



ASX AND MEDIA RELEASE

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For Immediate Distribution

9 April 2014

DAVID JONES BOARD RECOMMENDS A\$4.00 CASH PER SHARE PROPOSAL

The Board of David Jones (ASX:DJS) ("David Jones") announced today that it has entered into a Scheme Implementation Deed ("SID") with the South African based retail group Woolworths (JSE:WHL) ("Woolworths") under which it is proposed that Woolworths will acquire all of the David Jones shares outstanding by way of a scheme of arrangement ("Scheme") for A\$4.00 cash per share ("Proposal"). In addition, shareholders on the register as at 10 April 2014 will receive the interim dividend already declared of A\$0.10 per share (fully franked).

The cash payment of A\$4.00 per share represents:

- a 25.4% premium to the closing price of David Jones shares on 8 April 2014;
- a 39.4% premium to the price of David Jones shares on 30 January 2014 (being the last closing price prior to the Myer proposal becoming public);
- a 26.8% premium to the 3 month volume weighted average price of David Jones shares;
- a multiple of 20.8x the reported FY13 EPS of 19.2 cents per share and 23.8x the estimated FY14 EPS of 16.8 cents per share based on consensus broker estimates¹; and
- an implied market capitalisation of A\$2,149 million.

David Jones Chairman, Gordon Cairns, said: "David Jones is an iconic brand with a long and justifiably proud history. This is a compelling proposal which represents a significant premium to not only our intrinsic value but also to broker valuations and to recent share prices. It represents a substantial earnings multiple."

David Jones Managing Director and CEO, Paul Zahra, said: "I am pleased that the Woolworths proposal recognises the attractive outlook for David Jones including the benefits that have and will flow from the continued implementation of our Future Strategic Direction Plan. The Woolworths proposal is an endorsement of our Future Strategic Direction Plan and our management team."

In the absence of a superior proposal and subject to an independent expert concluding that the Scheme is fair and reasonable and in the best interests of David Jones shareholders, the Board of David Jones unanimously recommends that David Jones shareholders vote in favour of the Scheme. Subject to those same qualifications, each director of David Jones intends to vote all the David Jones shares held or controlled by them in favour of the Scheme.

Mr Cairns said, "In reaching our conclusion that the Proposal is in the best interests of shareholders, customers and employees, the Board has considered a number of alternatives, including standalone value creation opportunities; realising the value of the freehold properties owned by David Jones; or pursuing a merger with Myer in accordance with its proposed terms. Upon assessing the alternatives before it, the Board has unanimously concluded that the Woolworths offer is a compelling option which realises value for our shareholders."

¹ FY13 EPS adjusted for A\$6.4m NPAT impact of Dick Smith transaction. FY14F EPS consensus of 16.8 cents per share as per Bloomberg on 8 April 2014.

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David Jones will appoint an independent expert to prepare a report on whether the Proposal is fair and reasonable and in the best interests of David Jones shareholders. The independent expert's report will be included in the Scheme Booklet which is expected to be distributed to shareholders in late May 2014.

Woolworths's Chief Executive Officer, Ian Moir, said: "We believe that David Jones is a truly iconic Australian retail business. Woolworths is a very similar business, closely aligned in terms of our target markets and our values. The combination will create a leading southern hemisphere retailer with meaningful scale, able to leverage common fashion seasonality with enhanced sourcing capability. We will work with the David Jones team to deliver the sound strategies they have already set in place. Woolworths will bring extra capability, financial strength and significant scale to accelerate these strategies and offer a greatly enhanced value proposition, delivering on-trend product within the most exciting and innovative shopping experience in the market."

The implementation of the Scheme is subject to conditions including:

- the requisite majorities of David Jones shareholders approving the Scheme (being a majority in number of shareholders who vote and at least 75% of the total number of shares voted);
- approval from the Treasurer of the Commonwealth of Australia under Australia's foreign investment rules;
- no material adverse change, a force majeure event, prescribed occurrence or regulatory restraint; and
- Court approval of the Scheme.

Further, unless an independent expert concludes that the Scheme is fair and reasonable and in the best interests of shareholders, David Jones is not obliged to proceed with the Scheme.

Shareholders should be aware that the Scheme is also subject to Woolworths shareholder approval that requires:

- at least 50% approval based on the total number of shares voted in relation to the proposed acquisition of David Jones; and
- at least 75% approval based on the total number of shares voted in relation to an equity raising Woolworths is intending to undertake once the Scheme has been implemented.

The Scheme is also subject to Woolworths obtaining South African Reserve Bank approval.

The SID contains customary exclusivity provisions including no-shop and no-talk restrictions as well as a notification obligation, with the no-talk and notification obligation subject to the David Jones directors' fiduciary obligations. The SID also details the circumstances in which David Jones may be required to pay a break fee to Woolworths, and the circumstances in which Woolworths may be required to reimburse David Jones' costs in relation to the transaction.

Full details of the conditions to the Scheme and other agreed terms are set out in the SID, a copy of which is attached to this announcement.

Timetable

Shareholders do not need to take any action at the present time.

It is anticipated that Woolworths shareholders will have the opportunity to vote on the proposed acquisition and in relation to the contemplated post-transaction equity raising at a meeting to be held in South Africa in mid June 2014.

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It is expected that David Jones shareholders will have the opportunity to vote on the Proposal at a Scheme meeting to be held in late June 2014.

Subject to the conditions of the Scheme being satisfied, the Scheme is expected to be implemented in mid July 2014.

An indicative timetable for the Proposal is set out in Attachment A of the attached SID.

David Jones is being advised by Gresham Advisory Partners Limited, Macquarie Capital (Australia) Limited and Herbert Smith Freehills.

Further Information

Shareholders with any questions in relation to the transaction are encouraged to call the Shareholder Information Line, details of which are contained below.

Media Enquiries

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Shareholder Enquiries

Shareholder Information Line
Computershare
Within Australia: 1300 580 123
Outside Australia: +61 3 9415 4339
Operational Monday to Friday from 9:00 am to
5:00pm

ENDS

About David Jones

David Jones is Australia's leading premium department store. Founded in 1838 it has established itself as an iconic brand that targets the aspirational and premium customer segments by offering a broad range of Australian and international brands across the Fashion, Beauty, Accessories and Home categories. Positioning itself as Australia's House of Brands it has 38 stores located in Australia's key urban and central business districts as well as 120,000 SKUs available online. David Jones also operates a Financial Services business as part of a joint venture with American Express. David Jones has a strong balance sheet and owns its four Sydney and Melbourne CBD flagship store properties.

David Jones is listed on the ASX under the code ASX:DJS.

About Woolworths

Woolworths is a South African-based retail group. In South Africa, the group trades through Woolworths (Proprietary) Limited, a respected chain of retail stores offering discerning customers a selected range of quality clothing, food, homeware, beauty and financial services under its own brand name. Woolworths also owns 87.9% of Country Road Limited, a leading clothing and homeware retailer listed on the ASX.

Woolworths is listed on the Johannesburg Stock Exchange trading under the code JSE:WHL. For the 53 weeks ended 30 June 2013, Woolworths had revenue of ZAR 35.4 billion (A\$3,907.8 million) and net profit after tax of ZAR 2.6 billion (A\$286.7 million).²

² ZAR figures are converted at the AUD/ZAR exchange rate of 9.06, the average of the exchange rate between 25 June 2012 and 30 June 2013.

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Scheme Implementation Deed

Vela Investments Pty Limited

Woolworths Holdings Limited

David Jones Limited

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Parties

- 1 **Vela Investments Pty Limited** ACN 168 920 447 of Level 37, 2 Park Street, Sydney NSW 2000, Australia (**Bidder**)
 - 2 **Woolworths Holdings Limited** (Registration Number 1929/001986/06) of 99 Longmarket Street, Cape Town 8001, South Africa (**Bidder's Guarantor**)
 - 3 **David Jones Limited** ACN 000 074 573 of 86-108 Castlereagh Street, Sydney New South Wales 2000, Australia (**Target**)
-

Background

- A Target has agreed to propose a members' scheme of arrangement pursuant to which Bidder will acquire all the Scheme Shares, and the Target and the Bidder have agreed to implement the Scheme on the terms and conditions of this deed.
- B Bidder has agreed to assist Target in proposing the Scheme.
- C Bidder's Guarantor has agreed to guarantee the Bidder's obligations under this deed.

The parties agree

1 Defined terms and interpretation

1.1 Defined terms

A term or expression which is defined in the dictionary in Schedule 1 has the meaning given to it in the dictionary.

1.2 Interpretation

The interpretation clause in Schedule 1 sets out rules of interpretation for this deed.

2 Agreement to proceed with Transaction

- (a) Target agrees to propose the Scheme on and subject to the terms of this deed.
 - (b) Bidder agrees to assist Target in proposing 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 until and unless the following conditions precedent are satisfied or waived in accordance with clause 3.3.

- (a) (**SARB Approval**) Before 8:00am on the Second Court Date, Bidder receives all approvals, consents and authorisations as required in connection with the Transaction from the South African Reserve Bank on terms acceptable to Bidder

(acting reasonably), and none of those approvals, consents and authorisations are withdrawn, cancelled or revoked.

- (b) (**Bidder shareholder approval**) Before 8:00am on the Second Court Date, Shareholders of Bidder's Guarantor approve:
- (i) the Transaction by the required majority, being an ordinary majority of 50% plus one vote; and
 - (ii) resolutions relating to the Rights Offer and all related matters by the required majority, being a special majority of 75% plus one vote,
- of the total number of voting rights exercised by shareholders of Bidder's Guarantor present and voting (either in person or by proxy), at the Bidder's Shareholder Meeting.
- (c) (**FIRB**) Before 8:00am on the Second Court Date, either:
- (i) The Treasurer (or the Treasurer's delegate) has provided a notice in writing to the effect that there are no objections to the acquisition of all the Scheme Shares by Bidder under the Transaction in terms of the Commonwealth Government's foreign investment policy, either unconditionally or on terms that are acceptable to Bidder acting reasonably; or
 - (ii) The Treasurer has become precluded by lapse of time from making an order in respect of the Transaction under the *Foreign Acquisition and Takeovers Act 1975 (Cth)*.
- (d) (**Court approval**) The Court approves the Scheme in accordance with section 411(4)(b) of the Corporations Act.
- (e) (**Target Shareholder approval**) Target Shareholders approve the Scheme at the Scheme Meeting by the requisite majorities under section 411(4)(a) of the Corporations Act.
- (f) (**Restraints**) Before and as at 8:00am on the Second Court Date:
- (i) there is not in effect any preliminary or permanent injunction or other preliminary or final decision, order or decree issued by any court of competent jurisdiction or by any Government Agency, nor is there in effect any other legal restraint or prohibition; and
 - (ii) no action or investigation is announced or commenced by any Government Agency,
- which restrains, prohibits or otherwise materially adversely impedes or impacts upon (or could reasonably be expected to restrain, prohibit or otherwise materially adversely impede or impact upon) the completion of the Transaction.
- (g) (**Material Adverse Change**) No Material Adverse Change occurs between the date of this deed and 8:00am on the Second Court Date.
- (h) (**Prescribed Occurrence**) No Prescribed Occurrence occurs between the date of this deed and 8:00am on the Second Court Date.
- (i) (**No Force Majeure Event**) No Force Majeure Event occurs between the date of this deed and 8:00am on the Second Court Date.

3.2 Reasonable endeavours

- (a) Target must use its reasonable endeavours to procure that the conditions precedent in clauses 3.1(e), 3.1(g) and 3.1(h) are satisfied as soon as possible after the date of this deed.
- (b) Bidder must use its reasonable endeavours to procure that the conditions precedent in clauses 3.1(a), 3.1(b), 3.1(c) and 3.1(i) are satisfied as soon as possible after the date of this deed.
- (c) The parties must each use reasonable endeavours to procure that:
- (i) the conditions precedent in clauses 3.1(d) and 3.1(f) are satisfied; and
 - (ii) there is no occurrence or non-occurrence within their control or the control of any of their related bodies corporate that prevents, or would be reasonably likely to prevent, the satisfaction of any condition precedent.
- (d) Without limiting clause 3.2(c) but subject to clause 3.2(e), each party must:
- (i) keep the other party informed of the progress towards satisfaction of the conditions precedent; and
 - (ii) except to the extent prohibited by a Government Agency:
 - (A) promptly notify the other party of all communications between it and a Government Agency in connection with any approval or consent required pursuant to a condition precedent in clause 3.1 or any action taken or proposed by, or any enquiries made by, a Government Agency in relation to the Transaction (**Regulatory Matter**);
 - (B) promptly provide the other party with copies of all communications referred to in clause 3.2(d)(ii)(A) (where written);
 - (C) before sending any submission or correspondence to a Government Agency relating to any Regulatory Matter, consult with the other party in relation to, and provide the other party with a draft copy of, such submission or correspondence; and
 - (D) respond to reasonable requests for information that relate to any Regulatory Matter, whether made by the other party, a Government Agency or any other person, at the earliest practicable time.
- (e) Before providing any document or other information to the other party (in this clause 3.2(e), the **Recipient**) pursuant to clause 3.2(d), a party (in this clause 3.2(e), the **Discloser**) may redact any part of that document, or not disclose any part of that information, which contains or is confidential, non-public information (**Sensitive Confidential Information**) if the Discloser reasonably believes that:
- (i) the Sensitive Confidential Information is of a commercially sensitive nature; or
 - (ii) the disclosure of the Sensitive Confidential Information to the Recipient would be damaging to the commercial or legal interests of the Discloser or any of its related bodies corporate,

and may provide the document or disclose the information to the Recipient with any Sensitive Confidential Information redacted or excluded, provided that, where Sensitive Confidential Information is so redacted or excluded, the Discloser must provide the Recipient with as much detail about the relevant communication, submission or correspondence (and any other relevant circumstances) as is reasonably possible without disclosing Sensitive Confidential Information.

3.3 Waiver of conditions precedent

- (a) The conditions precedent in clauses 3.1(c), 3.1(d) and 3.1(e) cannot be waived.
- (b) The condition precedent in clause 3.1(f) is for the benefit of Bidder and Target and any breach or non-fulfilment of that condition precedent may only be waived with the written consent of both Bidder and Target (in each party's absolute discretion).
- (c) The conditions precedent in clauses 3.1(a), 3.1(b), 3.1(g), 3.1(h), and 3.1(i) are for the sole benefit of Bidder and any breach or non-fulfilment of any of these conditions precedent may only be waived with the written consent of Bidder.
- (d) If a party waives the breach or non-fulfilment of a condition precedent, such waiver will not prevent that party from suing the other party for any breach of this deed that resulted in the breach or non-fulfilment of the condition precedent.
- (e) Waiver of breach or non-fulfilment 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 Termination on failure of condition precedent

- (a) If:
 - (i) there is a breach or non-fulfilment of a condition precedent and:
 - (A) the breach or non-fulfilment is not waived in accordance with clause 3.3 or cannot be waived because of clause 3.3(a); or
 - (B) each party having the benefit of that condition precedent confirms in writing to the other party that it will not waive the breach or non-fulfilment in accordance with clause 3.3; or
 - (ii) a condition precedent becomes incapable of satisfaction and:
 - (A) the breach or non-fulfilment of that condition precedent that has occurred or would otherwise occur is not waived in accordance with clause 3.3; or
 - (B) each party having the benefit of that condition precedent confirms in writing to the other party that it will not waive the breach or non-fulfilment of that condition precedent that has occurred or would otherwise occur in accordance with clause 3.3; or
 - (iii) the Scheme has not become Effective by the End Date,

then either party may give the other party written notice (**Consultation Notice**) within 10 Business Days after the relevant event (**Termination Event**). The parties must then consult in good faith with a view to determining whether they can reach agreement with respect to:

- (iv) an extension of the time for satisfaction of the relevant condition precedent or an extension of the End Date (as the case may be); or
- (v) the Transaction proceeding by way of alternative means or methods.

If the parties are unable to reach such agreement within 10 Business Days after a Consultation Notice is given, or if a Consultation Notice is not given within 10 Business Days after a Termination Event, either party (in this clause 3.4, the **Terminating Party**) may terminate this deed by giving written notice (**Termination Notice**) to the other party, provided that:

- (vi) if the basis upon which the Terminating Party is seeking to terminate this deed is the occurrence of an event described in clause 3.4(a)(i) or 3.4(a)(ii), the Terminating Party has the benefit of the relevant condition precedent or the condition precedent is one referred to in clause 3.3(a); and
- (vii) there has been no failure by the Terminating Party to comply with its obligations under this deed, where that failure directly and materially contributed to the circumstances forming the basis upon which the Consultation Notice was given.

Where a Termination Notice is validly given under this clause 3.4(a), this deed will terminate with immediate effect and clause 13.5 will apply.

3.5 Certain notices

Each party must promptly notify the other party in writing if:

- (a) a condition precedent has been satisfied, in which case that party must comply with any reasonable request for evidence of such satisfaction made by the other party;
- (b) there is a breach or non-fulfilment of a condition precedent;
- (c) it becomes aware of any fact, matter or circumstance that has resulted, will result or is reasonably likely to result in:
 - (i) a condition precedent becoming incapable of satisfaction or otherwise not being satisfied in accordance with its terms; or
 - (ii) a material breach of this deed by that party.

4 Scheme

4.1 Scheme

- (a) Target agrees to propose the Scheme on and subject to the terms of this deed.
- (b) Target must not consent to any modification of, or amendment to, the Scheme, or to the making or imposition by a court of any condition in respect of the Scheme, without the prior written consent of Bidder (such consent not to be unreasonably withheld).

4.2 Consideration

- (a) Each Scheme Shareholder will be entitled to receive the Consideration under the Scheme, in respect of each Scheme Share held by that Scheme Shareholder.
- (b) Bidder covenants in favour of Target that, in consideration of the transfer to Bidder of all the Scheme Shares held by a Scheme Shareholder under the Scheme, on the Implementation Date it will:
 - (i) accept that transfer; and
 - (ii) provide, or procure the provision of, the Consideration to each Scheme Shareholder for each Scheme Share held by the relevant Scheme Shareholder,in each case in accordance with the terms of the Scheme.
- (c) Where the calculation of the Consideration to be provided to a particular Scheme Shareholder would result in the Scheme Shareholder becoming entitled to a fraction of a cent, the fractional entitlement will be rounded up to the nearest whole cent.

4.3 Treatment of Performance Rights and other payment entitlements under the Target STIP

Target must give effect to the treatment of Performance Rights and other payment entitlements (in the case of the Target STIP) in the manner disclosed to Bidder prior to the date of this deed in the Disclosure Materials, with any vesting or payment to be made subject to the Scheme becoming Effective.

5 Implementation

5.1 Target obligations

Target must, acting at all times in good faith, take all steps reasonably necessary to implement the Scheme in accordance with the Timetable and otherwise as soon as practicable and on and subject to the terms of this deed. Without limiting the foregoing, Target must:

- (a) **(Independent Expert)** as soon as reasonably practicable after the date of this deed, appoint the Independent Expert and provide all assistance and information reasonably requested by the Independent Expert in connection with the preparation of the Independent Expert's Report (and any update to any such report);
- (b) **(preparation of Scheme Booklet)**
 - (i) subject to clause 5.2(a), prepare the Scheme Booklet (other than the Bidder Information and the Independent Expert's Report) in accordance with all applicable laws, including the Corporations Act, Corporations Regulations, RG 60 and the Listing Rules; and
 - (ii) provide Bidder with drafts of the Scheme Booklet and the factual information sections relating to Bidder in the Independent Expert's Report, in a timely manner and, acting reasonably and in good faith, consider (and, where applicable, promptly provide to the Independent Expert in writing) all

reasonable comments from Bidder and its Representatives on those drafts, provided that such comments are provided to Target in a timely manner;

- (c) **(lodgement of Regulator's Drafts)**
- (i) no later than 14 days before the First Court Date, provide an advanced draft of the Scheme Booklet (**Regulator's Draft**) to ASIC for its review for the purposes of section 411(2) of the Corporations Act, and provide a copy of the Regulator's Draft to Bidder immediately thereafter; and
 - (ii) keep Bidder reasonably informed of any material issues raised by ASIC in relation to the Regulator's Draft and, where practical to do so, consult with Bidder in good faith prior to taking any steps or actions to address any such material issues (provided that, where such issues relate to Bidder Information, Target must not take any steps to address them without Bidder's prior written consent, not to be unreasonably withheld);
- (d) **(no objection statement)** apply to ASIC for a statement under section 411(17)(b) of the Corporations Act stating that ASIC has no objection to the Scheme;
- (e) **(First Court Hearing)** apply to the Court for orders under section 411(1) of the Corporations Act directing Target to convene the Scheme Meeting;
- (f) **(due diligence and verification)** undertake appropriate due diligence and verification processes in relation to the Target Information, and, once such processes have been completed, provide written confirmation to Bidder of the completion of such processes;
- (g) **(approval and registration of Scheme Booklet)** arrange for registration of the Scheme Booklet with ASIC in accordance with the Corporations Act;
- (h) **(Scheme Meeting)** as soon as reasonably practicable following registration of the Scheme Booklet by ASIC, despatch the Scheme Booklet to Target Shareholders, and convene and hold the Scheme Meeting in accordance with the orders made by the Court at the First Court Hearing;
- (i) **(supplementary disclosure)** if, after despatch of the Scheme Booklet, it becomes aware:
- (i) that information included in the Scheme Booklet is or has become misleading or deceptive in any material respect (whether by omission or otherwise); or
 - (ii) of information that is required to be disclosed to Target Shareholders under any applicable law (including RG 60) but was not included in the Scheme Booklet,
- promptly consult with Bidder in good faith as to the need for, and form of, any supplementary disclosure to Target Shareholders, and make any such disclosure that it considers reasonably necessary in the circumstances, having regard to applicable laws (including RG 60);
- (j) **(Bidder Category 1 and Rights Offer Circulars)** as soon as reasonably possible provide any assistance or information requested by Bidder Guarantor or its Representatives concerning the business and affairs of Target as may be reasonably required in connection with the preparation of the Bidder Category 1

Circular and the Bidder Rights Offer Circular (including any supplementary disclosure to Bidder Shareholders);

- (k) **(access to information for underwriter)** provide the Rights Offer Underwriter with reasonable (but non-disruptive) access to Target's management (during normal business hours and on reasonable notice) and information in respect of Target that the Rights Offer Underwriter and its Representatives reasonably requires to conduct due diligence enquiries and to procure, so far as it is able to do so, such opinions, letters and reports required by the Rights Offer Underwriter in line with international and South-African market practice with respect to a rights offer that includes an offering to qualified institutional buyers which is exempt from registration under the Securities Act and which is registered with the JSE, provided that:
- (i) all reasonable adviser, consultant and other third party costs incurred by Target and its Representatives in relation to clause 5.1(k) will be met by Bidder (or Bidder's Guarantor) as applicable, provided that Target provides reasonable evidence to Bidder to substantiate such costs; and
 - (ii) Target's Directors, officers and management will not be required to provide, up to and including on the Implementation Date, any form of representation, warranty, opinion, certification or sign-off in relation to or in connection with the Rights Offer for the purposes of clause 5.1(k);
- (l) **(conditions precedent certificate)** at the Second Court Hearing, provide to the Court (through its counsel):
- (i) a certificate confirming (in respect of matters within its knowledge) whether or not the conditions precedent (other than the conditions precedent in clause 3.1(d)) have been satisfied or waived in accordance with clause 3, a draft of which certificate must be provided to Bidder by 5:00pm on the Business Day prior to the Second Court Date; and
 - (ii) any certificate provided to it by Bidder pursuant to clause 5.2(g);
- (m) **(Second Court Hearing)** subject to the conditions precedent (other than the condition precedent in clause 3.1(a) being satisfied or waived in accordance with clause 3, apply to the Court for orders under section 411(4)(b) of the Corporations Act approving the Scheme;
- (n) **(Court Documents)** prepare the Court Documents, provide drafts of those documents to Bidder in a timely manner and, acting reasonably and in good faith, take into account all reasonable comments from Bidder and its Representatives on those drafts, provided that such comments are provided in a timely manner;
- (o) **(Bidder representation at Court Hearings)** allow, and not oppose, any application by Bidder for leave of the Court to be represented by counsel at a Court Hearing;
- (p) **(lodgement of Court order)** for the purposes of section 411(10) of the Corporations Act, lodge with ASIC an office copy of the orders made by the Court under section 411(4)(b) of the Corporations Act approving the Scheme before 5:00pm on the Business Day following the day on which it receives such office copy;

- (q) **(quotation of Target Shares and ASX listing)** apply to ASX to have:
- (i) trading in Target Shares suspended from the close of trading on the Effective Date; and
 - (ii) Target removed from the official list of ASX, and quotation of Target Shares on the ASX terminated, with effect on and from the close of trading on the Trading Day immediately following, or shortly after, the Implementation Date,
- and not do anything to cause any of these things to happen before the time specified in this clause 5.1(q);
- (r) **(information)** provide Bidder with such information as Bidder reasonably requests and which is necessary for the purpose of soliciting votes in favour of the Scheme;
- (s) **(compliance with laws)** do everything reasonably within its power to ensure that the Transaction is effected in accordance with all applicable laws, regulations and policy; and
- (t) **(implementation)** if the Scheme become Effective, do all things contemplated of it under the Scheme and all other things (if any) necessary for the Target to do to lawfully give effect to the Scheme.

5.2 Bidder obligations

Bidder must, acting at all times in good faith, take all steps reasonably necessary to implement the Scheme in accordance with the Timetable and otherwise as soon as practicable and on and subject to the terms of this deed. Without limiting the foregoing, Bidder must (to the fullest extent applicable):

- (a) **(prepare Bidder Information)**
- (i) as soon as reasonably practicable after the date of this deed, prepare the Bidder Information for inclusion in the Scheme Booklet in accordance with all applicable laws, including the Corporations Act, Corporations Regulations, RG 60 and the Listing Rules; and
 - (ii) provide Target with drafts of the Bidder Information in a timely manner and, acting reasonably and in good faith, take into account all reasonable comments from Target and its Representatives on those drafts, provided that such comments are provided to Target in a timely manner;
- (b) **(assistance with Scheme Booklet and Court Documents)** provide any assistance or information reasonably requested by Target or its Representatives in connection with the preparation of the Scheme Booklet (including any supplementary disclosure to Target Shareholders) or any Court Documents;
- (c) **(Independent Expert's Report)** subject to the Independent Expert agreeing to reasonable confidentiality restrictions, provide any assistance or information reasonably requested by Target or its Representatives, or by the Independent Expert, in connection with the preparation of the Independent Expert's Report (and any update to any such report);
- (d) **(due diligence and verification)** undertake appropriate due diligence and verification processes in relation to the Bidder Information, and, once those processes have been completed, provide written confirmation to Target of the completion such processes;

- (e) **(confirmation of Bidder Information)** promptly after Target requests that it does so, confirm in writing to Target that:
 - (i) it consents to the inclusion of the Bidder Information in the Scheme Booklet, in the form and context in which the Bidder Information appears; and
 - (ii) the Bidder Information in the Scheme Booklet is not misleading or deceptive in any material respect (whether by omission or otherwise), and the inclusion of such Bidder Information, in that form and context, has been approved by the Bidder Board;
- (f) **(update Bidder Information)** promptly advise Target in writing if it becomes aware:
 - (i) of information which should have been but was not included in the Bidder Information in the Scheme Booklet, and promptly provide Target with the omitted information; or
 - (ii) that the Bidder Information in the Scheme Booklet is misleading or deceptive in any material respect (whether by omission or otherwise), and promptly provide Target with any information required to correct the misleading or deceptive statements;
- (g) **(conditions precedent certificate)** before 8:00 am on the Second Court Date, provide to Target for provision to the Court at the Second Court Hearing 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(d) have been satisfied or waived in accordance with clause 3, a draft of which certificate must be provided to Target by 5:00pm on the Business Day prior to the Second Court Date;
- (h) **(representation at Second Court Hearing)** ensure that it is represented by counsel at the Second Court Hearing, at which through its counsel, Bidder will undertake (if requested by the Court) to do all such things and take all such steps within its power as are reasonably necessary in order to ensure the fulfilment of its obligations under this deed, the Scheme and to, so far as reasonably practicable, ensure that the Court makes an order under section 411(4)(b) of the Corporations Act approving the Scheme;
- (i) **(Consideration)** if the Scheme becomes Effective, pay the Consideration in the manner and in the amount contemplated by clause 4 of this deed, the terms of the Scheme and the Deed Poll (and Target holds this promise on trust for Target Shareholders);
- (j) **(Deed Poll)** before 5:00pm on the Business Day prior to the First Court Date, enter into the Deed Poll, and, if the Scheme becomes Effective, comply with its obligations under the Deed Poll; and
- (k) **(compliance with laws)** do everything reasonably within its power to ensure that the Transaction is effected in accordance with all applicable laws, regulations and policy; and
- (l) **(financing)** do everything necessary to ensure that the Bidder Facility Agreements remain in force, that all conditions precedent to draw down of funds under the Bidder Facility Agreements have been satisfied and to hold the proceeds of the financing to the extent required to pay the Consideration to the Scheme Shareholders on the Implementation Date.

5.3 Bidder's Guarantor obligations

- (a) **(Bidder Category 1 Circular)** Bidder's Guarantor must take all necessary steps to put the resolution required by clause 3.1(b) to its shareholders as soon as reasonably practicable but no later than 30 June 2014, including to:
- (i) prepare the Bidder Category 1 Circular in accordance with all applicable laws and regulations;
 - (ii) ensure the Bidder Category 1 Circular includes statements that the Board of Bidder's Guarantor recommends that its shareholders vote in favour of the Transaction and the Rights Offer and that each Bidder's Guarantor director intends to vote all Bidder's Guarantor shares in which he or she has an interest, in favour of the Transaction and the Rights Offer;
 - (iii) provide Target with an advanced draft of the Bidder Category 1 Circular in a timely manner and, acting reasonably and in good faith, consider all reasonable comments from Target and its Representatives on those drafts, provided that such comments are provided to Bidder or Bidder's Guarantor in a timely manner;
 - (iv) provide the Bidder Category 1 Circular to JSE as soon as practicable after the date of this deed, and provide a copy of the draft Bidder Category 1 Circular as provided to JSE, to Target immediately thereafter;
 - (v) keep Target reasonably informed of any material issues raised by JSE in relation to information provided to Bidder or Bidder's Guarantor by Target in the draft Bidder Category 1 Circular and any steps or actions which Bidder's Guarantor has taken or intends to take to address any such material issues (provided that, where such issues relate to any information in respect of Target, Bidder's Guarantor must not amend that information without Target's prior written consent, not to be unreasonably withheld);
- (b) **(Bidder's Shareholder Meeting)** as soon as possible following approval by JSE of the Bidder Category 1 Circular (if any), Bidder's Guarantor must despatch the Bidder Category 1 Circular to Bidder Guarantor's shareholders, and convene and hold the Bidder's Shareholder Meeting; and
- (c) **(Deed Poll)** before 5:00pm on the Business Day prior to the First Court Date, enter into the Deed Poll, and, if the Scheme becomes Effective, comply with its obligations under the Deed Poll.

5.4 Scheme Booklet

- (a) If the parties are unable to agree on the form or content of a particular part of the Scheme Booklet, then:
- (i) if the relevant part of the Scheme Booklet is Bidder Information, Target will make such amendments to that part of the Scheme Booklet as required by Bidder (acting reasonably and in good faith); and
 - (ii) in any other case, Target (acting reasonably and in good faith) will decide the form and content of that part of the Scheme Booklet.

- (b) The parties agree that the Scheme Booklet will contain a responsibility statement to the effect that:
- (i) Target is responsible for the Target Information contained in the Scheme Booklet;
 - (ii) Bidder is responsible for the Bidder Information contained in the Scheme Booklet; and
 - (iii) the Independent Expert is responsible for the Independent Expert's Report.

5.5 Conduct of business

- (a) Subject to clause 5.5(b), from the date of this deed up to and including the Implementation Date, Target must:
- (i) ensure that the business of the Target Group is conducted:
 - (A) in the usual and ordinary course;
 - (B) in a manner generally consistent with the manner in which such business has been conducted in the 12 months prior to the date of this deed; and
 - (C) in accordance with all applicable laws in all material respects;
 - (ii) not, and must ensure that its Related Bodies Corporate do not, other than in the ordinary course of business:
 - (A) settle any legal proceedings, claim, investigation, arbitration or other like proceeding where the settlement amount payable by any entity within the Target Group exceeds \$5,000,000;
 - (B) do or cause to be done, or fail to do or cause not to be done, anything that would or may result in the Scheme not being implemented or being implemented otherwise than in accordance with the Timetable and the terms of this deed; or
 - (C) authorise, commit or agree to do any of the matters set out above;
 - (iii) make reasonable endeavours to:
 - (A) retain the services of the directors, officers and Relevant Employees of the Target Group; and
 - (B) maintain and preserve the Target Group's relationships with joint venturers, customers, suppliers, investors, Government Agencies, licensors, licensees and others with whom the Target Group has business dealings;
 - (iv) ensure that no Prescribed Occurrence occurs; and
 - (v) ensure that the Target Group does not enter into any lines of business which are different to the Existing Business Lines.
- (b) Nothing in clause 5.5(a) restricts the ability of Target to take any action which:

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- (i) is required or permitted by this deed or a Scheme;
 - (ii) has been fairly disclosed to Bidder or in any announcement to or filing with ASX or ASIC before the date of this deed;
 - (iii) has been agreed to in writing by Bidder; or
 - (iv) is conducted in the ordinary course of business by the Target.
- (c) In this deed, unless the context requires otherwise, references to the business or assets of the Target Group are to that business or those assets taken as a whole.
 - (d) For the avoidance of doubt, nothing in this clause 5.5 restricts the ability of Target to respond to a Competing Proposal in accordance with clause 8.

5.6 Access

From the date upon which condition 3.1(b) is satisfied or waived until the Implementation Date, Target must use reasonable endeavours to procure that Bidder is provided with reasonable, non-disruptive access during normal business hours and on reasonable notice to information, premises and senior executives of any member of the Target Group, where Bidder requests such access for the purposes of:

- (a) implementation of the Transaction; or
- (b) obtaining an understanding, or furthering its understanding, of the Target Group or its business or assets in order to allow Bidder to develop, finalise and implement its plans for the Target Group following implementation of the Transaction,

provided that compliance with any such request would not, in the reasonable opinion of Target (acting in good faith), result in undue disruption to the Target Group's business.

5.7 Resignation of directors

Subject to provision of the Consideration in accordance with clause 4.2, Target must procure that, with effect on and from the Implementation Date:

- (a) those persons nominated by Bidder are appointed to the Target Board and the boards of other members of the Target Group, provided that:
 - (i) such persons sign consents to act as a director of the relevant member(s) of the Target Group; and
 - (ii) such consents to act are provided to Target before the Implementation Date; and
- (b) those Target Directors and directors of other members of the Target Group, as nominated by Bidder, resign as a director of the relevant member(s) of the Target Group (provided that nothing in this clause 5.7(b) requires any such director to forego any rights they may have under any deed of access and indemnity or policy of directors and officers insurance).

6 Public announcements

- (a) Immediately after execution of this deed, each of Target and Bidder must release the Agreed Public Announcement.

- For personal use only
- (b) Subject to clause 6(c), before making any public announcement in respect of the Transaction (whether through the ASX, JSE stock exchange news service or otherwise), a party must provide the other party with a draft copy of such public announcement as soon as reasonably practicable before it is proposed that such public announcement is made, and, where the proposed public announcement relates or refers to the Transaction (or may have a material effect on the Transaction or any aspect of it), must give the other party a reasonable opportunity to comment on the form and content of the draft announcement and must take into account all reasonable comments from that party and its Representatives on the draft.
 - (c) A party will only be required to comply with clause 6(b) if and to the extent that compliance would not, in the reasonable opinion of that party, be likely to result in that party breaching its continuous disclosure or similar obligations.
-

7 Board support of Transaction

7.1 Confirmation of Recommendations and Voting Intentions

Target represents and warrants to Bidder that each Target Director has confirmed (by way of a unanimous resolution of the Target Board) that:

- (a) his or her recommendation in respect of the Scheme is that Target Shareholders vote in favour of the Scheme at the Scheme Meeting (**Recommendation**); and
- (b) he or she intends to vote, or cause to be voted all Target Shares in which he or she has a Relevant Interest in favour of the Scheme at the Scheme Meeting (**Voting Intention**),

in each case in the absence of:

- (c) a Superior Proposal; or
- (d) the Independent Expert concluding in the Independent Expert's Report (or any update or variation to that report) that the Transaction is any one or more of the following: not in the best interests of, not fair, or not reasonable, to Target Shareholders.

7.2 Maintenance of Recommendations and Voting Intentions

- (a) Target must use its reasonable endeavours to ensure that no Target Director withdraws, changes or modifies a Recommendation or Voting Intention unless:
 - (i) a Superior Proposal is made; or
 - (ii) the Independent Expert concludes in the Independent Expert's Report (or any update or variation to that report) that the Transaction is any one or more of the following: not in the best interests of, not fair, or not reasonable, to Target Shareholders.
- (b) Subject to a Target Director withdrawing or changing a Recommendation or Voting Intention where clause 7.2(a) applies, Target must ensure that:
 - (i) the Scheme Booklet includes statements to the effect that that Target Director gives the Scheme Recommendation and has the Voting Intention; and

- (ii) no public announcement is made by Target, and no public statement is made by that Target Director, which is inconsistent with that Target Director giving the Recommendations and having the Voting Intentions.

7.3 Bidder acknowledgement

Bidder acknowledges that without derogating from a party's rights under clause 13, if any of the events in clause 7.2(a) occur, then any Target Director may change, withdraw or modify their Recommendation or Voting Intention.

8 Exclusivity

8.1 Termination of existing discussions

On the date of this deed, Target must, and must procure that each of its Representatives:

- (a) cease any discussions with any Third Party in relation to, a potential Competing Proposal;
- (b) cease the provision of any due diligence access and the making available of any non-public information in relation to the Target Group (**Non-Public Information**) to any Third Party, where the due diligence access and provision of Non-public Information was for the purposes of, a potential Competing Proposal; and
- (c) require any Third Party to whom Non-Public Information has been provided or made available to immediately return or destroy that Non-public Information in accordance with any agreed terms of confidentiality, where the Non-public Information was provided or made available for the purposes of, a potential Competing Proposal.

8.2 No-shop

During the Exclusivity Period, Target must not, and must procure that its Representatives do not:

- (a) solicit, initiate or invite enquiries, discussions or proposals in relation to, or which may reasonably be expected to lead to, a Competing Proposal; or
- (b) communicate to any person any intention to do any of the things referred to in clause 8.2(a),

provided that nothing in this clause 8.2 prevents Target from making normal presentations to, or responding to enquiries from, brokers, portfolio investors and analysts in the ordinary course of business or promoting the merits of the Transaction.

8.3 No-talk

Subject to clause 8.5, during the Exclusivity Period, Target must not, and must ensure that its Representatives do not:

- (a) participate in or resume (where discussions have ceased under clause 8.1) any discussions or negotiations in relation to, or which may reasonably be expected to lead to, a Competing Proposal;

- (b) provide or make available to any Third Party any Non-public information where provision of that information may reasonably be expected to lead to a Competing Proposal; or
- (c) communicate to any person any intention to do any of the things referred to in clause 8.3(a),

provided that nothing in this clause 8.3 prevents Target from making normal presentations to, or responding to enquiries from, brokers, portfolio investors and analysts in the ordinary course of business or promoting the merits of the Transaction.

8.4 Notification obligation

Subject to clause 8.5, during the Exclusivity Period, Target must within 2 Business Days notify Bidder in writing if it is approached, or if any of its Representatives is approached, by any person in relation to a Competing Proposal, and such notice must set out reasonable details of the approach, including the key terms of any Competing Proposal (including, if specified, the identity of the person making the Competing Proposal, consideration, conditions, structure, timing, break fee, financing and due diligence requirements) (**Key Terms**).

8.5 Fiduciary exception

In respect of a bona fide, written Competing Proposal that is made or announced without any breach by Target of its obligations under this clause 8, Target may undertake any action (**prohibited action**) that would otherwise be prohibited by clause 8.3, or refrain from notifying a matter under clause 8.4 or identifying a competing bidder as would otherwise be required by clause 8.4, if (and only to the extent that) the Target Board determines, acting in good faith and after obtaining legal advice, that not undertaking the prohibited action, or undertaking the required action, would be likely to result in the Target Directors breaching their fiduciary or statutory duties.

9 Break Fee

9.1 Background

This clause 9 has been agreed to in circumstances where:

- (a) each party believes that it and its shareholders will derive significant benefits from the implementation of the Transaction;
- (b) Bidder has incurred and will further incur significant costs in connection with the Transaction, which will include significant opportunity costs if the Transaction is not implemented;
- (c) Bidder has requested that provision be made for the payment of the Break Fee by Target, and would not have entered into this deed had such provision not been made;
- (d) Target believes that it is appropriate to agree to pay the Break Fee to secure Bidder's entry into this deed; and
- (e) each party has received separate legal advice in relation to this deed and the operation of this clause 9.

The parties acknowledge and agree that the costs referred to in clause 9.1(b) are of such a nature that they cannot be precisely quantified, but that the Break Fee is a genuine and reasonable pre-estimate of the those costs.

9.2 Payment of Break Fee

Subject to clauses 9.3, 9.5 and 9.6, Target must pay Bidder the Break Fee (without set-off or withholding) within 10 Business Days after receipt of a written demand from Bidder if any of the following events occur:

- (a) at any time before the termination of this deed under clause 13, a Competing Proposal is made or announced by a Third Party, and, within 12 months thereafter:
 - (i) a Competing Proposal of the kind referred to in either of paragraphs (a)(ii) or (a)(iii) of the definition of Competing Proposal is completed, implemented or consummated in the same or substantially the same form as made or announced (disregarding any differences in consideration or structure); or
 - (ii) the Third Party or an associate of the Third Party acquires Control of, or merges with, Target.
- (b) Bidder becomes entitled to terminate this deed under clause 13.1(b) or 13.2, (other than in circumstances where the Independent Expert concludes in the Independent Expert's Report (or any update or variation to that report) that the Transaction is any one or more of the following: not in the best interests of, not fair, or not reasonable, to Target Shareholders).

9.3 Payment conditions

- (a) Notwithstanding the occurrence of any event referred to in clause 9.2, the Break Fee will not be payable if the Scheme becomes Effective. The Break Fee must be refunded to Target within 10 Business Days after the Scheme becomes Effective if it was paid to Bidder before that time.
- (b) Target can only ever be liable to pay the Break Fee once.

9.4 Nature of payment

The Break Fee is an amount to compensate Bidder for the following costs and expenses:

- (a) external advisory costs (excluding success fees);
- (b) internal costs such as costs of management and directors' time, risk management costs and capital costs;
- (c) out-of-pocket expenses; and
- (d) opportunity costs incurred in pursuing the Transaction or in not pursuing other alternative acquisitions or strategic initiatives which otherwise could have been developed or pursued.

9.5 Compliance with law

This clause 9 imposes obligations on Target only to the extent that the performance of those obligations:

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- (a) does not constitute unacceptable circumstances as declared by the Takeovers Panel;
 - (b) does not breach the fiduciary or statutory duties of the Target Directors; and
 - (c) is not otherwise unlawful or held to be unenforceable by a court.

If the Break Fee is paid to Bidder and clause 9.5(a), 9.5(b) or 9.5(c) applies, Bidder must refund the relevant part of the Break Fee (if any) to Target within 10 Business Days after receipt of a written demand from Target.

9.6 Other claims

The maximum aggregate amount which the Target is required to pay in relation to a breach of this deed (including in respect of a breach or representation and warranty) is an amount equal to the Break Fee and in no event will the aggregate liability of the Target under or in connection with a breach of this deed exceed an amount equal to the Break Fee.

9.7 Exclusive Remedy

Notwithstanding any other provision under this deed, where the Break Fee becomes payable to Bidder under this deed (or would be payable if a demand was made), Bidder cannot make any claim against Target in relation to any event or occurrence referred to in clause 9.2(a) or for any material breach referred to in clause 13.1

10 Cost reimbursement

10.1 Background

This clause 10 has been agreed to in circumstances where:

- (a) each party believes that it and its shareholders will derive significant benefits from the implementation of the Transaction;
- (b) Target has incurred and will further incur significant costs in connection with the Transaction;
- (c) Target has requested that provision be made for the payment of the Cost Reimbursement by Bidder, and would not have entered into this deed had such provision not been made;
- (d) Bidder believes that it is appropriate to agree to pay the Cost Reimbursement to secure Target's entry into this deed; and
- (e) each party has received separate legal advice in relation to this deed and the operation of this clause 10.

10.2 Payment of Cost Reimbursement

Subject to clause 10.3 and without limiting the rights of Target in respect of any other claims that may arise under this deed, Bidder must pay Target (without set-off or withholding) within 10 Business Days after receipt of a written demand from Target the amount of the costs reasonably incurred by the Target in connection with this deed, the Scheme or the Transaction, capped at \$5,000,000 (exclusive of GST), if:

- (a) the condition in clause 3.1(b) is not satisfied or waived by Bidder; or
- (b) Target becomes entitled to terminate this deed under clause 13.3(b),

and provided that Target provides reasonable evidence to Bidder to substantiate such costs (**Cost Reimbursement**).

10.3 Payment conditions

- (a) Notwithstanding the occurrence of any event referred to in clause 10.2, the Cost Reimbursement will not be payable if the Scheme becomes Effective and the Consideration is paid by the Bidder. The Cost Reimbursement must be refunded to Target within 10 Business Days after the Scheme becomes Effective if it was paid to Bidder before that time.
- (b) Bidder can only ever be liable to pay the Cost Reimbursement once.

10.4 Nature of payment

The Cost Reimbursement is an amount to compensate Target for all reasonable external advisory costs and expenses.

11 Representations and Warranties

11.1 Bidder and Bidder's Guarantor Representations and Warranties

Bidder represents and warrants, and Bidder's Guarantor jointly and severally represents and warrants where applicable in respect of Bidder's Guarantor as well as Bidder, to the Target that:

- (a) (**validly existing**) it is a validly existing corporation registered under the laws of its place of incorporation;
- (b) (**power**) it has full corporate power and lawful authority to execute, deliver and perform this deed and the Deed Poll;
- (c) (**corporate action**) it has taken all necessary corporate action to authorise the entry into this deed and has taken or will take all necessary corporate action to authorise the performance of this deed and the Deed Poll;
- (d) (**binding**) this deed is its valid and binding obligation enforceable in accordance with its terms;
- (e) (**performance**) the execution and performance by it of this deed did not and will not violate or breach any provision of:
- (i) a law or treaty or a judgment, ruling, order or decree binding on it; or
 - (ii) its constitution;
- (f) (**regulatory approvals**) as far as Bidder is aware, no regulatory approval is required to be obtained by Bidder in order for it to execute, deliver and perform this deed, other than those approvals set out in clauses 3.1(a) and 3.1(c);
- (g) (**Bidder Information**) the Bidder Information included in the Scheme Booklet with its consent pursuant to clause 5.2(e), and any other information provided by it

pursuant to clause 5.2(f), will not be misleading or deceptive in any material respect (with any statement of belief or opinion having been formed on a reasonable basis), including by way of omission or otherwise, and will comply in all material respects with applicable laws, including the Corporations Act, Corporations Regulations, RG 60 and the Listing Rules;

- (h) **(basis of Bidder Information)** the Bidder Information:
- (i) will be provided to Target in good faith and on the understanding that Target and each other Target Indemnified Party will rely on that information for the purposes of preparing the Scheme Booklet and proposing the Scheme; and
 - (ii) will comply in all material respects with the requirements of the Corporations Act, Corporations Regulations, RG 60 and the Listing Rules,

and all information provided by Bidder to the Independent Expert will be provided in good faith and on the understanding that the Independent Expert will rely on that information for the purpose of preparing the Independent Expert's Report;

- (i) **(new information)**: it will, as a continuing obligation, provide to Target all further or new information which arises after the Scheme Booklet has been despatched to Target Shareholders until the date of the Scheme Meeting which is necessary to ensure that the Bidder Information is not misleading or deceptive (including by way of omission);
- (j) **(Insolvency Event or regulatory action)**: no Insolvency Event has occurred in relation to it or another member of the Bidder Group, nor has any regulatory action of any nature of which it is aware been taken that would prevent or restrict its ability to fulfil its obligations under this deed; and
- (k) **(financing)**: subject to clause 11.8, Bidder has legally binding:
 - (i) Debt Commitment Letters; and
 - (ii) Bidder Facility Agreements,

in respect of all financing required for Bidder to fund the Consideration under the Scheme.

11.2 Bidder's indemnity

Bidder agrees, and Bidder's Guarantor jointly and severally agrees, with Target (in its own right and separately as trustee or nominee for each of the other Target Indemnified Parties) to indemnify Target and each of the Target Indemnified Parties against any claim, action, damage, loss, liability, cost, expense or payment of whatever nature and however arising that Target or any of the other Target Indemnified Parties suffers, incurs or is liable for arising out of any breach of any of the Bidder Representations and Warranties.

11.3 Target Representations and Warranties

Target represents and warrants to Bidder that:

- (a) **(validly existing)** it is a validly existing corporation registered under the laws of its place of incorporation;

- For personal use only
- (b) (**power**) it has full corporate power and lawful authority to execute, deliver and perform this deed and the Scheme;
 - (c) (**corporate action**) it has taken all necessary corporate action to authorise the entry into this deed and has taken or will take all necessary corporate action to authorise the performance of this deed and the Scheme;
 - (d) (**binding**) this deed is a valid and binding obligation on Target, enforceable in accordance with its terms;
 - (e) (**performance**) the execution and performance by it of this deed did not and will not violate or breach any provision of:
 - (i) a law or treaty or a judgment, ruling, order or decree binding on it; or
 - (ii) its constitution;
 - (f) (**capital structure**) its capital structure is as set out in Schedule 2 and, other than as set out in Schedule 2:
 - (i) it has not issued any other Target Shares or other securities, rights or instruments which are still outstanding and may convert into, or give the holder the right to be issued, Target Shares; and
 - (ii) it is not under any obligation to issue, and no person has any right to require or call for the issue of, any Target Shares or other securities, rights or instruments issuable by Target (whether such obligation or right is conditional or otherwise);
 - (g) (**Target Information**) the Target Information included in the Scheme Booklet, and any supplementary disclosure made to Target Shareholders pursuant to clause 5.1(i) (excluding any information provided by Bidder), will not be misleading or deceptive in any material respect (with any statement of belief or opinion having been formed on a reasonable basis), including by way of omission or otherwise, and will comply in all material respects with applicable laws, including (in respect of the Target Information) the Corporations Act, Corporations Regulations, RG 60 and the Listing Rules;
 - (h) (**due diligence**) the Disclosure Materials were collated in good faith and solely in response to particular written requests for information from Bidder and taken in that context and read as a whole including with regard to corrections which have been made to those materials, Target is not actually aware of any material misleading or deceptive statement in, or material omission from, any of the Disclosure Materials;
 - (i) (**publicly available information**) Target is not aware that any information in any document or announcement which Target or any of its related bodies corporate has lodged or filed with, or otherwise given to, any Government Agency (or which has been so lodged, filed or given on its behalf or on behalf of any of its related bodies corporate), within the period of 2 years prior to the date of this deed, and which is publicly available or otherwise in the public domain, is misleading or deceptive in any material respect (whether by omission or otherwise);
 - (j) (**basis of Target Information**) the Target Information:
 - (i) will be prepared and included in the Scheme Booklet in good faith and on the understanding that Bidder and each other Bidder Indemnified Party will rely on that information; and

- (ii) will comply in all material respects with the requirements of the Corporations Act, Corporations Regulations, RG 60 and the Listing Rules,

and all information provided by Target to the Independent Expert will be provided in good faith and on the understanding that the Independent Expert will rely on that information for the purpose of preparing the Independent Expert's Report;

- (k) **(new information)**: it will, as a continuing obligation (but in respect of the Bidder Information, only to the extent that Bidder provides Target with updates to the Bidder Information), ensure that the Scheme Booklet is updated to include all further or new information which arises after the Scheme Booklet has been despatched to Target Shareholders until the date of the Scheme Meeting which is necessary to ensure that the Bidder Information is not misleading or deceptive (including by way of omission);
- (l) **(continuous disclosure)** it is in compliance in all material respects with its continuous disclosure obligations under Listing Rule 3.1 and following release of the Agreed Public Announcement, there will be no information which it is withholding from disclosure in reliance on Listing Rule 3.1A; and
- (m) **(Insolvency Event or regulatory action)** no Insolvency Event has occurred in relation to it or another member of the Target Group, nor has any regulatory action of any nature of which it is aware been taken that would prevent or restrict its ability to fulfil its obligations under this deed.

11.4 Target's indemnity

Subject to clause 9.6, Target agrees with Bidder (in its own right and separately as trustee or nominee for each Bidder Indemnified Party) to indemnify Bidder and each of the Bidder Indemnified Parties against any claim, action, damage, loss, liability, cost, expense or payment of whatever nature and however arising that Bidder or any of the other Bidder Indemnified Parties suffers, incurs or is liable for arising out of any breach of any of the Target Representations and Warranties.

11.5 Qualifications on Target's Representations and Warranties

The Target Representations and Warranties in clause 11.3 and the indemnity in clause 11.4 are each subject to matters that have been fairly disclosed in:

- (a) the Disclosure Materials; and
- (b) Target's announcements to ASX, or a document lodged with ASIC, prior to the date of this deed.

11.6 Survival of Representations and Warranties

Each Representation and Warranty:

- (a) is severable;
- (b) survives termination of this deed; and
- (c) is given with the intent that liability thereunder will not be confined to breaches which are discovered prior to the date of termination of this deed.

11.7 Survival of indemnities

Each indemnity in this deed (including those in clauses 11.2 and 11.4):

- (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 termination of this deed.

11.8 Timing of Representations and Warranties

Each Representation and Warranty is given at the date of this deed and again at 8:00am on the Second Court Date, except that the Target Representation and Warranty in clause 11.3(l) and the Bidder Representation and Warranty in clause 11.1(k)(i) is only given at the date of this deed and the Bidder Representation and Warranty in clause 11.1(k)(ii) is only given as at 8:00am on the Second Court Date.

12 Releases

12.1 Release of Target Indemnified Parties

- (a) Subject to clause 12.1(b), Bidder releases any and all rights that it may have, and agrees with Target that it will not make any claim, against any Target Indemnified Party as at the date of this deed and from time to time in connection with:
 - (i) any breach of any covenant, representation or warranty given by Target under this deed;
 - (ii) any disclosures containing any statement which is false or misleading (whether by omission or otherwise); or
 - (iii) any failure to provide information,

whether current or future, known or unknown, arising at common law, in equity, under statute or otherwise, except where a Target Indemnified Party has not acted in good faith or has engaged in wilful misconduct. To avoid doubt, nothing in this clause 12.1(a) limits the rights of Bidder to terminate this deed under clause 13.

- (b) The release in clause 12.1(a) is subject to any restriction imposed by law and will be read down to the extent that any such restriction applies.
- (c) Target receives and holds the benefit of clause 12.1(a) as trustee for the Target Indemnified Parties.

12.2 Release of Bidder Indemnified Parties

- (a) Subject to clause 12.2(b), Target releases any and all rights that it may have, and agrees with Bidder that it will not make any claim, against any Bidder Indemnified Party as at the date of this deed and from time to time in connection with:
 - (i) any breach of any covenant, representation or warranty given by Bidder under this deed;

- (ii) any disclosures containing any statement which is false or misleading (whether by omission or otherwise); or
- (iii) any failure to provide information,

whether current or future, known or unknown, arising at common law, in equity, under statute or otherwise, except where a Bidder Indemnified Party has not acted in good faith or has engaged in wilful misconduct. To avoid doubt, nothing in this clause 12.2 limits the rights of Target to terminate this deed under clause 13.

- (b) The release in clause 12.2(a) is subject to any restriction imposed by law and will be read down to the extent that any such restriction applies.
- (c) Bidder receives and holds the benefit of clause 12.2(a) as trustee for that Bidder Indemnified Parties.

12.3 Deeds of indemnity and insurance

- (a) Subject to the Scheme becoming Effective and the Transaction completing, Bidder undertakes in favour of Target and each other person who is a Target Indemnified Party that it will:
- (i) for a period of 7 years from the Implementation Date, ensure that the constitutions of Target and each other member of the Target Group continue to contain such rules as are contained in those constitutions at the date of this deed that provide for each company to indemnify each of its directors and officers against any liability incurred by that person in his or her capacity as a director or officer of the company to any person other than a member of the Target Group; and
- (ii) procure that Target and each member of the Target Group complies with any deeds of indemnity, access and insurance made by them in favour of their respective directors and officers from time to time and without limiting the foregoing, ensure that directors' and officers' run-off insurance cover for such directors and officers is maintained, for a period of 7 years from the retirement date of each director and officer.
- (b) Bidder acknowledges that notwithstanding any other provision of this deed, Target may, prior to the Implementation Date, enter into arrangements to secure directors and officers run-off insurance for up to such 7 year period, and that any actions to facilitate that insurance or in connection therewith will not be Prescribed Occurrences or breach any provision of this deed.
- (c) The undertakings contained in clause 12.3(a) are subject to any Corporations Act restriction and will be read down accordingly.
- (d) Target receives and holds the benefit of clause 12.3(a), to the extent it relates to the other Target Indemnified Parties as trustee for them.
- (e) The undertakings contained in clause 12.3(a) are given until the earlier of the end of the relevant period specified in clause 12.3(a) or the relevant Target Group Member ceasing to be part of the Target Group.

13 Termination

13.1 Termination by either party

- (a) Either party may terminate this deed in accordance with clause 3.4.
- (b) Other than in respect of a breach of a Representation and Warranty (which are dealt with in clauses 13.2 and 13.3), at any time before 8:00am on the Second Court Date, either party may terminate this deed if the other party commits a material breach of this deed, provided that:
 - (i) it has given written notice to the other party setting out the relevant circumstances and stating an intention to terminate this deed; and
 - (ii) the relevant circumstances have not been remedied within 10 Business Days from the time such notice is given (or any shorter period ending at 5:00pm on the Business Day before the Second Court Date).

Termination under this clause 13.1(b) will take effect at the expiry of the period referred to in clause 13.1(b)(ii).

13.2 Termination by Bidder

Bidder may terminate this deed, with immediate effect, at any time before 8:00am on the Second Court Date by notice in writing to Target if:

- (a) Target materially breaches clause 8;
- (b) in any circumstances (including where clause 7.2(a) applies), a majority of the Target Directors:
 - (i) withdraw, adversely change or make any public statement that is inconsistent with a Recommendation or Voting Intention; or
 - (ii) recommend, endorse or support any Competing Proposal; or
- (c) in any circumstances, Target voluntarily enters into any agreement or arrangement in relation to the implementation of any Competing Proposal; or
- (d) at the time they were made, the Target Representations and Warranties were not true and accurate in all material respects, provided that:
 - (i) Bidder has given written notice to Target setting out the relevant circumstances and stating an intention to terminate this deed or to allow the Scheme to lapse;
 - (ii) the relevant breach or circumstances have not been remedied for 10 Business Days from the time such notice is given (or any shorter period ending at 5:00pm ending on the Business Day before the Second Court Date); and
 - (iii) the loss that would reasonably be expected to follow from such a breach would exceed \$80 million in aggregate or the relevant breach is material in the context of the Scheme taken as a whole.

13.3 Termination by Target

- (a) Target may terminate this deed, with immediate effect, by notice in writing to Bidder if, at any time before 8:00am on the Second Court Date, the Target Board publicly:
 - (i) withdraw or adversely change their Recommendation; or
 - (ii) recommend a Competing Proposal,in each case provided that clause 7.2(a) applies;
- (b) If the board of directors of Bidder Guarantor do not recommend that Bidder shareholders vote in favour of (or after having so recommended, subsequently withdraw or qualify such recommendation) each of the resolutions to be put to the Bidder shareholders at the Bidder Shareholder Meeting; or
- (c) at the time they were made, the Bidder Representations and Warranties were not true and accurate in all material respects, provided that:
 - (i) Target has given written notice to Bidder setting out the relevant circumstances and stating an intention to terminate this deed or to allow the Scheme to lapse;
 - (ii) the relevant breach or circumstances have not been remedied for 10 Business Days from the time such notice is given (or any shorter period ending at 5:00pm ending on the Business Day before the Second Court Date); and
 - (iii) the loss that would reasonably be expected to follow from such a breach would exceed \$80 million in aggregate or the relevant breach is material in the context of the Scheme taken as a whole.

13.4 Termination by written agreement

This deed may be terminated by the written agreement of the parties, on such terms as the parties agree.

13.5 Effect of termination

If this deed is terminated in accordance with this clause 13, this deed will cease to have force and effect without any liability or obligation on the part of any party, except that:

- (a) this clause 13.5 and clauses 1, 12, 14, 15, 16, 17 and 18, and Schedule 1, will survive termination; and
- (b) each party will retain any rights and remedies that accrued prior to termination, including any rights and remedies in respect of any past breach of this deed or (if applicable) in respect of the breach giving rise to termination.

14 Confidentiality

Each party acknowledges and agrees that nothing in this deed derogates from the rights and obligations of Target under the Confidentiality Deed, provided that this deed prevails to the extent of any inconsistency with the Confidentiality Deed.

15 Duty, costs and expenses

15.1 Stamp duty

Bidder:

- (a) must pay all stamp duties and any related fines and penalties in respect of this deed or any transaction effected under it; and
- (b) indemnifies Target against any liability arising from or in connection with any failure by it to comply with clause 15.1(a).

15.2 Costs and expenses

Except as otherwise provided in this deed, each party must pay its own costs and expenses in connection with the negotiation, preparation, execution and performance of this deed and the proposed, attempted or actual implementation of the Transaction.

16 GST

- (a) In this clause 16, a word or expression defined in the *A New Tax System (Goods and Services Tax) Act 1999* (Cth) has the meaning given to it in that legislation.
- (b) If a party makes a supply under or in connection with this deed in respect of which GST is payable, the consideration for the supply but for the application of this clause 16(b) (**GST exclusive consideration**) is increased by an amount (**additional GST amount**) equal to the GST exclusive consideration multiplied by the rate of GST prevailing at the time the supply is made.
- (c) If a party must reimburse or indemnify another party for a loss, cost or expense, the amount to be reimbursed or indemnified is first reduced by the amount equal to any input tax credit the other party, or the representative member of the GST group of which the other party is a member, is entitled to with respect to the loss, cost or expense, and then increased in accordance with clause 16(b) if such amount is consideration for a taxable supply made under or in connection with this deed.
- (d) A party need not make a payment of the additional GST amount until it receives a tax invoice or adjustment note (as appropriate) for the supply to which the payment relates.

17 Guarantee by Bidder's Guarantor

17.1 Guarantee and indemnity

Bidder's Guarantor:

- (a) unconditionally and irrevocably guarantees to Target on demand, the due and punctual performance of Bidder's obligations under this deed; and
- (b) as a separate and additional liability, indemnifies Target against all loss, actions, proceedings and judgements of any nature, incurred by, brought, made or recovered against Target arising from any default or delay in the due and punctual performance of Bidder's obligations under this deed.

17.2 Extent of guarantee and indemnity

The liability of Bidder's Guarantor under this clause 17 is not affected by anything that, but for this clause 17, might operate to release or exonerate Bidder's Guarantor in whole or in part from its obligations including any of the following, whether with or without the consent of Bidder's Guarantor:

- (a) the grant to Bidder, Bidder's Guarantor or any other person of any time, waiver or other indulgence, or the discharge or release of Bidder, Bidder's Guarantor or any other person from any liability or obligation;
- (b) any transaction or arrangement that may take place between Target, Bidder or Bidder's Guarantor or any other person;
- (c) Target exercising or refraining from exercising its rights under any security or any other rights, powers or remedies against Bidder, Bidder's Guarantor or any other person;
- (d) the amendment, replacement, extinguishment, unenforceability, failure, loss, release, discharge, abandonment or transfer either in whole or in part and either with or without consideration, of any security now or in the future held by Target from Bidder, Bidder's Guarantor or any other person or by the taking of or failure to take any security;
- (e) the failure or omission or any delay by Target or Bidder to give notice to Bidder's Guarantor of any default by Bidder or any other person under this agreement; and
- (f) any legal limitation, disability, incapacity or other circumstances related to Bidder, Bidder's Guarantor or any other person.

17.3 Principal and independent obligation

This clause 17 is a principal obligation and is not to be treated as ancillary or collateral to any other right or obligation and extends to cover this agreement as amended, varied, supplemented, renewed or replaced.

17.4 Continuing guarantee and indemnity

This clause 17 is a continuing obligation of Bidder's Guarantor, despite Implementation, and remains in full force and effect for so long as Bidder has any liability or obligation to Target under this deed and until all of those liabilities or obligations have been fully discharged.

17.5 No withholdings

- (a) Bidder's Guarantor must make all payments that become due under this clause 17, free and clear and without deduction of all present and future withholdings (including taxes, duties, levies, imposts, deductions and charges of Australia or any other jurisdiction).
- (b) If Bidder's Guarantor is compelled by law to deduct any withholding, then in addition to any payment due under this clause 17, it must pay to Target such amount as is necessary to ensure that the net amount received by Target after withholding equals the amount Target would otherwise been entitled to if not for the withholding.

17.6 Currency

Bidder's Guarantor must pay all moneys that it becomes liable to pay under this clause 17 in the currency in which they are payable under this agreement and free of any commissions and expenses relating to foreign currency conversion or any other charges or expenses.

17.7 No set off

Bidder Guarantor has no right to set off, deduct or withhold any moneys that it may be or become liable to pay under this clause 17, against any moneys that Target or any other member of the Target Group may be, or become, liable to pay to a member of the Bidder Group whether under this deed or otherwise.

17.8 Bidder's Guarantor's liability

Bidder's Guarantor's liability in respect of any claim shall not exceed Bidder's liability in respect of that claim.

18 General

18.1 Notices

- (a) A notice, consent, approval, waiver or other communication sent by a party under this deed (**Notice**) must be:
- (i) in writing;
 - (ii) sent by an authorised representative of the sender; and
 - (iii) marked for the attention of the person named below,
- and must be:
- (iv) left at, or sent by commercial courier to, the address set out below;
 - (v) sent by fax to the number set out below; or
 - (vi) sent by email to the address set out below.

Bidder and Bidder's Guarantor

Attention: **Ralph Buddle**

Address: Woolworths House 93 Longmarket Street Cape Town 8001
South Africa

Email: ralphbuddle@woolworths.co.za

with a copy (for information purposes only) to:

HNarushima@gtlaw.com.au

NNagarajah@gtlaw.com.au

Target

Attention: Susan Leppinus, General Counsel and Company Secretary

Address: 86 – 108 Castlereagh Street, Sydney NSW 2000

Email: sleppinus@davidjones.com.au

with a copy (for information purposes only) to:

Rebecca.Maslen-Stannage@hsf.com

Courtney.Dixon@hsf.com

- (b) Subject to clause 18.1(c), a Notice is taken to be received:
 - (i) if sent by delivery, when it is delivered;
 - (ii) if sent by commercial courier, three days after dispatch;
 - (iii) if sent by fax, at the time shown in the transmission report produced by the machine from which the fax was sent as the time the fax was sent in its entirety; or
 - (iv) if sent by email:
 - (A) when the sender receives an automated message confirming delivery; or
 - (B) four hours after the time sent (as recorded on the device from which the email was sent), provided that the sender does not receive an automated message that the email has not been delivered,whichever happens first.
- (c) If a Notice is taken to be received under clause 18.1(b):
 - (i) before 9:00am on a Business Day, it will be taken to be received at 9:00am on that Business Day; or
 - (ii) after 5:00pm on a Business Day or on a non-Business Day, it will be taken to be received at 9:00am on the next Business Day.

18.2 Governing law and jurisdiction

- (a) This deed is governed by the laws of New South Wales.
- (b) Each party irrevocably submits to the non-exclusive jurisdiction of the courts of New South Wales and courts competent to hear appeals from those courts.

18.3 No representation or reliance

- (a) Each party acknowledges that no party (nor any person acting on its behalf) has made any representation or other inducement to it to enter into this deed, except for representations or inducements expressly set out in this deed and (to the maximum extent permitted by law) all other representations, warranties and conditions implied by statute or otherwise in relation to any matter relating to this

deed, the circumstances surrounding the parties' entry into it and the transactions contemplated by it are expressly excluded.

- (b) Each party acknowledges and confirms that it does not enter into this deed in reliance on any representation or other inducement by or on behalf of any other person, except for any representation or inducement expressly set out in this deed.

18.4 No merger

The rights and obligations of the parties do not merge on completion of the Transaction. They survive the execution and delivery of any assignment or other document entered into for the purpose of implementing the Transaction.

18.5 Waivers and consents

- (a) Failure to exercise or enforce, a delay in exercising or enforcing, or the partial exercise or enforcement of any right, power or remedy provided by law or under this deed by any party does not in any way preclude, or operate as a waiver of, any exercise or enforcement, or further exercise or enforcement, of that or any other right, power or remedy provided by law or under this deed.
- (b) Any waiver or consent given by a party under this deed is only effective and binding on that party if it is given or confirmed in writing by that party.
- (c) No waiver of a breach of any term of this deed operates as a waiver of another breach of that term or of a breach of any other term of this deed.
- (d) Except where this deed expressly provides otherwise, where the consent of a party is required under this deed, such consent may be given or withheld in that party's absolute discretion.

18.6 Variation

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

18.7 Assignment

A party may not assign, novate or otherwise transfer any of its rights or obligations under this deed without the prior written consent of the other parties.

18.8 Further action

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

18.9 Entire agreement

This deed supersedes all previous agreements, understandings, negotiations or deeds in respect of its subject matter and embodies the entire agreement between the parties.

18.10 Severability

If the whole or any part of a provision of this deed is void, unenforceable or illegal in a jurisdiction, it is severed for that jurisdiction but only to the extent that it is void, unenforceable or illegal and provided that it will have full force and effect in any other

jurisdiction. Where a provision (or any part thereof) is severed in a jurisdiction, the remainder of this deed will have full force and effect in that (and any other) jurisdiction.

This clause 18.10 does not apply to any severance that alters the basic nature of this deed or is contrary to public policy.

18.11 Counterparts

This deed may be executed in any number of counterparts. All counterparts together will be taken to constitute one instrument.

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1 Dictionary

additional GST amount has the meaning given in clause 16(d).

Agreed Public Announcement means an announcement in a form agreed between Bidder and Target prior to execution of this deed, to be released by each of Bidder and Target pursuant to clause 6(a).

ASIC means the Australian Securities and Investments Commission.

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

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

Bidder Category 1 Circular means the circular prepared by Bidder for provision to its shareholders in respect of the condition precedent in clause 3.1(b).

Bidder Facility Agreements means the debt facility agreements and related documents entered or to be entered into by the Bidder or its Related Body Corporate on or after the date of this deed on the terms contemplated by the Debt Commitment Letters.

Bidder Group means, collectively, Bidder and each of its Related Bodies Corporate.

Bidder Indemnified Party means a director, officer, employee or adviser of a member of the Bidder Group.

Bidder Information means information regarding the Bidder Group provided by or on behalf of Bidder to Target or its Representatives in writing for inclusion in a Scheme Booklet.

Bidder Representations and Warranties means the representations and warranties set out in clause 11.1.

Bidder Rights Offer Circular means the disclosure document under the JSE Listing Requirements to be prepared by Bidder in respect of the Rights Offer.

Bidder’s Shareholder Meeting means a meeting of the shareholders of Bidder’s Guarantor called to, among other things, vote on and approve the Rights Offer and the Transaction in terms of section 9 of the JSE Listings Requirements.

Business Day has the meaning given in the Listing Rules.

Break Fee means \$22,000,000 (exclusive of GST).

Competing Proposal means any proposal, offer, agreement, arrangement or transaction which is sufficiently detailed and credible to warrant consideration as such by Target and which:

- (a) if entered into or completed, would result in a Third Party (either alone or together with one or more associates) directly or indirectly:

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- (i) acquiring an interest (including an economic interest by way of an equity swap, contract for difference or similar transaction or arrangement) or a Relevant Interest in 20% or more of the Target Shares;
- (ii) acquiring, becoming the holder of or having a right to acquire or an economic interest in all or a substantial part of the business, or any of the material assets, of the Target Group (where a material asset of the Target Group will include rights in respect of assets representing 50% or more of the value of the Target Group's total assets); or
- (iii) otherwise acquiring, acquiring Control of or merging with Target or any other member of the Target Group,

whether by takeover bid, scheme of arrangement, shareholder approved acquisition, capital reduction, share buy-back or repurchase, sale or purchase of assets or interests therein, joint venture, reverse takeover bid, dual-listed company structure, recapitalisation, establishment of a new holding company for the Target Group or other synthetic merger, or any other means.

condition precedent means a condition set out in clause 3.1.

Confidentiality Deed means the confidentiality deed between Woolworths Holdings Limited (Registration Number 1929/001986/06 of 99 Longmarket Street, Cape Town 8001, South Africa and Target, dated 19 March 2014.

Consideration means, in respect of each Scheme Share, A\$4.00.

Consultation Notice has the meaning given in clause 3.4(a)

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

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

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

Court means the Federal Court of Australia or such other court of competent jurisdiction under the Corporations Act as agreed in writing between Bidder and Target.

Court Documents means the documents required for the purposes of a Court Hearing, including (as applicable) originating process, affidavits, submissions and draft minutes of Court orders.

Court Hearing means the First Court Hearing or Second Court Hearing (as applicable), and **Court Hearings** means both of them.

Cost Reimbursement has the meaning given in clause 10.2.

Debt Commitment Letters means the credit approved executed commitment letters and accompanying term sheets from certain banks and financial institutions addressed to Bidder Group entities in respect of any debt finance proposed to be raised by Bidder Group entities in connection with the Transaction contemplated by this deed, and dated on or prior to the date of this deed.

Deed Poll means the deed poll to be entered into by Bidder's Guarantor and Bidder in respect of the provision of the Consideration, in the form of Attachment B.

Discloser has the meaning given in clause 3.2(e).

Disclosure Materials means the information in relation to the Target Group disclosed in writing by or on behalf of Target to Bidder and its Representatives prior to the date of this deed, including:

- (a) the documents and information contained in the online data room (**Online Data Room**) to which Bidder and its Representatives were given access prior to the date of this deed, the index of which has been initialled by the parties for identification; and
- (b) any written answers to requests for further information made by Bidder and its Representatives as contained in the Online Data Room.

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

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

Encumbrance means a mortgage, charge, pledge, lien, encumbrance, security interest, title retention, preferential right, trust arrangement, contractual right of set-off or any other security agreement or arrangement in favour of any person, whether registered or unregistered, including any Security Interest.

End Date means 23 September 2014 or such later date as Bidder and Target agree in writing.

Existing Business Lines means lines of business in which Target is engaged as at the date of this deed or which are typical for a department store business.

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

- (a) the termination of this deed under clause 13; and
- (b) the End Date.

First Court Date means the first day on which an application made to the Court for orders under section 411(1) of the Corporations Act directing Target to convene the Scheme Meeting is heard (or if the application is adjourned or subject to appeal for any reason, the day on which the adjourned application is heard) with such hearing being the **First Court Hearing**.

Force Majeure Event means:

- (a) any material adverse change in national or international monetary, political, financial or economic conditions, or securities markets, or any material adverse change in any foreign exchange controls in South-Africa, Australia, the United Kingdom or the United States of America;
- (b) a suspension or material limitation in trading in securities generally on the JSE, ASX, the NYSE, Nasdaq or the London Stock Exchange;
- (c) a suspension or material limitation in trading in Bidder's Guarantor's shares on the JSE for a period exceeding 10 consecutive trading days provided that such suspension or material limitation in trading has not been requested or triggered in bad faith by Bidder's Guarantor; or

- (d) a general moratorium on commercial banking activities in South Africa, Australia, the United Kingdom or the United States of America by any relevant authority or a material disruption in commercial banking or securities settlement or clearance services in South Africa, Australia, the United Kingdom or the United States of America,

in each case which makes it impracticable for Bidder to make payment of the Consideration.

Government Agency means any foreign or Australian government or governmental, semi-governmental, administrative, fiscal, statutory or judicial body, department, commission, authority, tribunal, agency or entity, or any minister of the Crown in right of the Commonwealth of Australia or any state, or any other federal, state, provincial, local or other government, whether foreign or Australian. It also includes any self-regulatory organisation established under statute or otherwise discharging substantially public or regulatory functions (including ASIC and the Takeovers Panel), the South African Reserve Bank and any stock exchange (including ASX and JSE).

GST exclusive consideration has the meaning given in clause 16(b).

Implementation Date means the fifth Business Day after the Record Date or such other day as the parties agree in writing.

Independent Expert means the independent expert to be appointed by Target to prepare the Independent Expert's Report in accordance with clause 5.1(a).

Independent Expert's Report means the report in respect of the Scheme to be prepared and issued by the Independent Expert for inclusion in the Scheme Booklet.

Insolvency Event means, in relation to any entity:

- (a) the entity resolving that it be wound up or a court making an order for the winding up or dissolution of the entity;
- (b) a liquidator, provisional liquidator, administrator, receiver, receiver and manager or other insolvency official being appointed to the entity or in relation to the whole, or a substantial part, of its assets;
- (c) the entity executing a deed of company arrangement;
- (d) the entity is or becomes unable to pay its debts when they fall due within the meaning of the Corporations Act (or, if appropriate, legislation of its place of incorporation) or is otherwise presumed to be insolvent under the Corporations Act unless the entity has, or has access to, committed financial support from its parent entity such that it is able to pay its debts; or
- (e) the entity being deregistered as a company or otherwise dissolved.

JSE means JSE Limited.

JSE Listings Requirements means the official listings requirements of JSE.

Key Terms has the meaning given in clause 8.4.

Listing Rules means the official listing rules of ASX.

Material Adverse Change means:

- (a) a matter, event or circumstance that occurs, is announced or becomes known to Bidder where that matter, event or circumstance has, has had, or is reasonably likely to have, either individually, or when aggregated with any other matters, events or circumstances of a similar kind or category, the effect of:
 - (i) diminishing on an estimated annualised basis the Target Group's estimated net profit after tax for FY14 so that it is less than \$75 million (excluding any one-off or non-recurring event);
 - (ii) reducing Target Group's net tangible assets by greater than \$80 million (including a one off or non-recurring event); or
- (b) any other matter, event or circumstance (including a one-off or non-recurring event) that occurs, is announced or becomes known to Bidder where that matter event or circumstance is, or is reasonably likely to be, materially adverse to the ability of Target to perform its obligations under this deed,

in each case (except that paragraph (d) only will not qualify paragraph (a)) other than matters, events or circumstances (on or after the date of this deed):

- (c) required or specifically permitted by this deed or the Scheme;
- (d) resulting from changes in general economic or political conditions or the securities market in general;
- (e) fairly disclosed to Bidder or ASX prior to the date of this deed (or which may arise from a matter, event or circumstance which was disclosed); or
- (f) that occur with the written consent of Bidder.

Non-public Information has the meaning given in clause 8.1(b).

Notice has the meaning given in clause 18.1(a).

Performance Rights means the performance rights issued under the Target LTIP and the Target STIP as set out in Schedule 2.

Prescribed Occurrence means the occurrence of any of the following:

- (a) Target converting all or any of its shares into a larger or smaller number of shares;
- (b) any member of the Target Group resolving to reduce its share capital in any way or reclassifying, combining, splitting or redeeming any of its shares;
- (c) any member of the Target Group:
 - (i) entering into a buy-back agreement; or
 - (ii) resolving to approve the terms of a buy-back agreement under the Corporations Act;

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- (d) any member of the Target Group issuing shares, or granting a performance right or an option over its shares, or agreeing to make such an issue or grant such a performance right or an option;
 - (e) any member of the Target Group issuing or agreeing to issue securities convertible into shares (including any issue or agreement to issue performance rights) or debt securities;
 - (f) any member of the Target Group making, determining as payable or declaring any distribution (whether by way of dividend, capital reduction or otherwise and whether cash or in specie), other than the fully franked interim dividend of 10.0 cents per share announced on 19 March 2014;
 - (g) any member of the Target Group disposing, or agreeing to dispose, of the whole, or a substantial part, of its business or property;
 - (h) any member of the Target Group ceasing, or threatening to cease, the whole or a material part of its business;
 - (i) any member of the Target Group creating, granting or agreeing to any Encumbrance over any of the assets of any member of the Target Group, other than a lien which arises by operation of law, legislation or arises in the ordinary course of the Target Group's business;
 - (j) any member of the Target Group resolving that it be wound up or the making of an application or order for the insolvent winding up or dissolution of a member of the Target Group other than where the application or order (as the case may be) is set aside within 14 days;
 - (k) a liquidator or provisional liquidator of a member of the Target Group being appointed;
 - (l) a court making an order for the winding up of a member of the Target Group;
 - (m) an administrator of a member of the Target Group being appointed under the Corporations Act;
 - (n) any member of the Target Group is or becomes unable to pay its debts when they fall due within the meaning of the Corporations Act or is otherwise presumed to be insolvent under the Corporations Act unless that company has, or has access to, committed financial support from its parent entity such that it is able to pay its debts;
 - (o) a member of the Target Group making any change to its constitution;
 - (p) any member of the Target Group executing a deed of company arrangement;
 - (q) a receiver, or a receiver and manager, being appointed in relation to the whole, or a substantial part, of the property of a member of the Target Group;
 - (r) any member of the Target Group being deregistered as a company or otherwise dissolved other than on a solvent basis;
 - (s) any member of the Target Group enters into, agrees to enter into or announces any agreement or transaction which, if performed or completed, would, or could reasonably be expected to, involve or result in any member(s) of the Target Group:

- (i) acquiring, agreeing to acquire or offering to acquire one or more companies, entities, securities, businesses or assets, or any interest in any joint venture or partnership, in any such case having a value of at least \$40 million, either individually or when aggregated with all other such acquisitions or agreements permitted by this sub-paragraph (s)(i);
 - (ii) disposing of, agreeing to dispose of or offering to dispose of (whether by way of sale, transfer, joint venture or otherwise) one or more companies, entities, securities, businesses or assets (or any interest (including an economic interest) or right in any of the foregoing), or any interest in any joint venture or partnership, in any such case having a value of at least \$40 million, either individually or when aggregated with all other such disposals, agreements or offers permitted by this sub-paragraph (s)(ii);
- (t) any member of the Target Group:
- (i) incurs or commits to, or brings forward the time for incurring or committing to, or grants to another person a right the exercise of which could be reasonably expected to involve or result in any member of the Target Group incurring or committing to, any capital expenditure, financial indebtedness (including borrowings, loans and advances) or liability (whether actual or contingent), or foregoing any revenue, for one or more related items or amounts of in aggregate more than \$40 million (provided that any member of the Target Group drawing on lines of credit which are in place at the date of entry into this deed and in the ordinary course of business will not be taken to breach or be counted under, this clause (t)(i));
 - (ii) subject to (t)(iii), enters into, agrees to enter into or materially amends any employment, consulting, severance or other similar arrangement or agreement with any officer, director, executive or employee of the Target Group whose total employment cost exceeds \$500,000 (**Relevant Employee**) without first consulting with Bidder and giving Bidder a reasonable opportunity to provide input for Target's consideration;
 - (iii) increases the remuneration of, pays any bonus or termination or retention payment other than as disclosed to Bidder by Target prior to the date of this deed to, or varies or terminates the employment arrangements of any Relevant Employee (or agrees to do any of these things), in any such case otherwise than in accordance with contractual entitlements (including under the Target STIP) existing as at the date of this deed;
 - (iv) accepts as a compromise of a matter less than the full compensation due to it or any other member(s) of the Target Group where the compromise is more than \$40 million or waives any material Third Party default where the financial impact upon the Target Group would be in excess of \$40 million;
 - (v) changes any accounting policy applied by them to report their financial position other than any change in policy required by a change in accounting standards;
 - (vi) does anything that would result in a de-consolidation of the Target consolidated tax group; or
 - (vii) is in material default under any agreement or arrangement which is material in the context of the Target Group taken as a whole;

- (u) any member of the Target Group authorises, procures or commits or agrees to do any of the matters set out above,

but does not include any occurrence:

- (v) required or permitted by this deed or the Scheme or the transactions contemplated by either;
- (w) agreed to in writing by Bidder;
- (x) fairly disclosed in the Disclosure Materials;
- (y) fairly disclosed by Target in an announcement made by Target to ASX, or a document lodged by it with ASIC, prior to the date of this deed; or
- (z) which occurs in the ordinary course of the Target Group's business.

prohibited action has the meaning given in clause 8.5.

Recipient has the meaning given in clause 3.2(e).

Recommendation has the meaning given in clause 7.2(a)(i).

Record Date means 7:00pm on the fifth Business Day after the Effective Date of the Scheme.

Regulator's Draft has the meaning given in clause 5.1(c)(i).

Regulatory Matter has the meaning given in clause 3.2(d)(ii)(A).

Related Body Corporate has the meaning given in section 50 of the Corporations Act.

Relevant Employee means any officer, director, executive or employee of the Target Group whose total employee cost exceeds \$500,000.

Relevant Interest has the meaning given in sections 608 and 609 of the Corporations Act.

Representation and Warranty means a Bidder Representation and Warranty or Target Representation and Warranty.

Representative means, in respect of a party, an employee, agent, officer, director, adviser or financier of that party (or of a Related Body Corporate of that party), and, in the case of advisers and financiers, includes employees, officers and agents of the adviser or financier (as applicable).

RG 60 means Regulatory Guide 60 issued by ASIC and dated September 2011.

Rights Offer means an entitlement offer to be made by Bidder Guarantor to its shareholders on or soon after the date of the Scheme Meeting.

Rights Offer Underwriter means the underwriter appointed for the purposes of the Rights Offer and Rights Offer Underwriters has the corresponding meaning.

Scheme means a members' scheme of arrangement under Part 5.1 of the Corporations Act between Target and the Scheme Shareholders, in the form of Attachment C, subject to any alterations or conditions made or required by the Court under section 411(6) of the Corporations Act.

Scheme Booklet means the explanatory statement in respect of the Scheme to be prepared by Target pursuant to section 412 of the Corporations Act and in accordance with clause 5.1(b), and to be despatched to Target Shareholders in accordance with clause 5.1(h), which will contain (among other things) the Independent Expert's Report (or a concise version of that report), a notice of meeting in respect of the Scheme Meeting and a proxy form.

Scheme Meeting means the meeting of Target Shareholders ordered by the Court to be convened at the First Court Hearing.

Scheme Share means a Target Share held by a Scheme Shareholder as at the Record Date.

Scheme Shareholder means a Target Shareholder as at the Record Date.

Second Court Date means the first day on which an application made to the Court for orders under section 411(4)(b) of the Corporations Act approving the Scheme is heard (or if the application is adjourned or subject to appeal for any reason, the day on which the adjourned application is heard), with such hearing being the **Second Court Hearing**.

Security Interest has the meaning given in section 12 of the *Personal Property Securities Act 2009* (Cth).

Sensitive Confidential Information has the meaning given in clause 3.2(e).

Share Register means the register of Target Shareholders maintained in accordance with the Corporations Act.

Superior Proposal means a bona fide, Competing Proposal for the acquisition of 100% of the Target securities (including all Target Shares) which the Target Board considers, acting in good faith and after taking written advice from Target's legal and financial advisers:

- (a) is subject to conditions (taken as a whole) no more onerous than the conditions precedent to the Scheme in clause 3.1 (taken as a whole);
- (b) is reasonably likely to be implemented within 6 months, having regard to the proponent(s) and conditionality of the proposal; and
- (c) would, if implemented substantially in accordance with its terms, result in a more favourable outcome for Target Shareholders than would result from implementation of the Scheme.

Takeovers Panel means the Takeovers Panel constituted under the *Australian Securities and Investments Commission Act 2001* (Cth).

Target Board means the board of directors of Target.

Target Director means a director of Target.

Target Group means, collectively, Target and each of its Related Bodies Corporate.

Target Indemnified Party means a director, officer, employee or adviser of a member of the Target Group.

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

Target LTIP means the David Jones Limited FY 13-15 Executive Long-Term Incentive Plan and the FY 14-16 Executive Long-Term Incentive Plan.

Target Options means the options to subscribe for Target Shares (on a one for one basis), as set out in Schedule 2.

Target Representations and Warranties means the representations and warranties set out in clause 11.2.

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

Target Shareholder means a holder of one or more Target Shares, as shown in the Share Register.

Target STIP means the plan described under the David Jones Limited Incentive Plan Policy and which, in respect of the deferred share component of that plan, is governed by the David Jones Limited FY2014 Incentive Plan Performance Rights Terms.

Terminating Party has the meaning given in clause 3.4.

Termination Event has the meaning given in clause 3.4.

Termination Notice has the meaning given in clause 3.4.

Third Party means a person other than Bidder and its associates.

Timetable means the indicative timetable for the implementation of the Transaction set out in Attachment A.

Trading Day has the meaning given in the Listing Rules.

Transaction means the acquisition of Target by Bidder by means of the Scheme.

Voting Intention has the meaning given in clause 7.1(b).

2 Interpretation

In this deed, the following rules of interpretation apply unless the contrary intention appears.

- (a) Headings are for convenience only and do not affect the interpretation of this deed.
- (b) The singular includes the plural and vice versa.
- (c) Words that are gender neutral or gender specific include each gender.
- (d) Where a word or phrase is given a particular meaning, other parts of speech and grammatical forms of that word or phrase have corresponding meanings.

- (e) The words “include”, “including”, “such as”, “to avoid doubt” and similar expressions are not words of limitation and do not limit what else might be included.
- (f) A reference to:
- (i) a person includes a natural person, partnership, joint venture, government agency, association, corporation or other body corporate or entity (as that term is defined in section 64A of the Corporations Act);
 - (ii) a thing (including a chose in action or other right) includes a part of that thing;
 - (iii) a party includes its successors and permitted assigns;
 - (iv) a document includes all amendments or supplements to that document;
 - (v) a clause, term, party, schedule or attachment is a reference to a clause or term of, or a party, schedule or attachment to, this deed (as applicable);
 - (vi) this deed includes all schedules and attachments to it;
 - (vii) a law includes a constitutional provision, treaty, decree, convention, statute, regulation, ordinance, by-law, judgment, rule of common law or equity or a Listing Rule and is a reference to that law as amended, consolidated or replaced;
 - (viii) an agreement (other than this deed) includes an undertaking or legally enforceable arrangement or understanding (whether or not in writing);
 - (ix) a time period includes the date referred to as that on which the period begins and the date referred to as that on which the period ends; and
 - (x) a monetary amount is in Australian dollars;
- (g) An agreement on the part of two or more persons binds them jointly and severally.
- (h) When the day on which something must be done is not a Business Day, that thing must be done on the following Business Day.
- (i) In determining the time of day, where relevant to this deed, the time of day is:
- (i) for the purposes of giving or receiving Notice, the time of day where the party receiving Notice is located; or
 - (ii) for any other purpose under this deed, the time of day in the place where the party required to perform an obligation is located.
- (j) No rule of construction applies to the disadvantage of a party because that party was responsible for the preparation of this deed or any part of it.

Schedule 2 —
Target capital structure

Security	Total number on issue	Vesting date	Exercise price (\$)	Expiry date
Target Shares	537,137,845	N/A	N/A	N/A
Performance Rights issued pursuant to the FY13/15 Target LTIP	1,000,000	30 September 2015	0	Subject to the terms of the Target LTIP, expiry occurs if the pre-acquisition requirements are not satisfied
Performance Rights issued pursuant to the FY14/16 Target LTIP	1,035,000	30 September 2016	0	Subject to the terms of the Target LTIP, expiry occurs if the pre-acquisition requirements are not satisfied
Retained Target Shares to be issued on conversion of Performance Rights issued under the 2012/2013 Target STIP (deferred component)*	18,000	Already vested	N/A	N/A

*Note: this is residual 2012/2013 Target STIP. No vesting has yet occurred in respect of the 2014 Target STIP.

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Execution page

Executed as a deed.

Signed and delivered by Vela Investments Pty Limited in accordance with section 127 of the *Corporations Act 2001* (Cth) and by:

Signature of director

Signature of director/secretary

Name of director (print)

Name of director/secretary (print)

Signed and delivered by authorised signatories of Woolworths Holdings Limited by:

Signature of authorised signatory

Signature of authorised signatory

Name (print)

Name (print)

Signed and delivered by David Jones Limited in accordance with section 127 of the *Corporations Act 2001* (Cth) and by:

Signature of director

Signature of director/secretary

Name of director (print)

Name of director/secretary (print)

Attachment A —
Timetable

Event	Target date (2014)
Release of Agreed Public Announcement	9 April
Regulator's Draft provided to ASIC	Early May
Bidder Category 1 Circular sent to Bidder Guarantor shareholders	Mid May
First Court Hearing	Mid to late May
Bidder's Shareholder Meeting	Mid June
Scheme Meeting	Late June
Second Court Hearing	Late June to early July
Effective Date	Early July
Record Date	Early to mid July
Implementation Date	Mid July

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Attachment B —
Deed Poll

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HERBERT
SMITH
FREEHILLS

Deed

Share scheme deed poll

Vela Investments Pty Limited

Woolworths Holdings Limited

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Share scheme deed poll

Date ►

This deed poll is made

By	<p>Vela Investments Pty Limited ACN 168 920 447 of Level 37, 2 Park Street, Sydney NSW 2000 (Bidder)</p> <p>Woolworths Holdings Limited Registration Number 1929/001986/06 of 99 Longmarket Street, Cape Town 8001, South Africa (Bidder's Guarantor)</p>
----	---

in favour of	each person registered as a holder of fully paid ordinary shares in Target in the Share Register as at the Record Date.
--------------	---

Recitals	<ol style="list-style-type: none"> 1 Target, Bidder's Guarantor and Bidder entered into the Implementation Deed. 2 In the Implementation Deed, Bidder's Guarantor and Bidder agreed to make this deed poll. 3 Bidder's Guarantor and Bidder are making this deed poll for the purpose of covenanting in favour of the Scheme Shareholders to perform their obligations under the Implementation Deed and the Scheme.
----------	---

This deed poll provides as follows:

1 Definitions and interpretation

1.1 Definitions

(a) The meanings of the terms used in this deed poll are set out below.

Term	Meaning
First Court Date	the first day on which an application made to the Court for orders under subsection 411(1) of the Corporations Act directing Target to convene the Scheme Meeting is heard (or if the application is

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Term	Meaning
	adjourned or subject to appeal for any reason, the day on which the adjourned application is heard) with such hearing being the First Court Hearing .
Implementation Deed	the scheme implementation deed entered into between Target, Bidder's Guarantor and Bidder dated <i>[insert date]</i> .
Scheme	the members scheme of arrangement under Part 5.1 of the Corporations Act between Target and the Scheme Shareholders, the form of which is set out in Attachment 1, subject to any alterations or conditions made or required by the Court under subsection 411(6) of the Corporations Act and agreed to by Bidder and Target.

- (b) Unless the context otherwise requires, terms defined in the Scheme have the same meaning when used in this deed poll.

1.2 Interpretation

Sections 2, 3 and 4 of Schedule 1 of the Scheme apply to the interpretation of this deed poll, except that references to 'this Scheme' are to be read as references to 'this deed poll'.

1.3 Nature of deed poll

Bidder's Guarantor and Bidder acknowledge and agree that:

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

2 Conditions to obligations

2.1 Conditions

This deed poll and the obligations of Bidder's Guarantor and Bidder under this deed poll are subject to the Scheme becoming Effective.

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2.2 Termination

The obligations of Bidder's Guarantor and Bidder under this deed poll to the Scheme Shareholders will automatically terminate and the terms of this deed poll will be of no force or effect if:

- (a) the Implementation Deed is terminated in accordance with its terms; or
 - (b) the Scheme is not Effective by the End Date,
- unless Bidder's Guarantor, Bidder and Target otherwise agree in writing.

2.3 Consequences of termination

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

- (a) Bidder's Guarantor and Bidder are released from their obligations to further perform this deed poll except those obligations under clause 7.1; and
- (b) each Scheme Shareholder retains the rights they have against Bidder's Guarantor and Bidder in respect of any breach of this deed poll which occurred before it was terminated.

3 Scheme obligations

3.1 Undertaking to pay Scheme Consideration

Subject to clause 2, Bidder undertakes in favour of each Scheme Shareholder (and Bidder's Guarantor undertakes in favour of each Scheme Shareholder to unconditionally and irrevocably guarantee the obligation of Bidder) to:

- (a) deposit, or procure the deposit of, in cleared funds, by no later than the Business Day before the Implementation Date, an amount equal to the aggregate amount of the Scheme Consideration payable to all Scheme Shareholders under the Scheme into an Australian dollar denominated trust account operated by Target as trustee for the Scheme Shareholders, except that any interest on the amounts deposited (less bank fees and other charges) will be credited to Bidder's account; and
- (b) undertake all other actions attributed to it under the Scheme, subject to and in accordance with the terms of the Scheme.

4 Warranties

Each of Bidder's Guarantor and Bidder represents and warrants that:

- (a) it is a corporation validly existing under the laws of its place of registration;
- (b) it has the corporate power to enter into and perform its obligations under this deed poll and to carry out the transactions contemplated by this deed poll;
- (c) it has taken all necessary corporate action to authorise its entry into this deed poll and has taken or will take all necessary corporate action to authorise the

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performance of this deed poll and to carry out the transactions contemplated by this deed poll;

- (d) this deed poll is valid and binding on it and enforceable against it in accordance with its terms; and
- (e) this deed poll does not conflict with, or result in the breach of or default under, any provision of its constitution, or any writ, order or injunction, judgment, law, rule or regulation to which it is a party or subject or by which it is bound.

5 Continuing obligations

This deed poll is irrevocable and, subject to clause 2, remains in full force and effect until:

- (a) Bidder's Guarantor and Bidder have each fully performed their obligations under this deed poll; or
- (b) the earlier termination of this deed poll under clause 2.

6 Notices

6.1 Form of Notice

A notice or other communication in respect of this deed poll (**Notice**) must be:

- (a) in writing and in English and signed by or on behalf of the sending party; and
- (b) addressed to Bidder's Guarantor or Bidder in accordance with the details set out below (or any alternative details nominated by Bidder's Guarantor or Bidder by Notice).

Attention	Ralph Buddle
<hr/>	
Address	Woolworths House 93 Longmarket Street Cape Town 8001 South Africa
<hr/>	
Email address	ralphbuddle@woolworths.co.za
<hr/>	

6.2 How Notice must be given and when Notice is received

- (a) A Notice must be given by one of the methods set out in the table below.
- (b) A Notice is regarded as given and received at the time set out in the table below.

However, if this means the Notice would be regarded as given and received outside the period between 9.00am and 5.00pm (addressee's time) on a Business Day (**business hours period**), then the Notice will instead be regarded as given and received at the start of the following business hours period.

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Method of giving Notice	When Notice is regarded as given and received
By hand to the nominated address	When delivered to the nominated address
By pre-paid post to the nominated address	At 9.00am (addressee's time) on the second Business Day after the date of posting
By fax to the nominated fax number	At the time indicated by the sending party's transmission equipment as the time that the fax was sent in its entirety. However, if the recipient party informs the sending party within 4 hours after that time that the fax transmission was illegible or incomplete, then the Notice will not be regarded as given or received. When calculating this 4 hour period, only time within a business hours period is to be included.
By email to the nominated email address	When the email (including any attachment) comes to the attention of the recipient party or a person acting on its behalf.

6.3 Notice must not be given by electronic communication

A Notice must not be given by electronic means of communication (other than fax and email as permitted in clause 6.2).

7 General

7.1 Stamp duty

Bidder will (and Bidder's Guarantor will procure that Bidder will):

- (a) pay all stamp duty and any related fines and penalties in respect of the Scheme and this deed poll, the performance of this deed poll and each transaction effected by or made under the Scheme and this deed poll; and
- (b) indemnify each Scheme Shareholder against any liability arising from failure to comply with clause 7.1(a).

7.2 Governing law and jurisdiction

- (a) This deed poll is governed by the law in force in New South Wales, Australia.
- (b) Bidder's Guarantor and Bidder irrevocably submits to the non-exclusive jurisdiction of courts exercising jurisdiction in New South Wales and courts of appeal from them in respect of any proceedings arising out of or in connection with this deed poll. Bidder's Guarantor and Bidder irrevocably waives any



objection to the venue of any legal process in these courts on the basis that the process has been brought in an inconvenient forum.

7.3 Waiver

- (a) Bidder's Guarantor and Bidder may not rely on the words or conduct of any Scheme Shareholder as a waiver of any right unless the waiver is in writing and signed by the Scheme Shareholder granting the waiver.
- (b) No Scheme Shareholder may rely on words or conduct of Bidder's Guarantor or Bidder as a waiver of any right unless the waiver is in writing and signed by Bidder's Guarantor or Bidder.
- (c) The meanings of the terms used in this clause 7.3 are set out below.

Term	Meaning
conduct	includes delay in the exercise of a right.
right	any right arising under or in connection with this deed and includes the right to rely on this clause.
waiver	includes an election between rights and remedies, and conduct which might otherwise give rise to an estoppel.

7.4 Variation

A provision of this deed poll may not be varied unless:

- (a) if before the First Court Date, the variation is agreed to by Target; or
- (b) if on or after the First Court Date, the variation is agreed to by Target and the Court indicates that the variation would not of itself preclude approval of the Scheme,

in which event Bidder's Guarantor and Bidder will enter into a further deed poll in favour of the Scheme Shareholders giving effect to the variation.

7.5 Cumulative rights

The rights, powers and remedies of Bidder's Guarantor, Bidder and the Scheme Shareholders under this deed poll are cumulative and do not exclude any other rights, powers or remedies provided by law independently of this deed poll.

7.6 Assignment

- (a) The rights created by this deed poll are personal to Bidder's Guarantor, Bidder and each Scheme Shareholder and must not be dealt with at law or in equity without the prior written consent of Bidder's Guarantor and Bidder.
- (b) Any purported dealing in contravention of clause 7.6(a) is invalid.

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7.7 Joint and several obligations

Bidder's Guarantor and Bidder are jointly and severally liable for each obligation imposed on both of them by the terms of this deed poll.

7.8 Further action

Bidder's Guarantor and Bidder must, at their own expense, do all things and execute all documents necessary to give full effect to this deed poll and the transactions contemplated by it.

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Attachment 1

Scheme

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Signing page

Executed as a deed poll

Bidder

Signed sealed and delivered by
Vela Investments Pty Limited
by

sign here ► _____
Company Secretary/Director

print name _____

sign here ► _____
Director

print name _____

Bidder's Guarantor

Signed sealed and delivered by
Woolworths Holdings Limited
by

sign here ► _____
Company Secretary/Director

print name _____

sign here ► _____
Director

print name _____

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Attachment C — **Scheme**

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SMITH
FREEHILLS

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Scheme of arrangement – share scheme

David Jones Limited

Scheme Shareholders



Scheme of arrangement – share scheme

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

Between the parties

David Jones Limited ACN 000 074 573 of 86-108 Castlereagh Street, Sydney New South Wales 2000, Australia

(Target)

The Scheme Shareholders

1 Definitions, interpretation and scheme components

1.1 Definitions

Schedule 1 contains definitions used in this Scheme.

1.2 Interpretation

Schedule 1 contains interpretation rules for this Scheme.

1.3 Scheme components

This Scheme includes any schedule to it.

2 Preliminary matters

- (a) Target is a public company limited by shares, registered in Australia, and has been admitted to the official list of the ASX. Target Shares are quoted for trading on the ASX.
- (b) As at the Second Court Date, [537,137,845] Target Shares were on issue.
- (c) Bidder's Guarantor is a listed company limited by shares registered in South Africa.
- (d) Bidder, a wholly-owned subsidiary of Bidder's Guarantor, is a company limited by shares registered in Australia.
- (e) If this Scheme becomes Effective:

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- (1) Bidder must (and Bidder Guarantor unconditionally and irrevocably guarantees the obligation of Bidder to) provide or procure the provision of the Consideration to the Scheme Shareholders in accordance with the terms of this Scheme and the Deed Poll; and
- (2) all the Scheme Shares, and all the rights and entitlements attaching to them as at the Implementation Date, must be transferred to Bidder and Target will enter the name of Bidder in the Share Register in respect of the Scheme Shares.
- (f) Target, Bidder's Guarantor and Bidder have agreed, by executing the Implementation Deed, to implement this Scheme.
- (g) This Scheme attributes actions to Bidder's Guarantor and Bidder but does not itself impose an obligation on them to perform those actions. Bidder's Guarantor and Bidder have agreed, by executing the Deed Poll, to perform the actions attributed to them under this Scheme, including the provision or procuring the provision of the Consideration to the Scheme Shareholders.

3 Conditions

3.1 Conditions precedent

This Scheme is conditional on and will not become Effective until, the satisfaction of each of the following conditions precedent:

- (a) all the conditions in clause 3 of the Implementation Deed (other than the condition (3.1(d)) in the Implementation Deed relating to Court approval of this Scheme) having been satisfied or waived in accordance with the terms of the Implementation Deed by 8.00am on the Second Court Date;
- (b) neither the Implementation Deed nor the Deed Poll having been terminated in accordance with their terms before 8.00am on the Second Court Date;
- (c) approval of this Scheme by the Court under paragraph 411(4)(b) of the Corporations Act, including with any alterations made or required by the Court under subsection 411(6) of the Corporations Act and agreed to by Bidder and Target;
- (d) such other conditions made or required by the Court under subsection 411(6) of the Corporations Act in relation to this Scheme and agreed to by Bidder and Target having been satisfied or waived; and
- (e) the orders of the Court made under paragraph 411(4)(b) (and, if applicable, subsection 411(6)) of the Corporations Act approving this Scheme coming into effect, pursuant to subsection 411(10) of the Corporations Act on or before the End Date (or any later date Target and Bidder agree in writing).

3.2 Certificate

- (a) Target and Bidder will provide to the Court on the Second Court Date a certificate, or such other evidence as the Court requests, confirming (in respect of matters within their knowledge) whether or not all of the conditions precedent in clauses 3.1(a) and 3.1(b) have been satisfied or waived.
- (b) The certificate referred to in clause 3.2(a) constitutes conclusive evidence that such conditions precedent are satisfied, waived or taken to be waived.

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3.3 End Date

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

- (a) the Effective Date does not occur on or before the End Date; or
- (b) the Implementation Deed or the Deed Poll is terminated in accordance with its terms, unless Bidder and Target otherwise agree in writing.

4 Implementation of this Scheme

4.1 Lodgement of Court orders with ASIC

Target must lodge with ASIC, in accordance with subsection 411(10) of the Corporations Act, an office copy of the Court order approving this Scheme as soon as possible and in any event by 5.00pm on the first Business Day after the day on which the Court approves this Scheme.

4.2 Transfer of Scheme Shares

On the Implementation Date:

- (a) subject to the provision of the Consideration in the manner contemplated by clause 5, the Scheme Shares, together with all rights and entitlements attaching to the Scheme Shares as at the Implementation Date, must be transferred to Bidder, without the need for any further act by any Scheme Shareholder (other than acts performed by Target as attorney and agent for Scheme Shareholders under clause 8.5), by:
 - (1) Target delivering to Bidder a duly completed Scheme Transfer, executed on behalf of the Scheme Shareholders by Target, for registration; and
 - (2) Bidder duly executing the Scheme Transfer, attending to the stamping of the Scheme Transfer (if required) and delivering it to Target for registration; and
- (b) immediately following receipt of the Scheme Transfer in accordance with clause 4.2(a)(2), Target must enter, or procure the entry of, the name of Bidder in the Share Register in respect of all the Scheme Shares transferred to Bidder in accordance with this Scheme.

5 Consideration

5.1 Provision of Consideration

- (a) Bidder must, or must procure that (and Bidder Guarantor unconditionally and irrevocably guarantees the obligation of Bidder to), by no later than the Business Day before the Implementation Date, an amount equal to the aggregate amount of the Consideration payable to each Scheme Shareholder is deposited in cleared funds in an Australian dollar denominated trust account operated by Target as trustee for the Scheme Shareholders, (provided that any

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interest on the amounts deposited (less bank fees and other charges) will be credited to Bidder's account).

- (b) On the Implementation Date, subject to funds having been deposited in accordance with clause 5.1(a), Target must pay or procure the payment of the Consideration to each Scheme Shareholder from the trust account referred to in clause 5.1(a).
- (c) The obligations of Target under clause 5.1(b) will be satisfied by Target (in its absolute discretion):
 - (1) where a Scheme Shareholder has, before the Record Date, made a valid election in accordance with the requirements of the Share Registry to receive dividend payments from Target by electronic funds transfer to a bank account nominated by the Scheme Shareholder, paying, or procuring the payment of, the relevant amount in Australian currency by electronic means in accordance with that election; or
 - (2) otherwise, whether or not the Scheme Shareholder has made an election referred to in clause 5.1(c)(1), dispatching, or procuring the dispatch of, a cheque for the relevant amount in Australian currency to the Scheme Shareholder by prepaid post to their Registered Address (as at the Record Date), such cheque being drawn in the name of the Scheme Shareholder (or in the case of joint holders, in accordance with the procedures set out in clause 5.2).
- (d) To the extent that, following satisfaction of Target's obligations under clause 5.1(b), there is a surplus in the amount held by Target as trustee for the Scheme Shareholders in the trust account referred to in that clause, that surplus may be paid by Target to Bidder.

5.2 Joint holders

In the case of Scheme Shares held in joint names:

- (a) subject to clause 5.1(c), the 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 Share 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 Share Register as at the Record Date or to the joint holders.

5.3 Fractional entitlements and splitting

Where the calculation of the Consideration to be issued to a particular Scheme Shareholder would result in the Scheme Shareholder becoming entitled to a fraction of a cent, the fractional entitlement will be rounded up to the nearest whole cent.

5.4 Unclaimed monies

- (a) Target may cancel a cheque issued under this clause 5.4 if the cheque:
 - (1) is returned to Target; or
 - (2) has not been presented for payment within six months after the date on which the cheque was sent.

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- (b) During the period of 6 years commencing on the Implementation Date, on request in writing from a Scheme Shareholder to Target (or the Share Registry) (which request may not be made until the date which is 5 Business Days after the Implementation Date), Target must reissue a cheque that was previously cancelled under clause 5.4(a).
- (c) The *Unclaimed Money Act 1995* (NSW) will apply in relation to any Consideration which becomes 'unclaimed money' (as defined in section 7 of the *Unclaimed Money Act 1995* (NSW)).

5.5 Orders of a court or Government Agency

If written notice is given to Target (or the Share Registry) of an order or direction made by a court of competent jurisdiction or by another Government Agency 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 Shareholder, which would otherwise be payable or required to be issued to that Scheme Shareholder by Target in accordance with this clause 5, then Target shall be entitled to procure that provision of that consideration is made in accordance with that order or direction; or
- (b) prevents Target from providing consideration to any particular Scheme Shareholder in accordance with clause 5.1(c), or the payment or issuance of such consideration is otherwise prohibited by applicable law, Target shall be entitled to (as applicable) retain an amount, in Australian dollars, equal to the number of Scheme Shares held by that Scheme Shareholder multiplied by the Consideration 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 Dealings in Target Shares

6.1 Determination of Scheme Shareholders

To establish the identity of the Scheme Shareholders, dealings in Target Shares or other alterations to the Share Register will only be recognised if:

- (a) in the case of dealings of the type to be effected using CHESSE, the transferee is registered in the Share Register as the holder of the relevant Target Shares on or before the Record Date; and
- (b) in all other cases, registrable transfer or transmission applications in respect of those dealings, or valid requests in respect of other alterations, are received on or before the Record Date at the place where the Share Register is kept,

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

6.2 Register

- (a) Target must register registrable transmission applications or transfers of the Scheme Shares in accordance with clause 6.1(b) on or before the Record Date provided that, for the avoidance of doubt, nothing in this clause 6.2(a) requires

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Target to register a transfer that would result in a Target Shareholder holding a parcel of Target Shares that is less than a 'marketable parcel' (for the purposes of this clause 6.2(a) 'marketable parcel' has the meaning given in the Operating Rules).

- (b) If this Scheme becomes Effective, a holder of Scheme Shares (and any person claiming through that holder) must not dispose of, or purport or agree to dispose of, any Scheme Shares or any interest in them after the Record Date otherwise than pursuant to this Scheme, and any attempt to do so will have no effect and Target shall be entitled to disregard any such disposal.
- (c) For the purpose of determining entitlements to the Consideration, Target must maintain the Share Register in accordance with the provisions of this clause 6.2 until the Consideration has been paid to the Scheme Shareholders. The Share Register in this form will solely determine entitlements to the Consideration.
- (d) All statements of holding for Target Shares (other than statements of holding in favour of Bidder) will cease to have effect after the Record Date as documents of title in respect of those shares and, as from that date, each entry current at that date on the Share Register (other than entries on the Share Register in respect of Bidder) will cease to have effect except as evidence of entitlement to the Consideration in respect of the Target Shares relating to that entry.
- (e) As soon as possible on or after the Record Date, and in any event within one Business Day after the Record Date, Target will ensure that details of the names, Registered Addresses and holdings of Target Shares for each Scheme Shareholder as shown in the Share Register are available to Bidder in the form Bidder reasonably requires.

7 Quotation of Target Shares.

- (a) Target will apply to ASX to suspend trading on the ASX in Target Shares with effect from the close of trading on the Effective Date.
- (b) On a date after the Implementation Date to be determined by Bidder, Target will apply:
 - (1) for termination of the official quotation of Target Shares on the ASX; and
 - (2) to have itself removed from the official list of the ASX.

8 General Scheme provisions

8.1 Consent to amendments to this Scheme

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

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

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8.2 Scheme Shareholders' agreements and warranties

- (a) Each Scheme Shareholder:
- (1) agrees to the transfer of their Target Shares together with all rights and entitlements attaching to those Target Shares in accordance with this Scheme;
 - (2) agrees to the variation, cancellation or modification of the rights attached to their Target Shares constituted by or resulting from this Scheme;
 - (3) agrees to, on the direction of Bidder, destroy any share certificates relating to their Target Shares;
 - (4) acknowledges that this Scheme binds Target and all Scheme Shareholders (including those who do not attend the Scheme Meeting or those who do not vote, or vote against this Scheme, at the Scheme Meeting).
- (b) Each Scheme Shareholder is taken to have warranted to Target and Bidder on the Implementation Date, and appointed and authorised Target as its attorney and agent to warrant to Bidder on the Implementation Date, that:
- (1) all their Target Shares (including any rights and entitlements attaching to those shares) which are transferred under this Scheme will, at the date of transfer, be fully paid and free from all mortgages, charges, liens, encumbrances, pledges, security interests (including any 'security interests' within the meaning of section 12 of the *Personal Property Securities Act 2009* (Cth)) and interests of third parties of any kind, whether legal or otherwise, and restrictions on transfer of any kind; and
 - (2) they have full power and capacity to transfer their Target Shares to Bidder together with any rights and entitlements attaching to those shares.

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

8.3 Title to and rights in Scheme Shares

- (a) To the extent permitted by law, the Scheme Shares (including all rights and entitlements attaching to the Scheme Shares) transferred under this Scheme to Bidder will, at the time of transfer of them to Bidder, vest in Bidder free from all mortgages, charges, liens, encumbrances, pledges, security interests (including any 'security interests' within the meaning of section 12 of the *Personal Property Securities Act 2009* (Cth)) and interests of third parties of any kind, whether legal or otherwise and free from any restrictions on transfer of any kind.
- (b) Immediately upon the provision of the Consideration to each Scheme Shareholder in the manner contemplated by clause 5, Bidder will be beneficially entitled to the Scheme Shares to be transferred to it under this Scheme pending registration by Target of Bidder in the Share Register as the holder of the Scheme Shares.



8.4 Appointment of sole proxy

Immediately upon the provision of the Consideration to each Scheme Shareholder in the manner contemplated by clause 5, and until Target registers Bidder as the holder of all Scheme Shares in the Share Register, each Scheme Shareholder:

- (a) is deemed to have appointed Bidder as attorney and agent (and directed Bidder in each such capacity) to appoint any director, officer, secretary or agent nominated by Bidder as its sole proxy and, where applicable or appropriate, corporate representative to attend shareholders' meetings, exercise the votes attaching to the Scheme Shares registered in their name and sign any shareholders' resolution;
- (b) must not 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 clause 8.4(a));
- (c) must take all other actions in the capacity of a registered holder of Scheme Shares as Bidder reasonably directs; and
- (d) acknowledges and agrees that in exercising the powers conferred by clause 8.4(a), Bidder and any director, officer, secretary or agent nominated by Bidder under that clause may act in the best interests of Bidder as the intended registered holder of the Scheme Shares.

8.5 Authority given to Target

Each Scheme Shareholder, without the need for any further act:

- (a) on the Effective Date, irrevocably appoints Target and each of its directors, officers and secretaries (jointly and each of them severally) as its attorney and agent for the purpose of enforcing the Deed Poll against Bidder's Guarantor and Bidder, and Target undertakes in favour of each Scheme Shareholder that it will enforce the Deed Poll against Bidder's Guarantor and Bidder on behalf of and as agent and attorney for each Scheme Shareholder; and
- (b) on the Implementation Date, irrevocably appoints Target and each of its directors, officers and secretaries (jointly and each of them severally) as its attorney and agent for the purpose of executing any document or doing or taking any other act necessary, desirable or expedient to give effect to this Scheme and the transactions contemplated by it, including (without limitation) executing the Scheme Transfer,

and Target accepts each such appointment. Target as attorney and agent of each Scheme Shareholder, may sub-delegate its functions, authorities or powers under this clause 8.5 to all or any of its directors, officers, secretaries or employees (jointly, severally or jointly and severally).

8.6 Binding effect of Scheme

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



9 General

9.1 Stamp duty

Bidder will:

- (a) pay all stamp duty and any related fines and penalties in respect of this Scheme and the Deed Poll, the performance of the Deed Poll and each transaction effected by or made under or in connection with this Scheme and the Deed Poll; and
- (b) indemnify each Scheme Shareholder against any liability arising from failure to comply with clause 9.1(a).

9.2 Consent

Each of the Scheme Shareholders consents to Target doing all things necessary or incidental to the implementation of this Scheme.

9.3 Notices

- (a) If a notice, transfer, transmission application, direction or other communication referred to in this Scheme is sent by post to Target, it will not be taken to be received in the ordinary course of post or on a date and time other than the date and time (if any) on which it is actually received at Target's registered office or at the office of the Share Registry.
- (b) The accidental omission to give notice of the Scheme Meeting or the non-receipt of such notice by a Target Shareholder will not, unless so ordered by the Court, invalidate the Scheme Meeting or the proceedings of the Scheme Meeting.

9.4 Governing law

- (a) This Scheme is governed by the laws in force in New South Wales, Australia.
- (b) The parties irrevocably submit to the non-exclusive jurisdiction of courts exercising jurisdiction in New South Wales and courts of appeal from them in respect of any proceedings arising out of or in connection with this Scheme. The parties irrevocably waive any objection to the venue of any legal process in these courts on the basis that the process has been brought in an inconvenient forum.

9.5 Further action

Target must do all things and execute all documents necessary to give full effect to this Scheme and the transactions contemplated by it.

9.6 No liability when acting in good faith

None of Target, Bidder nor Bidder's Guarantor nor any director, officer, secretary or employee of Target will be liable for anything done or omitted to be done in the performance of this Scheme or the Deed Poll in good faith.

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Schedule 1

Definitions and interpretation

1 Definitions

The meanings of the terms used in this Scheme are set out below.

Term	Meaning
Bidder's Guarantor	Woolworths Holdings Limited (Registration Number 1929/001986/06) of 99 Longmarket Street, Cape Town 8001, South Africa.
Bidder	Vela Investments Pty Limited ACN 168 920 447 of Level 37, 2 Park Street, Sydney NSW 2000.
ASIC	the Australian Securities and Investments Commission.
ASX	ASX Limited ABN 98 008 624 691 and, where the context requires, the financial market that it operates.
Business Day	business day as defined in the Listing Rules.
CHESS	the Clearing House Electronic Subregister System operated by ASX Settlement Pty Ltd and ASX Clear Pty Limited.
Consideration	means, in respect of each Scheme Share, \$4.00.
Corporations Act	the <i>Corporations Act 2001</i> (Cth).
Corporations Regulations	the <i>Corporations Regulations 2001</i> (Cth).
Court	the Federal Court of Australia or such other court of competent jurisdiction under the Corporations Act agreed to in writing by Bidder and Target.

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Term	Meaning
Deed Poll	the deed poll substantially in the form of Attachment 1 under which Bidder covenants in favour of the Scheme Shareholders to perform the obligations attributed to it under this Scheme.
Effective	when used in relation to this Scheme, the coming into effect, under subsection 411(10) of the Corporations Act, of the Court order made under paragraph 411(4)(b) of the Corporations Act in relation to this Scheme.
Effective Date	the date on which this Scheme becomes Effective.
End Date	23 September 2014, or such other date as agreed in writing by Bidder and Target.
Government Agency	any foreign or Australian government or governmental, semi-governmental, administrative, fiscal or judicial body, department, commission, authority, tribunal, agency or entity, or any minister of the Crown in right of the Commonwealth of Australia or any state, or any other federal, state, provincial, local or other government, whether foreign or Australian. It also includes any self-regulatory organisation established under statute or otherwise discharging substantially public or regulatory functions (including ASIC and the Takeovers Panel), the South African Reserve Bank and any stock exchange (including ASX and JSE Limited).
Implementation Date	the fifth Business Day after the Record Date, or such other date as agreed in writing by Target and Bidder.
Implementation Deed	the scheme implementation deed dated [<i>insert date</i>] between Target, Bidder's Guarantor and Bidder relating to the implementation of this Scheme.
Listing Rules	the official listing rules of ASX.
Operating Rules	the official operating rules of ASX.
Record Date	7.00pm on the fifth Business Day after the Effective Date.
Registered Address	in relation to a Target Shareholder, the address shown in the Share Register as at the Record Date.

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Term	Meaning
Scheme	this scheme of arrangement under Part 5.1 of the Corporations Act between Target and the Scheme Shareholders subject to any alterations or conditions made or required by the Court under subsection 411(6) of the Corporations Act and agreed to by Target and Bidder.
Scheme Meeting	the meeting of the Scheme Shareholders ordered by the Court to be convened under subsection 411(1) of the Corporations Act to consider and vote on this Scheme and includes any meeting convened following any adjournment or postponement of that meeting.
Scheme Shares	a Target Share held by a Scheme Shareholder as at the Record Date.
Scheme Shareholder	a Target Shareholder as at the Record Date.
Scheme Transfer	a duly completed and executed proper instrument of transfer in respect of the Scheme Shares for the purposes of section 1071B of the Corporations Act, in favour of Bidder as transferee, which may be a master transfer of all or part of the Scheme Shares.
Second Court Date	the first day on which an application made to the Court for an order under paragraph 411(4)(b) of the Corporations Act approving this Scheme is heard or, if the application is adjourned or subject to appeal for any reason, the day on which the adjourned application is heard, with such hearing being the Second Court Hearing .
Share Register	the register of Target Shareholders maintained in accordance with the Corporations Act.
Share Registry	Computershare Investor Services Pty Limited ABN 48 078 279 277 of level 4, 60 Carrington Street, Sydney, NSW, Australia 2000.
subsidiary	has the meaning given in Division 6 of Part 1.2 of the Corporations Act.
Takeovers Panel	the Takeovers Panel constituted under the <i>Australian Securities and Investments Commission Act 2001</i> (Cth)
Target Share	a fully paid ordinary share in the capital of Target.
Target Shareholder	a person who is registered as the holder of one or more Target Shares,

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Term	Meaning
	as shown in the Share Register.

2 Interpretation

In this Scheme:

- (a) headings and bold type are for convenience only and do not affect the interpretation of this Scheme;
- (b) the singular includes the plural and the plural includes the singular;
- (c) words of any gender include all genders;
- (d) other parts of speech and grammatical forms of a word or phrase defined in this Scheme have a corresponding meaning;
- (e) a reference to a person includes any company, partnership, joint venture, association, corporation or other body corporate and any Government Agency as well as an individual;
- (f) a reference to a clause, party, part, schedule, attachment or exhibit is a reference to a clause or part of, and a party, schedule, attachment or exhibit to, this Scheme;
- (g) a reference to any legislation includes all delegated legislation made under it and amendments, consolidations, replacements or reenactments of any of them;
- (h) a reference to a document (including this Scheme) includes all amendments or supplements to, or replacements or novations of, that document;
- (i) a reference to '\$', 'A\$' or 'dollar' is to Australian currency unless denominated otherwise;
- (j) a reference to any time is, unless otherwise indicated, a reference to that time in Sydney;
- (k) a term defined in or for the purposes of the Corporations Act has the same meaning when used in this Scheme;
- (l) a reference to a party to a document includes that party's successors and permitted assignees;
- (m) no provision of this Scheme will be construed adversely to a party because that party was responsible for the preparation of this Scheme or that provision;
- (n) any agreement, representation, warranty or indemnity by two or more parties (including where two or more persons are included in the same defined term) binds them jointly and severally;
- (o) any agreement, representation, warranty or indemnity in favour of two or more parties (including where two or more persons are included in the same defined term) is for the benefit of them jointly and severally; and
- (p) a reference to a body, other than a party to this Scheme (including an institute, association or authority), whether statutory or not:

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- (1) which ceases to exist; or
 - (2) whose powers or functions are transferred to another body,
- is a reference to the body which replaces it or which substantially succeeds to its powers or functions.

3 Interpretation of inclusive expressions

Specifying anything in this Scheme after the words 'include' or 'for example' or similar expressions does not limit what else is included.

4 Business Day

Where the day on or by which any thing is to be done is not a Business Day, that thing must be done on or by the next Business Day.

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Attachment 1

Deed Poll

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