

**Implementation Date** means the third business day following the Record Date or such other date as ordered by the Court or agreed between Bidder and Target;



**Independent Expert** means an independent expert determined by Target;

**Record Date** means 7.00 pm on the second business day following the Effective Date or such other date and time as Target and Bidder agree;

**Registered Address** means in relation to a Target Shareholder, the address shown in the Target Register as at the Record Date;

**Regulatory Authority** means any Australian or foreign government or governmental, semi-governmental, administrative, fiscal, regulatory or judicial entity, commission, tribunal agency or authority or any Minister, department, office or delegate of any government. It includes a self-regulatory organisation established under statute or a stock exchange, ASIC, ASX, the Foreign Investment Review Board and the Australian Competition and Consumer Commission;

**Related Body Corporate** means the meaning given to that term in the Corporations Act;

**Scheme** means this scheme of arrangement, subject to any alterations or conditions made or required by the Court under section 411(6) of the Corporations Act and agreed in writing by Target and Bidder;

**Scheme Booklet** means the information to be dispatched to Target Shareholders for the purposes of the Scheme Meeting, including the Scheme, explanatory statement in relation to the Scheme issued pursuant to section 412 of the Corporations Act and registered with ASIC, an independent expert's report prepared by the Independent Expert, the Deed Poll, any report of an investigating accountant procured by Target and notices convening the Scheme Meeting (together with proxy forms);

**Scheme Consideration** means in respect of each Scheme Share held by a Scheme Participant a cash amount equal to \$1.20 less the cash value of any Target Permitted Special Dividend paid;

**Scheme Implementation Agreement** means the scheme implementation agreement between Bidder and Target dated 21 September 2020;

**Scheme Meeting** means the meeting to be ordered by the Court to be convened pursuant to section 411(1) of the Corporations Act in respect of the Scheme;

**Scheme Order** means the order of the Court made for the purposes of section 411(4)(b) of the Corporations Act approving the Scheme;

**Scheme Participant** means each holder of Scheme Shares as at the Record Date;

**Scheme Shares** means all the Target Shares on issue on the Record Date other than the Excluded Shares;

**Scheme Transfer** means for each Scheme Participant, a proper instrument of transfer of the Scheme Shares for the purposes of section 1071B of the Corporations Act, which may be a master transfer of all Scheme Shares;

**Second Court Date** means the first day of the Second Court Hearing or, if the Second Court Hearing is adjourned for any reason, the first day on which the adjourned application is heard;

**Second Court Hearing** means the hearing of the application made to the Court for the Scheme Order;

**Target Option** means an option to acquire Target Shares;



**Target Register** means the register of members of Target maintained by or on behalf of Target in accordance with the Corporations Act and **Target Registry** has a corresponding meaning;

**Target Share** means a fully paid ordinary share in the capital of Target;

**Target Shareholder** means each person who is registered in the Target Register as the holder of Target Shares;

**Target Permitted Ordinary Dividend** means the meaning set out in the Scheme Implementation Agreement;

**Target Permitted Special Dividend** means a dividend actually paid on Target Shares as a special dividend, pursuant to Target's discretion to do so under clause 6.3 of the Scheme Implementation Agreement; and

**Third Party Account** means an Australian dollar denominated trust account operated by Boardroom Pty Ltd or such other person agreed between the parties from time to time for the purposes of the payment of the Scheme Consideration in accordance with this Scheme.

## 1.2 Interpretation

In the interpretation of this document, unless the context otherwise requires:

- (a) words and phrases have the same meaning (if any) given to them in the Corporations Act;
- (a) all references to dollars or '\$' are references to Australian currency and all amounts payable are payable in Australian dollars;
- (b) a reference to any law or legislation or legislative provision includes any statutory modification, amendment or re-enactment, and any subordinate legislation or regulations issued under that legislation or legislative provision;
- (c) a reference to a clause or part is a reference to a clause or part of this document;
- (d) a reference to any agreement or document is to that agreement or document as amended, novated, supplemented or replaced from time to time and despite any change in the identity of the parties;
- (e) a reference to a person:
  - (i) includes any company, trust, partnership, joint venture, association, corporation, body corporate or governmental agency;
  - (ii) includes the person's legal personal representatives, successors, assigns and persons substituted by novation;
- (f) where a word or phrase is given a defined meaning another part of speech or other grammatical form in respect of that word or phrase has a corresponding meaning;
- (g) a word which indicates the singular also indicates the plural, a word which indicates the plural also indicates the singular, and a reference to any gender also indicates the other gender;
- (h) a reference to the word 'include' or 'including' is to be interpreted without limitation;
- (i) headings are inserted for convenience only and do not affect interpretation;





- (j) no clause will be construed to the disadvantage of a party because that party was responsible for the preparation of this document or that clause or the inclusion of the provision in the agreement;
- (k) a reference to a holder includes a joint holder;
- (l) a reference to an obligation includes a warranty or representation and a reference to a failure to comply with an obligation includes a breach of warranty or representation;
- (m) a reference to a right includes a benefit, remedy, discretion or power;
- (n) a reference to writing includes any mode of representing or reproducing words in tangible and permanently visible form, and includes fax transmissions; and
- (o) where Target is obliged to "procure" Bidder to take any action or to refrain from taking any action, that obligation will be fully discharged by Target or its directors or officers taking all reasonable available steps to enforce the Deed Poll against Bidder as the attorney and agent of any Scheme Participant.

### **1.3 Business days and time**

In the interpretation of this document, unless the context otherwise requires:

- (a) a reference to time is to the time in Melbourne, Australia;
- (b) a reference to a business day means a day on which all banks are open for business generally in Melbourne, Australia, other than a Saturday, Sunday or public holiday; and
- (c) if the day on which any act, matter or thing is to be done is not a business day, that act, matter or thing may be done on the next business day.

## **2 Preliminary**

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### **2.1 Target**

- (a) Target is a public company incorporated in Australia and registered in Victoria, having its registered office at Level 4, 500 Collins Street, Melbourne, Victoria 3000.
- (b) Target is a public company limited by shares under section 112(1) of the Corporations Act.
- (c) Target is admitted to the official list of ASX and fully paid Target Shares are quoted on the official list of ASX.
- (d) As at the date of the Scheme Implementation Agreement:
  - (i) 131,831,328 Target Shares were on issue;
  - (ii) no performance rights which may convert into Target Shares were on issue; and
  - (iii) no Target Options which may convert into Target Shares were on issue.

### **2.2 Bidder**

- (a) Bidder is a proprietary company incorporated in Australia and registered in New South Wales, having its registered office at the offices of Mitchell and Partners, Suite 3, Level 2 66 Clarence Street, Sydney, New South Wales 2000.



- (b) Bidder is a proprietary company limited by shares under section 112(1) of the Corporations Act and a wholly owned subsidiary of HCL Technologies Limited.
- (c) HCL Technologies Limited is a public company limited by shares, incorporated in India, and has been admitted to the National Stock Exchange of India and to BSE (formerly the Bombay Stock Exchange).

### **2.3 Summary of the Scheme**

If the Scheme becomes Effective, but subject to clauses 3.1, 3.5, 3.6 and 3.7, then:

- (a) in consideration of the transfer of the Scheme Shares to Bidder, Bidder will provide to each Scheme Participant the Scheme Consideration in respect of each Scheme Share held by the Scheme Participant;
- (b) subject to Bidder's compliance with its obligations to provide the Scheme Consideration to each Scheme Participant, all of the Scheme Shares and all rights attaching to them as at the Implementation Date (other than the right to receive the Target Permitted Ordinary Dividend and any Target Permitted Special Dividend), will be transferred to Bidder; and
- (c) Target will enter the name and address of Bidder in the Target Register as the holder of the Scheme Shares transferred to Bidder,

in each case, in accordance with and subject to the terms of this Scheme and the Deed Poll.

### **2.4 Scheme Implementation Agreement**

Bidder and Target have agreed, by executing the Scheme Implementation Agreement, to implement the terms of the Scheme and to perform their respective obligations under the Scheme.

### **2.5 Deed Poll**

This Scheme attributes actions to Bidder but does not itself impose an obligation on Bidder to perform those actions. Bidder has executed the Deed Poll in favour of the Scheme Participants pursuant to which it has covenanted to perform the actions attributed to Bidder under the Scheme, including to provide to each Scheme Participant the Scheme Consideration to which such Scheme Participant is entitled under the Scheme and to carry out its other obligations under the Scheme Implementation Agreement.

## **3 Conditions**

### **3.1 Conditions of Scheme**

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

- (a) all of the conditions precedent in clause 3.1 of the Scheme Implementation Agreement (other than the condition precedent in the Scheme Implementation Agreement relating to Court approval of the Scheme) having been satisfied or, if capable of waiver under the Scheme Implementation Agreement, waived in accordance with the terms of the Scheme Implementation Agreement, by the Cut Off Time;
- (b) neither the Scheme Implementation Agreement nor the Deed Poll having been terminated in accordance with their terms as at the Cut Off Time;



- (c) the Court having approved the Scheme pursuant to section 411(4)(b) of the Corporations Act, without modification or with modifications which are acceptable to both Target and Bidder;
- (d) such other conditions made or required by the Court under section 411(6) of the Corporations Act as are acceptable to Bidder and Target being satisfied; and
- (e) 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) approving this Scheme coming into effect pursuant to section 411(10) of the Corporations Act on or before the End Date.

### **3.2 Effect of conditions**

The fulfilment of the conditions in clause 3.1 is a condition precedent to the operation of the provisions of clauses 4, 5, 6 and 8.

### **3.3 Certificate**

Target and Bidder must each provide to the Court at the Second Court Date, a certificate authorised by their respective board of directors and signed by at least one of their respective directors (or such other evidence as the Court may request) stating whether or not all the conditions precedent in clauses 3.1(a) and 3.1(b) have been satisfied, or if not satisfied and capable of waiver, are waived, as at the Cut Off Time.

### **3.4 Conclusive evidence**

The giving of a certificate by each of Target and Bidder in accordance with clause 3.3 constitutes conclusive evidence of the matters referred to in the certificate.

### **3.5 Termination of Scheme Implementation Agreement**

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

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

provided that Target and Bidder retain the rights they have against each other in respect of any prior breach of the Scheme Implementation Agreement.

### **3.6 Effective Date**

This Scheme takes effect on the Effective Date.

### **3.7 End Date**

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

## **4 Scheme**

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### **4.1 Lodgement of Court order**

Following the approval of the Scheme by the Court in accordance with section 411(4)(b) of the Corporations Act, Target will, as soon as possible and in any event by no later than 5.00 pm on the first business day after the Court approves this Scheme, lodge with ASIC



an office copy of the Scheme Order in accordance with section 411(10) of the Corporations Act.

#### **4.2 Transfer of Scheme Shares held by Scheme Participants**

On the Implementation Date in consideration of and subject to provision by Bidder of the Scheme Consideration in accordance with clauses 5.1 and 5.2 and subject to Bidder having provided written confirmation thereof to Target, all of the Scheme Shares, together with all rights and entitlements attaching to the Scheme Shares as at that date other than the right to receive the Target Permitted Ordinary Dividend and any Target Permitted Special Dividend, will be transferred to Bidder without the need for any further acts by any Scheme Participant (other than acts performed by Target as attorney and agent for Scheme Participants under clause 6) by:

- (a) Target delivering to Bidder a duly completed Scheme Transfer executed by Target as attorney for the Scheme Participants for execution by Bidder; and
- (b) Bidder duly executing the Scheme Transfer, attending to any necessary stamping, and delivering the Scheme Transfer to Target.

#### **4.3 Transfer documentation**

As soon as practicable after receipt by Target of the Scheme Transfer duly executed by Bidder as transferee pursuant to clause 4.2(b), but in any event on the Implementation Date, Target must (subject to any necessary stamping) register Bidder in the Target Register as the holder of all of the Scheme Shares.

#### **4.4 Beneficial entitlement by Bidder**

From the time of the provision of the Scheme Consideration to the Scheme Participants in accordance with clauses 5.1, 5.2(a) and 5.2(b), Bidder will be beneficially entitled to the Scheme Shares (together with all rights and entitlements attached to the Scheme Shares other than the right to receive the Target Permitted Ordinary Dividend and any Target Permitted Special Dividend) to be transferred to it under the Scheme pending registration of Bidder in the Target Register as the holder of those Scheme Shares.

#### **4.5 Enforcement of Deed Poll**

Target undertakes in favour of each Scheme Participant to enforce the Deed Poll against Bidder on behalf of and as agent for the Scheme Participants.

### **5 Scheme Consideration**

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#### **5.1 Entitlement to Scheme Consideration**

In consideration for the transfer to Bidder of the Scheme Shares:

- (a) Bidder will pay the Scheme Consideration in accordance with clause 5.2(a) and 5.2(b); and
- (b) each Scheme Participant will be entitled to receive, the Scheme Consideration in respect of each of their Scheme Shares in accordance with clause 5.2(b).

#### **5.2 Provision of Scheme Consideration**

- (a) Bidder must by no later than 5.00 pm on the business day immediately before the Implementation Date deposit in cleared funds an amount equal to the aggregate of the Scheme Consideration payable to all Scheme Participants into the Third Party Account to be held by Target as trustee for Scheme Participants.





- (b) On the Implementation Date, subject to funds having been deposited in accordance with clause 5.2(a), Target must pay or procure the payment from the Third Party Account of the Scheme Consideration to each Scheme Participant based on the number of Target Shares held by each such Scheme Participant as set out in the Target Register on the Record Date.
- (c) The obligations of Target under clause 5.2(b) will be satisfied by Target (in its absolute discretion) taking the following actions on the Implementation Date:
  - (i) where a Scheme Participant has, before the Record Date, made a valid election in accordance with the requirements of Target Registry to receive dividend payments from Target by electronic funds transfer to a bank account nominated by the Scheme Participant, paying, or procuring the payment of, the relevant amount in Australian currency by electronic means in accordance with that election; or
  - (ii) otherwise, whether or not the Scheme Participant has made an election referred to in clause 5.2(c)(i), dispatching, or procuring the dispatch of, a cheque for the relevant amount in Australian currency to the Scheme Participant by prepaid post to their address shown in the Target Register on the Record Date, such cheque being drawn in the name of the Scheme Participant (or in the case of joint holders, in accordance with the procedures set out in clause 5.3).
- (d) To the extent that, following satisfaction of Target's obligations under clause 5.2(b), there is surplus in the amount held by Target as trustee for Scheme Participants in the Third Party Account, that surplus shall be paid by Target to Bidder.

### 5.3 Joint holders

In the case of Scheme Shares held in joint names:

- (a) subject to clause 5.2(c), the Scheme Consideration is payable to the joint holders and any cheque required to be sent under this Scheme will be made payable to the joint holders and sent to either, at the sole discretion of Target, the holder whose name appears first in the Register as at the Record Date or to the joint holders; and
- (b) any other document required to be sent under this Scheme, will be forwarded to either, at the sole discretion of Target, the holder whose name appears first in the Target Register as at the Record Date or to the joint holders.

### 5.4 Unclaimed monies

- (a) Target may cancel a cheque issued under this clause 5 if the cheque:
  - (i) is returned to Target; or
  - (ii) has not been presented for payment within six months after the date on which the cheque was sent.
- (b) During the period of one year commencing on the Implementation Date, on request in writing from a Scheme Participant to the Target, Target must reissue a cheque that was previously cancelled under clause 5.4(a).
- (c) The *Unclaimed Money Act 2008* (Vic) will apply in relation to any Scheme Consideration which becomes 'unclaimed money' (as defined in section 3 of the *Unclaimed Money Act 2008* (Vic)).



### **5.5 Orders of a court or Regulatory Authority**

If written notice is given to Target (or the Target Registry) of an order or direction made by a court of competent jurisdiction or by another Regulatory Authority that:

- (a) requires consideration to be provided to a third party (either through payment of a sum or the issuance of a security) in respect of Scheme Shares held by a particular Scheme Participant, which would otherwise be payable or required to be provided or issued to that Scheme Participant by Target in accordance with this clause 5, then Target shall be entitled to procure that provision of such consideration is made in accordance with the relevant order or direction; or
- (b) prevents Target from providing consideration to any particular Scheme Participant in accordance with this clause 5, or the payment or issuance of such consideration is otherwise prohibited by applicable law, Target shall be entitled to retain an amount, in Australian dollars, equal to the Scheme Consideration to which that Scheme Participant would otherwise be entitled to under this clause 5 until such time as provision of the consideration in accordance with this clause 5 is permitted by that order or direction or otherwise by law.

## **6 Scheme Participants**

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### **6.1 Appointment of Bidder as sole proxy**

From the Implementation Date until Target registers Bidder as the holder of all the Scheme Shares in the Target Register, each Scheme Participant:

- (a) is deemed to have irrevocably appointed Bidder as its attorney and agent (and directed Bidder in such capacity) to appoint such officer or agent nominated by Bidder to be its sole proxy and, where applicable, corporate representative, to attend shareholders' meetings of Target, exercise the votes attaching to Scheme Shares registered in its name and sign any shareholders' resolution, whether in person, by proxy or by corporate representative, and no Scheme Participant may itself attend or vote at any of those meetings or sign any resolutions, whether in person, by proxy or by corporate representative (other than pursuant to this clause 6.1(a)); and
- (b) must take all other actions in the capacity of the registered holder of Scheme Shares as Bidder directs.

### **6.2 Appointment of Target as sole attorney and agent**

Each Scheme Participant, without the need for any further act, irrevocably appoints Target and each of the directors and officers of Target, jointly and severally, as the Scheme Participant's attorney and agent for the purpose of:

- (a) enforcing the Deed Poll against Bidder;
- (b) executing any document necessary or expedient to give effect to the Scheme (including executing a Scheme Transfer and any instrument appointing Bidder as sole proxy for or, where applicable, corporate representative of each Scheme Participant as contemplated by clause 6.1); or
- (c) doing any other act necessary or desirable to give full effect to the Scheme and the transactions contemplated by it.



### 6.3 Scheme Participant's consent

Each Scheme Participant:

- (a) consents to Target doing all things and executing all deeds, instruments, transfers or other documents as may be necessary, incidental or expedient to the implementation and performance of the Scheme and Target, as agent of each Scheme Participant, may sub-delegate its functions under this clause 6.3 to any of its directors and officers, severally; and
- (b) agrees to the transfer of their Scheme Shares, together with all rights and entitlements attaching to those Scheme Shares to Bidder, in accordance with the Scheme.

### 6.4 Warranties by Scheme Participants

Each Scheme Participant is deemed to have warranted to Target, in its own right and for the benefit of Bidder, and taken to have warranted to Bidder, and appointed and authorised Target as its attorney and agent to warrant to Bidder, that:

- (a) all of their Scheme Shares (including any rights and entitlements attaching to those shares) which are transferred to Bidder under the Scheme will be transferred to Bidder fully paid and free from all mortgages, pledges, charges, liens, encumbrances, security interests (including any 'security interests' within the meaning of section 12 of the *Personal Property Securities Act 2009* (Cth)) and other interests of third parties of any kind, whether legal or otherwise and restrictions on transfer of any kind;
- (b) they have full power and capacity to sell and transfer their Scheme Shares to Bidder (including any rights and entitlements attaching to those shares); and
- (c) as at the Record Date, it has no existing right to be issued any other Shares or any other form of Target securities.

Target undertakes that it will provide such warranty to Bidder as agent and attorney of each Scheme Participant.

## 7 Dealings in Target Shares

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### 7.1 Determination of Scheme Participants

- (a) For the purpose of establishing the persons who are the Scheme Participants, dealings in Scheme Shares will only be recognised if:
  - (i) in the case of dealings of the type to be effected using CHESS, the transferee is registered in the Target Register as the holder of the relevant Scheme Shares at the Record Date; and
  - (ii) in all other cases, registrable transmission applications or transfers in registrable form in respect of those dealings are received at or before 5.00pm on the day on which the Record Date occurs at the place where the Target Register is kept.
- (b) Target must register registrable transmission applications or transfers of the kind referred to in clause 7.1(a)(ii) by or as soon practicable after the Record Date.
- (c) Target will not accept for registration or recognise for any purpose any transmission applications or transfers in respect of Scheme Shares received after 5.00pm on the day on which the Record Date occurs or received prior to that time,



but not in registrable form, other than a transfer to Bidder in accordance with the Scheme and any subsequent transfer by Bidder, or its successors in title.

- (d) If the Scheme becomes Effective, a holder of Target Shares (and any person claiming through that holder) must not dispose of or purport to agree to dispose of any Target Shares or any interest in them after the Record Date other than in accordance with this Scheme, and any such disposal will be void and of no legal effect whatsoever.

## **7.2 Maintenance of Target Register**

- (a) For the purpose of determining entitlements to the Scheme Consideration, Target will, until the Scheme Consideration has been provided, maintain the Target Register in accordance with the provisions of this clause 7 and the Target Register in this form will solely determine entitlements to the Scheme Consideration.
- (b) All certificates and holding statements for Scheme Shares (other than holding statements in favour of Bidder and its successors in title after the Implementation Date) will cease to have any effect from the Record Date as documents of title in respect of those Scheme Shares. Subject to provision of the Scheme Consideration by Bidder and registration of the transfer to Bidder of the Scheme Shares contemplated by clause 4.2, after the Record Date, each entry current at that date on the Target Register relating to Scheme Shares will cease to be of any effect other than as evidence of entitlement to the Scheme Consideration in respect of the Scheme Shares relating to that entry.

## **7.3 Information to be made available to Bidder**

Target will procure that, as soon as reasonably practicable after the Record Date, details of the names, Registered Addresses and holdings of Scheme Shares of every Scheme Participant as shown in the Target Register as at the Record Date are made available to Bidder in such form as Bidder or the Bidder Registry reasonably requires.

## **8 Quotation of Target Shares**

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Target will apply for termination of the official quotation of Target Shares on ASX and the removal of Target from the official list of ASX with effect from the business day after the date on which all transfers of the Scheme Shares to Bidder have been duly registered by Target in accordance with the Scheme.

## **9 Notices**

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### **9.1 General**

Any notice, transfer, transmission, application, direction, demand, consent or other communication (**Notice**) given or made under this document must be in writing in English and signed by the sender or a person duly authorised by the sender.

### **9.2 Communications by post**

Subject to clause 9.3, where a Notice referred to in this document is sent by post to Target, it will not be deemed to have been received in the ordinary course of post or on a date other than the date (if any) on which it is actually received at Target's registered office or at the Target Registry.





### **9.3 After hours communications**

If a Notice is given:

- (a) after 5.00 pm in the place of receipt; or
- (b) on a day which is a Saturday, Sunday or bank or public holiday in the place of receipt,

it is taken as having been given at 9.00 am on the next day which is not a Saturday, Sunday or bank or public holiday in that place.

## **10 General**

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### **10.1 Target and Scheme Participants bound**

The Scheme binds Target and all Scheme Participants (including Scheme Participants who do not attend the Scheme Meeting, do not vote at that meeting or vote against the Scheme) and will, for all purposes, to the extent of any inconsistencies and permitted by law, have effect notwithstanding any provision in the constitution of Target.

### **10.2 Further assurances**

Subject to clause 10.3, Target will execute all documents and do all acts and things (on its own behalf and on behalf of each Target Shareholder) necessary or expedient for the implementation of, and performance of its obligations under, the Scheme.

### **10.3 Alterations and conditions**

Target may, with the consent of Bidder, by its counsel consent on behalf of all Scheme Participants to any modifications or conditions which the Court thinks fit to impose, provided that in no circumstances will Target be obliged to do so. Each Scheme Participant agrees to any such modifications or conditions which counsel for Target has consented to.

### **10.4 GST**

Target must pay to the Scheme Participants an amount equal to any GST for which the Scheme Participants are liable on any supply by the Scheme Participants under or in connection with the Scheme, without deduction or set off of any other amount.

### **10.5 Costs**

Bidder must:

- (a) pay all stamp duties and any related fines and penalties in connection with the transfer of Scheme Shares under the Scheme; and
- (b) indemnify each Scheme Participant on demand against any liability arising from Bidder's failure to comply with clause 10.5(a).

### **10.6 Governing law and jurisdiction**

- (a) This document is governed by and is to be construed in accordance with the laws applicable in the State of Victoria, Australia.
- (b) Each party irrevocably and unconditionally submits to the non-exclusive jurisdiction of the courts exercising jurisdiction in the State of Victoria, Australia and any courts which have jurisdiction to hear appeals from any of those courts and waives any right to object to any proceedings being brought in those courts.



**Schedule**

No: VID663/2020

Federal Court of Australia

District Registry: Victoria

Division: General

Interested Person                      HCL AUSTRALIA SERVICES PTY LTD (ACN 081 196 983)