



ASX RELEASE

KIDMAN RESOURCES AND WESFARMERS ENTER INTO SCHEME IMPLEMENTATION DEED

23 May 2019

Summary

- **Wesfarmers has completed its exclusive period of due diligence in relation to its proposal to acquire Kidman, as announced on 2 May 2019.**
- **Kidman and Wesfarmers have entered into a Scheme Implementation Deed under which it is proposed that Wesfarmers will acquire 100% of the shares in Kidman at \$1.90 per share by way of a Scheme of Arrangement.**
- **Kidman Directors and major shareholders intend to support the Scheme on the basis set out below.**

Transaction Overview

Kidman Resources Limited (**Kidman** or the **Company**) (ASX:KDR) today announces that Wesfarmers Limited (**Wesfarmers**) has completed its exclusive period of due diligence and the Company has entered into a Scheme Implementation Deed (**SID**) with Wesfarmers under which it is proposed that Wesfarmers Lithium Pty Ltd (a wholly owned subsidiary of Wesfarmers) will acquire 100% of the ordinary shares in Kidman for a cash consideration of \$1.90 per share by way of a scheme of arrangement (**Scheme**).

If the Scheme is implemented, Kidman shareholders will receive \$1.90 cash per share, which values the equity of Kidman at approximately \$776 million and represents an attractive premium of:

- 47.3% to Kidman's closing share price of \$1.29 on 1 May 2019, being the last trading day prior to announcement of the Wesfarmers proposal and entry into the Process and Exclusivity Deed; and
- 44.4% to the 3 month VWAP as at 1 May 2019.

The Board of Kidman, together with its advisers, has concluded that the Scheme is in the best interests of Kidman shareholders.

The Board recommends that Kidman shareholders vote in favour of the proposed Scheme and each Director intends to vote their shares in favour of the proposed Scheme (in each case, in the absence of a superior proposal and subject to the Independent Expert concluding that the Scheme is in the best interests of shareholders).



Kidman Chairman, Mr John Pizzey, said, “We are pleased to recommend this attractive all-cash transaction with Wesfarmers to our shareholders.”

“Kidman’s focus has been to create value for shareholders through the development of a leading Australian integrated lithium project and we have made significant progress towards achieving this goal.”

“However, the overarching objective of the Kidman Board has always been to act in the best interests of shareholders and maximise shareholder value. After careful consideration of the future development pathway for the Mt Holland Lithium Project, the Kidman Board has concluded unanimously that realisation of a significant premium to the undisturbed market value, at a certain cash price, is in the best interests of all our shareholders.”

Kidman CEO, Martin Donohue, said “We are extremely proud of the hard work and achievements of all our staff and the significant progress we have made to date in developing the Mt Holland Lithium Project. This transaction rewards shareholders for this progress while delivering them with certain cash value for their investment in Kidman today.”

Details of the Scheme

The implementation of the Scheme is subject to various conditions, including:

- Kidman shareholder approval;
- an Independent Expert concluding that the Scheme is in the best interests of Kidman shareholders;
- no “material adverse change”, “Kidman prescribed occurrence” or “Covalent regulated event”, as defined in the SID;
- Court approval; and
- other customary conditions.

Under the SID, Kidman is bound by customary exclusivity provisions including “no shop”, “no talk”, “notification” and “matching” obligations. A break fee of A\$7.7 million will be payable by Kidman in certain circumstances. A full copy of the SID, including all applicable conditions, is attached to this announcement.

On entry into the SID, the Process and Exclusivity Deed announced on 2 May 2019 was automatically terminated. Other than as contained in the SID and summarised above, the other conditions of Wesfarmers’ proposal announced on 2 May 2019 are no longer applicable, including the condition regarding documentation of certain commercial matters between Wesfarmers and Sociedad Química y Minera de Chile S.A.



Indicative Timetable and Next Steps

It is anticipated that a Scheme Booklet in relation to the proposed Scheme will be sent to Kidman shareholders in late July and that Kidman shareholders will meet to vote on the Scheme in August 2019.

An indicative timetable for the Scheme is set out below:

Early July 2019	Draft Scheme Booklet and Independent Expert's Report submitted to ASIC for review
Mid July 2019	First Court hearing
Late July 2019	Dispatch of Scheme Booklet
Late August 2019	Kidman Scheme meeting
Late August 2019	Second Court hearing
Late August 2019	Effective date
Early September 2019	Scheme record date
Early September 2019	Implementation date

Kidman is being advised by Greenhill & Co. as financial adviser and Maddocks as legal adviser.

[For more information](#)

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ABOUT KIDMAN RESOURCES

Kidman Resources Limited (ASX:KDR) is developing the world class Mt Holland Lithium Project in a 50:50 joint venture called Covalent Lithium with Sociedad Química y Minera De Chile S.A., the world's largest lithium producer. The Mt Holland Lithium Project comprises a Mine & Concentrator and Refinery and will be a globally significant, low cost, integrated producer of battery-grade lithium hydroxide meeting increased demand from the electric vehicle market.



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Scheme Implementation Deed

Kidman Resources Limited ACN 143 526 096
and

Wesfarmers Lithium Pty Ltd ACN 633 472 803
and

Wesfarmers Limited ACN 008 984 049



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Scheme Implementation Deed

Dated

Parties

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Contact	Company Secretary
Short name	Kidman

Name	Wesfarmers Lithium Pty Ltd ACN 633 472 803
Address	Level 14, Brookfield Tower 2, 123 St Georges Terrace, Perth, Western Australia 6000 Australia
Email	lkenyon@wesfarmers.com.au
Contact	Linda Kenyon
Short name	Wesfarmers Lithium

Name	Wesfarmers Limited ACN 008 984 049
Address	Level 14, Brookfield Tower 2, 123 St Georges Terrace, Perth, Western Australia 6000 Australia
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Contact	Linda Kenyon
Short name	Wesfarmers

Background

- A. Wesfarmers Lithium proposes to acquire all of the Scheme Shares pursuant to the Scheme.
- B. Kidman has agreed to propose the Scheme to Shareholders and to issue the Scheme Booklet to Shareholders, and Wesfarmers Lithium, Wesfarmers and Kidman have agreed to implement the Scheme, upon and subject to the terms and conditions of this Deed.

1. Definitions

In this Deed:

Accounting Standards means:

- (a) the accounting standards as defined in the Corporations Act; and
- (b) the requirements of the Corporations Act relating to the preparation and content of Financial Statements.

Adviser means, in relation to an entity, a financier, financial adviser, corporate adviser, legal adviser, or technical or other expert adviser, or consultant who provides advisory services in a professional capacity and who has been engaged by that entity in connection, directly or indirectly, with the Scheme.

Approved Programme and Budget has the meaning given in the Joint Venture Agreement.

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 and, where the context requires, the financial market that it operates.

Authorisation includes any licence, consent, permission, certification, accreditation, approval, determination, requirement, registration, filing, authorisation, waiver or exemption issued or required by or to be obtained from an Authority or required under any law.

Authority means any:

- (a) government, government department, government agency or government authority;
- (b) governmental, semi-governmental, municipal, judicial, quasi-judicial, administrative or fiscal entity or person carrying out any statutory authority or function; or
- (c) other entity or person (whether autonomous or not) having powers or jurisdiction under:
 - i. any statute, regulation, ordinance, by-law, order or proclamation, or the common law; or
 - ii. the rules of any recognised stock or securities exchange.

Business Day means a day which is not a Saturday, Sunday or public holiday in Melbourne, Australia or Perth, Australia.

Break Fee means \$7,700,000.

Claim means any allegation, debt, cause of action, liability, claim, proceeding, suit or demand of any nature howsoever arising and whether present or future, fixed or unascertained, actual or contingent, whether at law, in equity, under statute or otherwise.

Commencement of Production has the meaning given in the Joint Venture Agreement.

Competing Proposal means any expression of interest, proposal, offer, transaction or arrangement (other than the Transaction) by or with any person pursuant to which, if the

expression of interest, proposal, offer, transaction or arrangement is entered into or completed substantially in accordance with its terms, a Third Party will (other than as custodian, nominee or bare trustee):

- (a) acquire a Relevant Interest in 10% or more of the Shares, or Voting Power of 10% or more in Kidman;
- (b) directly or indirectly acquire, obtain a right to acquire, or otherwise obtain an economic interest in, all or a substantial part of the assets or business of Kidman;
- (c) otherwise acquire Control of Kidman;
- (d) take an assignment or transfer of, or obtain a beneficial or economic interest in, the joint venture interest of the Kidman Group in the Joint Venture, or become a shareholder in Covalent Lithium as a result of a transfer or dealing by a Kidman Group Member of its shareholding in Covalent Lithium; or
- (e) otherwise directly or indirectly acquire, merge or amalgamate with, or acquire a controlling shareholding or economic interest in, Kidman or any of its Related Entities or in all or substantially all of their respective assets or business, whether by way of takeover offer, scheme of arrangement, shareholder approved acquisition, capital reduction, share buy-back or repurchase, sale or purchase of assets, joint venture, reverse takeover, dual-listed company structure, recapitalisation, establishment of a new holding company for Kidman or other synthetic merger or any other transaction or arrangement,

but excluding:

- (f) any offtake or marketing agreement entered into by any Kidman Group Member with a bona fide purchaser of lithium hydroxide or lithium carbonate produced by the Joint Venture; or
- (g) any dilution, or acquisition by SQM (or a Related Entity of SQM), of the joint venture interest of a Kidman Group Member in the Joint Venture or of an interest in Covalent Lithium pursuant to the exercise of rights (other than pre-emptive rights) contained in the Joint Venture Agreement and associated agreements.

Conditions means the conditions set out in clause 3.1 of this Deed.

Confidential Information means any type of information disclosed or made available by a party, its officers, Advisers, affiliates or agents which is designated as confidential or that, given the nature of the information or the circumstances surrounding its disclosure, should reasonably be considered as confidential, regardless of the form of disclosure (whether written, oral, graphic, electronic or visual) or the date of disclosure (whether before, on, or after the date of this document), and includes, without limitation:

- (a) all information, whether in visual or oral form or recorded or stored in a document, relating to or connected with a disclosing party's (or those of its Related Entities) accounts, research, trade secrets, business development and marketing, strategy, sales, licensing, systems, know-how, organisation, assets and equipment, business transactions, arrangements, relationships, contracts with other parties, client lists, financial data and any other information of a type not generally available to the public;
- (b) all other information of a confidential or proprietary nature directly or indirectly disclosed by or on behalf of a party; and

- (c) any compilation, analysis, extract, summary, report, note, record or other material or document based on, or derived or produced partly or wholly from, or incorporating any of, the information referred to in this definition.

Confidentiality Agreement means the Confidentiality Agreement between Kidman and Wesfarmers dated 12 March 2019 as amended from time to time.

Consequential Loss means indirect Loss which is loss of goodwill, loss of business reputation, loss of future reputation or adverse publicity or damage to credit rating but not Loss:

- (a) which is direct loss of profits, direct loss of revenue or direct loss of production;
- (b) arising naturally and in the usual course of things from the relevant facts or circumstances giving rise to the Loss which, at the date of this Deed, would have been reasonably foreseeable; or
- (c) from any diminution in the value of the Shares.

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

Core Tenements means mining tenements with the identifiers M77/1066, M77/1080, E77/1400 and E77/2099, being a subset of the JV Tenements.

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

Court means the Federal Court of Australia or another court having jurisdiction in relation to the Scheme as agreed in writing between Kidman and Wesfarmers Lithium.

Covalent Data Room Material means all documents, presentations and information which relate to Covalent Lithium or the Joint Venture (including summaries of management presentations and all written responses provided in response to written questions or requests for information) which has been prepared by or provided by Covalent Lithium and which is contained in the Data Room and any other document or information provided prior to the date of this Deed that the parties expressly agree in writing forms part of the Covalent Data Room Material.

Covalent Lithium means Covalent Lithium Pty Ltd ACN 623 090 139.

Covalent Regulated Event means, other than as required or permitted by this Deed, the Scheme or the Transaction, or as consented to in writing by Wesfarmers Lithium, the occurrence of any of the following:

- (a) Covalent Lithium issuing (or agreeing to issue) shares or options or other securities convertible into shares, other than the issue of shares to the existing shareholders of Covalent Lithium on a pro rata basis;
- (b) Covalent Lithium resolving to reduce its share capital in any way, or entering into a buy-back agreement or resolving to approve the terms of a buy-back agreement under the Corporations Act;
- (c) Covalent Lithium commencing business activities not already carried out as at the date of this Deed, whether by way of acquisition or otherwise in any capacity other than as manager of and agent for the Joint Venture;
- (d) Covalent Lithium entering into or agreeing to any variation of any material contract (including any joint venture agreement), or the waiver of any rights under any such material contract, in any capacity other than as manager of and agent for the Joint Venture;

- (e) Covalent Lithium entering into any agreement, arrangement or understanding (whether or not legally binding):
- i. to or in respect of a material acquisition or divestment of assets, interests (including gold and other base metals) or businesses (including any legal or beneficial interest in any such asset, interest or business);
 - ii. creating any encumbrance or security interest in or over any such asset, interest or business;
 - iii. relating to the marketing or offtake of any product; or
 - iv. that has the same economic impact as any transaction described in paragraphs i to iii,

in all cases in any capacity other than as manager of and agent for the Joint Venture; or

- (f) Covalent Lithium:
- i. acquiring, leasing or disposing of; or
 - ii. agreeing, offering or proposing to acquire, lease or dispose of,
- any business, assets, entity or undertaking, the value of which exceeds \$500,000 (individually or in aggregate) in any capacity other than as manager of and agent for the Joint Venture,

provided that the occurrence of any of the acts, matters or circumstances described in paragraphs (a) to (f) will not constitute a "Covalent Regulated Event" for the purposes of this Deed if that act, matter or circumstance occurred:

- (g) in accordance with a binding obligation under the Joint Venture Documents;
- (h) in accordance with an Approved Programme and Budget in force as at the date of this Deed and as Fairly Disclosed to Wesfarmers prior to the date of this Deed; or
- (i) in accordance with any Proposed Programme and Budget which becomes an Approved Programme and Budget after the date of this Deed and which Proposed Programme and Budget has been consented to by Wesfarmers (such consent not to be unreasonably withheld and which must be given if the failure to approve the Proposed Programme and Budget would adversely delay or impact the completion, quality or scope of the Integrated DFS).

Data Room means the online data room maintained by Intralinks, the index for which materials have been initialled for identification by Kidman's solicitors on behalf of Kidman and by Wesfarmers' solicitors on behalf of Wesfarmers on or prior to the date of this Deed.

Data Room Material means the:

- (a) Kidman Data Room Material; and
- (b) Covalent Data Room Material.

Deed Poll means a deed poll to be executed by Wesfarmers Lithium and Wesfarmers in favour of the Scheme Participants substantially in the form of Attachment 6 (or in such other form as Wesfarmers Lithium, Wesfarmers and Kidman may agree in writing, such agreement not to be unreasonably withheld or delayed).

Delivery Time means 8:00 am on the Second Court Date.

Dispose means sell, transfer, assign, surrender, declare oneself a trustee of, or part with the benefit of or otherwise dispose of any property or thing.

Due Diligence Material means:

- (a) the Data Room Material;
- (b) any information other than the Data Room Material provided in writing by or on behalf of Kidman to Wesfarmers or its Advisers prior to the date of this Deed, including by way of written responses to questions from Wesfarmers and its Advisers; and
- (c) information provided to Wesfarmers or its Advisers (whether or not in written form) prior to the date of this Deed by or on behalf of SQM, SQMA or Covalent Lithium or their Advisers in, or as a result of, discussions between Wesfarmers or its Advisers and representatives of SQM, SQMA or Covalent Lithium or their respective Advisers.

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

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

End Date means 30 November 2019, or such later date as Wesfarmers Lithium and Kidman may agree in writing.

Excluded Kidman Subsidiaries means Casey Exploration Pty Ltd and Kidman Barrow Creek Pty Ltd.

Excluded Shareholder means any Wesfarmers Group Member who holds a Share.

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

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

Fairly Disclosed means, in relation to a fact, matter or circumstance or information, a disclosure sufficient in content and made in a manner and context to enable a person to be aware of the substance and significance of the fact, matter or circumstance or information.

Final Integrated DFS has the meaning given in the Joint Venture Agreement.

First Court Date means the first day of hearing of an application made to the Court by Kidman for orders, pursuant to section 411(1) of the Corporations Act, convening the Scheme Meeting or, if the hearing of such application is adjourned or subject to appeal for any reason, means the first day of the adjourned hearing.

GST means a goods and services tax or similar value added tax levied or imposed under the GST Law.

GST Law has the meaning given to it in the *A New Tax System (Goods and Services Tax) Act 1999* (Cth).

Implementation Date means the date 5 Business Days after the Record Date, or such other date as Wesfarmers Lithium and Kidman may agree in writing.

Independent Expert means KPMG Corporate Finance, a division of KPMG Financial Advisory Services (Australia) Pty Ltd of 235 St Georges Terrace, Perth, Western Australia 6000.

Independent Expert's Report means the report from the Independent Expert in connection with the Scheme setting out the Independent Expert's opinion whether or not the Scheme is in the best interests of Shareholders, and any update to such report that the Independent Expert issues prior to the Scheme Meeting.

Insolvency Event means, in relation to a person, any of the following:

- (a) the person becomes insolvent;
- (b) the person assigns any of its property for the benefit of creditors or any class of them;
- (c) a receiver, receiver and manager, administrator, controller, provisional liquidator or liquidator is appointed to the person or the person enters into a scheme of arrangement with its creditors or is wound up;
- (d) the holder of a Security Interest takes any step towards taking possession of or takes possession of any assets of the person or exercises any power of sale; or
- (e) any event that is analogous or has a substantially similar effect to any of the events specified in this definition in any jurisdiction.

Integrated DFS has the meaning given in the Joint Venture Agreement.

Integrated Project has the meaning given in the Joint Venture Agreement.

IPFS means the integrated preliminary feasibility study for the Integrated Project announced by Kidman to the ASX on 18 December 2018.

Joint Venture means the unincorporated joint venture established by the Joint Venture Agreement.

Joint Venture Agreement means the joint venture agreement dated 21 December 2017 between Kidman, Montague Resources Australia Pty Ltd ACN 097 875 619, MH Gold, Covalent Lithium and SQMA as amended by the Joint Venture Amendment Deed.

Joint Venture Amendment Deed means the amendment deed dated 27 March 2019 entered into by the parties to the Joint Venture Agreement and SQM.

Joint Venture Documents means the Joint Venture Agreement and each of the:

- (a) Asset Sale Agreement;
- (b) Facility Agreement;
- (c) Lithium Rights Agreement; and
- (d) Gold Rights Agreement,

as each of those agreements is defined in the Joint Venture Agreement.

Joint Venture Interest means a "Percentage Interest" as that term is defined in the Joint Venture Agreement.

JV Tenements means the tenements set out in Schedule 1 of the Joint Venture Agreement.

JV Tenements Area means the area enclosed by the external boundaries of each of the JV Tenements as at the date of this Deed.

Kidman Board means the board of the Kidman Directors.

Kidman Closing Certificate means a certificate in the form of Attachment 3.

Kidman Data Room Material means all documents, presentations and information which relate to any Kidman Group Member (including summaries of management presentations and all written responses provided in response to written questions or requests for information) contained in the Data Room and any other document or information provided prior to the date of this Deed that the parties expressly agree in writing forms part of the Kidman Data Room Material.

Kidman Director means a director of Kidman.

Kidman Group means Kidman and its Subsidiaries, which, for the avoidance of doubt, does not include Covalent Lithium or the Joint Venture.

Kidman Group Member means any member of the Kidman Group.

Kidman Omnibus Incentive Plan means the 'Kidman Resources Limited Omnibus Incentive Plan' approved by Kidman shareholders at the 2018 Annual General Meeting.

Kidman Prescribed Occurrence means, other than as required or permitted by this Deed, the Scheme or the Transaction, or as consented to in writing by Wesfarmers Lithium, the occurrence of any of the following:

- (a) Kidman converting all or any of its Shares into a larger or smaller number of Shares;
- (b) a Kidman Group Member resolving to reduce its share capital in any way;
- (c) a Kidman Group Member:
 - i. entering into a buy-back agreement; or
 - ii. resolving to approve the terms of a buy-back agreement under the Corporations Act;
- (d) a Kidman Group Member issuing shares, or granting an option over its shares, or agreeing to make such an issue or grant such an option, other than as a result of the vesting of all unvested Performance Rights in accordance with their terms of issue or as the result of an exercise of discretion as permitted by clause 7.1.3;
- (e) a Kidman Group Member issuing or agreeing to issue securities convertible into shares other than to a directly or indirectly wholly owned Subsidiary of Kidman;
- (f) any Kidman securities being listed on any stock or securities exchange other than the ASX, including indirectly by means of a sponsored American Depositary Receipt or similar instrument;

- (g) a Kidman Group Member granting a Security Interest, or agreeing to grant a Security Interest, in the whole, or a substantial part, of its business or property other than a lien which arises by operation of law or legislation securing an obligation that is not yet due;
- (h) an Insolvency Event occurring in relation to a Kidman Group Member (other than an Excluded Kidman Subsidiary); or
- (i) Kidman announcing, making, declaring, paying or distributing any dividend, bonus or other share of its profits or assets or returning or agreeing to return any capital to its members (whether in cash or in specie).

Kidman Provided Information means all written information included in the Scheme Booklet, and any updates to that information prepared by or on behalf of Kidman in accordance with clause 6.2.10, other than the Wesfarmers Provided Information and any information solely derived from, or prepared solely in reliance on, the Wesfarmers Provided Information and the Independent Expert's Report and any information solely derived from, or proposed solely in reliance on, the Independent Expert's Report.

Kidman Public Announcement means the public announcement to be made by Kidman relating to the execution of this Deed including the information set out in clause 10.1 and clause 10.2 and otherwise in the form agreed in writing by the parties, a draft of which (in substantially final form) has been provided to Wesfarmers Lithium no later than 1 day prior to the date of this Deed.

Kidman Regulated Event means, other than as required or permitted by this Deed, the Scheme or the Transaction, or as consented to in writing by Wesfarmers Lithium, the occurrence of any of the following:

- (a) a Kidman Group Member acquiring or disposing of, or entering into or announcing any agreement for the acquisition or disposal of, any asset, interest or business, or entering into any corporate transaction, which would or would reasonably be likely to involve a material adverse change in:
 - i. the manner in which the Kidman Group conducts its business;
 - ii. the nature (including balance sheet classification), extent or value of the assets of the Kidman Group; or
 - iii. the nature (including balance sheet classification), extent or value of the liabilities of the Kidman Group;
- (b) any Kidman Group Member Disposing of all or part of its Joint Venture Interest (including its shares in Covalent Lithium);
- (c) any Kidman Group Member consenting to SQMA Disposing of its interest in the Joint Venture or its shares in Covalent Lithium provided that any such consent by the Kidman Group Member is not a Kidman Regulated Event if Wesfarmers Lithium has refused to consent to a Kidman Group Member exercising its pre-emptive rights under the Joint Venture Agreement to acquire the relevant SQMA interest or shares;
- (d) a Kidman Group Member commencing business activities not already carried out as at the date of this Deed, whether by way of acquisition or otherwise;
- (e) a Kidman Group Member entering into or agreeing to any variation of any material contract (including any Joint Venture Document or any other joint venture agreement), or the waiver of any rights under any such material contract;

- (f) a Kidman Group Member entering into any agreement for the provision of financial accommodation to a Kidman Group Member, or drawing down on any existing financial accommodation, including (without limitation) issuing an "Execution Notice" under clause 3.3(b) of the Joint Venture Amendment Deed;
- (g) a Kidman Group Member entering into any agreement, arrangement or understanding (whether or not legally binding):
 - i. to or in respect of a material acquisition or divestment of assets, interests (including gold and other base metals) or businesses (including any legal or beneficial interest in any such asset, interest or business);
 - ii. creating any encumbrance or security interest in or over any such asset, interest or business;
 - iii. relating to the marketing or offtake of any product from the Joint Venture (including the amendment of any existing agreement, arrangement or understanding provided that the exercise by a counterparty to a marketing or offtake agreement of a right of termination for convenience will not constitute an amendment for the purposes of this definition); or
 - iv. that has the same economic impact as any transaction described in paragraphs (i) to (iii);
- (h) a Kidman Group Member:
 - i. acquiring, leasing or disposing of; or
 - ii. agreeing, offering or proposing to acquire, lease, dispose of or create any encumbrance or security interest in or over,

any business, assets, entity or undertaking, the value of which exceeds \$1,000,000 (individually or in aggregate); or
- (i) Kidman amending or agreeing or proposing to amend the Omnibus Incentive Plan or the terms of issue of any Performance Rights, or makes any determination or exercises any discretion under the Omnibus Incentive Plan or the terms of issue of any Performance Right, where, as a consequence, any one or more of the following occurs:
 - i. the period for vesting of any Performance Right is extended;
 - ii. the number of Performance Rights that are vested at any time is increased;
 - iii. the earliest date for vesting of any Performance Right is brought forward (other than as the result of an exercise of discretion as permitted by clause 7.1.3); or
 - iv. the number of Shares to be issued on vesting of any Performance Right is increased.

Kidman Warranty means each warranty of Kidman set out in Schedule 1.

Listing Rules means the official listing rules of the ASX.

Loss means all Claims, demands, damages, losses, costs, expenses and liabilities (including but not limited to all legal costs and attorney's fees on a full indemnity basis).

Management Committee has the meaning given in the Joint Venture Agreement.

Material Adverse Change means:

- (a) a Specified Event which has, has had, or is reasonably likely to have, either individually or when aggregated with any other such events of a similar kind or category:
 - i. a material adverse effect on the development of the Integrated Project such that the date for first production of lithium hydroxide from the refinery forming part of the Integrated Project is reasonably expected to occur on a date that is later than 31 January 2023;
 - ii. a material adverse effect (which includes a suspension, revocation, disclaimer, invalidity, unenforceability, materially adverse variation, lapse or termination of all or any material rights) on the status or terms of (or rights attaching to):
 - (A) any Core Tenement which includes (without limitation) any Authority providing any notice or otherwise making known an intention that any Core Tenement, will be suspended, revoked, disclaimed, made invalid, unenforceable, varied, lapse, terminated, forfeited or not renewed; or
 - (B) any Joint Venture Document, which includes:
 - (1) any counterparty validly providing, or becoming entitled to provide, formal notice to terminate a Joint Venture Document;
 - (2) a material provision of the Joint Venture Document is or becomes illegal, void, voidable or unenforceable; or
 - (3) the performance of a material obligation under the Joint Venture Document breaches or results in the contravention of any law;
 - iii. the grant of mining or other rights or interests of any kind over all or part of any area covered by or the subject of the Core Tenements to any person other than the Joint Venturers or Covalent Lithium which materially impacts, or could reasonably be expected to materially impact, on the conduct of the Joint Venture Activities (as defined in the Joint Venture Agreement);
- (b) a Kidman Group Member Disposes of all or part of its Joint Venture Interest (including its shares in Covalent Lithium), including as a result of the provisions in the Joint Venture Agreement dealing with dilution of a party's joint venture interest;
- (c) any of the Core Tenements are forfeited, cancelled, relinquished or compulsorily acquired or a Kidman Group Member ceases to hold a 50% interest in any of the Core Tenements;
- (d) an event occurs which has, has had, or is reasonably likely to have the result of the Kidman Group ceasing to hold a Joint Venture Interest of at least 50%;
- (e) an event occurs which has, has had, or is reasonably likely to have the result of SQMA ceasing to hold a Joint Venture Interest of at least 50%;

- (f) a public offer is made or announced or an agreement is entered into, the conditions of which are reasonably likely to be met and that is capable of being implemented as a binding proposal, which would, if completed substantially in accordance with its terms, result in SQMA coming under the ultimate Control of a person who did not Control SQMA as at the date of this Deed; or
- (g) the Final Integrated DFS, or any draft Integrated DFS that is sufficiently definite so as to require announcement of the draft, or material information in the draft, by Kidman to the ASX or as a disclosure in the Scheme Booklet, or which is in fact announced to the ASX or in the Scheme Booklet (**Definitive Draft Integrated DFS**), estimates or otherwise provides or indicates that:
 - i. the development of the Integrated Project has been, or is likely to be, delayed such that the first production of lithium hydroxide from the refinery forming part of the Integrated Project will not occur on or before 31 December 2022; or
 - ii. Kidman's share (equal to its Joint Venture Interest) of the total integrated capital expenditure (including contingencies but excluding Owners Costs) for the Integrated Project will increase by more than US\$135 million over the total integrated capital expenditure (including contingencies but excluding Owners' Costs) for the Integrated Project described in the IPFS (Kidman's share of such total integrated capital expenditure being US\$369 million).

Wesfarmers Lithium may request Kidman to explain whether a particular draft Integrated DFS constitutes a Definitive Draft Integrated DFS, in which case Kidman must promptly provide Wesfarmers Lithium with reasonable details of the basis upon which the Kidman Board has determined that the draft Integrated DFS is not sufficiently definite so as to require announcement.

Notwithstanding the above, announcement to the ASX of a draft Integrated DFS as a result solely of ASX Listing Rule 3.1A.2 ceasing to apply to that draft Integrated DFS (other than as a result of an act or omission by Kidman or its Representatives) will not constitute an announcement of a Definitive Draft Integrated DFS for the purposes of paragraph (g).

MH Gold means MH Gold Pty Ltd ACN 608 814 204.

Native Title Claims means either:

- (a) any claim, application or proceeding in respect of Native Title Rights which is accepted by the Native Title Tribunal or the Registrar thereof pursuant to the *Native Title Act 1993* (Cth) or in relation to Native Title Interests; or
- (b) any claim, application or proceeding in respect of Native Title Interests.

Native Title Interests includes those rights, interests and statutory protections of and relating to Aboriginal persons or the protection of Aboriginal heritage as set out in the *Aboriginal Heritage Act 1972* (WA), the *Aboriginal and Torres Strait Islander Heritage Protection Act 1984* (Cth) or the *Environmental Protection and Biodiversity Conservation Act 1999* (Cth).

Native Title Rights has the same meaning as the expressions "native title" or "native title rights and interests" as defined in section 223(1) of the *Native Title Act 1993* (Cth) and includes Native Title Interests.

Other Tenements means the tenements set out in Schedule 4.

Owners' Costs are costs that are of the same nature as (and determined on a basis consistent with) the costs that were categorised as "owners' costs" in the IPFS including, but not limited to, procurement and construction management costs and engineering study costs.

Performance Rights means the 3,721,171 performance rights issued prior to the date of this Deed either under the Kidman Omnibus Incentive Plan, or on terms and conditions Fairly Disclosed in the Due Diligence Material or which the existence of which has otherwise been disclosed in lodgements with the ASX.

Proposed Programme and Budget has the meaning given in the Joint Venture Agreement.

PPSA means the *Personal Properties Security Act 2009* (Cth).

PPSR means the Personal Properties Security Register administered under the PPSA.

Record Date means 7:00 pm on the fifth Business Day following the Effective Date or such other date after the Effective Date as Wesfarmers Lithium and Kidman agree in writing.

Register means the register of Shares kept by the Share Registry.

Related Entity means, in relation to an entity (the *first entity*):

- (a) a Subsidiary of the first entity;
- (b) an entity of which the first entity is a Subsidiary; or
- (c) a Subsidiary of another entity of which the first entity is also a Subsidiary,

but an entity will also be taken to be a Subsidiary of an entity if it is controlled by that entity (as defined in section 50AA of the Corporations Act) and:

- (d) a trust may be a Subsidiary, for the purpose of which a unit or other beneficial interest will be regarded as a share; and
- (e) an entity may be a Subsidiary of a trust if it would have been a Subsidiary if that trust were a body corporate.

Relevant Interest has the meaning given to that term by sections 608 and 609 of the Corporations Act.

Representatives means in respect of a party, any person acting for or on behalf of that party (including any Related Entity of that party, and any director, officer, employee, agent, affiliate, contractor or Adviser of that party or its Related Entities).

Scheme means the scheme of arrangement pursuant to Part 5.1 of the Corporations Act proposed between Kidman and the Shareholders, substantially in the form of Attachment 5, (or in such other form as Wesfarmers Lithium and Kidman may agree in writing, such agreement not to be unreasonably withheld or delayed) together with any alterations or conditions made or required pursuant to sub-section 411(6) of the Corporations Act and agreed or consented to in writing by Kidman and Wesfarmers Lithium.

Scheme Booklet means the scheme booklet prepared by Kidman in relation to the Scheme in accordance with clause 6.4.

Scheme Consideration means the consideration to be provided to Scheme Participants under the terms of the Scheme for the transfer of their Scheme Shares to Wesfarmers Lithium, as described in clause 5.

Scheme Meeting means the meeting or meetings of Shareholders ordered by the Court in relation to the Scheme to be convened pursuant to Section 411(1) of the Corporations Act and includes any meeting convened following any adjournment or postponement of that meeting.

Scheme Orders means the orders of the Court approving the Scheme under section 411(4)(b) of the Corporations Act.

Scheme Participant means a Shareholder (other than an Excluded Shareholder) on the Record Date and includes, for the avoidance of doubt, Shareholders who hold Shares as a result of the vesting of unvested Performance Rights on or prior to the Record Date in accordance with the terms of issue of the Performance Rights or as the result of the exercise of a discretion as permitted by clause 7.1.3.

Scheme Resolution means the resolution to be put to Shareholders to approve the Scheme.

Scheme Shares means all Shares held by the Scheme Participants as at the Record Date.

Second Court Date means the first day of hearing of an application made to the Court by Kidman for orders pursuant to section 411(4)(b) of the Corporations Act approving the Scheme or, if the hearing of such application is adjourned for any reason, means the first day of the adjourned hearing.

Security Interest means:

- (a) any mortgage, pledge, lien, charge or other preferential right, trust arrangement, agreement or arrangement of any kind given or created by way of security, including a security interest (as defined in the PPSA); and
- (b) any agreement to create or grant any arrangement described in paragraph (a).

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

Share Registry means Boardroom Pty Ltd ACN 003 209 836

Shareholder means each person who is registered in the Register as the holder of Shares.

Specified Event means an event, occurrence or matter that:

- (a) occurs after the date of this Deed;
- (b) occurs before the date of this Deed but is only announced or publicly disclosed after the date of this Deed; or
- (c) will or is likely to occur after the date of this Deed and which has not been publicly announced prior to the date of this Deed,

but does not include an event which:

- (d) is required to occur, or expressly permitted, under this Deed; or
- (e) which has been Fairly Disclosed in the Due Diligence Materials, or announced or publicly disclosed prior to the date of this Deed.

SQM means Sociedad Química y Minera de Chile S.A.

SQMA means SQM Australia Pty Ltd ACN 621 414 659.

Subsidiary has the meaning given in the Corporations Act.

Superior Proposal means a bona fide Competing Proposal, in the form of an offer or agreement that is capable of being implemented as a binding proposal (whether or not subject to conditions), received by Kidman that the Kidman Board determines, acting in good faith and in order to satisfy what the Kidman Board considers to be its fiduciary and statutory duties (after having obtained written advice from Kidman's legal adviser and, if appropriate, financial adviser):

- (a) would, if completed substantially in accordance with its terms, result in an acquisition of Control of Kidman or all or substantially all of the assets of the Kidman Group;
- (b) is reasonably likely to be completed within 7 months in accordance with its terms, having regard to conditionality and taking into account all financial, timing, regulatory and other aspects of such proposal, including the capacity of the proposing party to consummate the transactions contemplated by the Competing Proposal (including having regard to funding sources and ability to consummate a transaction of a similar size and nature); and
- (c) would, if completed substantially in accordance with its terms, result in a transaction that is more favourable to Shareholders than the Transaction, taking into account all the terms and conditions of the Competing Proposal.

Takeovers Panel means the panel established by Part 10 of the *Australian Securities and Investment Commission Act 2001* (Cth).

Third Party means any of the following:

- (a) a person other than a Wesfarmers Group Member; or
- (b) a consortium, partnership, limited partnership, syndicate or other group in which no Wesfarmers Group Member has agreed in writing to be a participant.

Timetable means the indicative timetable for the implementation of the Scheme a copy of which is Attachment 1 to this Deed.

Transaction means the proposed transactions pursuant to which Wesfarmers Lithium will acquire the Scheme Shares under the Scheme, in consideration for the provision of the Scheme Consideration and any action to be undertaken pursuant to, or in connection with, a Transaction Document.

Transaction Document means each of:

- (a) this Deed;
- (b) the Scheme;
- (c) the Deed Poll;
- (d) the Confidentiality Agreement; and
- (e) any other document which Wesfarmers Lithium and Kidman agree is necessary or desirable to be entered into for the purposes of the Scheme.

Voting Deeds means the voting deeds in favour of Wesfarmers dated 1 May 2019 entered into by each of Yalambie Pty Ltd ACN 108 964 870, Western Areas Limited ACN 091 049 357, Penstock Advisory Pty Ltd ACN 139 933 841, Olivers Hill Pty Ltd ACN 112 436 825,

John Pizzey, EDM Nominees Pty Ltd ACN 167 745 066, Capri Trading Pty Ltd ACN 055 702 308 and B&K Evans Superannuation Pty Ltd ACN 169 406 482.

Voting Power has the meaning given in section 610 of the Corporations Act.

Wesfarmers Closing Certificate means a certificate in the form of Attachment 2.

Wesfarmers Counterproposal has the meaning given in clause 13.7.2.

Wesfarmers Group means Wesfarmers and each of its Related Entities.

Wesfarmers Group Member means any member of the Wesfarmers Group.

Wesfarmers Indemnified Parties means:

- (a) each of Wesfarmers and Wesfarmers Lithium; and
- (b) the directors of each of Wesfarmers and Wesfarmers Lithium.

Wesfarmers Provided Information means all written information regarding the Wesfarmers Group that is provided by or on behalf of Wesfarmers Lithium to Kidman or any of Kidman's Representatives to enable the Scheme Booklet to be prepared and completed in accordance with clause 6.4, and any updates to that information provided by or on behalf of Wesfarmers Lithium to Kidman or any of its Representatives.

Wesfarmers Public Announcement means the public announcement to be made by Wesfarmers relating to the execution of this Deed in the form agreed in writing by the parties, a draft of which (in substantially final form) has been provided to Kidman no later than 1 day prior to the date of this Deed.

Wesfarmers Lithium Warranty means each warranty of Wesfarmers Lithium set out in Schedule 2.

Wesfarmers Warranty means each warranty of Wesfarmers set out in Schedule 3.

2. Agreement to proceed with the Scheme

2.1 Kidman to propose the Scheme

Kidman agrees to propose and implement the Scheme in accordance with and subject to the terms and conditions of this Deed.

2.2 Wesfarmers Lithium to assist

Wesfarmers Lithium agrees to assist Kidman to implement the Scheme in accordance with and subject to the terms and conditions of this Deed.

2.3 Wesfarmers' obligation

2.3.1 Wesfarmers must do all things necessary to procure the performance by Wesfarmers Lithium of its obligations under this Deed.

2.3.2 Without limited clause 2.3.1, Wesfarmers unconditionally and irrevocably guarantees the due and punctual performance by Wesfarmers Lithium of its obligations and actions under this Deed, the Deed Poll and the Corporations Act in relation to the Scheme.

3. Conditions

3.1 Conditions

The Scheme will not become Effective and the obligations of Kidman and Wesfarmers Lithium to implement the Scheme are not binding, until each of the following conditions have been satisfied or waived in accordance with this clause 3:

- 3.1.1 **Authorisations from ASIC and ASX:** on or before the Delivery Time, ASIC and ASX issue or provide all Authorisations and do all such other acts which Wesfarmers Lithium and Kidman agree are reasonably necessary to implement the Scheme and those Authorisations are not withdrawn, cancelled or revoked.
- 3.1.2 **Independent Expert:** the Independent Expert, before the time when the Scheme Booklet is registered with ASIC, issues an Independent Expert's Report which concludes that the Scheme is in the best interests of Shareholders.
- 3.1.3 **Shareholder approval:** Shareholders approve the Scheme at the Scheme Meeting by the majorities required by section 411(4)(a)(ii) of the Corporations Act.
- 3.1.4 **Court approval:** the Court approves the Scheme in accordance with section 411(4)(b) of the Corporations Act.
- 3.1.5 **No Material Adverse Change:** no Material Adverse Change occurs or becomes known to Wesfarmers Lithium or Kidman between the date of this Deed and the Delivery Time.
- 3.1.6 **Kidman Warranties:** as at the date of this Deed and any other date specified in a Kidman Warranty, the Kidman Warranties are true and correct in all material respects (other than the Kidman Warranties qualified by materiality, which must be true and correct in all respects).
- 3.1.7 **Wesfarmers Lithium Warranties:** as at the date of this Deed and any other date specified in a Wesfarmers Lithium Warranty, the Wesfarmers Lithium Warranties are true and correct in all material respects (other than the Wesfarmers Lithium Warranties qualified by materiality, which must be true and correct in all respects).
- 3.1.8 **Wesfarmers Warranties:** as at the date of this Deed and any other date specified in a Wesfarmers Warranty, the Wesfarmers Warranties are true and correct in all material respects (other than the Wesfarmers Warranties qualified by materiality, which must be true and correct in all respects).
- 3.1.9 **No Kidman Prescribed Occurrence:** no Kidman Prescribed Occurrence occurs or becomes known to Wesfarmers Lithium or Kidman between the date of this Deed and the Delivery Time.
- 3.1.10 **No Covalent Regulated Event:** no Covalent Regulated Event occurs or becomes known to Wesfarmers Lithium or Kidman between the date of this Deed and the Delivery Time;
- 3.1.11 **No restraints:** no judgment, order, decree, statute, law, ordinance, rule or regulation, or other temporary restraining order, preliminary or permanent injunction, restraint or prohibition, entered, enacted, promulgated, enforced or issued by any court, the Takeovers Panel, or other Authority of competent jurisdiction, that prohibits, materially restricts, makes illegal or restrains the completion or implementation of any aspect of the Scheme remains in effect as at the Delivery Time.

3.1.12 **Kidman Closing Certificate:** on or before the Delivery Time, Kidman provides Wesfarmers Lithium with the Kidman Closing Certificate.

3.1.13 **Wesfarmers Closing Certificate:** on or before the Delivery Time, Wesfarmers Lithium provides Kidman with the Wesfarmers Closing Certificate.

3.2 **Waiver of Conditions**

3.2.1 The Conditions in clauses 3.1.1, 3.1.3, 3.1.4 and 3.1.11 are each for the benefit of each of Kidman and Wesfarmers, and cannot be waived, except in the case of the Condition in clause 3.1.11 which may be waived with the written consent of both Kidman and Wesfarmers, provided that any imposed restraint of a type described in clause 3.1.11 does not wholly prohibit the Scheme.

3.2.2 The Conditions in clauses 3.1.2, 3.1.7, 3.1.8 and 3.1.13 are for the sole benefit of Kidman and any breach or non-fulfilment of any of those Conditions may only be waived in writing by Kidman.

3.2.3 The Conditions in clauses 3.1.5, 3.1.6, 3.1.9, 3.1.10 and 3.1.12 are for the sole benefit of Wesfarmers Lithium and any breach or non-fulfilment of any of those Conditions may only be waived in writing by Wesfarmers Lithium.

3.2.4 A party entitled to waive the breach or non-fulfilment of a Condition pursuant to this clause 3.2 may do so in its absolute discretion.

3.2.5 If a party waives the breach or non-fulfilment of a Condition, that waiver will not preclude it from suing a party for any breach of this Deed constituted by the same event that gave rise to the breach or non-fulfilment of the Condition.

3.2.6 Waiver of a breach or non-fulfilment in respect of one Condition does not constitute:

- (a) a waiver of breach or non-fulfilment of any other Condition resulting from the same events or circumstances; or
- (b) a waiver of breach or non-fulfilment of that Condition resulting from any other event or circumstance.

3.3 **Best endeavours**

Without prejudice to any other obligations of the parties under this Deed:

3.3.1 each of Kidman and Wesfarmers Lithium must use their respective best endeavours to:

- (a) satisfy, or procure the satisfaction of, the Conditions; and
- (b) procure that there is no occurrence that would prevent the Conditions being satisfied except to the extent such action (or inaction) is required by law or the rules of any recognised stock or securities exchange, or permitted or required by the terms of a Transaction Document,

but in each case only to the extent within their respective power and control; and

3.3.2 neither Kidman nor Wesfarmers Lithium will take any action that will or is likely to hinder or prevent the satisfaction of any Condition, except to the extent that such action (or inaction) is required by law or the rules of any recognised stock or

securities exchange, or permitted or required by the terms of a Transaction Document,

and for the purposes of this clause 3.3, the "best endeavours" of either Kidman or Wesfarmers Lithium will require that party to (among other things):

- 3.3.3 seek to satisfy the relevant Condition as soon as practicable after the date of this Deed or seek to ensure the relevant Condition continues to be satisfied at all times until the last time it is to be satisfied (as the case requires) with a view to the Effective Date occurring on or before the End Date (provided that the parties are not obliged to waive any Condition);
- 3.3.4 co-operate with the other party or any Authority or Third Party in good faith with a view to satisfying the Conditions, including providing all information reasonably required by the other party in relation to the Wesfarmers Group or the Kidman Group (as applicable) in order to satisfy the Conditions, and providing all information reasonably required by any Authority or other Third Party to such Authority or Third Party as appropriate. For the avoidance of doubt, where a party proposes to disclose any Confidential Information to an Authority or Third Party (whether pursuant to a request by any Authority or Third Party or otherwise), the party must seek the other party's prior written consent to such disclosure, which consent must not be unreasonably withheld or delayed; and
- 3.3.5 comply with any judgment, order, decree, statute, law, ordinance, rule or regulation, or other temporary restraining order, preliminary or permanent injunction, restraint or prohibition, entered, enacted, promulgated, enforced or issued by any court, the Takeovers Panel, or other Authority of competent jurisdiction in relation to the Scheme to the extent within that party's control.

3.4 **Notifications**

Each of Kidman and Wesfarmers Lithium must:

- 3.4.1 keep the other promptly and reasonably informed of the steps it has taken and of its progress towards satisfaction of the Conditions either directly or through its Advisers;
- 3.4.2 promptly notify the other party in writing if it becomes aware that any Condition has been satisfied, in which case the notifying party must also provide reasonable evidence that the Condition has been satisfied; and
- 3.4.3 promptly notify the other party in writing of a failure to satisfy a Condition or of any fact or circumstance that results in that Condition becoming incapable of being satisfied or that may result in that Condition not being satisfied in accordance with its terms (having regard to the obligations of the parties under clause 3.3).

3.5 **Termination if Scheme has not become Effective by the End Date**

- 3.5.1 If there is an event or circumstance that prevents any of the Conditions being satisfied either at all or by the last time and date specified in this Deed for the satisfaction of the relevant Condition either Wesfarmers Lithium or Kidman may serve notice on the other party, and Wesfarmers Lithium and Kidman must then consult in good faith with a view to determining whether:
 - (a) the Scheme may proceed by way of alternative means or methods;
 - (b) to change the date of the application made to the Court for an order under section 411(4)(b) of the Corporations Act approving the Scheme or adjourning that application (as applicable) to another date agreed by

Wesfarmers Lithium and Kidman (being a date no later than 5 Business Days before the End Date); or

- (c) to extend the relevant time or date for satisfaction of the Conditions or the End Date.

- 3.5.2 If the parties are unable to reach an agreement under clause 3.5.1 within 5 Business Days of becoming aware of the relevant occurrence, then, unless, where the occurrence relates to a Condition not being satisfied, that Condition is waived by Kidman or Wesfarmers Lithium or both (as applicable) in accordance with clause 3.2, either party may terminate this Deed without liability (except under clause 15, if applicable, and clause 17) to the other party because of that termination, unless the relevant occurrence or the failure of the Condition to be satisfied, or of the Scheme to become Effective, arises out of a breach of this Deed by the terminating party.
- 3.5.3 Subject to any rights or obligations arising under or pursuant to clauses that are expressed to survive termination, on termination of this Deed no party shall have any rights against or obligations to any other party under this Deed except for those rights and obligations which accrued prior to termination.
- 3.5.4 If the Condition in clause 3.1.3 is not satisfied only because of a failure to obtain the majorities required by section 411(4)(a)(ii)(A) of the Corporations Act, then either party may by written notice within 3 Business Days after the date of the conclusion of the Scheme Meeting require the approval of the Court to be sought, pursuant to the Court's discretion in section 411(4)(a)(ii)(A) of the Corporations Act, provided the party has in good faith formed the view that the prospect of the Court exercising its discretion in that way is reasonable. If approval is given, the Condition in clause 3.1.3 is deemed to be satisfied for all purposes.

3.6 Interpretation

For the purposes of this clause 3, a Condition will be incapable of satisfaction, or incapable of being satisfied if there is an act, failure to act or occurrence that will prevent the Condition being satisfied by the End Date (and the breach or non-fulfilment that would otherwise have occurred has not already been waived in accordance with this Deed).

4. Outline of the Scheme

Kidman and Wesfarmers Lithium agree that:

- 4.1.1 Kidman will propose the Scheme in the form set out in Attachment 5, or in such other form as Kidman and Wesfarmers Lithium agree in writing (such agreement not to be unreasonably withheld or delayed);
- 4.1.2 Kidman must not consent to any modification of, or amendment to, or the making or imposition by the Court of any condition in respect of the Scheme without the prior written consent of Wesfarmers Lithium (such approval not to be unreasonably withheld or delayed);
- 4.1.3 the Scheme, if approved by the Court, will be subject to any alterations or conditions that are made or required by the Court under section 411(6) of the Corporations Act and approved in writing by Wesfarmers Lithium and Kidman (such approval not to be unreasonably withheld or delayed); and
- 4.1.4 subject to the Scheme becoming Effective, on the Implementation Date the Scheme will be implemented and:

- (a) all of the Scheme Shares will be transferred to Wesfarmers Lithium in accordance with the terms of the Scheme; and
- (b) in consideration for the transfer to Wesfarmers Lithium of all of the Scheme Shares, the Scheme Participants will receive the Scheme Consideration in accordance with clause 5, the other terms of this Deed and the terms of the Scheme.

5. Scheme Consideration

5.1 Scheme Consideration

In consideration for each Scheme Share transferred to Wesfarmers Lithium, Wesfarmers Lithium must pay, or procure the payment, to the relevant Scheme Participant the amount of \$1.90 cash.

5.2 Provision of Scheme Consideration

- 5.2.1 Wesfarmers Lithium must, by no later than the Business Day before the Implementation Date, deposit, or procure the deposit of, in cleared funds, an amount equal to the aggregate amount of the Scheme Consideration, in an Australian dollar denominated trust account operated by Kidman as trustee for the Scheme Participants (provided that any interest on the amounts deposited (less bank fees and other charges) will be credited to Wesfarmers Lithium's account).
- 5.2.2 Subject to Wesfarmers Lithium complying with clause 5.2.1, on the Implementation Date, Kidman must pay or procure the payment of the Scheme Consideration from the trust account referred to in clause 5.2.1 to each Scheme Participant based on the number of Scheme Shares held by that Scheme Participant as at the Record Date.
- 5.2.3 Kidman's obligation under clause 5.2.2 will be satisfied by Kidman:
 - (a) where a Scheme Participant has, before the Record Date, made an election in accordance with the requirements of the Share Registry to receive dividend payments from Kidman by electronic funds transfer to a bank account nominated by the Scheme Participant, paying, or procuring the payment of, the relevant amount of Australian currency by electronic means in accordance with that election; or
 - (b) otherwise, despatching, or procuring the despatch of, a cheque in Australian currency to the Scheme Participant by prepaid post to their address shown in the Register as at the Record Date, such cheque being drawn in the name of the Scheme Participant (or in the case of joint holders, in accordance with the procedures set out in clause 5.3), for the relevant amount.
- 5.2.4 To the extent that, following satisfaction of Kidman's obligations under clause 5.2.2, there is a surplus in the amount held by Kidman as trustee for the Scheme Participants in the trust account referred to in that clause, that surplus will be paid by Kidman to Wesfarmers Lithium.

5.3 Joint holders

In the case of Scheme Shares held in joint names, any Scheme Consideration will be taken to be paid to the joint holders upon payment to the holder whose name appears first in the Register as at the Record Date.

6. Implementation of the Scheme

6.1 Timetable

6.1.1 Subject to clause 6.1.2, each party must:

- (a) use their best endeavours;
- (b) commit reasonably necessary resources; and
- (c) procure that its Representatives work in good faith and in a timely and cooperative fashion with the other party,

to perform its obligations as set out in this Deed and take all necessary steps and exercise all rights necessary to implement the Scheme in accordance with the Timetable.

6.1.2 Failure by a party to meet any timeframe or deadline set out in the Timetable will not constitute a breach of clause 6.1.1 to the extent that such failure is due to circumstances and matters outside the party's control.

6.1.3 Each party must keep the other informed about their progress against the Timetable and notify each other if it believes that any of the dates in the Timetable are not achievable.

6.1.4 To the extent that any of the dates or timeframes set out in the Timetable become not achievable due to matters outside of a party's control, the parties will consult in good faith to agree any necessary extension to ensure such matters are completed within the shortest possible timeframe.

6.2 Kidman's obligations in respect of the Scheme

Kidman must take all steps reasonably necessary to propose and implement the Scheme as soon as is reasonably practicable after the date of this Deed and, in particular, Kidman must:

6.2.1 **(preparation of Scheme Booklet)** promptly prepare the Scheme Booklet in accordance with clause 6.4;

6.2.2 **(Independent Expert)** promptly appoint the Independent Expert and provide all assistance and information reasonably requested by the Independent Expert in connection with the preparation of the Independent Expert's Report, including by directing the manager of the Joint Venture to provide all relevant information to the Independent Expert in relation to the Joint Venture;

6.2.3 **(provision to ASIC)** as soon as reasonably practicable after the date of this Deed, but no later than 14 days before the First Court Date, provide an advanced draft of the Scheme Booklet to:

- (a) ASIC for its review and approval for the purposes of section 411(2) of the Corporations Act; and
- (b) Wesfarmers Lithium,

and liaise with ASIC in relation to the draft Scheme Booklet and keep Wesfarmers Lithium reasonably and promptly informed of any matters raised by ASIC in relation to the Scheme Booklet (and of any resolution of those matters), and use its best endeavours, in co-operation with Wesfarmers Lithium, to resolve any such matters;

- 6.2.4 **(section 411(17)(b) statement)** apply to ASIC for the production of:
- (a) an indication of intent letter that it does not intend to appear before the Court on the First Court Date; and
 - (b) a statement under section 411(17)(b) of the Corporations Act stating that ASIC has no objection to the Scheme;
- 6.2.5 **(Court documents)** promptly prepare all documents necessary for the Court proceedings (including any appeals) relating to the Scheme (including originating process, affidavits, submissions and draft minutes of Court orders) in accordance with all applicable laws, and provide Wesfarmers Lithium with drafts of those documents for review and (acting reasonably and in good faith) take into account, for the purpose of amending those drafts, any comments from Wesfarmers Lithium and its Representatives on those drafts;
- 6.2.6 **(first Court hearing)** promptly lodge all documents with the Court and take all other reasonable steps to ensure that an application is heard by the Court for orders under section 411(1) of the Corporations Act directing Kidman to convene the Scheme Meeting;
- 6.2.7 **(registration of Scheme Booklet)** if the Court orders Kidman to convene the Scheme Meeting, as soon as reasonably practicable after such orders are made, request ASIC to register the explanatory statement included in the Scheme Booklet in relation to the Scheme in accordance with section 412(6) of the Corporations Act;
- 6.2.8 **(Scheme Meeting)** promptly take all reasonable steps necessary to comply with the orders of the Court, including, as required, despatching the Scheme Booklet to Shareholders, convening and holding the Scheme Meeting in accordance with the Court orders, and putting the Scheme Resolution to Shareholders at the Scheme Meeting, provided that if this Deed is terminated under clause 15 it will take all steps reasonably required to ensure the Scheme Meeting is not held;
- 6.2.9 **(listing)** subject to 6.2.17, not do anything to cause the Shares to cease being quoted on the ASX or to become permanently suspended from quotation prior to implementation of the Scheme unless Wesfarmers Lithium has agreed in writing;
- 6.2.10 **(update Scheme Booklet)** if it becomes aware of information after the date of despatch of the Scheme Booklet, that is material for disclosure to Shareholders in deciding whether to approve the Scheme Resolution or that is required to be disclosed to Shareholders under any applicable law, as soon as reasonably practicable:
- (a) inform Shareholders of the information in an appropriate and timely manner, and in accordance with applicable law and after consultation with Wesfarmers Lithium as to the manner of provision of that information to Shareholders; and
 - (b) to the extent it is reasonably practicable to do so, provide Wesfarmers Lithium with drafts of any documents that it proposes to issue to Shareholders under this clause 6.2.10 and (acting reasonably and in good faith) take into account, for the purpose of amending those drafts, any comments received in a timely manner from Wesfarmers Lithium or its Representatives on those drafts;
- 6.2.11 **(certificate)** at the hearing on the Second Court Date, provide to the Court:

- (a) a certificate (signed for and on behalf of Kidman) in the form of a deed (substantially in the form set out in Attachment 4) confirming whether or not the Conditions in clause 3.1 (other than the Condition in clause 3.1.4) have been satisfied or waived in accordance with this Deed, a draft of which certificate must be provided by Kidman to Wesfarmers Lithium by 4:00pm on the date that is 2 Business Days prior to the Second Court Date; and
 - (b) any certificate provided to it by Wesfarmers Lithium pursuant to clause 6.3.8;
- 6.2.12 **(second Court hearing)** promptly apply to the Court for an order approving the Scheme under section 411(4)(b) of the Corporations Act if the Scheme Resolution is passed by the required majorities at the Scheme Meeting;
- 6.2.13 **(implementation of the Scheme)** if the Court approves the Scheme:
- (a) lodge with ASIC an office copy of the Scheme Orders in accordance with section 411(10) of the Corporations Act, as soon as reasonably practicable after the Court makes those orders and, in any event, by no later than 4:00 pm on the first Business Day after the date on which the Court makes the Scheme Orders or such other Business Day as Kidman and Wesfarmers Lithium may agree in writing;
 - (b) close the Register as at the Record Date to determine the identity of Scheme Participants and to determine their entitlements to the Scheme Consideration in accordance with the Scheme;
 - (c) promptly execute proper instruments of transfer of, and register all transfers of, the Scheme Shares to Wesfarmers Lithium in accordance with the Scheme; and
 - (d) promptly do all other things contemplated by or necessary to give effect to the Scheme and the Scheme Orders and to effect the transfer of the Scheme Shares to Wesfarmers Lithium;
- 6.2.14 **(keep Wesfarmers Lithium informed)** from the First Court Date until the Implementation Date:
- (a) promptly inform Wesfarmers Lithium if it becomes aware that the Scheme Booklet contains a statement that is, has, or may become misleading or deceptive in a material respect or that contains a material omission;
 - (b) promptly inform Wesfarmers Lithium (as and when requested and at least on a weekly basis) on the status of proxy forms and Kidman discussions with Shareholders, including information which Wesfarmers Lithium may reasonably request in relation to Shareholder voting intentions;
 - (c) request a copy of the beneficial shareholder analysis prepared by NASDAQ on a rolling weekly basis and provide Wesfarmers Lithium with a copy of this NASDAQ register update promptly upon it becoming available to Kidman; and
 - (d) facilitate cooperation between the Kidman and Wesfarmers investor relations team;
- 6.2.15 **(Wesfarmers Lithium representation)** allow and not oppose any application by Wesfarmers Lithium for leave of the Court to be represented by counsel at the court hearings convened in connection with the Scheme, provided that in making any application for representation or in appearing before the Court, Wesfarmers Lithium acts in accordance with the Transaction Documents and does not oppose

any application by Kidman in exercise of (and consistent with) its rights and obligations under the Transaction Documents;

- 6.2.16 **(Kidman Register information)** as soon as reasonably practicable after the Record Date, and in any event at least 3 Business Days before the Implementation Date, give to Wesfarmers Lithium (or as it directs) details of the names, registered addresses and holdings of Scheme Shares of every Scheme Participant, in such form as Wesfarmers Lithium may reasonably require;
- 6.2.17 **(suspension of trading)** apply to the ASX to suspend trading in Kidman Shares with effect from the close of trading on the Effective Date;
- 6.2.18 **(solicitation)** in consultation with Wesfarmers Lithium and for so long as a majority of the Kidman Board continues to provide the recommendation set out in clause 10, undertake reasonable shareholder engagement and proxy solicitation actions (including retaining appropriate proxy solicitation services) so as to promote the merits of the Transaction and encourage Kidman Shareholders to vote on the Scheme in accordance with the recommendation of the Kidman Board; and
- 6.2.19 **(all things necessary or desirable)** do all other things contemplated by or reasonably necessary or desirable to lawfully give effect to the Scheme and the Scheme Orders.

6.3 **Wesfarmers Lithium's obligations in respect of the Scheme**

Wesfarmers Lithium must take all steps reasonably necessary to assist Kidman to propose and implement the Scheme as soon as is reasonably practicable after the date of this Deed and in particular Wesfarmers Lithium must:

- 6.3.1 **(provide information)** provide to Kidman the Wesfarmers Provided Information for inclusion in the Scheme Booklet;
- 6.3.2 **(preparation of Scheme Booklet)** provide assistance with the preparation of the Scheme Booklet in accordance with clause 6.4;
- 6.3.3 **(Independent Expert information)** provide all assistance and information reasonably requested by Kidman or by the Independent Expert in connection with the preparation of the Independent Expert's Report;
- 6.3.4 **(liaison with ASIC)** provide reasonable assistance to Kidman to assist Kidman to resolve any matter raised by ASIC regarding the Scheme Booklet or the Scheme during its review of the Scheme Booklet;
- 6.3.5 **(keep Kidman informed)** from the First Court Date until the Implementation Date, promptly inform Kidman if it becomes aware that the Wesfarmers Provided Information contains a statement that, in the form and context in which it appears in the Scheme Booklet, is or has become misleading or deceptive in any material respect or that contains any material omission, and provide such further or new information as is required to ensure that such information is no longer misleading or deceptive in any material respect or does not contain any material omission;
- 6.3.6 **(Court representation)** if requested by Kidman, be represented by counsel at the Court hearings convened in connection with the Scheme, at which, through its counsel and if requested by the Court, Wesfarmers Lithium will undertake to do all such things and take all such steps within its power as may be necessary in order to ensure the fulfilment of its obligations under this Deed and the Scheme;
- 6.3.7 **(Deed Poll)** prior to the First Court Date, execute the Deed Poll;

- 6.3.8 **(certificate)** before the commencement of the hearing on the Second Court Date provide to Kidman for provision to the Court at that hearing a certificate (signed for and on behalf of Wesfarmers Lithium) in the form of a deed (substantially in the form set out in Attachment 4) confirming whether or not the Conditions in clause 3.1 (other than the Condition in clause 3.1.4) have been satisfied or waived in accordance with this Deed, a draft of which certificate must be provided by Wesfarmers Lithium to Kidman by 4:00 pm on the date that is 2 Business Days prior to the Second Court Date;
- 6.3.9 **(Scheme Consideration)** if the Scheme becomes Effective, provide, or procure the provision of, the Scheme Consideration in accordance with this Deed, the Scheme and the Deed Poll; and
- 6.3.10 **(Kidman Provided Information)** during the period until the Kidman Provided Information becomes publicly available, only use the Kidman Provided Information with the prior written consent of Kidman (not to be unreasonably withheld or delayed), however this clause does not operate to limit the ability of Wesfarmers Lithium to use information received by Wesfarmers Lithium (or its Advisers), including Kidman Provided Information, for any purpose permitted under the Confidentiality Agreement and in accordance with the terms of the Confidentiality Agreement.

6.4 **Preparation of Scheme Booklet**

- 6.4.1 **(Kidman to prepare)** Subject to Wesfarmers Lithium complying with its obligations under clause 6.4.4, Kidman must prepare the Scheme Booklet as soon as is reasonably practicable after the date of this Deed and otherwise substantially in accordance with the Timetable.
- 6.4.2 **(compliance requirements)** Kidman must ensure that the Scheme Booklet complies with the requirements of the Corporations Act and all ASIC Regulatory Guides applicable to members' schemes of arrangement under Part 5.1 of the Corporations Act, except that the obligation to do so in respect of the Wesfarmers Provided Information is subject to Wesfarmers Lithium complying with its obligations under clauses 6.4.4.
- 6.4.3 **(content of Scheme Booklet)** Without limiting clause 6.4.2, the Scheme Booklet will include or be accompanied by:
- (a) the Scheme;
 - (b) the notice of Scheme Meeting;
 - (c) a proxy form;
 - (d) a copy of this Deed (without the schedules and attachments) or a summary of it;
 - (e) a copy of the executed Deed Poll;
 - (f) the Independent Expert's Report;
 - (g) an explanatory statement under section 412 of the Corporations Act;
 - (h) a statement that the Kidman Board unanimously considers the Scheme to be in the best interests of Shareholders and recommends that Shareholders approve the Scheme, in the absence of a Superior Proposal and provided that the Independent Expert's Report has concluded that the Scheme is in the best interests of Shareholders, unless prior to the issue of the Scheme

Booklet the Kidman Board has changed or withdrawn those statements and recommendations in accordance with clause 10.1; and

- (i) a statement that each Kidman Director who is able to control voting rights in relation to Shares intends to vote those Shares, or procure that those Shares are voted, in favour of the Scheme, in accordance with the terms of the Voting Deed.

- 6.4.4 **(Wesfarmers Provided Information)** Wesfarmers Lithium must provide all information regarding the Wesfarmers Group that is required by the Corporations Act and all ASIC Regulatory Guides applicable to members' schemes of arrangement under Part 5.1 of the Corporations Act, including all the information that would be required under section 636 of the Corporations Act to be included in a bidder's statement if Wesfarmers Lithium was offering the Scheme Consideration as consideration under a takeover bid, as soon as reasonably practicable after the date of this Deed and otherwise substantially in accordance with the Timetable, and must provide to Kidman such assistance as Kidman may reasonably require in order to adapt such information for inclusion in the Scheme Booklet.
- 6.4.5 **(review by Wesfarmers Lithium)** Kidman must make available to Wesfarmers Lithium drafts of the Scheme Booklet, consult with Wesfarmers Lithium in relation to the inclusion of any Wesfarmers Provided Information (and any information solely derived from, or prepared solely in reliance on, the Wesfarmers Provided Information) and consult with Wesfarmers Lithium in relation to comments from Wesfarmers Lithium and its Representatives in respect of each draft document received in a timely manner with a view to incorporating or adopting Wesfarmers Lithium's reasonable comments to the extent considered appropriate by Kidman acting reasonably.
- 6.4.6 **(consent of Wesfarmers Lithium)** Kidman must obtain written consent from Wesfarmers Lithium in relation to the form and context in which any Wesfarmers Provided Information (and any information solely derived from, or prepared solely in reliance on, the Wesfarmers Provided Information) is used, such consent not to be unreasonably withheld or delayed by Wesfarmers Lithium.
- 6.4.7 **(responsibility Statements)** the Scheme Booklet will contain a responsibility statement to the effect that:
 - (a) Wesfarmers Lithium is responsible for the Wesfarmers Provided Information contained in the Scheme Booklet and that Kidman does not assume responsibility for the accuracy or completeness of the Wesfarmers Provided Information;
 - (b) Kidman is responsible for the Kidman Provided Information contained in the Scheme Booklet and that Wesfarmers Lithium does not assume responsibility for the accuracy or completeness of the Kidman Provided Information; and
 - (c) the Independent Expert has provided and is responsible for the Independent Expert's Report and neither Kidman nor Wesfarmers Lithium assume any responsibility for the accuracy or completeness of the Independent Expert's Report.
- 6.4.8 **(disagreement on content of Scheme Booklet)** If Wesfarmers Lithium and Kidman disagree on the form or content of the Scheme Booklet, they must consult in good faith to try to settle an agreed form of the Scheme Booklet. If complete agreement is not reached after 5 Business Days of consultation, then:

- (a) if the disagreement relates to the form or content of the Wesfarmers Provided Information contained in the Scheme Booklet, Kidman will make any amendments as Wesfarmers Lithium reasonably requires; and
 - (b) if the disagreement relates to the form or content of any other part of the Scheme Booklet, the Kidman Board will, acting in good faith, decide the final form or content of the disputed part of the Scheme Booklet.
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7. Conduct of business

7.1 Conduct of business

7.1.1 Subject to clause 7.1.3, until the Implementation Date, Kidman must:

- (a) conduct its businesses and operations, and must cause each Kidman Group Member to conduct its respective business and operations in the ordinary and usual course;
- (b) without limiting paragraph (a), ensure that:
 - (i) it continues to implement measures in respect of the management of its cash flow and expenditure in the same manner as it does as at the date of this Deed; and
 - (ii) the current delegated authority and expenditure approvals process applying to the Kidman Group are maintained, supervised and complied with by all relevant officers and employees of Kidman and no such delegated authority or expenditure approvals process is amended in any material respect in relation to expenditure or commitments in excess of \$250,000 for an individual item;
- (c) without limiting paragraphs (a) or (g), and subject in each case to Wesfarmers Lithium, to the extent necessary, providing its consent in accordance with this clause 7:
 - (i) use its best endeavours to ensure that the development of the Integrated DFS in relation to the Joint Venture continues in the normal and ordinary course as described in the Joint Venture Agreement;
 - (ii) use best endeavours, and procure that its officers and employees use their best endeavours (including committing the resources, time and effort necessary), to progress the Integrated Project and the Integrated DFS in a timely and efficient manner and in accordance with the requirements of clause 7.2 and 7.3 of the Joint Venture Agreement; and
 - (iii) promptly provide Wesfarmers Lithium with a copy of any draft Integrated DFS and the Final Integrated DFS as and when received by a Kidman Group Member from time to time;
- (d) ensure that no Kidman Group Member makes or enters into, or agrees to enter into, any agreement, arrangement or understanding for any expenditure, or which involves incurring any liability, the value of which exceeds \$250,000 for any individual item or \$750,000 in aggregate, other

than as contemplated in the cashflow forecast to October 2019 set out in document 3.7.2.15 in the Data Room;

- (e) ensure that no Kidman Prescribed Occurrence or Kidman Regulated Event occurs;
- (f) retain and maintain its documents, books or business records in accordance with all applicable laws, and in accordance with good business practices. Without limiting the foregoing, Kidman will not destroy any of its documents, books or business records, and will not authorise or permit any person to destroy any such documents, books or business records, even if the destruction of such documents, books or business records does not contravene any applicable law and/or complies with Kidman's document retention policies;
- (g) use its best endeavours to ensure that Covalent Lithium conducts its business and operations in the usual course and that no Covalent Regulated Event occurs, and must procure and direct each of its representatives on the Management Committee to use their best endeavours (including by exercising voting rights) to ensure that no Covalent Regulated Event occurs;
- (h) use its best endeavours to ensure that Covalent Lithium does not increase the limit of any existing delegated authorities it has in place as at the date of this Deed and must procure and direct each of its representatives on the Management Committee to use their best endeavours (including by exercising voting rights) to ensure that any such limits are not increased; and
- (i) promptly give Wesfarmers Lithium notice of any event, fact, matter or circumstance of which Kidman becomes aware that might reasonably be expected to result in or give rise to:
 - (i) a Kidman Prescribed Occurrence;
 - (ii) a Kidman Regulated Event;
 - (iii) a Covalent Regulated Event; or
 - (iv) a Material Adverse Change.

7.1.2 Subject to clause 7.1.3, until the Implementation Date, Kidman must not:

- (a) enter into, or agree to enter into, or amend, or agree to amend, any existing, agreement, arrangement or understanding with any director, officer or senior manager of Kidman in relation to the payment of bonuses, the provision of short term incentives, or vesting of entitlements under share plans, performance plans or any long term incentive schemes;
- (b) enter into, or agree to enter into, any agreement, arrangement or understanding with any related party (as that term is defined in the ASX Listing Rules) involving the provision by Kidman of any financial or other benefit to that related party;
- (c) except to the extent Kidman has a contractual obligation to engage in good faith discussions or negotiations, participate in any, and must cease any existing, discussions and negotiations with current or prospective purchasers of lithium hydroxide or lithium carbonate from the Joint Venture (**Offtakers**) in relation to any new offtake agreements, arrangements or understandings, or (except in relation to SQM in connection with offtake agreements, or arrangements or understandings with Offtakers disclosed to Wesfarmers

Lithium in the Due Diligence Material) the variation of existing offtake agreements, arrangements or understandings;

- (d) enter into any contract of employment subject to which an employee would become entitled to total annual remuneration of \$200,000 or more;
- (e) terminate or agree to terminate the employment of any employee of a Kidman Group Member other than a termination on the grounds of serious misconduct;
- (f) change the role or responsibility of any senior manager;
- (g) accelerate any right to benefits for employees or directors other than as permitted pursuant to clause 7.1.3(c);
- (h) pay, or agree to pay, any termination benefits to directors or employees other than as required under existing agreements as disclosed in the Due Diligence Material;
- (i) increase any employee salary or director fee by more than 5 percent;
- (j) pay any additional or extraordinary exertion fees to directors;
- (k) do anything, or fail to do anything, which would constitute an event of default under a Joint Venture Document;
- (l) amend or replace its constitution; or
- (m) make any material amendment to the accounting policies adopted by Kidman, other than as required by the Accounting Standards.

7.1.3 The obligations of Kidman under clauses 7.1.1 and 7.1.2 above do not apply to an action (or inaction) undertaken by Kidman and Kidman (and, as relevant, Covalent Lithium) is expressly permitted to do anything:

- (a) for which Wesfarmers Lithium has provided its prior written consent to Kidman;
- (b) in accordance with a binding obligation under the Joint Venture Documents;
- (c) related to the exercise by the Kidman Board of any discretion to bring forward the earliest date for vesting of or to waive the vesting or exercise conditions of any Performance Right so that the holder of the relevant Performance Right will be a Scheme Participant (provided that such discretion is only exercised on or after the Effective Date);
- (d) in accordance with an Approved Programme and Budget in force as at the date of this Deed and as disclosed to Wesfarmers prior to the date of this Deed or in accordance with Kidman cash flow forecasts Fairly Disclosed as part of the Due Diligence Material;
- (e) in accordance with any Proposed Programme and Budget which becomes an Approved Programme and Budget after the date of this Deed and which Proposed Programme and Budget has been consented to by Wesfarmers (such consent not to be unreasonably withheld and which must be given if the failure to approve the Proposed Programme and Budget would delay or impact the completion, quality or scope of the Integrated DFS);

- (f) in the ordinary course of carrying on the business of Kidman or the Joint Venture, including, for the avoidance of doubt, as a result of Kidman complying with its obligations under clauses 7.1.1(c) and 7.1.1(g);
- (g) in respect of the incurring, or paying of, transaction costs to advisors related to, arising in respect of or required to give effect to the Transaction provided such transactions costs do not materially exceed the amount disclosed in writing to Wesfarmers Lithium by Kidman prior to the date of this Deed;
- (h) which is required to be undertaken pursuant to a Transaction Document or is otherwise required by law;
- (i) which arises as a result of a Court or Authority order, injunction or undertaking;
- (j) which has been approved by the Kidman Board prior to the date of this Deed and that has been Fairly Disclosed in the Due Diligence Material;
- (k) which is in accordance with contractual obligations that exist as at the date of this Deed, provided such obligations have been Fairly Disclosed in the Due Diligence Materials; or
- (l) to obtain directors' and officers' run-off insurance in respect of the Kidman Directors in accordance with clause 9.3.

7.2 Access

Subject to clause 7.4, until the Implementation Date, Kidman must, as soon as reasonably practicable following any written request made by Wesfarmers Lithium, provide Wesfarmers Lithium and its Representatives with reasonable access:

7.2.1 to the books, documents, records, management accounts, financial statements and other information (subject to any existing confidentiality obligations owed to third parties, or applicable privacy laws) of any Kidman Group Member; and

7.2.2 to the employees, officers and advisers (including auditors) of any Kidman Group Member,

in each case which Wesfarmers Lithium reasonably requires for the purposes of:

7.2.3 implementing the Scheme; or

7.2.4 transitional planning and operating arrangements with respect to the business of the Kidman Group following implementation of the Scheme,

provided in every case that such provision or access does not place an unreasonable burden on the ability of Kidman to run its business, or breach any law or regulation.

7.3 Discussions with SQM, Covalent Lithium and Offtakers

7.3.1 Kidman confirms that it has consented (and will not during the Exclusivity Period withdraw such consent) to SQM disclosing to Wesfarmers any and all information held by SQM in relation to the Joint Venture;

7.3.2 Where such engagement is permitted by the relevant third party, Kidman consents to Wesfarmers and its Representatives:

- (a) engaging in discussions with any person who has entered into an agreement, arrangement or understanding with a Kidman Group Member in relation to the offtake of product from the Joint Venture, and for this purpose will, on request from Wesfarmers, provide its consent to the third party engaging in discussions with Wesfarmers on a full and frank basis; and
- (b) engaging in discussions with Covalent Lithium in relation to the Joint Venture, and for this purpose will, on request from Wesfarmers, provide its consent to the third party engaging in discussions with Wesfarmers on a full and frank basis,

in each case subject to:

- (c) a Representative of Kidman being given reasonable notice of and a reasonable opportunity to be present at all such discussions;
- (d) Kidman being promptly provided with copies of any correspondence relating to the Joint Venture; and
- (e) Wesfarmers acknowledging and agreeing that it has no authority to represent, or hold itself out as representing, Kidman.

7.3.3 Kidman must use its best endeavours to facilitate Wesfarmers Lithium being entitled to have up to two individuals (**Wesfarmers Observers**) attend all meetings of the Management Committee (and any sub-committee established under clause 4.8 of the Joint Venture Agreement) and any Board or Shareholders meetings of Covalent Lithium for the purposes of observing and remaining informed of the progress of the Integrated DFS and any other key decisions in relation to the Integrated Project. Any Wesfarmers Observer so appointed will not be entitled to vote or speak at any meeting, but, subject to receiving the written consent of SQM, will be entitled to receive notice of such meetings accompanied by all relevant associated documentation, including board and/or committee papers and minutes of such meetings.

7.3.4 Kidman will consult with Wesfarmers Lithium in relation to any material decision being contemplated by Kidman regarding the business of Kidman or the Joint Venture.

7.4 **Limits on Kidman obligations**

The obligations in clause 7.2 do not require Kidman to provide information to Wesfarmers Lithium:

- 7.4.1 concerning the Kidman Directors' and management's consideration of the Scheme, the Transaction and the Transaction Documents;
- 7.4.2 which is subject to legal professional privilege (to the extent that privilege cannot be preserved as a result of disclosure to Wesfarmers Lithium);
- 7.4.3 which relates to the consideration by the Kidman Board of previous control transactions, offtake proposals or funding discussions; or
- 7.4.4 which would breach an obligation of confidentiality to any person or otherwise breach any law.

8. Appointment of directors

- 8.1 Kidman must, on the Effective Date, take all actions necessary to cause the appointment of two nominees of Wesfarmers Lithium as observers to the Kidman Board. These board observers will have the same rights to receive Board notices and information as Directors but will not be entitled to vote or speak at any Board meeting. Wesfarmers Lithium expressly acknowledges that its nominees will not be permitted to take part in Board deliberations dealing with the implementation of the Scheme.
- 8.2 Kidman must, as soon as practicable on the Implementation Date and after the Scheme Consideration has been despatched to Scheme Shareholders in accordance with the terms of the Scheme, take all actions necessary to:
- 8.2.1 cause the appointment of the nominees of Wesfarmers Lithium to the Kidman Board;
 - 8.2.2 ensure that all directors on the Kidman Board, other than the Wesfarmers Lithium nominees:
 - (a) resign; and
 - (b) unconditionally and irrevocably release Kidman from any claims they may have against Kidman; and
 - 8.2.3 ensure that all directors on the boards of Kidman's Subsidiaries, and all Kidman-nominated directors of Covalent Lithium:
 - (a) resign; and
 - (b) unconditionally and irrevocably release Kidman and its relevant Related Entity (or Covalent Lithium, as appropriate) from any claims they may have against either of them,

and to cause the appointment of nominees of Wesfarmers Lithium to those boards.

9. Releases and Kidman Directors' and officers' insurance

9.1 Kidman Representatives

- 9.1.1 Wesfarmers Lithium:
- (a) releases its rights; and
 - (b) agrees with Kidman that it will not make, and that after the Implementation Date it will procure that each Kidman Group Member does not make, any claim,

against any of Kidman's Representatives as at the date of this Deed and from time to time in connection with:
 - (c) any breach of any representations and warranties given by Kidman in any Transaction Document;
 - (d) any disclosure by Kidman containing any statement which is untrue, false or misleading whether in content or by omission (other than the Kidman Public Announcement); or

(e) any failure by Kidman or its Representatives to provide information, whether current or future, known or unknown, arising at common law, in equity, under statute or otherwise, except where a Kidman Representative has engaged in fraud or wilful misconduct. For the avoidance of doubt, nothing in this clause 9.1.1 limits Wesfarmers Lithium's rights to terminate this Deed under clause 15.

9.1.2 Clause 9.1.1 is subject to any Corporations Act restriction and will be read down accordingly.

9.1.3 Kidman receives and holds the benefit of this clause 9.1 on trust for each of Kidman's Representatives.

9.2 **Wesfarmers Lithium Representatives**

9.2.1 Kidman releases its rights against any of Wesfarmers and Wesfarmers Lithium's Representatives as at the date of this Deed and from time to time in connection with:

- (a) any breach of any representations and warranties given by Wesfarmers or Wesfarmers Lithium in any Transaction Document;
- (b) any disclosure by Wesfarmers or Wesfarmers Lithium containing any statement which is untrue, false or misleading whether in content or by omission; or
- (c) any failure by Wesfarmers or Wesfarmers Lithium or its Representatives to provide information,

whether current or future, known or unknown, arising at common law, in equity, under statute or otherwise, except where a Wesfarmers or Wesfarmers Lithium Representative has engaged in fraud or wilful misconduct. For the avoidance of doubt, nothing in this clause 9.2 limits Kidman's rights to terminate this Deed under clause 15.

9.2.2 Clause 9.2.1 is subject to any Corporations Act restriction and will be read down accordingly

9.2.3 Each of Wesfarmers and Wesfarmers Lithium receives and holds the benefit of this clause 9.2 on trust for each of their respective Representatives.

9.3 **Kidman Directors' and officers' insurance**

Subject to the Scheme becoming Effective, Kidman undertakes that it will in respect of all Kidman Directors and officers, pay directors' and officers' insurance for a period of seven (7) years from the retirement date of each Kidman Director and officer and for the benefit of each Kidman Director and officer on commercially reasonable terms and substantially in accordance with Kidman's existing obligations under each access and indemnity deed in place for each relevant Kidman Director and officer as at the date of this Deed. Such policy shall include a term that the policy cannot be cancelled unless the insured persons each consent in writing to the cancellation and any other terms agreed in writing between the parties.

10. Kidman Board recommendations and intentions

10.1 Kidman Board recommendation

10.1.1 The Kidman Public Announcement must state that the Kidman Board unanimously considers the Scheme to be in the best interests of Shareholders and recommends that Shareholders approve the Scheme Resolution, in the absence of a Superior Proposal and provided that the Independent Expert's Report has concluded that the Scheme is in the best interests of Shareholders.

10.1.2 Kidman must use its reasonable endeavours to procure that the Kidman Board and each of the Kidman Directors:

- (a) does not withdraw the statements and recommendations set out in the Kidman Public Announcement issued in accordance with clause 10.1.1;
- (b) in the Scheme Booklet states that the Kidman Board unanimously considers the Scheme to be in the best interests of Shareholders and recommends that Shareholders approve the Scheme Resolution, in the absence of a Superior Proposal and provided that the Independent Expert's Report has concluded that the Scheme is in the best interests of Shareholders, and does not withdraw those statements or recommendations once made; and
- (c) does not make any public statement to the effect, or take any other action that suggests, that the Scheme is no longer so considered or recommended, unless either:
 - (i) the Independent Expert concludes in the Independent Expert's Report (either initially or in any updated report) that the Scheme is not in the best interests of Shareholders; or
 - (ii) Kidman receives a Competing Proposal and a majority of the Kidman Board determines that the Competing Proposal constitutes a Superior Proposal and any Kidman Director, after considering the matter in good faith, no longer considers the Scheme to be in the best interests of Shareholders.

10.2 Kidman Director intentions

10.2.1 The Kidman Public Announcement and the Scheme Booklet despatched to Shareholders, must state that each Kidman Director who holds Shares, or who has control over voting rights attaching to Shares, intends to vote in favour of the Scheme and/or procure that the Shares the voting rights of which the Kidman Director has control over are voted in favour of the Scheme, in the absence of a Superior Proposal and provided that the Independent Expert's Report has concluded that the Scheme is in the best interests of Shareholders.

10.2.2 Kidman must use its reasonable endeavours to ensure that each Kidman Director who holds Shares, or who has control over voting rights attaching to Shares:

- (a) will vote in favour of the Scheme Resolution, or procure that the Shares the voting rights of which the Kidman Director has control over are voted in favour of the Scheme Resolution; and
- (b) does not change that voting intention,

unless either:

- (c) the Independent Expert concludes in the Independent Expert's Report (either initially or in any updated report) that the Scheme is not in the best interests of Shareholders; or
- (d) Kidman receives a Competing Proposal and a majority of the Kidman Board determines that the Competing Proposal constitutes a Superior Proposal and any Kidman Director, after considering the matter in good faith, no longer considers the Scheme to be in the best interests of Shareholders.

10.2.3 This clause 10.2 does not limit the operation of the Voting Deeds.

11. Confidentiality, Public announcements and communications

11.1 Confidentiality

11.1.1 The parties acknowledge that all Confidential Information arising under this Deed or in respect of the Scheme will be dealt with by the parties in accordance with the terms of the Confidentiality Agreement which remains in full force and effect and binding on the parties (and which will bind Wesfarmers Lithium as if it had been originally named a party to the Confidentiality Agreement jointly with Wesfarmers).

11.1.2 If, after the date of this Deed, Voting Power of 5% or more in Kidman is acquired by a person other than:

- (a) a Wesfarmers Group Member;
- (b) a person who held Voting Power in Kidman of more than 5% prior to the date of this Deed; or
- (c) an Institutional Investor (as defined in the Confidentiality Agreement),

then, for the purposes of clause 14.1 of the Confidentiality Agreement, Kidman will be taken to have irrevocably consented to any Wesfarmers Group Member acquiring (in aggregate) Shares such that the Voting Power of Wesfarmers does not exceed 15% provided that contemporaneously with any public announcement by Wesfarmers of the acquisition under this clause 11.1.2, Wesfarmers Lithium must publicly announce its intention either to:

- (d) proceed with the Scheme in accordance with this Deed; or
- (e) make an off market bid under Chapter 6 of the Corporations Act in respect of 100% of the Relevant Securities (as defined in the Confidentiality Agreement) in Kidman and that off market bid:
 - (i) must offer a cash consideration per Kidman share equal to the greater of the Scheme Consideration and the price paid or payable in relation to the acquisition of Relevant Securities permitted by this clause; and
 - (ii) must have a minimum acceptance condition of at least 50.1% which cannot be waived without the prior written consent of Kidman.

11.2 Announcement of Scheme

As soon as practicable after the execution of this Deed, Kidman will issue the Kidman Public Announcement, and Wesfarmers will issue the Wesfarmers Public Announcement.

11.3 Public announcements

Where a party is required by applicable law or other applicable requirement to make any announcement or to make any disclosure in connection with this Deed (including its termination) or the Scheme, it may do so only after it has given the other party as much notice as is reasonably practicable in the context of any deadlines imposed by law or other applicable requirement, but in any event prior notice, and has consulted with the other party as to (and has given the other party a reasonable opportunity to comment on) the form and content of that announcement or disclosure and taken all reasonable steps to restrict that disclosure to the greatest extent possible. Nothing in this clause requires the giving of prior notice or the taking of any action if doing so would lead to a party breaching an applicable law or other applicable requirement of an Authority.

12. Warranties

12.1 Warranties by Kidman

12.1.1 Kidman represents and warrants to Wesfarmers Lithium (on its own behalf and separately as trustee for each of the Wesfarmers Indemnified Parties) that each Kidman Warranty is true and correct at the date of this Deed and at any other date specified in a Kidman Warranty.

12.1.2 Each of Wesfarmers and Wesfarmers Lithium acknowledges and agrees that each Kidman representation and Warranty is given subject to and qualified by:

- (a) matters required or permitted to be done by this Deed or another Transaction Document;
- (b) matters Fairly Disclosed in the Due Diligence Materials;
- (c) matters Fairly Disclosed in documents that were publicly available two Business Days prior to the date of this Deed from public filings of Kidman with the ASX or ASIC; and
- (d) information available to Wesfarmers or Wesfarmers Lithium prior to the date which is 2 Business Days before the date of this Deed on the PPSR, the Mineral Titles Online register maintained by the Western Australian Department of Mines, Industry Regulation and Safety pursuant to the *Mining Act 1978 (WA)* or the register maintained by the National Native Title Tribunal in relation to registered native title applications, determinations and indigenous land use agreements.

12.2 Warranties by Wesfarmers Lithium

Wesfarmers Lithium represents and warrants to Kidman that each Wesfarmers Lithium Warranty is true and correct at the date of this Deed and at any other date specified in a Wesfarmers Lithium Warranty.

12.3 Warranties by Wesfarmers

Wesfarmers represents and warrants to Kidman that each Wesfarmers Warranty is true and correct at the date of this Deed and at any other date specified in a Wesfarmers Warranty.

12.4 Wesfarmers acknowledgement

Wesfarmers and Wesfarmers Lithium each acknowledge that prior to the execution of this Deed it had the opportunity to conduct, and has conducted, the due diligence investigations

into Kidman and its affairs and that as at the date of this Deed it is not aware, as a consequence of having conducted those investigations, of any information or matter that would give it a right to terminate this Deed or would constitute a breach of any Kidman Warranty.

12.5 Status of representations and warranties

Each representation and warranty in this clause 12:

- 12.5.1 is severable;
- 12.5.2 will survive the termination of this Deed; and
- 12.5.3 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.

12.6 Reliance by parties

Each party acknowledges that:

- 12.6.1 in entering into this Deed the other party has relied on the warranties provided by the first party under this clause 12; and
- 12.6.2 it has not entered into this Deed in reliance on any warranty made by or on behalf of the other party except those warranties set out in this Deed.

12.7 Limitation of Liability

- 12.7.1 Kidman will not be liable to Wesfarmers Lithium or any Wesfarmers Indemnified Party for a breach of a Kidman Warranty to the extent that the Loss arising from the breach of the Kidman Warranty is Consequential Loss.
- 12.7.2 Wesfarmers Lithium will not be liable to Kidman for a breach of an Wesfarmers Lithium Warranty to the extent that the Loss arising from the breach of the Wesfarmers Lithium Warranty is Consequential Loss.
- 12.7.3 Wesfarmers will not be liable to Kidman for a breach of a Wesfarmers Warranty to the extent that the Loss arising from the breach of the Wesfarmers Warranty is Consequential Loss.

12.8 Notifications

Each party will promptly advise the other party in writing if it becomes aware of any fact, matter or circumstance that constitutes or may constitute a breach of any of the warranties given by it under this clause 12.

13. Exclusivity

13.1 No shop

During the Exclusivity Period, Kidman must not, and must ensure that each of its Representatives do not, except with the prior written consent of Wesfarmers Lithium, directly or indirectly solicit, invite, encourage or initiate any Competing Proposal or any enquiries, negotiations or discussions with any Third Party in relation to, or that may reasonably be expected to encourage or lead to, a Competing Proposal, or communicate any intention to do any of those things.

13.2 **No talk**

Subject to clause 13.5, during the Exclusivity Period, Kidman must not, and must ensure that each of its Representatives do not, except with the prior written consent of Wesfarmers Lithium, enter into, continue or participate in negotiations or discussions with, or enter into any agreement, arrangement or understanding with, any Third Party in relation to, or that may reasonably be expected to lead to, a Competing Proposal, even if:

13.2.1 the Competing Proposal was not directly or indirectly solicited, invited, encouraged or initiated by Kidman or any of its Representatives; or

13.2.2 the Competing Proposal has been publicly announced.

13.3 **No due diligence**

Subject to clause 13.5, without limiting the general nature of clause 13.2, during the Exclusivity Period, Kidman must not (directly or indirectly), and must ensure that each of its Representatives do not, except with the prior written consent of Wesfarmers Lithium:

13.3.1 make available to any Third Party or permit any such Third Party to receive any information relating to Kidman, any of its Related Entities or Covalent Lithium; or

13.3.2 consent to SQM or any other person making available to any Third Party any information relating to Kidman, its Related Entities, Covalent Lithium or the Joint Venture,

in connection with such Third Party formulating, developing or finalising, or assisting in the formulation, development or finalisation of, a Competing Proposal.

13.4 **Notification of a Competing Proposal**

13.4.1 During the Exclusivity Period, Kidman must within 1 Business Day of any Kidman Director, the Chief Financial Officer, the Company Secretary or any corporate or legal Adviser becoming aware of the fact, notify Wesfarmers Lithium if:

(a) it (or any of its Representatives) is approached by any Third Party requesting or proposing that it take any action of a kind that would breach its obligations under clause 13.2 or 13.3 (or that would breach its obligations under clause 13.2 or 13.3 if it were not for the provisos to the relevant clause); or

(b) it (or any of its Representatives) proposes to take any action of a kind that would breach its obligations under clause 13.2 or 13.3 (or that would breach its obligations under clause 13.2 or 13.3 if it were not for the provisos to the relevant clause).

13.4.2 During the Exclusivity Period, within 1 Business Day after any Kidman Director, the Chief Financial Officer, the Company Secretary or any corporate or legal Adviser, receives (or is advised of the receipt of) any Competing Proposal, Kidman must give Wesfarmers Lithium notice in writing of:

(a) the existence of the Competing Proposal; and

(b) subject to clause 13.5, the name and identity of the Third Party who has made the applicable Competing Proposal and all material terms of the applicable Competing Proposal including details of the proposed price or implied value (including details of the consideration if not cash alone), conditions, timing and break fee (if any), together with a copy of any material confidential information concerning the operations of the Kidman Group or

Covalent Lithium provided to any person associated with the Competing Proposal not previously provided to Wesfarmers Lithium.

13.5 **Fiduciary Exception**

Clause 13.2, 13.3 and 13.4.2(b) do not apply to the extent that they restrict Kidman from taking or refusing to take any action with respect to a Competing Proposal (in relation to which there has been no contravention of this clause 13) if, acting in good faith (after having obtained written advice from Kidman's legal adviser and, if appropriate, financial adviser), and in order to satisfy what the Kidman Board considers to be its fiduciary and statutory duties, determines that, where there is a Competing Proposal, the Competing Proposal is, or may reasonably be expected to lead to, a Superior Proposal.

13.6 **Termination of existing discussions**

13.6.1 Kidman represents and warrants that, as at the time of execution of this Deed:

- (a) it is not in any negotiations or discussions, and has ceased any existing negotiations or discussions, in respect of any Competing Proposal with any person (other than, for the avoidance of doubt, the discussions with Wesfarmers Lithium and its Representatives in respect of the Scheme);
- (b) any due diligence access granted to any Third Party for the purposes of such Third Party making, formulating, developing or finalising a Competing Proposal has been terminated; and
- (c) any Third Party (including any advisor of such Third Party) to whom non-public information in relation to the Kidman Group has been provided or made available for the purposes of such Third Party making, formulating, developing or finalising a Competing Proposal has been requested to promptly return or destroy that non-public information in accordance with any agreed terms of confidentiality currently in place with such Third Party. Kidman must seek written confirmation from the Third Party that it has returned or destroyed all non-public information received and take all reasonable steps to enforce its rights under such confidentiality agreement to receive the certification if it is not received within a reasonable period.

13.7 **Matching Right**

13.7.1 Without limiting clause 13.1, 13.2 or 13.6, during the Exclusivity Period, Kidman:

- (a) must not, and must procure that each of its Related Entities do not, enter into any legally binding agreement, arrangement or understanding (whether or not in writing) pursuant to which any one or more of a Third Party, Kidman or any Related Entity of Kidman proposes or propose to undertake or give effect to an actual, proposed or potential Competing Proposal; and
- (b) must use its best endeavours to procure that none of its directors publicly recommend an actual, proposed or potential Competing Proposal (or recommend against the Scheme) or make any public statement to the effect that they may do so at a future point,

unless:

- (c) the Kidman Board, acting in good faith and in order to satisfy what the directors of Kidman consider to be their statutory or fiduciary duties (having consulted with its financial advisers and received written legal advice from its external legal advisers) determines that the Competing Proposal would be or

would be reasonably likely to be an actual, proposed or potential Superior Proposal;

- (d) Kidman has provided Wesfarmers Lithium with the material terms and conditions of the actual, proposed or potential Competing Proposal, including price and the identity of the Third Party making the actual, proposed or potential Competing Proposal;
- (e) Kidman has given Wesfarmers Lithium at least 3 Business Days after the date of the provision of the information referred to in clause (d) to provide a matching or superior proposal to the terms of the actual, proposed or potential Competing Proposal; and
- (f) Wesfarmers Lithium has not announced or otherwise formally proposed to Kidman a counterproposal to the Competing Proposal by the expiry of the 3 Business Day period in clause 13.7.1(e).

13.7.2 If Wesfarmers Lithium proposes to Kidman or announces a counter proposal to the Competing Proposal (**Wesfarmers Counterproposal**) by the expiry of the 3 Business Day period in clause 13.7.1(e):

- (a) Kidman must procure that the Kidman Board considers the Wesfarmers Counterproposal and determines whether, acting reasonably and in good faith, the Wesfarmers Counterproposal would provide an equivalent or superior outcome for the Shareholders as a whole compared with the Competing Proposal, taking into account all of the terms and conditions of the Wesfarmers Counterproposal and then promptly give Wesfarmers Lithium notice of the determination of the Kidman Board (stating reasons for the determination) (**Counterproposal Notice**);
- (b) if the determination is that the Wesfarmers Counterproposal would provide an equivalent or superior outcome for the Shareholders as a whole compared with the Competing Proposal, then, for a period of 3 Business Days after Kidman gives Wesfarmers Lithium the Counterproposal Notice, Kidman and Wesfarmers Lithium must use their best endeavours to agree the transaction documents necessary to reflect the Wesfarmers Counterproposal and to implement the Wesfarmers Counterproposal, in each case as soon as reasonably practicable; and
- (c) if the determination is that the Wesfarmers Counterproposal would not provide an equivalent or superior outcome for the Shareholders as a whole compared with the Competing Proposal, then Kidman must allow Wesfarmers Lithium a further 2 Business Days after Kidman gives Wesfarmers Lithium a Counterproposal Notice to amend the Wesfarmers Counterproposal to address the reasons identified by Kidman in the Counterproposal Notice (**Amended Wesfarmers Counterproposal**) and to provide the Amended Wesfarmers Counterproposal to Kidman and if Wesfarmers Lithium provides Kidman with an Amended Wesfarmers Counterproposal, the process in clauses 13.7.2(a) and 13.7.2(b) will apply to the Amended Wesfarmers Counterproposal as if it was a "Wesfarmers Counterproposal" for the purposes of those clauses.

13.7.3 Kidman acknowledges and agrees that each successive material modification of any Competing Proposal will constitute a new Competing Proposal for the purposes of the requirements under this clause 13.7 and accordingly Kidman must comply with this clause in respect of any new Competing Proposal.

13.8 Normal Provision of Information

Nothing in this clause 13 prevents a party from:

- 13.8.1 providing information to its Representatives;
- 13.8.2 providing information to any Authority;
- 13.8.3 providing information to its auditors, customers, joint venturers and suppliers acting in that capacity in the ordinary course of business;
- 13.8.4 providing information required to be provided by law;
- 13.8.5 making presentations to brokers, portfolio investors, analysts and other third parties in the ordinary course of business; or
- 13.8.6 responding to queries or discussion points raised by a Shareholder to Kidman in respect of that shareholder's shareholding (including in relation to that shareholder's future intentions regarding its shareholding), provided that these queries or discussion points were not initiated by Kidman and that Kidman's responses to these queries or discussion points do not solicit, invite, encourage or initiate a Competing Proposal.

13.9 Compliance with Law

- 13.9.1 If it is finally determined by a court, or the Takeovers Panel, that the agreement by Wesfarmers Lithium and Kidman under this clause 13 or any part of it:
 - (a) constituted, or constitutes, or would constitute, a breach of the fiduciary or statutory duties of the Kidman Board;
 - (b) constituted, or constitutes, or would constitute 'unacceptable circumstances' within the meaning given to that term in the Corporations Act; or
 - (c) was, or is, or would be, unlawful for any other reason,then, to that extent (and only to that extent) Kidman will not be obliged to comply with that provision of clause 13.
- 13.9.2 The parties must not make or cause or permit to be made, any application to a court or the Takeovers Panel for or in relation to a determination referred to in this clause 13.9.

14. Break Fee

14.1 Background

This clause has been agreed in circumstances where:

- 14.1.1 Kidman believes that the Scheme will provide significant benefits to Kidman and Shareholders, and Kidman acknowledges that, if it enters into this Deed and the Scheme is subsequently not implemented, Wesfarmers Lithium will incur significant costs, including those set out in clause 14.5;
- 14.1.2 Wesfarmers Lithium and Kidman have agreed that provision be made for the payment of the Break Fee in accordance with clause 14.2 without which Wesfarmers Lithium would not have entered into this Deed;

- 14.1.3 the Kidman Board believes that it is appropriate for Kidman to agree to the payment of the Break Fee in accordance with clause 14.2 in order to secure Wesfarmers Lithium's participation in the Scheme; and
- 14.1.4 the parties have received legal advice on this Deed and the operation of this clause 14.

14.2 **Payment of the Break Fee**

Kidman agrees to pay the Break Fee to Wesfarmers Lithium if the Scheme does not proceed because:

- 14.2.1 (**Competing Proposal**) during the Exclusivity Period, a Competing Proposal is announced and within 12 months of the date of such announcement the Third Party who announced or made the Competing Proposal (or any of its Associates):
- (a) completes a Competing Proposal; or
 - (b) acquires more than 50% of Kidman.
- 14.2.2 (**Change of recommendation**) any Kidman Director fails to recommend the Scheme or withdraws their recommendation, adversely changes or qualifies their recommendation or makes the type of public statement referred to in clause 10.1.2(c) except:
- (a) where the change of recommendation or statement is made after the Independent Expert concludes that in the opinion of the Independent Expert the Scheme is not in the best interests of Kidman Shareholders (other than where a Competing Proposal has been proposed or announced before the report is issued which the Independent Expert may reasonably regard to be on more favourable terms than the Transaction); or
 - (b) in circumstances where Kidman is permitted to terminate this Deed under clause 15.3.2 (and has given appropriate termination notice to Wesfarmers Lithium); or
- 14.2.3 (**Wesfarmers Lithium termination**) Wesfarmers Lithium validly terminates this Deed in accordance with clause 15.2.1 where the relevant breach or occurrence of the relevant event permitting Wesfarmers Lithium to terminate this Deed was not caused by actions or events outside of Kidman's control.

14.3 **No Amount payable if Scheme becomes Effective**

Notwithstanding the occurrence of any event in clause 14.2, if the Scheme becomes Effective no amount is payable by Kidman under clause 14.2 and if any amount has already been paid under clause 14.2 it must be refunded by Wesfarmers Lithium.

14.4 **Timing of Payment**

- 14.4.1 A demand by Wesfarmers Lithium for payment of the Break Fee under clause 14.2 must:
- (a) be in writing;
 - (b) be made after the occurrence of the event in that clause giving rise to the right to payment;

- (c) state the circumstances of the event in that clause giving rise to the demand; and
- (d) nominate an account into which Kidman is to pay the Break Fee.

14.4.2 Kidman must, subject to receiving a demand under clause 14.4.1, pay the Break Fee to Wesfarmers Lithium within 30 Business Days of the termination of this Deed or the End Date, whichever first occurs, provided that, if the Break Fee becomes payable under clause 14.2.1, the Break Fee will become payable within 30 Business Days of the completion of the Competing Proposal or the date on which the Third Party acquires more than 50% of Kidman (as applicable).

14.5 **Nature of Payment**

The Break Fee has been calculated to reimburse Wesfarmers Lithium for costs including the following:

- 14.5.1 advisory costs;
- 14.5.2 costs of management and directors' time;
- 14.5.3 out-of-pocket expenses;
- 14.5.4 the distraction of management from conducting business as usual caused by pursuing the Scheme; and
- 14.5.5 reasonable opportunity costs incurred in pursuing the Scheme or in not pursuing alternative acquisitions or strategic initiatives.

Kidman and Wesfarmers Lithium agree that the costs incurred are of a nature that they cannot be accurately quantified and that a genuine pre-estimate of the costs would equal or exceed the Break Fee.

14.6 **Other Claims**

- 14.6.1 The parties acknowledge and agree that, despite any other provision of this Deed but subject to clause 14.7:
 - (a) if Kidman pays the Break Fee in accordance with this Deed, it will have no further liability for any breach of this Deed, including any liability to any Wesfarmers Indemnified Party;
 - (b) if Kidman becomes liable to pay the Break Fee, that fee shall be reduced by any amount previously paid by Kidman to Wesfarmers Lithium or any Wesfarmers Indemnified Party in connection with a breach by Kidman of this Deed; and
 - (c) in any event the liability of Kidman under or in connection with this Deed (including to any Wesfarmers Indemnified Party) shall be limited to an amount equal to the Break Fee.
- 14.6.2 Nothing in clause 14.6.1(a) in any way:
 - (a) prevents Wesfarmers Lithium (in its own right or as trustee for another person, as the case may be under this Deed) from seeking orders from a court of competent jurisdiction for the specific performance by the other party of any obligations under this Deed; or

- (b) extinguishes or limits the liability of Kidman for any:
 - (i) interest payable on any amount payable by that party under or in connection with this Deed; or
 - (ii) breach of this Deed arising from criminal acts, fraud or wilful misconduct.

14.7 Compliance with Law

14.7.1 If it is finally determined by a court, or the Takeovers Panel, that the agreement by the parties under this clause 14 or any part of it:

- (a) constituted, or constitutes, or would constitute, a breach of the fiduciary or statutory duties of the Kidman Board;
- (b) constituted or constitutes 'unacceptable circumstances' within the meaning given to that term in the Corporations Act; or
- (c) was, or is, or would be unlawful for any other reason,

then, to the extent (and only to that extent) Kidman will not be obliged to comply with that provision of clause 14.2.

14.7.2 The parties must not make or cause or permit to be made, any application to a court or the Takeovers Panel for or in relation to a determination referred to in this clause 14.7.

15. Termination

15.1 Termination if the Scheme is not implemented by the End Date

Either party may terminate this Deed by giving written notice to the other party if the Effective Date has not occurred on or before the End Date.

15.2 Termination by Wesfarmers Lithium

15.2.1 Wesfarmers Lithium may terminate this Deed by notice in writing to Kidman at any time before the Delivery Time if Kidman is in material breach of any material clause of this Deed which breach cannot be remedied or has not been remedied by the earlier of:

- (a) within 5 Business Days of receiving written notice from Wesfarmers Lithium to remedy that breach; or
- (b) midnight at the end of the day before the Second Court Date.

For the purpose of this clause 15.2.1, each of clauses 7.1.1, 7.1.2 and 13 shall constitute a material clause and, without limiting the circumstances that might give rise to a material breach of those clauses, any breach:

- (c) that has a material impact on the rights or position of Wesfarmers Lithium will be taken to be a material breach of those provisions; and
- (d) any intentional breach by a Kidman Director, the Chief Financial Officer or Company Secretary of Kidman or any corporate or legal Adviser of clauses

13.1, 13.2, 13.3 and 13.6 will be taken to be a material breach of those provisions.

15.2.2 Wesfarmers Lithium may terminate this Deed by notice in writing to Kidman at any time before the Delivery Time if any Kidman Director or the Kidman Board publicly changes (including by attaching qualifications to) or withdraws (including by abstaining) their statement that they consider the Scheme to be in the best interests of Shareholders or their recommendation that Shareholders approve the Scheme Resolution, or publicly recommends, promotes or otherwise endorses a Competing Proposal, whether or not in accordance with clause 10.1.2, or publicly states an intention to change their voting intention in respect of any relevant Kidman Director Shares whether or not in accordance with clause 10.2.2.

15.3 **Termination by Kidman**

15.3.1 Kidman may terminate this Deed at any time before the Delivery Time by notice in writing to Wesfarmers Lithium if:

- (a) the Independent Expert concludes in the Independent Expert's Report (either initially or in any updated report) that the Scheme is not in the best interests of Shareholders; or
- (b) Kidman publicly recommends a Superior Proposal.

15.3.2 Kidman may terminate this Deed at any time before the Delivery Time by notice in writing to Wesfarmers Lithium if Wesfarmers Lithium is in material breach of any material clause of this Deed which cannot be remedied or has not been remedied by the earlier of:

- (a) within 5 Business Days of receiving notice from Kidman to remedy that breach; and
- (b) midnight at the end of the day before the Second Court Date.

15.4 **Effect of termination**

In the event of termination of this Deed by either Kidman or Wesfarmers Lithium pursuant to clause 15.1, 15.2 or 15.3, this Deed will have no further force or effect and the parties will have no further obligations under this Deed, provided that:

15.4.1 this clause 15.4 and clauses 1, 11.1, 14, 16 to 20 (inclusive) will survive termination;

15.4.2 each party will retain any accrued rights and remedies, including any rights and remedies it has or may have against the other party in respect of any past breach of this Deed; and

15.4.3 subject to clause 15.4.2, the parties are put back into the positions that they were in (including in respect of one another) immediately before entry into this Deed.

16. GST

16.1 Interpretation

The parties agree that:

- 16.1.1 except where the context suggests otherwise, terms used in this clause 16 have the meanings given to those terms by the GST Law in force in Australia;
- 16.1.2 any part of a supply that is treated as a separate supply for GST purposes (including attributing GST payable to tax periods) will be treated as a separate supply for the purposes of this clause 16; and
- 16.1.3 unless clearly indicated to the contrary, and otherwise as provided in this clause, all amounts of consideration payable referred to in this Deed or any other Transaction Document are exclusive of GST.

16.2 Reimbursements and similar payments

Any payment or reimbursement required to be made under this Deed or any other Transaction Document that is calculated by reference to a cost, expense, or other amount paid or incurred will be limited to the total cost, expense or amount less the amount of any input tax credit to which an entity is entitled for the acquisition to which the cost, expense or amount relates.

16.3 GST payable

If GST is payable in relation to a supply made under or in connection with this Deed or any other Transaction Document then any party (**Recipient**) that is required to provide consideration to another party (**Supplier**) for that supply must pay an additional amount of consideration to the Supplier equal to the amount of that GST. Subject to the Supplier providing a valid tax invoice, the additional amount must be paid at the same time as other consideration is to be provided for that supply or, if no valid tax invoice is provided at the time the other consideration is provided, within 5 Business Days of the Supplier providing a valid tax invoice to the Recipient.

16.4 Variation to GST payable

If the GST payable in relation to a supply made under or in connection with this Deed or any other Transaction Document varies from the additional amount paid by the Recipient under clause 16.3 then the Supplier will provide a corresponding refund or credit to, or will be entitled to receive the amount of that variation from, the Recipient. Any ruling, advice, document or other information received by the Recipient from the Australian Taxation Office in relation to any supply made under this Deed or any other Transaction Document shall be conclusive as to the GST payable in relation to that supply. Any payment, credit or refund under this paragraph is deemed to be a payment, credit or refund of the additional amount payable under clause 16.3.

17. Stamp duty and costs

- 17.1.1 Wesfarmers Lithium will bear all stamp duty payable in respect of this Deed, the Scheme and any agreement or document that is brought into existence for the purpose of the Scheme.
- 17.1.2 Except as otherwise provided in this Deed, each party must pay its own costs of negotiating, preparing, executing and performing this Deed and the Scheme

Booklet and the proposed, attempted or actual implementation of this Deed and the Scheme.

18. Notices

18.1 How notice to be given

Each communication (including each notice, consent, approval, request and demand) under or in connection with this Deed:

- 18.1.1 may be given by personal service, prepaid post or email;
- 18.1.2 must be in writing;
- 18.1.3 must be addressed to each party using that party's details as set out in the 'parties' section of this Deed (unless that party has notified the other party of new details, in which case, using those new details);
- 18.1.4 in the case of personal service or prepaid post, must be signed by the party making it or (on that party's behalf) by the solicitor for, or any attorney, director, secretary or authorised agent of, that party;
- 18.1.5 in the case of email, must be by electronic email to each party using that party's details as set out in the 'parties' section of this Deed (unless that party has notified the other party of new details, in which case, using those new details); and
- 18.1.6 must be delivered by hand or posted by prepaid post to the address, or sent by email to the email address of the addressee, in accordance with clause 18.1.3.

18.2 When notice taken to be received

Each communication (including each notice, consent, approval, request and demand) under or in connection with this Deed is taken to be received by the addressee:

- 18.2.1 in the case of prepaid post sent to an address in the same country, on the third day after the date of posting;
- 18.2.2 in the case of prepaid post sent to an address in another country, on the fifth day after the date of posting by airmail;
- 18.2.3 in the case of personal service, on delivery; and
- 18.2.4 in the case of email, unless the party sending the email knows or reasonably ought to suspect that the email and the attached communication were not delivered to the addressee's domain specified in the email address notified for the purposes of this clause 18, when the email was sent,

but if the communication would otherwise be taken to be received on a day that is not a Business Day or after 5:00 pm in its place of receipt, it is taken to be received at 9:00 am on the next Business Day in its place of receipt.

19. Interpretation

19.1 In this Deed, unless expressed to the contrary:

- 19.1.1 words denoting the singular include the plural and vice versa;
- 19.1.2 the word 'includes' in any form is not a word of limitation;
- 19.1.3 where a word or phrase is defined, another part of speech or grammatical form of that word or phrase has a corresponding meaning;
- 19.1.4 headings and sub-headings are for ease of reference only and do not affect the interpretation of this Deed; and
- 19.1.5 a reference to:
 - (a) a gender includes all other genders;
 - (b) any legislation (including subordinate legislation) is to that legislation as amended, re-enacted or replaced and includes any subordinate legislation issued under it;
 - (c) any instrument (such as a deed, agreement or document) is to that instrument (or, if required by the context, to a part of it) as amended, novated, substituted or supplemented at any time and from time to time;
 - (d) writing includes writing in digital form;
 - (e) 'this Deed' is to this Deed as amended from time to time;
 - (f) 'A\$', '\$', 'AUD' or 'dollars' is a reference to Australian dollars;
 - (g) 'US\$' is a reference to the legal currency of the United States of America;
 - (h) a clause, schedule or appendix is a reference to a clause, schedule or appendix in or to this Deed;
 - (i) a reference to time in this Deed is a reference to the time in Melbourne, Victoria, Australia (being Australian Eastern Standard Time or Australian Eastern Daylight Time, as applicable);
 - (j) any property or assets of a person includes the legal and beneficial interest of that person of those assets or property, whether as owner, lessee or lessor, licensee or licensor, trustee or beneficiary or otherwise;
 - (k) a person includes a firm, partnership, joint venture, association, corporation or other body corporate;
 - (l) a person includes the legal personal representatives, successors and permitted assigns of that person, and in the case of a trustee, includes any substituted or additional trustee; and
 - (m) any body (**Original Body**) which no longer exists or has been reconstituted, renamed, replaced or whose powers or functions have been removed or transferred to another body or agency, is a reference to the body which most closely serves the purposes or objects of the Original Body.

19.2 A clause in this Deed must not be construed adversely to a party merely because that party prepared it or caused it to be prepared.

20. General

20.1 Cumulative rights

The rights, powers and remedies of a party under this Deed are cumulative with the rights, powers or remedies provided by law independently of this Deed.

20.2 Waiver and variation

A provision or a right under this Deed may not be waived except in writing signed by the party granting the waiver, or varied except in writing signed by each of the parties.

20.3 Approvals and consents

Unless this Deed expressly provides otherwise, a consent under this Deed may be given conditionally or unconditionally, or withheld, in the absolute discretion of the party entitled to give the consent and to be effective must be given in writing.

20.4 Specific performance

The parties acknowledge that monetary damages alone would not be adequate compensation for a breach by any party of an obligation under this Deed and that specific performance of that obligation is an appropriate remedy.

20.5 Entire agreement

The Transaction Documents constitute the entire agreement between the parties in relation to their subject matter and supersede all previous agreements and understandings between the parties in relation to their subject matter.

20.6 Best and Reasonable Endeavours

Without affecting clause 3.3, a reference to a party using or obligation on a party to use its best endeavours or reasonable endeavours or all reasonable endeavours does not oblige that party to:

20.6.1 pay money:

- (a) in the form of an inducement or consideration to a third party to procure something (other than the payment of immaterial expenses or costs, including costs of advisers, to procure the relevant thing); or
- (b) in circumstances that are commercially onerous or unreasonable in the context of this Deed;

20.6.2 provide other valuable consideration to or for the benefit of any person; or

20.6.3 agree to commercially onerous or unreasonable conditions.

20.7 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. The remainder of this Deed has full force and effect and the validity or enforceability of that provision in any other jurisdiction is not

affected. This clause has no effect if the severance alters the basic nature of this Deed or is contrary to public policy.

20.8 Further acts and documents

Each party must promptly do all further acts and execute and deliver all further documents (in form and content reasonably satisfactory to that party) required by law or reasonably requested by another party to give effect to this Deed.

20.9 Counterparts

This Deed may be executed in any number of counterparts and by the parties on separate counterparts. Each counterpart constitutes an original of this Deed, and all together constitute one agreement.

20.10 Assignment

The rights and obligations of each party under this Deed are personal. They cannot be assigned, charged or otherwise dealt with, and no party shall attempt or purport to do so, without the prior written consent of the other party.

20.11 Governing law and jurisdiction

20.11.1 This Deed is governed by the law applying in Victoria, Australia.

20.11.2 Each party irrevocably:

- (a) submits to the non-exclusive jurisdiction of the courts of Victoria, Australia, Commonwealth courts having jurisdiction in that State and the courts competent to determine appeals from those courts, with respect to any proceedings that may be brought at any time relating to this Deed; and
- (b) waives any objection it may have now or in the future to the venue of any proceedings, and any claim it may have now or in the future that any proceedings have been brought in an inconvenient forum, if that venue falls within clause.

Schedule 1 Kidman Warranties

1. Capacity, authority and solvency

On each date from the date of this Deed until (and including) the Second Court Date:

- 1.1 Kidman is a corporation validly existing under the laws of its place of incorporation;
- 1.2 Kidman has the corporate power to enter into and perform its obligations under this Deed and to carry out the transactions contemplated by this Deed;
- 1.3 each Kidman Group Member and Covalent Lithium is solvent and no resolutions have been passed nor has any other step been taken or legal proceedings commenced or threatened against any Kidman Group Member or Covalent Lithium for an Insolvency Event;
- 1.4 Kidman 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 to carry out the transactions contemplated by this Deed;
- 1.5 Kidman is legally bound by this Deed, and this Deed does not and will not result in a breach or violation of, or default under any provision of:
 - (a) Kidman's constitution;
 - (b) any term of any order, judgment or law to which it is a party or is subject or by which it is bound; or
 - (c) any term or provision of any other document or agreement that is binding on it or any of its Subsidiaries.

2. Kidman Data Room Materials

On the date of this Deed, the Kidman Data Room Materials were prepared in good faith for the purpose of a due diligence process and:

- 2.1 the information was collated or otherwise prepared with all reasonable care and skill;
- 2.2 that information is accurate in all material respects;
- 2.3 as far as Kidman is aware that information is not misleading or deceptive, or likely to mislead or deceive (including by omission) in any material respect; and
- 2.4 no information has been knowingly or recklessly omitted from the Kidman Data Room Materials that have been provided to Wesfarmers that in the opinion of a reasonable buyer could be expected to make the information materially misleading.

3. Covalent Data Room Materials

- 3.1 Subject to clause 3.2, on the date of this Deed, and as far as Kidman is actually aware from information provided to it in connection with, or as a result of its participation as a member of, the Management Committee, the Covalent Data Room Material:
- (a) is accurate in all material respects;
 - (b) is not misleading or deceptive, or likely to mislead or deceive (including by omission), in any material respect; and
 - (c) no information has been omitted from the Covalent Data Room Materials that, in Kidman's opinion (acting reasonably), could be expected to make the Covalent Data Room Materials misleading.
- 3.2 Kidman makes no warranty in respect of any forecast, estimate, projection or other statement that relates to the future or any statement of opinion and, in particular, in respect of any individual document notified by Kidman to Wesfarmers in writing prior to the date of this Deed.

4. Kidman Provided Information

On the First Court Date, the date of the Scheme Meeting and on the Second Court Date:

- 4.1 the Kidman Provided Information (as well as any Wesfarmers Provided Information to the extent that it consists of information relating to the Kidman Group that was provided to Wesfarmers by or on behalf of Kidman, or has been extracted directly from announcements made by Kidman to the ASX regarding the Kidman Group) in the form and context in which it appears in the Scheme Booklet will not be misleading or deceptive (including by the omission of information) in any material respect and does not contain any material omission and will comply in all material respects with the requirements referred to in clause 6.4.2 and relevant laws (including the Corporations Act, Listing Rules and relevant Regulatory Guides and the terms of this Deed as they apply to such information);
- 4.2 the Kidman Provided Information has been prepared and included in the Scheme Booklet in good faith and on the understanding that Wesfarmers Lithium and each of its directors and officers have relied on that information for the purposes of considering and approving the Wesfarmers Provided Information in the Scheme Booklet;
- 4.3 all information provided by or on behalf of Kidman to the Independent Expert to enable the Independent Expert's Report to be prepared has been prepared and provided in good faith and on the understanding that the Independent Expert has relied on the information for the purposes of preparing the Independent Expert's Report; and
- 4.4 any statement of opinion or belief contained in the Kidman Provided Information is honestly held and there are reasonable grounds for holding the opinion or belief.

5. Tenements

- 5.1 On the date of this Deed and on the Second Court Date, in respect of the JV Tenements:
- (a) Kidman, either directly or indirectly through its Related Entities, is the beneficial owner of 50% of the tenements;
 - (b) no Kidman Group Member has agreed to Dispose of those tenements or any minerals the subject of those tenements; and
 - (c) they are not subject to any Security Interests.
- 5.2 On the date of this Deed and on the Second Court Date, in respect of the Other Tenements:
- (a) Kidman, either directly or indirectly through its Related Entities, is the legal and beneficial owner of those tenements in the ownership percentages set out in Schedule 4;
 - (b) no Kidman Group Member has agreed to Dispose of those tenements or any minerals the subject of those tenements; and
 - (c) Kidman's ownership percentages set out in Schedule 4 are not subject to any Security Interests.
- 5.3 On the date of this Deed the JV Tenements are in good standing and are not liable to forfeiture and, to the best of Kidman's knowledge, Kidman is not aware of any matter which is likely to prejudice the renewal of the JV Tenements.
- 5.4 On the date of this Deed no Kidman Group Member has applied for, or made any representations to an Authority that it will apply for, any tenement or authority in the JV Tenements Area (including a mining lease) on expiry of the JV Tenements or otherwise, except for purposes directly related to Joint Venture Activities (as defined in the Joint Venture Agreement).
- 5.5 On the date of this Deed no Kidman Group Member has entered into, or agreed to enter into, any agreement, arrangement or understanding with any third party relating to the JV Tenements which may preclude the Joint Venture from carrying out the activities contemplated by the Joint Venture Agreement.
- 5.6 On the date of this Deed there is no litigation or other proceeding pending or, to the best of Kidman's knowledge, threatened against it, or against a Kidman Group Member in respect of the Joint Venture project.
- 5.7 On the date of this Deed there are no Native Title Claims, Native Title Rights or cultural heritage sites in respect of, or affecting, the Core Tenements.
- 5.8 On the date of this Deed, with the exception of any royalties, production payments or equivalent arrangements of any kind payable to any Authority, there are no royalties, production payments or equivalent arrangements of any kind payable to third parties in respect of the JV Tenements or the JV Tenements Area.
- 5.9 On the date of this Deed each Kidman Group Member has materially complied with all existing laws, including any laws relating to Native Title Rights or Native Title Interests, in conducting its operations on the JV Tenements.

6. Specific Compliance Matters

To the best of Kidman's actual knowledge, no Kidman Group Member, or Covalent Lithium, past or present director, officer, employee or agent or other person acting on behalf of any Kidman Group Member or Covalent Lithium (but expressly excluding any SQMA appointed director of Covalent Lithium or any other employee or agent of Covalent Lithium) is currently or has in the past 5 years been directly or indirectly engaged in any activity that would violate any privacy or data protection laws, labour laws, anti-money laundering laws, anti-bribery laws or anti-corruption laws, including the U.S. Foreign Corrupt Practices Act of 1977, as amended, and the Australian laws implemented pursuant to the OECD Anti-Bribery Convention, in each case in any jurisdiction (such laws, the Relevant Laws), including having:

- 6.1 offered, promised or provided a benefit to another with the intention to induce a person to act improperly, illegally or in breach of trust or reward a person for acting improperly, illegally or in breach of trust;
- 6.2 participated in any form of corruption, bribery or collusion involving illegal or dishonest behaviour;
- 6.3 given or authorised or agreed to give, offered, promised, provided, solicited, requested or accepted kickbacks, bribes, secret commissions or facilitation payments, or unlawful rebates or discounts; or
- 6.4 given or authorised or agreed to give, offered, promised or made an unlawful contribution or any money or thing of value to a politician, political cause or public official of any kind, including any officer or employee of any Authority or any person, nor provided any benefit that is, or may be deemed to be, illegal under any Relevant Laws.

7. Other representations and warranties

- 7.1 Other than as expressly contemplated by the Conditions, no shareholder approvals or other Authorisations are required to be obtained by the Kidman Group in order for Kidman to execute and perform the Transaction Documents to which it is a party.
- 7.2 On the date of this Deed and on the Second Court Date following the making by Kidman of the Kidman Public Announcement, Kidman is not in breach of its continuous disclosure obligations under ASX Listing Rule 3.1 and is not withholding any information from Wesfarmers Lithium that is being withheld from ASX under Listing Rule 3.1A that has not been Fairly Disclosed in the Due Diligence Material.
- 7.3 The Kidman Group has all material licences and Authorisations necessary for it to conduct its business in the manner in which it is conducted as at the date of this Deed, and no Kidman Group Member is in material breach of, or default under, any such licence or Authorisation, nor has any Kidman Group Member received any notice in respect of the termination, revocation, variation or non-renewal of any such licence or Authorisation, nor is any Kidman Group Member aware of any reason why any material licence or Authorisation would not be granted in the ordinary course on acceptable terms within a reasonable time period.
- 7.4 As at the date of this Deed, and on the Second Court Date, there are 404,797,403 Shares and 3,721,171 Performance Rights on issue, and no Kidman Group Member has issued (nor is required to issue or become required to issue) any other securities or instruments or rights which are still outstanding (or may become outstanding) and which may convert to Kidman securities.

- 7.5 Each Kidman Group Member and, to the best of Kidman's knowledge from information provided to it in connection with, or as a result of its participation as a member of, the Management Committee, Covalent Lithium, has complied in all material respects with all applicable material laws and regulations, including (without limitation):
- (a) privacy and data protection laws and regulations;
 - (b) foreign investment regulations (including the *Foreign Acquisitions and Takeovers Act 1975* (Cth));
 - (c) tax laws and regulations;
 - (d) employment laws and regulations; and
 - (e) mining laws,
- in each case in each applicable jurisdiction that the Kidman Group operates, and Kidman is not aware of, and has not received notice of, any actual or alleged material breach of any such laws or regulations by any Kidman Group Member.
- 7.6 As at the date of this Deed:
- (a) no Kidman Group Member has done or permitted to be done anything that would be likely to cause any Joint Venture Document to be terminated;
 - (b) there has been no failure by any Kidman Group Member to comply with a material obligation under a Joint Venture Document that would have a material adverse effect on the Kidman Group or the Joint Venture; and
 - (c) to the best of Kidman's knowledge no party to a Joint Venture Document is in material breach of, or material default under, that Joint Venture Document or would be in material breach or in material default but for a requirement of notice or lapse of time, or both.
- 7.7 No Kidman Group Member or, to the best of Kidman's knowledge from information provided to it in connection with, or as a result of its participation as a member of, the Management Committee, Covalent Lithium, is a party to or the subject of any investigation, action, proceeding, dispute, claim, demand, notice, direction, declaration, inquiry, arbitration, mediation, dispute resolution or litigation that will or may have a material adverse effect on the trading or financial performance, profitability, prospects or reputation of the Kidman Group (taken as a whole), and no event has occurred which could give rise to such an occurrence.
- 7.8 On the date of this Deed, neither ASIC nor ASX (as applicable) has made a determination against any Kidman Group Member or Covalent Lithium for any contravention of the requirements of the Corporations Act or the ASX Listing Rules or any rules, regulations or regulatory guides under the Corporations Act or the ASX Listing Rules, and no event has occurred which could, or could reasonably be likely to result in such a determination being made.
- 7.9 On the date of this Deed, so far as Kidman is aware, there has not been any event, change, effect or development that would require Kidman to restate Kidman's financial statements as disclosed to ASX.
- 7.10 As at the date of this Deed and the Second Court Date, Kidman has not caused or authorised the issue of any sponsored American Depositary Receipts in respect of Kidman securities, and no such sponsored American Depositary Receipts are currently on issue.

7.11 Kidman complied with clauses 7 and 8 of the Process and Exclusivity Deed between Kidman and Wesfarmers dated 1 May 2019 and at no time during the Exclusivity Period (as defined in that deed) was Kidman in breach of those clauses.

Schedule 2 Wesfarmers Lithium Warranties

1. Capacity, authority and solvency

On the date of this Deed and the Second Court Date, Wesfarmers Lithium:

- 1.1 is a corporation validly existing under the laws of its place of incorporation;
- 1.2 has the corporate power to enter into and perform its obligations under this Deed and to carry out the transactions contemplated by this Deed;
- 1.3 has not suffered an Insolvency Event;
- 1.4 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 to carry out the transactions contemplated by this Deed; and
- 1.5 is legally bound by this Deed, and this Deed does not and will not result in a breach of, or default under any provision of, Wesfarmers Lithium's constitution or any term of any order, judgment or law which it is a party to or is subject to or by which it is bound or any term or provision of any material agreement to which it is a party.

2. Wesfarmers Provided Information

On the First Court Date, the date of the Scheme Meeting and on the Second Court Date, the Wesfarmers Provided Information is not misleading or deceptive (including by the omission of information) in any material respect and will comply with applicable laws and the terms of this Deed as they apply to such information.

3. Financing

On the date of this Deed, the First Court Date, the date of the Scheme Meeting, the Second Court Date and the Implementation Date, Wesfarmers Lithium has financing available to provide all of the Scheme Consideration in accordance with clause 5.2.1.

4. Authorisations

Other than as expressly contemplated by the Conditions, no shareholder approval or other Authorisations are required to be obtained by Wesfarmers Lithium in order for Wesfarmers Lithium to execute and perform the Transaction Documents to which it is a party.

Schedule 3 Wesfarmers Warranties

1. Capacity, authority and solvency

On the date of this Deed and the Second Court Date, Wesfarmers:

- 1.1 is a corporation validly existing under the laws of its place of incorporation;
- 1.2 has the corporate power to enter into and perform its obligations under this Deed and to carry out the transactions contemplated by this Deed;
- 1.3 is the legal and beneficial holder of all of the shares in Wesfarmers Lithium;
- 1.4 has not suffered an Insolvency Event;
- 1.5 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 to carry out the transactions contemplated by this Deed; and
- 1.6 is legally bound by this Deed, and this Deed does not and will not result in a breach of, or default under any provision of, Wesfarmers' constitution or any term of any order, judgment or law which it is a party to or is subject to or by which it is bound or any term or provision of any material agreement to which it is a party.

2. Wesfarmers Provided Information

On the First Court Date, the date of the Scheme Meeting and on the Second Court Date, the Wesfarmers Provided Information is not misleading or deceptive (including by the omission of information) in any material respect and will comply with applicable laws and the terms of this Deed as they apply to such information.

3. Financing

On the date of this Deed, the First Court Date, the date of the Scheme Meeting, the Second Court Date and the Implementation Date, Wesfarmers has financing available to provide all of the Scheme Consideration to Wesfarmers Lithium to enable Wesfarmers Lithium to comply with its obligations in accordance with clause 5.2.1.

4. Authorisations

Other than as expressly contemplated by the Conditions, no shareholder approval or other Authorisations are required to be obtained by Wesfarmers in order for Wesfarmers to execute and perform the Transaction Documents to which it is a party.

Schedule 4 Other Tenements

Mining Tenement	Location	Interest Held
M77/0477 – Van Uden North	WA, Australia	80%- Subject to the Lithium Rights Agreement becoming effective, the lithium rights in Montague's 80% interest in this tenement will be held 50% by MH Gold.
M77/0478 – Van Uden South	WA, Australia	80%- Subject to the Lithium Rights Agreement becoming effective, the lithium rights in Montague's 80% interest in this tenement will be held 50% by MH Gold.
M77/0522 – Van Uden North	WA, Australia	80%- Subject to the Lithium Rights Agreement becoming effective, the lithium rights in Montague's 80% interest in this tenement will be held 50% by MH Gold.
M77/0523 – Van Uden South	WA, Australia	80%- Subject to the Lithium Rights Agreement becoming effective, the lithium rights in Montague's 80% interest in this tenement will be held 50% by MH Gold.
E77/1361 – Deserts	WA, Australia	80%- Subject to the Lithium Rights Agreement becoming effective, the lithium rights in Montague's 80% interest in this tenement will be held 50% by MH Gold.
E77/1535 – Cities	WA, Australia	80%- Subject to the Lithium Rights Agreement becoming effective, the lithium rights in Montague's 80% interest in this tenement will be held 50% by MH Gold.
E77/1582 – Aircraft	WA, Australia	80%- Subject to the Lithium Rights Agreement becoming effective, the lithium rights in Montague's 80% interest in this tenement will be held 50% by MH Gold.
E77/2305 – Michael	WA, Australia	80%- Subject to the Lithium Rights Agreement becoming effective, the lithium rights in Montague's 80% interest in this tenement will be held 50% by MH Gold.
M77/1065 – Cheeses	WA, Australia	100% - Subject to the Lithium Rights Agreement being effective, the lithium rights in this tenement will be held 50% by MH Gold.
M77/1067 – Razorback	WA, Australia	100% - Subject to the Lithium Rights Agreement being effective, the lithium rights in this tenement will be held 50% by MH Gold.
M77/1068 – BushPig	WA, Australia	100% - Subject to the Lithium Rights Agreement being effective, the lithium rights in this tenement will be held 50% by MH Gold.
E77/1773 – Southern Cross	WA, Australia	100% - Subject to the Lithium Rights Agreement being effective, the lithium rights in this tenement will be held 50% by MH Gold.
E77/1775 – Sea	WA, Australia	100% - Subject to the Lithium Rights Agreement being effective, the lithium rights in this tenement will be held 50% by MH Gold.
E77/2011 – Coffee	WA, Australia	100% - Subject to the Lithium Rights Agreement being effective, the lithium rights in this tenement will be held 50% by MH Gold.
E77/2080 – Battles	WA, Australia	100% - Subject to the Lithium Rights Agreement being effective, the lithium rights in this tenement will be held 50% by MH Gold.
E77/2097 – Generals	WA, Australia	100% - Subject to the Lithium Rights Agreement being effective, the lithium rights in this tenement will be held 50% by MH Gold.

Mining Tenement	Location	Interest Held
E77/2137 – Planets	WA, Australia	100% - Subject to the Lithium Rights Agreement becoming effective, the lithium rights in this tenement will be held 50% by MH Gold.
E77/2162 – Moons	WA, Australia	100% - Subject to the Lithium Rights Agreement becoming effective, the lithium rights in this tenement will be held 50% by MH Gold.
E77/2167 – Golf	WA, Australia	100% - Subject to the Lithium Rights Agreement becoming effective, the lithium rights in this tenement will be held 50% by MH Gold.
E77/2188 – Hamlet	WA, Australia	100% - Subject to the Lithium Rights Agreement becoming effective, the lithium rights in this tenement will be held 50% by MH Gold.
E77/2244 – Texas	WA, Australia	100% - Subject to the Lithium Rights Agreement becoming effective, the lithium rights in this tenement will be held 50% by MH Gold.
E77/2530 – Mythology	WA, Australia	100%
P77/4115 – Snow	WA, Australia	100% - Subject to the Lithium Rights Agreement becoming effective, the lithium rights in this tenement will be held 50% by MH Gold.
G77/0037	WA, Australia	100%
G77/0038	WA, Australia	100% - Subject to the Lithium Rights Agreement becoming effective, the lithium rights in this tenement will be held 50% by MH Gold.
G77/0109	WA, Australia	100%
G77/132	WA, Australia	100%
G77/133	WA, Australia	100%
G77/136 – Application	WA, Australia	100%
L77/0085	WA, Australia	100% - Subject to the Lithium Rights Agreement becoming effective, the lithium rights in this tenement will be held 50% by MH Gold.
L77/0096	WA, Australia	100% - Subject to the Lithium Rights Agreement becoming effective, the lithium rights in this tenement will be held 50% by MH Gold.
L77/0198	WA, Australia	100% - Subject to the Lithium Rights Agreement becoming effective, the lithium rights in this tenement will be held 50% by MH Gold.
L77/0199	WA, Australia	100% - Subject to the Lithium Rights Agreement becoming effective, the lithium rights in this tenement will be held 50% by MH Gold.
L77/0207	WA, Australia	100% - Subject to the Lithium Rights Agreement becoming effective, the lithium rights in this tenement will be held 50% by MH Gold.
L77/295	WA, Australia	100%
L77/296	WA, Australia	100%
L77/298	WA, Australia	100%
L77/299 – Application	WA, Australia	100%
L77/300 – Application	WA, Australia	100%
P77/4485 – Application	WA, Australia	100% - Subject to the Lithium Rights Agreement becoming effective, the lithium rights in this tenement will be held 50% by MH Gold.
EL 23186 – Home of Bullion	NT, Australia	100%
EL 6321 – Browns Reef	NSW, Australia	100%

Execution page

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

Executed by the parties as a deed.

Executed by Kidman Resources Limited ACN 143 526 096 in accordance with section 127(1) of the *Corporations Act 2001* (Cth):



Signature of Director

Martin Donohue

Print Name



Signature of Director/Company Secretary

Thomas Wilcox

Print Name

Signed Sealed and Delivered for Wesfarmers Lithium Pty Ltd ACN 633 472 803 by its attorney under power of attorney dated 21 May 2019 in the presence of:

Witness Signature

Print Name

Attorney Signature

Print Name

Signed Sealed and Delivered for Wesfarmers Limited ACN 008 984 049 by its attorney under power of attorney dated 22 May 2019 in the presence of:

Witness Signature

Print Name

Attorney Signature

Print Name

Execution page

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

Executed by the parties as a deed.

Executed by **Kidman Resources Limited ACN 143 526 096** in accordance with section 127(1) of the *Corporations Act 2001* (Cth):

Signature of Director

Signature of Director/Company Secretary


Print Name

Print Name

Signed Sealed and Delivered for Wesfarmers Lithium Pty Ltd ACN 633 472 803 by its attorney under power of attorney dated 21 May 2019 in the presence of:



Witness Signature



Attorney Signature

AARON HOOD

Print Name

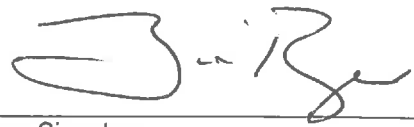
TIMOTHY BULT

Print Name

Signed Sealed and Delivered for Wesfarmers Limited ACN 008 984 049 by its attorney under power of attorney dated 22 May 2019 in the presence of:



Witness Signature



Attorney Signature

AARON HOOD

Print Name

TIMOTHY BULT

Print Name

Attachment 1 Indicative Scheme Timetable

Date	Event
23 May 2019	Scheme Implementation Deed is signed and Scheme is announced.
Week of 1 July 2019	Draft Scheme Booklet and Independent Expert's Report is submitted to ASIC for review.
Week of 15 July 2019	Scheme Booklet, Independent Expert's Report and evidence are submitted to Court.
Week of 15 July 2019	First Court Date.
Week of 22 July 2019	Scheme Booklet is registered with ASIC, printed and despatched.
Week of 22 July 2019	Notice of Scheme Meeting issued to Shareholders.
Week of 26 August 2019	Scheme Meeting.
Week of 26 August 2019	Provision of evidence ahead of Second Court Date.
Week of 26 August 2019	Second Court Date.
Week of 26 August 2019	Effective Date (copy of Court order is lodged with ASIC).
Week of 2 September 2019	Record Date (5 Business Days after Effective Date).
Week of 9 September 2019	Implementation Date (5 Business Days after Record Date).

Attachment 2 Wesfarmers Closing Certificate

This Wesfarmers Closing Certificate is given pursuant to clause 3.1 of the Scheme Implementation Deed dated *[insert]* between Kidman Resources Limited ACN 143 526 096 (**Kidman**), Wesfarmers Lithium ACN 633 472 803 (**Wesfarmers Lithium**) and Wesfarmers Limited ACN 008 984 049 (**Wesfarmers**) (**SID**).

Terms used in this certificate have the same meaning as those terms in the SID.

After due and careful enquiry, to the best of the knowledge and belief of Wesfarmers Lithium, no fact, matter or circumstance has arisen that:

- makes any Wesfarmers Lithium Warranty materially false or inaccurate, constitutes a material breach of a Wesfarmers Lithium Warranty, or otherwise materially qualifies a Wesfarmers Lithium Warranty; or
- would allow Kidman to validly terminate the SID.

Dated *[insert]*

[insert name]
Director
[Insert]

Attachment 3 Kidman Closing Certificate

This Kidman Closing Certificate is given pursuant to clause 3.1 of the Scheme Implementation Deed dated **[insert]** between Kidman Resources Limited ACN 143 526 096 (**Kidman**), Wesfarmers Lithium ACN 633 472 803 (**Wesfarmers Lithium**) and Wesfarmers Limited ACN 008 984 049 (**Wesfarmers**) (**SID**).

Terms used in this certificate have the same meaning as those terms in the SID.

After due and careful enquiry, to the best of the knowledge and belief of Kidman, no fact, matter or circumstance has arisen that:

- makes any Kidman Warranty materially false or inaccurate, constitutes a material breach of a Kidman Warranty, or otherwise materially qualifies a Kidman Warranty; or
- would allow Wesfarmers Lithium to validly terminate the SID.

Dated **[insert]**

[insert name]
Director
[Insert]

Attachment 4 Conditions Precedent Certificate

Kidman Resources Limited ACN 143 526 096 (**Kidman**), Wesfarmers Lithium ACN 633 472 803 (**Wesfarmers Lithium**) and Wesfarmers Limited ACN 008 984 049 (**Wesfarmers**) certify, confirm and agree that each of the conditions precedent:

- (a) in clause 3.1 (other than the condition in clause 3.1.4) of the scheme implementation deed dated [*insert date*] between Kidman, Wesfarmers Lithium and Wesfarmers (**SID**) has been satisfied or is hereby waived by the relevant party (or parties) to the SID in accordance with the terms of the SID; and
- (b) in clause 3.1 (other than the condition in clause 3.1.5) of the scheme of arrangement between Kidman and the relevant Kidman shareholders which appears in Annexure [*insert*] of Kidman's scheme booklet dated [*insert date*] has been satisfied.

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

Dated:

Executed by the parties as a deed.

Executed by Kidman Resources Limited ACN 143 526 096 in accordance with section 127(1) of the *Corporations Act 2001* (Cth):)
)
)

.....
Signature of Director

.....
Signature of Director/Company Secretary

.....
Print full name

.....
Print full name

Signed Sealed and Delivered for Wesfarmers Lithium Pty Ltd ACN 633 472 803 by its attorney under power of attorney dated [*] in the presence of:

Witness Signature

Attorney Signature

Print Name

Print Name



Signed Sealed and Delivered for Wesfarmers Limited ACN 008 984 049 by its attorney under power of attorney dated [*] in the presence of:

Witness Signature

Print Name

Attorney Signature

Print Name



Attachment 5 Scheme



Maddocks

Lawyers
Collins Square, Tower Two
Level 25, 727 Collins Street
Melbourne VIC 3008
Australia

Telephone 61 3 9258 3555
Facsimile 61 3 9258 3666

info@maddocks.com.au
www.maddocks.com.au

DX 259 Melbourne

Scheme of Arrangement

Kidman Resources Limited ACN 143 526 096
and

**Each person registered as a holder of fully paid ordinary shares in Kidman
(other than an Excluded Shareholder) as at the Record Date**

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Scheme of Arrangement

Parties

Name	Kidman Resources Limited ACN 143 526 096
Address	NE Suite, Level 30, 140 William Street, Melbourne Victoria 3000 Australia
Email	tom.wilcox@kidmanresources.com
Contact	Company Secretary
Short name	Kidman
Name	The persons registered as holders of fully paid ordinary shares in Kidman (other than an Excluded Shareholder) as at the Record Date
Short name	Scheme Participants

The parties agree

1. Definitions

1.1 Defined terms

In this Scheme:

Adviser means, in relation to an entity, a financier, financial adviser, corporate adviser, legal adviser, or technical or other expert adviser, or consultant who provides advisory services in a professional capacity and who has been engaged by that entity in connection, directly or indirectly, with this Scheme.

ASIC means the Australian Securities and Investments Commission.

ASX means ASX Limited ABN 98 008 624 691 and, where the context requires, the financial market that it operates.

Authority means any:

- (a) government, government department, government agency or government authority;
- (b) governmental, semi-governmental, municipal, judicial, quasi-judicial, administrative or fiscal entity or person carrying out any statutory authority or function; or
- (c) other entity or person (whether autonomous or not) having powers or jurisdiction under:

- (i) any statute, regulation, ordinance, by-law, order or proclamation, or the common law; or
- (ii) the rules of any recognised stock or securities exchange.

Business Day means a day which is not a Saturday, Sunday or public holiday in Melbourne, Australia or Perth, Australia.

CHES means the Clearing House Electronic Subregister System for the electronic transfer of securities operated by ASX Settlement Pty Ltd and ASX Clear Pty Limited.

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

Court means the Federal Court of Australia or another court having jurisdiction in relation to the Scheme as agreed in writing between Kidman and Wesfarmers Lithium.

Deed Poll means the deed poll dated [##] 2019 executed by Wesfarmers Lithium and Wesfarmers in favour of the Scheme Participants substantially in the form of Schedule 1 of the Scheme Implementation Deed (or in such other form as agreed in writing by Wesfarmers, Wesfarmers Lithium and Kidman).

Delivery Time means 8:00 am on the Second Court Date.

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

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

End Date means 30 November 2019, or such later date as Wesfarmers Lithium and Kidman may agree in writing.

Excluded Shareholder means any Wesfarmers Group Member who holds a Share.

Implementation Date means the date which is 5 Business Days after the Record Date, or such other date as Kidman and Wesfarmers Lithium agree in writing.

Listing Rules means the official listing rules of the ASX.

Performance Rights has the meaning given in the Scheme Implementation Deed.

Record Date means 7:00 pm on the fifth Business Day after the Effective Date or such other date after the Effective Date as Wesfarmers Lithium and Kidman agree in writing.

Register means the register of Shares kept by the Share Registry.

Registered Address means, in relation to a Scheme Participant, the address shown in the Register as at the Record Date.

Related Entity means, in relation to an entity (the *first entity*):

- (a) a Subsidiary of the first entity;
- (b) an entity of which the first entity is a Subsidiary; or
- (c) a Subsidiary of another entity of which the first entity is also a Subsidiary,

but an entity will also be taken to be a Subsidiary of an entity if it is controlled by that entity (as defined in section 50AA of the Corporations Act) and:

- (d) a trust may be a Subsidiary, for the purpose of which a unit or other beneficial interest will be regarded as a share; and
- (e) an entity may be a Subsidiary of a trust if it would have been a Subsidiary if that trust were a body corporate.

Representatives means in respect of a party, any person acting for or on behalf of that party (including any Related Entity of that party, and any director, officer, employee, agent, affiliate, contractor or Adviser of that party or its Related Entities).

Scheme means this scheme of arrangement subject to any alterations or conditions made or required by the Court under section 411(6) of the Corporations Act and agreed or consented to in writing by Kidman and Wesfarmers Lithium.

Scheme Consideration means the amount of \$1.90 cash for each Scheme Share.

Scheme Implementation Deed means the scheme implementation deed dated [##] May 2019 between Wesfarmers, Wesfarmers Lithium and Kidman relating to (among other things) the implementation of this Scheme.

Scheme Meeting means the meeting of Shareholders ordered by the Court in relation to the Scheme to be convened pursuant to Section 411(1) of the Corporations Act and includes any meeting convened following any adjournment or postponement of that meeting.

Scheme Participant means a Shareholder (other than an Excluded Shareholder) on the Record Date.

Scheme Shares means all Shares held by the Scheme Participants as at the Record Date.

Scheme Transfer means one or more proper instruments of transfer in respect of the Scheme Shares for the purposes of section 1071B of the Corporations Act, which may be or include a master transfer of all or part of the Scheme Shares.

Second Court Date means the first day of hearing of an application made to the Court by Kidman for orders pursuant to section 411(4)(b) of the Corporations Act approving the Scheme or, if the hearing of such application is adjourned for any reason, means the first day of the adjourned hearing.

Separate Account has the meaning given in clause 5.2.4(b).

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

Share Registry means Boardroom Pty Ltd ACN 003 209 836

Shareholder means each person who is registered in the Register as the holder of Shares.

Subsidiary has the meaning given in the Corporations Act.

Trust Account means an Australian dollar denominated trust account which attracts interest at a commercial rate and is operated by Kidman as trustee for the Scheme Participants (except that any interest on the amount deposited (less bank fees and other charges) will accrue for the benefit of Wesfarmers Lithium), details of which Kidman must notify to Wesfarmers Lithium no later than 5 Business Days before the Implementation Date.

Unclaimed Money Act means the *Unclaimed Money Act 2008* (VIC).

Wesfarmers means Wesfarmers Limited ACN 008 984 049.

Wesfarmers Group means Wesfarmers and each of its Related Entities.

Wesfarmers Group Member means any member of the Wesfarmers Group.

Wesfarmers Lithium means Wesfarmers Lithium Pty Ltd ACN 633 472 803.

2. Preliminary matters

- 2.1 Kidman is a listed public company limited by shares and quoted on ASX (ASX: KDR), incorporated in Australia and registered in Victoria, Australia with its registered office at 'NE Suite', Level 30, 140 William Street, Melbourne Victoria 3000 Australia.
- 2.2 As at [##] May 2019:
- 2.2.1 404,797,403 Shares were on issue; and
- 2.2.2 3,721,171 Performance Rights were on issue which are not quoted on any financial market.
- 2.3 Wesfarmers is a listed public company limited by shares and quoted on ASX (ASX: WES), registered in Western Australia, Australia with its registered office at 'Brookfield Place Tower 2', Level 14, 123 St Georges Terrace, Perth WA 6000 Australia.
- 2.4 Wesfarmers Lithium is a proprietary company limited by shares, registered in Western Australia, Australia with its registered office at 'Brookfield Place Tower Two', Level 14, 123 St Georges Terrace, Perth WA 6000 Australia.
- 2.5 Wesfarmers Lithium is a wholly-owned subsidiary of Wesfarmers.
- 2.6 Wesfarmers, Wesfarmers Lithium and Kidman have entered into the Scheme Implementation Deed.
- 2.7 If this Scheme becomes Effective, Wesfarmers must procure that Wesfarmers Lithium pays, and Wesfarmers Lithium must pay the Scheme Consideration in accordance with the terms of this Scheme.

3. Conditions

3.1 Conditions precedent

The Scheme is conditional on:

- 3.1.1 as at the Delivery Time, all the conditions in clause 3.1 of the Scheme Implementation Deed (other than the condition in clause 3.1.4 of the Scheme Implementation Deed relating to Court approval of this Scheme) having been satisfied or waived in accordance with the terms of the Scheme Implementation Deed;
- 3.1.2 neither the Scheme Implementation Deed nor the Deed Poll being terminated in accordance with its terms by the Delivery Time;
- 3.1.3 this Scheme being approved by the Court at the Second Court Date under section 411(4)(b) of the Corporations Act, including with any alterations or conditions made

or required by the Court under section 411(6) of the Corporations Act and agreed or consented to in writing by Kidman and Wesfarmers Lithium;

3.1.4 such other conditions made or required by the Court under section 411(6) of the Corporations Act in relation to this Scheme as are agreed or consented to in writing by Kidman and Wesfarmers Lithium having been satisfied; and

3.1.5 the order of the Court made under section 411(4)(b) (and, if applicable, section 411(6)) of the Corporations Act approving this Scheme having come into effect pursuant to section 411(10) of the Corporations Act on or before the End Date.

3.2 **Effect of conditions precedent**

The satisfaction of each condition precedent in clause 3.1 is a condition precedent to the operation of clause 4 and clause 5 and the binding effect of this Scheme.

3.3 **Certificate**

3.3.1 At the hearing on the Second Court Date, each of Kidman and Wesfarmers Lithium will provide to the Court a certificate (substantially in the form set out in Attachment 4 of the Scheme Implementation Deed) confirming whether or not the conditions in clause 3.1 of the Scheme Implementation Deed (other than the condition in clause 3.1.4) have been satisfied or waived as at the Delivery Time.

3.3.2 The certificates given by Kidman and Wesfarmers Lithium constitute conclusive evidence that the conditions precedent in clauses 3.1 have been satisfied or waived as at the Delivery Time.

3.4 **Termination and End Date**

Without limiting any rights under the Scheme Implementation Deed, if:

3.4.1 either the Scheme Implementation Deed or the Deed Poll is terminated in accordance with its terms before the Scheme becomes Effective; or

3.4.2 the Effective Date or the Implementation Date has not occurred on or before the End Date,

then, unless Kidman and Wesfarmers Lithium otherwise agree in writing, this Scheme will lapse and each of Wesfarmers, Wesfarmers Lithium and Kidman are released from any further obligation to take steps to implement the Scheme.

4. **Implementation of this Scheme**

4.1 **Lodgement of Court orders with ASIC**

If the conditions set out in clauses 3.1.1 to 3.1.4 are satisfied, Kidman must lodge with ASIC an office copy of the order made by the Court under section 411 of the Corporations Act approving this Scheme as soon as possible, and in any event by no later than 5:00 pm on the Business Day following the day on which the Court approves this Scheme or such later date as Kidman and Wesfarmers Lithium agree in writing.

4.2 **Transfer of Scheme Shares**

4.2.1 On the Implementation Date:

- (a) the Scheme Consideration must be paid in the manner contemplated in clause 5;
 - (b) subject to the payment of the Scheme Consideration to each Scheme Participant in accordance with clauses 5.2.2 and 5.2.3, all of the Scheme Shares, together with all rights and entitlements attaching to the Scheme Shares as at the Implementation Date, must be transferred to Wesfarmers Lithium, without the need for any further act by any Scheme Participant (other than acts performed by Kidman or its officers as attorney and agent for Scheme Participants under clause 8.5), by:
 - (i) Kidman delivering to Wesfarmers Lithium a duly completed and executed Scheme Transfer (as transferor) for all Scheme Shares; and
 - (ii) Wesfarmers Lithium duly executing the Scheme Transfer (as transferee) and delivering it to Kidman for registration.
- 4.2.2 Immediately following receipt of the Scheme Transfer in accordance with clause 4.2.1(b), Kidman must enter, or procure the entry of, the name of Wesfarmers Lithium in the Register in respect of all of the Scheme Shares.

5. Scheme Consideration

5.1 Scheme Consideration

Subject to the terms of this Scheme, each Scheme Participant is entitled to receive the Scheme Consideration in respect of each Scheme Share held by that Scheme Participant.

5.2 Provision of Scheme Consideration

- 5.2.1 Wesfarmers Lithium must, by no later than the Business Day before the Implementation Date, deposit, or procure the deposit of, in cleared funds an amount equal to the aggregate amount of the Scheme Consideration payable to each Scheme Participant, into the Trust Account, such amount to be held by Kidman as trustee for the Scheme Participants (provided that any interest on the amounts deposited (less bank fees and other charges) will be credited to Wesfarmers Lithium's account).
- 5.2.2 Subject to Wesfarmers Lithium complying with clause 5.2.1, on the Implementation Date, Kidman must pay or procure the payment from the Trust Account to each Scheme Participant the Scheme Consideration attributable to that Scheme Participant in respect of the relevant Scheme Participant's Scheme Shares.
- 5.2.3 Kidman's obligation under clause 5.2.2 will be satisfied by Kidman:
- (a) where a Scheme Participant has, before the Record Date, made an election in accordance with the requirements of the Registry to receive dividend payments from Kidman by electronic funds transfer to a bank account nominated by the Scheme Participant, paying, or procuring the payment of, the relevant amount of Australian currency by electronic means in accordance with that election; or
 - (b) otherwise, dispatching, or procuring the dispatch of, a cheque in Australian currency to the Scheme Participant by prepaid post to their address shown in the Register as at the Record Date, such cheque being drawn in the name of the Scheme Participant (or in the case of joint holders, in accordance with the procedures set out in clause 5.3), for the relevant amount.

5.2.4 In the event that:

- (a) either:
 - (i) a Scheme Participant does not have an address recorded in the Register; or
 - (ii) Kidman as the trustee for the Scheme Participant believes that a Scheme Participant is not known at the Scheme Participant's address recorded in the Register,

and no account has been notified in accordance with clause 5.2.3 or a deposit into such an account is rejected or refunded; or

- (b) a cheque issued under this clause 5 has been cancelled in accordance with clause 5.5,

the Unclaimed Money Act will apply in relation to any Scheme Consideration which becomes 'unclaimed money' (as defined in section 3 of the Unclaimed Money Act) and Kidman as the trustee for the Scheme Participant may credit the amount payable to the relevant Scheme Participant to a separate bank account of Kidman (**Separate Account**) to be held until the Scheme Participant claims the amount or the amount is dealt with in accordance with the Unclaimed Money Act. To avoid doubt, if the amount is not credited to the Separate Account, the amount will continue to be held in the Trust Account until the Scheme Participant claims the amount or the amount is dealt with in accordance with the Unclaimed Money Act. Kidman must maintain records of the amounts paid, the people who are entitled to the amounts and any transfers of the amounts.

- 5.2.5 To the extent that, following satisfaction of Kidman's obligations under clause 5.2.2 5.2.3 and 5.2.4, there is a surplus in the amount held by Kidman as trustee for the Scheme Participants in the Trust Account, that surplus must be paid by Kidman to Wesfarmers Lithium.

5.3 **Joint holders**

In the case of Scheme Shares held in joint names:

- 5.3.1 any Scheme Consideration will be taken to be paid to the joint holders upon payment to the holder whose name appears first in the Register as at the Record Date; and
- 5.3.2 any cheque or other document required to be sent under this Scheme will be sent to the holder whose name appears first in the Register as at the Record Date.

5.4 **Orders of a Court or other Authority**

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

- 5.4.1 requires consideration to be provided to a third party in respect of Scheme Shares held by a particular Scheme Participant, which would otherwise be payable to that Scheme Participant in accordance with this Scheme, then Kidman shall be entitled to procure that provision of that consideration is made in accordance with that order or direction; or
- 5.4.2 prevents Kidman from providing consideration to any particular Scheme Participant in accordance with this Scheme, or the payment of such consideration is otherwise

prohibited by applicable law, Kidman shall be entitled to retain an amount, in Australian dollars, equal to the number of Scheme Shares held by that Scheme Participant multiplied by the Scheme Consideration until such time as provision of the consideration in accordance with this Scheme is permitted by that order or direction or otherwise by law.

5.5 Cancellation and reissue of cheques

5.5.1 Kidman may cancel a cheque issued under clause 5 if the cheque:

- (a) is returned to Kidman; or
- (b) has not been presented for payment within six months after the date on which the cheque was sent.

5.5.2 During the period of one year commencing on the Implementation Date, on request in writing from a Scheme Participant to Kidman (or the Registry) (which request may not be made until the date which is 5 Business Days after the Implementation Date), a cheque that was previously cancelled under this clause 5.5 must be reissued.

6. Dealings in Scheme Shares

6.1 Determination of Scheme Participants

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

- 6.1.1 in the case of dealings of the type to be effected using CHES, the transferee is registered in the Register as the holder of the relevant Shares on or before the Record Date; and
- 6.1.2 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 5.00pm on the day on which the Record Date occurs at the place where the Register is kept,

and Kidman must not accept for registration, nor recognise for any purpose (except a transfer to Wesfarmers Lithium pursuant to this Scheme and any subsequent transfer by Wesfarmers Lithium or its successors in title), any transfer or transmission application or other request received after the Record Date, or received prior to the Record Date but not in registrable or actionable form.

6.2 Register

- 6.2.1 Kidman must register or procure the registration of registrable transmission applications or transfers of Shares in accordance with clause 6.1.2 by no later than the Record Date.
- 6.2.2 Kidman will not accept for registration or recognise for any purpose any transmission application or transfer in respect of Shares received after 5.00pm on the day on which the Record Date occurs, other than to Wesfarmers Lithium in accordance with this Scheme.
- 6.2.3 If this Scheme becomes Effective, each entry which is current on the Register as at the Record Date is the sole evidence of entitlement to the Scheme Consideration on the terms of this Scheme in respect of the Shares relating to that entry.

- 6.2.4 If this Scheme becomes Effective, a Scheme Participant (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 Kidman will be entitled to disregard any such disposal, purported disposal or agreement.
- 6.2.5 For the purpose of determining entitlements to the Scheme Consideration, Kidman must procure the maintenance of the Register in accordance with the provisions of this clause 6.2 until the Scheme Consideration has been paid to the Scheme Participants. The Register in this form will solely determine entitlements to the Scheme Consideration.
- 6.2.6 All statements of holding for Shares (other than statements of holding in favour of Wesfarmers Lithium) 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 Register (other than entries in respect of Wesfarmers Lithium) will cease to have effect except as evidence of entitlement to the Scheme Consideration in respect of the Scheme Shares relating to that entry.
- 6.2.7 As soon as possible after the Record Date, and in any event at least 3 Business Days before the Implementation Date, Kidman will procure that details of the names, registered addresses and holdings of Shares for each Scheme Participant as shown in the Register as at the Record Date are available to Wesfarmers Lithium in the form Wesfarmers Lithium reasonably requires.

7. Quotation of Shares

- 7.1 Kidman must apply to ASX for suspension of trading in Shares on ASX with effect from the close of trading on the Effective Date.
- 7.2 On a date after the Implementation Date to be determined by Wesfarmers Lithium (acting reasonably and subject to the Listing Rules), Kidman must apply to ASX for the termination of the official quotation of Shares on ASX and to have Kidman removed from the official list of ASX.

8. General Scheme provisions

8.1 Consent to amendments to this Scheme

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

- 8.1.1 Kidman may by its counsel consent on behalf of all persons concerned to those alterations or conditions to which Wesfarmers Lithium has consented; and
- 8.1.2 each Scheme Participant agrees to any such alterations or conditions which counsel for Kidman has consented in accordance with clause 8.1.1.

8.2 Scheme Participants' agreements and warranties

- 8.2.1 Each Scheme Participant:
- (a) agrees to the transfer of their Scheme Shares to Wesfarmers Lithium together with all rights and entitlements attaching to those Shares in accordance with this Scheme;

- (b) agrees to the variation, cancellation or modification of the rights attached to their Scheme Shares constituted by or resulting from this Scheme;
- (c) agrees:
 - (i) that after the transfer of their Scheme Shares to Wesfarmers Lithium, any statement of holdings for Shares relating to their Scheme Shares will not constitute evidence of title to those Scheme Shares; and
 - (ii) at the direction of Wesfarmers Lithium, to destroy any statement of holdings for Shares relating to their Scheme Shares; and
- (d) acknowledges that this Scheme binds Kidman and all Scheme Participants (including those who did not attend the Scheme Meeting and those who did not vote, or voted against this Scheme, at the Scheme Meeting).

8.2.2 Each Scheme Participant is taken to have warranted to Wesfarmers Lithium, and appointed and authorised Kidman as its attorney and agent to warrant to Wesfarmers Lithium, on the Implementation Date that, as at the Implementation Date:

- (a) all their Scheme Shares (including any rights and entitlements attaching to their Scheme Shares) which are transferred under this Scheme will, at the time of transfer of them to Wesfarmers Lithium, be fully paid and free from all:
 - (i) mortgages, charges, liens, encumbrances, pledges, security interests (including any 'security interests' within the meaning of section 12 of the *Personal Properties Securities Act 2009* (Cth)) and interests of third parties of any kind, whether legal or otherwise; and
 - (ii) restrictions on transfer of any kind; and
- (b) they have full power and capacity to transfer their Scheme Shares to Wesfarmers Lithium together with any rights attaching to those Scheme Shares;
- (c) they have no existing right to be issued any Shares, or any other Kidman securities.

8.2.3 Kidman undertakes that it will provide the warranties in clause 8.2.2 to Wesfarmers Lithium as agent and attorney for each Scheme Participant.

8.3 Title to and rights in Scheme Shares

8.3.1 To the extent permitted by law, the Scheme Shares (including all rights and entitlements attaching to the Scheme Shares) transferred under this Scheme will, at the time of transfer of them to Wesfarmers Lithium, vest in Wesfarmers Lithium free from all:

- (a) mortgages, charges, liens, encumbrances, pledges, security interests (including any 'security interests' within the meaning of section 12 of the *Personal Properties Securities Act 2009* (Cth)) and interests of third parties of any kind, whether legal or otherwise; and
- (b) restrictions on transfer of any kind.

8.3.2 Upon the provision of the Scheme Consideration to each Scheme Participant in accordance with clauses 5.2.2 and 5.2.3, Wesfarmers Lithium will be beneficially entitled to the Scheme Shares to be transferred to it under this Scheme pending registration by Kidman of Wesfarmers Lithium in the Register as the holder of the Scheme Shares. Wesfarmers Lithium's entitlement to be registered in the Register as the holder of the Scheme Shares arises on the Implementation Date in accordance with clause 4.2.

8.4 Appointment of sole proxy

Immediately upon the provision of the Scheme Consideration to each Scheme Participant in the manner contemplated by clauses 5.2.2 and 5.2.3 and until Kidman procures the registration of Wesfarmers Lithium as the holder of all Scheme Shares in the Register, each Scheme Participant:

- 8.4.1 is deemed to have irrevocably appointed Wesfarmers Lithium as attorney and agent (and directed Wesfarmers Lithium in each such capacity) to appoint any director, officer, secretary or agent nominated by Wesfarmers Lithium 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 whether in person, by proxy or by corporate representative;
- 8.4.2 undertakes not to attend or vote at any Shareholders' meetings or sign any shareholders' resolutions, whether in person, by proxy or by corporate representative (other than pursuant to clause 8.4.1);
- 8.4.3 must take all other actions in the capacity of a registered holder of Scheme Shares as Wesfarmers Lithium reasonably directs; and
- 8.4.4 acknowledges and agrees that in exercising the powers conferred by clause 8.4.1, Wesfarmers Lithium and any director, officer, secretary or agent nominated by Wesfarmers Lithium under that clause may act in the best interests of Wesfarmers Lithium as the intended registered holder of the Scheme Shares.

8.5 Authority given to Kidman

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

- 8.5.1 on the Effective Date, irrevocably appoints Kidman and each of its directors, officers and secretaries (jointly and each of them severally) as its attorney and agent for the purpose of:
 - (a) enforcing the Deed Poll against Wesfarmers Lithium; and
 - (b) executing any document, or doing or taking any other act, necessary, desirable or expedient to give effect to and to implement this Scheme and the transactions contemplated by it, including executing, as agent and attorney of each Scheme Shareholder, the Scheme Transfer as contemplated by clause 4.2,
 and Kidman accepts such appointment; and
- 8.5.2 on the Implementation Date, will be deemed to have authorised Kidman to do and execute all acts, matters, things and documents on the part of each Scheme Participant necessary to implement this Scheme, including executing, as agent and attorney of each Scheme Shareholder, a share transfer or transfers in relation to Scheme Shares as contemplated by clause 8.5.1.

- (k) a person includes the legal personal representatives, successors and permitted assigns of that person, and in the case of a trustee, includes any substituted or additional trustee; and
- (l) any body (**Original Body**) which no longer exists or has been reconstituted, renamed, replaced or whose powers or functions have been removed or transferred to another body or agency, is a reference to the body which most closely serves the purposes or objects of the Original Body.

9.2 A clause in this Deed must not be construed adversely to a party merely because that party prepared it or caused it to be prepared.

10. General

10.1 Stamp duty

Wesfarmers Lithium will:

- 10.1.1 pay all stamp duty (if any) and any related fines and penalties payable on or in respect of the transfer by the Scheme Participants of the Scheme Shares to Wesfarmers Lithium pursuant to this Scheme or the Deed Poll; and
- 10.1.2 indemnify each Scheme Participant against any liability incurred by the Scheme Participant arising from failure to comply with clause 10.1.1.

10.2 Consent

Each Scheme Participant consents to Kidman and Wesfarmers Lithium doing all things necessary or incidental to give full effect to the implementation of this Scheme and the transactions contemplated by it.

10.3 Notices

- 10.3.1 If a notice, transfer, transmission application, direction or other communication referred to in this Scheme is sent by post to Kidman, 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 Kidman's registered office or at the office of the Registry.
- 10.3.2 The accidental omission to give notice of the Scheme Meeting or the non-receipt of such notice by a Scheme Participant will not, unless so ordered by the Court, invalidate the Scheme Meeting or the proceedings of the Scheme Meeting.

10.4 Governing law and jurisdiction

- 10.4.1 This Scheme is governed by the laws in force in Victoria, Australia.
- 10.4.2 Each party irrevocably:
 - (a) submits to the non-exclusive jurisdiction of the courts of Victoria, Australia, Commonwealth courts having jurisdiction in that State and the courts competent to determine appeals from those courts, with respect to any proceedings that may be brought at any time relating to this Scheme; and
 - (b) waives any objection it may have now or in the future to the venue of any proceedings, and any claim it may have now or in the future that any

proceedings have been brought in an inconvenient forum, if that venue falls within clause 10.4.2(a).

10.5 Further action

Kidman (on its own behalf and on behalf of each Scheme Participant) must do all things and execute all documents necessary to give full effect to this Scheme and the transactions contemplated by it.

10.6 No liability when acting in good faith

Each Scheme Participant agrees that none of Kidman, Wesfarmers Lithium, or any of their respective Representatives, will 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 Deed Poll



Attachment 6 Deed Poll



Maddocks

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Australia

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Deed Poll

**In favour of each person registered as a holder of fully paid ordinary shares in
Kidman (other than an Excluded Shareholder) as at the Record Date**

**Wesfarmers Lithium Pty Ltd ACN 633 472 803
and**

Wesfarmers Limited ACN 008 984 049

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Implementation Deed, this deed poll and the Corporations Act in relation to the Scheme.

- C. Wesfarmers Lithium enters into this deed poll for the purpose of covenanting in favour of the Scheme Participants to perform its obligations and actions under the Scheme.
- D. Wesfarmers enters into this deed poll for the purposes of:
 - D.1 performing its obligations and actions under the Scheme;
 - D.2 covenanting in favour of Scheme Participants to procure that Wesfarmers Lithium performs all obligations and actions attributed to it under the Scheme; and
 - D.3 guaranteeing the due and punctual performance of Wesfarmers' Lithium of all of its obligations and actions attributed to it under the Scheme.

The parties agree

1. Definitions and Interpretation

1.1 Defined Terms

Unless the context otherwise requires, terms defined in the Scheme Implementation Deed (other than words and expressions defined in this deed poll) have the same meaning when used in this deed poll.

1.2 Interpretation

The rules in clause 19 of the Scheme Implementation Deed apply in interpreting this deed poll (unless the context makes it clear that a rule is not intended to apply, save that references to 'Deed' in that clause will be taken to be references to 'deed poll').

1.3 Nature of deed poll

Wesfarmers and Wesfarmers Lithium acknowledge and agree that:

- 1.3.1 this deed poll may be relied on and enforced by any Scheme Participant in accordance with its terms even though the Scheme Participants are not party to it; and
- 1.3.2 under the Scheme, each Scheme Participant irrevocably appoints Kidman and each of its directors, officers and secretaries (jointly and each of them severally) as its attorney and agent to enforce this deed poll against Wesfarmers and Wesfarmers Lithium.

2. Conditions precedent and termination

2.1 Conditions

The obligations of Wesfarmers and Wesfarmers Lithium under this deed poll are subject to the Scheme becoming Effective.

2.2 Termination

This deed poll and the obligations of Wesfarmers and Wesfarmers Lithium under this deed poll will automatically terminate, and the terms of this deed poll will be of no further force or effect if:

2.2.1 the Scheme Implementation Deed is terminated in accordance with its terms; or

2.2.2 the Scheme does not become Effective by the End Date,

unless Kidman, Wesfarmers and Wesfarmers Lithium otherwise agree in writing.

2.3 Consequences of termination

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

2.3.1 Wesfarmers and Wesfarmers Lithium are released from their obligations to further perform this deed poll; and

2.3.2 each Scheme Participant retains any rights, powers or remedies they have against Wesfarmers and Wesfarmers Lithium in respect of any breach of this deed poll which occurred before it was terminated.

3. Scheme obligations and actions

3.1 Performance of the Scheme

Subject to clause 2, Wesfarmers Lithium undertakes in favour of each Scheme Participant that it will duly and punctually observe and perform all obligations and actions attributed to it under the Scheme as if named as a party to the Scheme, including all obligations and actions attributed to it relating to the provision of the Scheme Consideration, in accordance with the terms of the Scheme.

3.2 Wesfarmers' obligations and guarantee

Subject to clause 2, Wesfarmers undertakes in favour of each Scheme Participant:

3.2.1 to duly and punctually observe and perform all obligations and actions attributed to it under the Scheme as if named as a party to the Scheme;

3.2.2 to procure that Wesfarmers Lithium performs all obligations and actions attributed to it under the Scheme; and

3.2.3 to guarantee the due and punctual performance of Wesfarmers Lithium of all of its obligations and actions attributed to it under the Scheme.

4. Warranties

Each of Wesfarmers and Wesfarmers Lithium represents and warrants in favour of each Scheme Participant that it:

4.1 is a corporation validly existing under the laws of its place of incorporation;

- 4.2 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;
- 4.3 has not suffered an Insolvency Event;
- 4.4 has taken all necessary corporate action to authorise the entry into this deed poll and has taken or will take all necessary corporate action to authorise the performance of this deed poll and to carry out the transactions contemplated by this deed poll; and
- 4.5 is legally bound by this deed poll, and this deed poll does not and will not result in a breach of, or default under any provision of, its constitution or any term of any order, judgment or law which it is a party to or is subject to or by which it is bound or any term or provision of any material agreement to which it is a party.

5. Continuing obligations

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

- 5.1.1 both Wesfarmers and Wesfarmers Lithium having fully performed their respective obligations under this deed poll; or
- 5.1.2 termination of this deed poll under clause 2.2.

6. General

6.1 Further assurances

Wesfarmers and Wesfarmers Lithium will, at their own expense, do all things reasonably required of it and execute all documents reasonably necessary to give full effect to this deed poll and the transactions contemplated by it.

6.2 Stamp duty

- 6.2.1 Wesfarmers Lithium must:
 - (a) be responsible for its own costs arising out of the negotiation, preparation and execution of this deed poll;
 - (b) pay or procure the payment of all stamp duty (if any) and any related fines and penalties payable on or in respect of the transfer by the Scheme Participants of the Scheme Shares to Wesfarmers Lithium pursuant to the Scheme or this deed poll; and
 - (c) indemnify each Scheme Participant against any liability arising from failure to comply with clause (b).
- 6.2.2 Wesfarmers must be responsible for its own costs arising out of the negotiation, preparation and execution of this deed poll.

6.3 Notices

6.3.1 Any notice or other communication to Wesfarmers and /or Wesfarmers Lithium in connection with this deed poll must be:

- (a) in legible writing in English;
- (b) signed by the person making the communication or that person's duly authorised agent; and
- (c) given by hand delivery, pre-paid post or email in accordance with the details set out below:

Attention: Aleks Spaseska, Company Secretary
Address: Level 14, Brookfield Tower 2, 123 St Georges Terrace, Perth WA 6000
Email: aspaseska@wesfarmers.com.au

with a copy (for information purposes only) to:

Attention: Andrew Pascoe, Partner, Allens
Address: Level 37, QV1 Building, 250 St Georges Terrace, Perth WA 6000
Email: andrew.pascoe@allens.com.au

6.3.2 Subject to clause 6.3.3, any notice or other communication given in accordance with clause 6.3.1 will be deemed to have been duly given as follows:

- (a) if delivered personally or left at the person's address, upon delivery;
- (b) if posted within Australia to an Australian address:
 - (i) using express post, 2 Business Days after posting; and
 - (ii) using any other prepaid post, 6 Business Days after posting;
- (c) if posted to an address in a different country, 10 Business Days after posting; and
- (d) if delivered by email, at the time the email left the sender's email system, unless the sender receives notification that the email was not received by the recipient.

6.3.3 Any notice or other communication that, pursuant to clause 6.3.2 would be deemed to be given:

- (a) other than on a Business Day or after 5:00 pm on a Business Day is regarded as given at 9:00am on the following Business Day; and
- (b) before 9:00 am on a Business Day is regarded as given at 9:00 am on that Business Day,

where references to time are to time in the place the recipient is located.

6.4 Cumulative rights

The rights, powers and remedies of Wesfarmers, Wesfarmers Lithium and the Scheme Participants under this deed poll are cumulative with and do not exclude the rights, powers or remedies provided by law independently of this deed poll.

6.5 Waiver and variation

6.5.1 A party waives a right under this deed poll only by written notice that it waives that right. A waiver is limited to the specific instance to which it relates and to the specific purpose for which it is given.

6.5.2 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 poll by any party will not in any way preclude, or operate as a waiver of, any exercise or enforcement, or further exercise or enforcement, of that or any other right, power or remedy provided by law or under this deed poll.

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

(a) if before the First Court Date, the variation is agreed to by Kidman in writing; or

(b) if on or after the First Court Date, the variation is agreed to by Kidman in writing and the Court indicates that the variation would not of itself preclude approval by the Court of the Scheme,

in which event Wesfarmers and Wesfarmers Lithium must enter into a further deed poll in favour of the Scheme Participants giving effect to the variation.

6.6 Assignment

6.6.1 The rights of each Scheme Participant created by this deed poll must not be assigned, encumbered or otherwise dealt with at law or in equity without the prior written consent of Wesfarmers and Wesfarmers Lithium.

6.6.2 Any purported dealing in contravention of clause 6.6.1 is invalid.

6.7 Governing law and jurisdiction

6.7.1 This deed poll is governed by the laws in force in Victoria, Australia.

6.7.2 Each party irrevocably:

(a) submits to the non-exclusive jurisdiction of the courts of Victoria, Australia, Commonwealth courts having jurisdiction in that State and the courts competent to determine appeals from those courts, with respect to any proceedings that may be brought at any time relating to this deed poll; and

(b) waives any objection it may have now or in the future to the venue of any proceedings, and any claim it may have now or in the future that any proceedings have been brought in an inconvenient forum, if that venue falls within clause 6.7.2(a).



Execution Page

Executed as a deed poll.

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

Signed Sealed and Delivered for Wesfarmers Lithium Pty Ltd ACN 633 471 803 by its attorney under power of attorney dated 21 May 2019 in the presence of:

Witness Signature

Attorney Signature

Print Name

Print Name

Signed Sealed and Delivered for Wesfarmers Limited ACN 008 984 049 by its attorney under power of attorney dated 22 May 2019 in the presence of:

Witness Signature

Attorney Signature

Print Name

Print Name