



Federal Court of Australia

District Registry: Western Australia

Division: General

No: WAD206/2022

**THINKSMART LIMITED (ACN 092 319 698)**

Plaintiff

### ORDER

**JUDGE:** JUSTICE JACKSON

**DATE OF ORDER:** 22 November 2022

**WHERE MADE:** Perth

#### THE COURT ORDERS THAT:

1. Pursuant to r 29.07 of the *Federal Court Rules 2011* (Cth), the plaintiff has leave to rely on the affidavit of Joe Cotterell filed on 22 November 2022.
2. Pursuant to s 411(4)(b) of the *Corporations Act 2001* (Cth) (**Act**), the scheme of arrangement between the plaintiff and its members, as set out on pages 302 to 321 of the affidavit of Paul Bentley Branston affirmed on 29 September 2022 (**Scheme**), a copy of which is annexure A to these orders, is approved.
3. Pursuant to s 411(12) of the Act, the plaintiff is exempted from compliance with s 411(11) of the Act in relation to the Scheme.
4. Pursuant to s 1322(4)(d) of the Act, the time by which ThinkSmart Depository Interest holders were to lodge their voting instructions for the Scheme Meetings in accordance with the relevant notice of Scheme Meeting, pursuant to paragraph 13 of the orders made on 21 October 2022, is extended until 12.30 pm (London time) on 11 November 2022.
5. The plaintiff must lodge an office copy of these orders with the Australian Securities and Investments Commission by 23 November 2022.

Date that entry is stamped: 22 November 2022

  
Registrar



## ANNEXURE A

### Scheme of arrangement – share scheme

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ThinkSmart 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

ThinkSmart Limited ACN 092 319 698  
of Suite 5, 531 Hay Street, Subiaco WA 6008, Australia

The Scheme Shareholders

### 1 Definitions, interpretation and scheme components

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#### 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

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- (a) Target is a public company limited by shares registered in Western Australia and has been admitted to the official list of AIM. Target Shares are quoted for trading on AIM.
- (b) As at date of the Implementation Deed, 106,587,814 Target Shares were on issue (in respect of which 61,542,120 Target Depository Interests have been issued as at 27 July 2022).
- (c) Bidder is a private company limited by shares registered in Western Australia, Australia.
- (d) If this Scheme becomes Effective:



- (1) Bidder must provide or procure the provision of the Scheme 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.
- (e) Target and Bidder have agreed, by executing the Implementation Deed, to implement this Scheme.
- (f) This Scheme attributes actions to Bidder but does not itself impose an obligation on it to perform those actions. Bidder has agreed, by executing the Deed Poll, to perform the actions attributed to it under this Scheme, including the provision or procuring the provision of the Scheme Consideration to the Scheme Shareholders.

### 3 Conditions

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#### 3.1 Conditions precedent

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

- (a) all the conditions in clause 3 of the Implementation Deed (other than the condition in clause 3.1(d) of 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 were satisfied, waived or taken to be waived.



### 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 Target and Bidder otherwise agree in writing (and, if required, as approved by the Court).

## 4 Implementation of this Scheme

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### 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 after the Court approves this Scheme 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) 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), but subject to the stamping of the Scheme Transfer (if required), 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 Scheme Consideration

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### 5.1 Entitlement to Scheme Consideration

Subject to the terms of this Scheme, in consideration for the transfer to Bidder of the Scheme Shares, each Scheme Shareholder will be entitled to receive the Scheme Consideration in respect of each of their Scheme Shares in accordance with clauses 5.2 to 5.6 and the Deed Poll.



## 5.2 Determination of Scheme Consideration

- (a) If a Scheme Shareholder is not an Excluded Shareholder, then the Scheme Consideration for that Scheme Shareholder is the Cash Consideration for each Scheme Share held by that Scheme Shareholder on the Scheme Record Date.
- (b) If a Scheme Shareholder is an Excluded Shareholder who has not made an Election before the Election Time, then the Scheme Consideration for that Scheme Shareholder is the Scrip Consideration for each Scheme Share held by that Scheme Shareholder on the Scheme Record Date.
- (c) If the Scheme Shareholder is an Excluded Shareholder who has made an Election before the Election Time, then the Scheme Consideration for that Scheme Shareholder for each Scheme Share held by that Scheme Shareholder on the Scheme Record Date is:
  - (1) the Cash Consideration per Scheme Share in respect of that number of Scheme Shares held by the Excluded Shareholder on the Scheme Record Date for which the Excluded Shareholder has made an Election (in the Election Form) to receive the Cash Consideration; and
  - (2) the Scrip Consideration per Scheme Share in respect of the Scheme Shares held by the Excluded Shareholder on the Scheme Record Date for which the Excluded Shareholder has not made an Election (in the Election Form) to receive the Cash Consideration.

## 5.3 Election procedure

- (a) Target must provide or procure the provision of an Election Form to each Excluded Shareholder, with the Scheme Booklet that is sent to them.
- (b) Subject to clauses 5.3(c) and 5.3(d), each of the Excluded Shareholders will be entitled to make an Election.
- (c) For an Election to be valid:
  - (1) the Excluded Shareholder must complete and sign the Election Form in accordance with the terms and conditions of the Election Form, the instructions in the Scheme Booklet, the Implementation Deed and this clause 5.3; and
  - (2) the Election Form must be received by Target at the address specified on the Election Form before the Election Time, unless Bidder and Target agree otherwise in writing, in their absolute discretion.
- (d) An Excluded Shareholder who makes an Election may vary, withdraw or revoke that Election by lodging a replacement Election Form so that it is received by the Registry at the address specified on the Election Form before the Election Time. After the Election Time, an Election made by an Excluded Shareholder will be irrevocable unless Bidder and Target agree in writing, in their absolute discretion, to the revocation of the Election.
- (e) The Election Form must include the relevant matters set out in this Scheme and must otherwise be in a form agreed by Bidder and Target in writing (each acting reasonably).

## 5.4 Determination of Cash Consideration

- (a) The parties agree that the Cash Consideration will be the amount of the Block Sale Share Proceeds determined in accordance with clause 5.5 to be paid by



Bidder on a deferred basis divided by the total number of Relevant Scheme Shares.

- (b) Where the calculation of the Cash Consideration to be provided to a particular Scheme Shareholder would result in the Scheme Shareholder becoming entitled to a fraction of a cent (or a fraction of a pence, where applicable), the fractional entitlement will be rounded down to the nearest whole cent or pence (as applicable).

## 5.5 Block Sale Share Proceeds and provision of Cash Consideration

- (a) Target and Bidder must, not less than 10 Business Days prior to the First Court Date, enter into a binding arrangement with a Broker (in a form to be agreed by Target and Bidder, each acting reasonably) pursuant to which the Broker is irrevocably appointed to, subject to the Scheme becoming Effective:
  - (1) sell the Block Sale Shares on-market on the New York Stock Exchange as soon as practicable on the next Trading Day following the Implementation Date (and, in any event, within 3 Trading Days following the Implementation Date); and
  - (2) procure that the Block Sale Share Proceeds are promptly remitted to an account with an ADI operated by Target.
- (b) Target must promptly, following receipt of the Block Sale Share Proceeds in accordance with clause 5.5(a)(2), remit the Block Sale Share Proceeds to an account with an ADI operated by Bidder.
- (c) Bidder must promptly, following receipt of the Block Sale Share Proceeds in accordance with clause 5.5(b), remit the Block Sale Share Proceeds to a trust account with an ADI operated by the Target Registry and held for the benefit of the Scheme Shareholders entitled to receive Cash Consideration under the Scheme.
- (d) Once the Block Sale Share Proceeds have been remitted to the bank account referred to in clause 5.5(c), Target must procure that the Block Sale Share Proceeds are, as soon as practicable, paid to the Scheme Shareholders entitled to receive Cash Consideration under the Scheme:
  - (1) pro rata to the relative respective holdings of Relevant Scheme Shares of each Scheme Shareholder entitled to receive Cash Consideration under the Scheme as at the Scheme Record Date;
  - (2) in accordance with any currency elections referred to in clause 5.8; and
  - (3) net of any banking charges or fees (including wire transfer fees or corresponding charges) or charges or fees of a similar nature which are incurred with respect to the payment of the Block Sale Share Proceeds to the relevant Scheme Shareholder entitled to receive Cash Consideration under the Scheme and net of any other amounts (including tax) required by law to be withheld (if applicable).
- (e) The obligations of Target under clause 5.5(d) will be satisfied by Target (in its absolute discretion, and despite any election referred to in clause 5.5(e)(1) or authority referred to in clause 5.5(e)(2) made or given by the Scheme Shareholder):
  - (1) if a Scheme Shareholder has, before the Scheme Record Date, made a valid election in accordance with the requirements of the Target 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 by electronic means in accordance with that election;
- (2) paying, or procuring the payment of, the relevant amount by electronic means to a bank account nominated by the Scheme Shareholder by an appropriate authority from the Scheme Shareholder to Target; or
  - (3) dispatching, or procuring the dispatch of, a cheque for the relevant amount to the Scheme Shareholder by prepaid post to their Registered Address (as at the Scheme 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 5.7).
- (f) The Scheme Shareholders will bear all foreign exchange risk and costs in relation to any currency conversions undertaken in connection with performing the obligations under this clause 5.5.
- (g) If Target is entitled to any amount referred to in item 3 of the definition of Block Sale Share Proceeds and such entitlement arises prior to the sale of the Block Sale Shares (for example, the record date for a dividend or capital return arises prior to that time), but such an amount is not received by Target prior to the time for payment of the Cash Consideration, Bidder and Target each agree to hold such amount (less the amount of any tax payable by Target on such amount) on trust for the former holders of Relevant Scheme Shares and Bidder agrees to distribute such amount to those persons in the same manner as the Cash Consideration and in accordance with their pro rata proportions referred to in clause 5.5(d)(1). If the circumstances contemplated by this clause 5.5(g) arise, Target and Bidder will do all such things as are necessary to give effect to the intention of this clause 5.5(g) including amending the Implementation Deed (and any related documents) and entering such other documents as may be necessary to ensure that such amount is distributed to the Scheme Shareholders entitled to receive Cash Consideration under the Scheme. Any amounts paid to Scheme Shareholders by Bidder under this clause will form part of the Scheme Consideration.

## 5.6 Provision of Scrip Consideration

- (a) On the Implementation Date, Bidder must:
- (1) issue to each Excluded Shareholder who is entitled to receive Scrip Consideration pursuant to the Scheme, such number of Bidder Shares to which that Excluded Shareholder is entitled as Scrip Consideration pursuant to the Scheme; and
  - (2) procure the entry in the Bidder's register of members the name and registered address (as at the Scheme Record Date) of that Excluded Shareholder in respect of the Bidder Shares issued to that Excluded Shareholder.
- (b) On the Implementation Date, Bidder must send or procure the sending of a certificate to each Excluded Shareholder to whom Bidder Shares are issued under this Scheme, reflecting the issue of such Bidder Shares.

## 5.7 Joint holders

In the case of Scheme Shares held in joint names:





- (a) subject to clause 5.5(e), the Cash 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 Scheme Record Date or to the joint holders;
- (b) any Bidder Shares to be issued under this Scheme must be issued to and registered in the names of the joint holders; and
- (c) 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 Scheme Record Date or to the joint holders.

### 5.8 Foreign exchange facility

- (a) Subject to clause 5.8(b), Scheme Shareholders will be paid the Cash Consideration in Australian Dollars.
- (b) The following Scheme Shareholders will be paid the Cash Consideration in Pounds Sterling:
  - (1) the Depository Custodian; and
  - (2) any Scheme Shareholder who makes an election to Target prior to the Scheme Record Date to receive the Cash Consideration in Pounds Sterling.
- (c) Any Scheme Shareholder who is paid the Cash Consideration in Pounds Sterling, including holders of Target Depository Interests, will be deemed to have agreed to bear all foreign exchange risk and costs in relation to the conversion of their Cash Consideration to Pounds Sterling.
- (d) Scheme Shareholders acknowledge and agree that Target and Bidder bear no foreign exchange risk or costs in relation to the payment of Cash Consideration in Pounds Sterling.

### 5.9 Fractional entitlements and splitting

Where the calculation of the Cash Consideration to be provided to a particular Scheme Shareholder would result in the Scheme Shareholder becoming entitled to a fraction of a cent (or a fraction of a pence, where applicable), the fractional entitlement will be rounded down to the nearest whole cent or pence (as applicable).

### 5.10 Unclaimed monies

- (a) Target may cancel a cheque issued under this clause 5 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.
- (b) During the period of 12 months commencing on the Implementation Date, on request in writing from a Scheme Shareholder to Target (or the Target Registry) (which request may not be made until the date which is 20 Business Days after the Implementation Date), Target must reissue a cheque that was previously cancelled under this clause 5.10.



- (c) The *Unclaimed Money Act 1990 (WA)* will apply in relation to any Scheme Consideration which becomes 'unclaimed money' (as defined in section 3 of the *Unclaimed Money Act 1990 (WA)*).
- (d) Any interest or other benefit accruing from the unclaimed Scheme Consideration will be to the benefit of Target.

### 5.11 Remaining monies (if any)

To the extent that, following satisfaction of the obligations under the other provisions of this clause 5 and provided Bidder has by that time acquired the Scheme Shares in accordance with this Scheme, there is a surplus in the account referred to in clause 5.5(c), then subject to compliance with applicable laws, the terms of this Scheme, the Deed Poll and the Implementation Deed, that surplus (less any bank fees and related charges) shall be paid to and retained by Bidder.

### 5.12 Orders of a court or Government Agency

- (a) If written notice is given to Target (or the Target Registry) or Bidder of an order or direction made by a court of competent jurisdiction or by another Government Agency that:
  - (1) 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 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
  - (2) prevents any particular Scheme Shareholder from being provided with consideration in accordance with this clause 5, or the payment or issuance of such consideration is otherwise prohibited by applicable law, Target shall be entitled to retain an amount, in Australian dollars, equal to the number of Scheme Shares held by that Scheme Shareholder multiplied by the Scheme Consideration until such time as provision of the Scheme Consideration in accordance with this clause 5 is permitted by that (or another) order or direction or otherwise by law.
- (b) To the extent that amounts are so deducted or withheld in accordance with clause 5.12(a), such deducted or withheld amounts will be treated for all purposes under this Scheme as having been paid to the person in respect of which such deduction and withholding was made, provided that such deducted or withheld amounts are actually remitted as required.

## 6 Dealings in Target Shares

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### 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 registrable transfer or transmission applications in respect of those dealings, or valid requests in respect of other alterations, are received before the Scheme 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 that are received in accordance with clause 6 before the Scheme Record Date.
- (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 on or after the Scheme 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 Scheme Consideration, Target must maintain the Share Register in accordance with the provisions of this clause 6.2 until the Scheme Consideration has been paid to the Scheme Shareholders. The Share Register in this form will solely determine entitlements to the Scheme Consideration.
- (d) All statements of holding for Target Shares will cease to have effect after the Scheme 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 will cease to have effect except as evidence of entitlement to the Scheme Consideration in respect of the Target Shares relating to that entry.
- (e) As soon as possible on or after the Scheme Record Date, and in any event by 5.00pm on the first Business Day after the Scheme 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

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Target must apply to AIM to cancel trading in Target Shares with effect from the close of trading on the Effective Date.

## 8 General Scheme provisions

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### 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 Target has consented to.



## 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 holding statements or share certificates relating to their Target Shares;
  - (4) entitled to receive Scrip Consideration under the Scheme, agrees to become a member of Bidder and to be bound by the terms of the constitution of Bidder; and
  - (5) acknowledges and agrees that this Scheme binds Target and all Scheme Shareholders (including those who do not attend the Scheme Meetings and those who do not vote, or vote against this Scheme, at the Scheme Meetings).
- (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 its 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;
  - (2) it has full power and capacity to transfer its Target Shares to Bidder together with any rights and entitlements attaching to those shares; and
  - (3) it has no existing right to be issued any Target Shares, Target options, Target performance rights, Target convertible notes or any other Target securities.
- (c) Target undertakes that it will provide the warranties in clause 8.2(b) 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) With effect from the Implementation Date, 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. Target will register the Scheme Shares in the name of Bidder on the Implementation Date and, upon registration, the Scheme Shares will be legally and beneficially owned by Bidder.

#### **8.4 Appointment of sole proxy**

With effect from the Implementation Date, 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 or document;
- (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 referred to in clause 8.4(a), Bidder and any director, officer, secretary or agent nominated by Bidder under clause 8.4(a) 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, and Target undertakes in favour of each Scheme Shareholder that it will enforce the Deed Poll against 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 Meetings to vote on this Scheme, did not vote at the Scheme Meetings, or voted against this Scheme at the Scheme Meetings) and, to the extent of any inconsistency, overrides the constitution of Target.



## 9 General

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### 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, or to give effect to, the implementation of this Scheme, whether on behalf of the Scheme Shareholders, Target or otherwise.

### 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 Target Registry.
- (b) The accidental omission to give notice of the Scheme Meetings or the non-receipt of such notice by a Target Shareholder will not, unless so ordered by the Court, invalidate the Scheme Meetings or the proceedings of the Scheme Meetings.

### 9.4 Governing law

- (a) This Scheme is governed by the laws in force in Western Australia.
- (b) The parties irrevocably submit to the non-exclusive jurisdiction of courts exercising jurisdiction in Western Australia 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

Each Scheme Shareholder agrees that neither Target nor Bidder nor any director, officer, secretary or employee of any of those companies shall be liable for anything done or omitted to be done in the performance of this Scheme or the Deed Poll in good faith.



## Schedule 1

### Definitions and interpretation

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#### 1 Definitions

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

<b>Term</b>	<b>Meaning</b>
<b>ADI</b>	authorised deposit-taking institution (as defined in the <i>Banking Act 1959</i> (Cth)).
<b>AIM</b>	the Alternative Investment Market of the London Stock Exchange.
<b>ASIC</b>	the Australian Securities and Investments Commission.
<b>Bidder</b>	Tuscan Equity Pty Ltd ACN 861 151 560.
<b>Bidder Group</b>	Bidder, its Related Bodies Corporate and Natale Ronald Montarello and a reference to a <b>Bidder Group Member</b> is to any one of them.
<b>Bidder Shares</b>	fully paid ordinary shares in the capital of Bidder and <b>Bidder Share</b> means any one of them.
<b>Block</b>	Block, Inc. a publicly traded company on the New York Stock Exchange (ticker symbol "SQ").
<b>Block Shares</b>	ordinary shares in Block.
<b>Block Sale Shares</b>	that number of the Block Shares held by Target as at the date of the Implementation Deed that is equal to 818,750, multiplied by the total number of Relevant Scheme Shares and divided by the total number of Target Shares, rounded to the nearest whole number of Block Shares.



<b>Term</b>	<b>Meaning</b>
<b>Block Sale Share Proceeds</b>	<ol style="list-style-type: none"><li>1 the proceeds from the sale of the Block Sale Shares pursuant to clause 5.5; less</li><li>2 any applicable brokerage, foreign exchange or banking charges or fees (including wire transfer fees or corresponding charges) or charges or fees of a similar nature which are incurred with respect to the sale of the Block Sale Shares and the deposit of the proceeds of sale into the bank accounts referred to in clause 5.5; plus</li><li>3 any dividend, return of capital or other payment paid to Target with respect to the Block Sale Shares between the date of the Implementation Deed and the date the Cash Consideration is paid pursuant to clause 5.5; less</li><li>4 any tax (including withholding) arising which is required to be remitted by Target (or a party acting on behalf of Target or a party to the sale of the Block Sale Shares) to a Government Authority, from the proceeds of sale of the Block Sale Shares (to the extent not already reflected in the proceeds) which, for the avoidance of doubt, excludes any income tax or tax on profits; less</li><li>5 any net tax payable by Target in respect of any amount referred to in paragraph 3 of this definition..</li></ol>
<b>Broker</b>	the share broker appointed for the purposes of clause 5.5.
<b>Business Day</b>	a day that is not a Saturday, Sunday or public holiday or bank holiday in Perth, Australia.
<b>Cash Consideration</b>	the amount calculated in accordance with clause 5.4.
<b>Corporations Act</b>	the <i>Corporations Act 2001</i> (Cth).
<b>Court</b>	the Federal Court of Australia or such other court of competent jurisdiction under the Corporations Act agreed to in writing by Bidder and Target.
<b>CREST</b>	the relevant system (as defined in the CREST Regulations) in respect of which Euroclear is the Operator (as defined in the CREST Regulations) in accordance with which securities may be held and transferred in uncertificated form.
<b>CREST Regulations</b>	the UK Uncertificated Securities Regulations 2001 (SI 2001 No. 3755).





<b>Term</b>	<b>Meaning</b>
<b>Deed Poll</b>	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 Bidder under this Scheme.
<b>Depository Custodian</b>	Computershare Clearing Pty Ltd.
<b>Effective</b>	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.
<b>Effective Date</b>	the date on which this Scheme becomes Effective.
<b>Election</b>	<p>an election by an Excluded Shareholder to receive their Scheme Consideration either:</p> <ol style="list-style-type: none"><li>1 in the form of Scrip Consideration in respect of all Scheme Shares held by that Excluded Shareholder on the Scheme Record Date; or</li><li>2 in the form of Cash Consideration for a number of the Scheme Shares held by that Excluded Shareholder on the Scheme Record Date and in the form of Scrip Consideration in respect of the remaining Scheme Shares held by that Excluded Shareholder on the Scheme Record Date,</li></ol> <p>made in accordance with clause 5.3 and otherwise in accordance with the Scheme.</p>
<b>Election Form</b>	a form issued by or on behalf of Target for the purposes of an Excluded Shareholder making an Election, in a form agreed to by Target and Bidder.
<b>Election Time</b>	5.00pm on the fifth Business Day before the date of the Scheme Meetings, or such other date as is agreed in writing between Bidder and Target.
<b>End Date</b>	six months from the date of the Implementation Deed, or such other date as agreed in writing by Bidder and Target.
<b>Excluded Shareholder</b>	any Target Shareholder who is (or becomes under clause 5.3(m) of the Implementation Deed) a member of the Bidder Group or any Target Shareholder who holds any Target Shares on behalf of, or for the benefit of, any member of the Bidder Group and does not hold Bidder Shares on behalf of, or for the benefit of, any other person, being as at the date of this deed:



<b>Term</b>	<b>Meaning</b>
	<ol style="list-style-type: none"><li>1 Natale Ronald Montarello;</li><li>2 Natale Ronald Montarello as trustee for the Montarello Investment Trust;</li><li>3 Kimberly Montarello;</li><li>4 Kimberly Montarello &amp; Natale Ronald Montarello as trustees for the Adam Montarello Trust;</li><li>5 Kimberly Montarello &amp; Natale Ronald Montarello as trustees for the Scott Montarello Trust; and</li><li>6 Kimberly Montarello &amp; Natale Ronald Montarello as trustees for the Montarello Superannuation Fund.</li></ol>
<b>First Court Date</b>	the first day on which an application made to the Court for an order under subsection 411(1) of the Corporations Act convening the Scheme Meetings is heard or, if the application is adjourned or subject to appeal for any reason, the day on which the adjourned application is heard.
<b>Government Agency</b>	any foreign or Australian government or governmental, semi-governmental, administrative, fiscal or judicial body, department, commission, authority, tribunal, agency or entity (including any stock or other securities exchange), 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.
<b>Implementation Date</b>	the second Business Day after the Scheme Record Date, or such other date after the Scheme Record Date as agreed in writing by Target and Bidder.
<b>Implementation Deed</b>	the scheme implementation deed dated 29 July 2022 between Target and Bidder relating to the implementation of this Scheme.
<b>Registered Address</b>	in relation to a Target Shareholder, the address shown in the Share Register as at the Scheme Record Date.
<b>Related Bodies Corporate</b>	has the meaning set out in section 50 of the Corporations Act.
<b>Relevant Scheme Shares</b>	the aggregate of: <ol style="list-style-type: none"><li>1 all Scheme Shares held by Scheme Shareholders which are not Excluded Shareholders; and</li></ol>



<b>Term</b>	<b>Meaning</b>
	2 all Scheme Shares in respect of which an Excluded Shareholder has made an Election to receive Cash Consideration.
<b>Scheme</b>	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 in writing by Target and Bidder.
<b>Scheme Consideration</b>	the consideration to be provided to each Scheme Shareholder for the transfer to Bidder of each Scheme Share, being for each Target Share held by a Scheme Shareholder as at the Scheme Record Date, as determined in accordance with clauses 4.5 and 4.6 of the Implementation Deed.
<b>Scheme Meetings</b>	the meetings of applicable Target 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.
<b>Scheme Record Date</b>	the time and date for determining entitlements to receive the Scheme Consideration, being 7.00pm on the second Business Day after the Effective Date or such other date as agreed in writing by Target and Bidder.
<b>Scheme Shares</b>	all Target Shares held by the Scheme Shareholders as at the Scheme Record Date.
<b>Scheme Shareholder</b>	a holder of Target Shares recorded in the Share Register as at the Scheme Record Date.
<b>Scheme Transfer</b>	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.
<b>Scrip Consideration</b>	one new Bidder Share for each Scheme Share.
<b>Second Court Date</b>	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



<b>Term</b>	<b>Meaning</b>
	for any reason, the day on which the adjourned application or appeal is heard.
<b>Share Register</b>	the register of members of Target maintained by Target or the Target Registry in accordance with the Corporations Act.
<b>Target Depository Interests</b>	the depository interests in respect of the Target Shares with a ticker symbol "TSL" held in uncertificated form in CREST and title to which, by virtue of the CREST Regulations, may be transferred by means of CREST.
<b>Target Registry</b>	Computershare Investor Services Pty Ltd.
<b>Target Share</b>	a fully paid ordinary share in the capital of Target.
<b>Target Shareholder</b>	each person who is registered as the holder of a Target Share in the Share Register.
<b>Trading Day</b>	a day on which Block Shares are traded on the New York Stock Exchange.

## 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, schedule, attachment or exhibit is a reference to a clause 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



(whether passed by the same or another Government Agency with legal power to do so);

- (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;
- (j) a reference to any time is, unless otherwise indicated, a reference to that time in Perth, Australia;
- (k) a term defined in or for the purposes of the Corporations Act, and which is not defined in clause 1 of this Schedule 1, 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 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;
- (o) a reference to a body, other than a party to this Scheme (including an institute, association or authority), whether statutory or not:
  - (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;
- (p) if a period of time is specified and dates from a given day or the day of an act or event, it is to be calculated exclusive of that day;
- (q) a reference to a day is to be interpreted as the period of time commencing at midnight and ending 24 hours later; and
- (r) if an act prescribed under this Scheme to be done by a party on or by a given day is done after 5.00pm on that day, it is taken to be done on the next day.

### 3 Interpretation of inclusive expressions

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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

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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.