

NAMOI COTTON LIMITED (ASX: NAM)
LDC INTENTION TO MAKE AN OFF-MARKET TAKEOVER OFFER AT \$0.60 PER SHARE

Namoi Cotton Limited ('Namoi') advises that it has received notification from Louis Dreyfus Company Melbourne Holdings Pty Ltd ('LDC') in respect to LDC's intention to make an off-market takeover ('Takeover Offer') for the remaining ~83% of issued shares in Namoi that it (or its related entities) does not currently own. Under the proposed Takeover Offer, Namoi shareholders would receive a total cash consideration of \$0.60 per share¹ ('Offer Price') with the proposed Takeover Offer subject to the following conditions:

- a 50.1% minimum acceptance condition;
- receipt of the required regulatory approvals from the ACCC and FIRB; and
- no 'Prescribed Occurrences'.

The Offer Price represents a significant premium to Namoi's undisturbed² historical market prices:

- 69% to the closing price on 27 November 2023 of \$0.355 per share;
- 61% to the 3-month VWAP on 27 November 2023 of \$0.372 per share; and
- 20% to the scheme consideration of \$0.50 offered by the LDC Group adjusting for the permitted special dividend announced on 17 April 2024 (refer below).

A copy of the correspondence from LDC which contains the key terms of the Takeover Offer is attached to this announcement. Namoi has agreed to certain key terms with LDC which are set out in the attachment to this announcement, including a break fee payable by Namoi in certain circumstances and a notification and matching right in respect of competing proposals.

The formal Takeover Offer will be made via a Bidder's Statement to be dispatched by LDC to Namoi shareholders.

Termination of the Scheme Implementation Agreement with LDC

Namoi had previously entered into a Scheme Implementation Agreement ('SIA') with LDC's parent company, Louis Dreyfus Company Asia Pte. Ltd ('LDCA') on 19 January 2024 whereby LDCA would acquire the remaining ~83% of issued shares in Namoi that it does not currently own, by way of a scheme arrangement ('Scheme').

Under the Scheme, Namoi shareholders would have received a total cash consideration of \$0.50 per share (adjusted for the dividend of \$0.01 per share to Namoi shareholders post execution of the SIA).

In light of the proposed Takeover Offer from LDC, Namoi and LDCA have mutually agreed to terminate the SIA.

¹ Exclusive of the \$0.01 per share dividend announced on 17 April 2024. Under the Takeover Offer, Namoi is not entitled to declare any additional special dividends. Namoi is permitted to declare ordinary dividends consistent with past practice, however these will reduce the cash consideration under the Takeover Offer by an equivalent amount per share.

² Prior to the announcement of the NBIO on 28 November 2023.

Independent Namoi directors' recommendation

On the basis LDC lodges a Bidder's Statement reflecting the terms of the Takeover Offer consistent with this announcement, Namoi's Independent Directors³ intend to recommend that Namoi shareholders accept the Takeover Offer, in the absence of a superior proposal and subject to an independent expert concluding (and continuing to conclude) that the Takeover Offer is fair and reasonable to Namoi shareholders.

STAM intention

Samuel Terry Asset Management Pty Ltd (as trustee for Samuel Terry Absolute Return Group) ('STAM'), with a 23.3% shareholding in Namoi, has confirmed to Namoi that, subject to the terms of the Takeover Offer being consistent with this announcement, it intends to accept the Takeover Offer in respect of all the Namoi Shares that it holds as at the date of acceptance (such acceptance to occur on the later of (i) the business day following the day on which the Takeover Offer becomes unconditional (or would be unconditional taking into account STAM's acceptance of the Takeover Offer); and (ii) 21 days after the opening of the offer), absent a superior proposal and subject to an independent expert concluding (and continuing to conclude) that the Takeover Offer is fair and reasonable to Namoi shareholders.

OLAM update

On 21 March 2024, Namoi previously advised that it had received a non-binding, indicative and conditional offer ('NBIO') from Olam Agri Holdings Limited ('Olam') for a total cash consideration of \$0.59 (\$0.58 plus the \$0.01 dividend announced on 17 April 2024) per share to be executed via a scheme of arrangement ('Proposed Olam Scheme'). Olam also announced its willingness to consider a concurrent takeover ('Proposed Olam Takeover'), in the event the Proposed Olam Scheme was not approved, at a total cash consideration of \$0.57 per share (\$0.56 plus the \$0.01 dividend announced on 17 April 2024). Olam's NBIO was subject to a number of conditions.

Namoi notes that the proposed Takeover Offer from LDC represents a premium to both the Proposed Olam Scheme and the Proposed Olam Takeover and accordingly does not intend to proceed with Olam on the basis of its NBIO.

Next steps

Namoi shareholders do not need to take any action. Namoi will continue to keep shareholders and the market informed of material developments associated with the proposed Takeover Offer from LDC.

Blackpeak Capital is acting as financial advisor to Namoi. KWM is acting as legal advisor to Namoi.

This announcement was approved by the Independent Directors of Namoi.

For further information, please contact:

Namoi Cotton Limited
Tim Watson
Executive Chairman
(07) 4631 6100

³ Sarah Scales, LDC's appointed representative to the Namoi Board, will abstain from making a recommendation to shareholders due to her association with LDC.



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Melbourne Holdings Pty Ltd
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29 April 2024

By email

Tim Watson
Executive Chair
Namoi Cotton Limited

Dear Tim

Terms for proposed off-market takeover offer in relation to Namoi Cotton Limited (ASX: NAM)

1 Louis Dreyfus Company Melbourne Holdings Pty Ltd (**LDC**), a subsidiary of Louis Dreyfus Company B.V. (together with its affiliates entities, the **LDC Group**) proposes to announce an off-market takeover offer to acquire all of the shares in Namoi Cotton Limited (**Namoi**), on the following terms:

- (a) LDC will offer to acquire all of the Namoi shares not already owned or controlled by a member of the LDC Group for a total cash payment of A\$0.60 per share (**Offer Price**), which is exclusive of the \$0.01 per share dividend declared by Namoi on 17 April 2024 (**Namoi Permitted Special Dividend**). In aggregate, the Offer Price plus the Namoi Permitted Special Dividend is equal to \$0.61 per share.

The Offer Price represents a significant premium to Namoi's undisturbed historical market prices:

- (i) 69% to the closing price on 27 November 2023 of \$0.355;
- (ii) 65% to the 1-month VWAP on 27 November 2023 of \$0.364; and
- (iii) 61% to the 3-month VWAP on 27 November 2023 of \$0.372; and
- (iv) 20% to the scheme consideration offered by the LDC Group of \$0.50 adjusting for the Namoi Permitted Special Dividend;
- (b) LDC intends for this offer to be subject to limited conditions, being:
- (i) the LDC Group increasing its relevant interest in Namoi to 50.1% of Namoi shares on issue (on a fully diluted basis);
- (ii) receipt of the required regulatory approvals from the ACCC and FIRB; and
- (iii) no Prescribed Occurrences,

which are set out in more detail in Annexure A of this letter (the **Takeover Proposal**).

2 LDC will fund the Takeover Proposal from fully available and undrawn revolving credit facilities.

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- 3 LDC is in a position to proceed with the Takeover Proposal provided the following are agreed by Namoi in accordance with this letter:
- (a) **Termination of SIA:** Namoi and the LDC Group mutually agreeing to terminate the scheme implementation agreement dated 19 January 2024 (**SIA**) in accordance with the terms set out in Annexure A of this letter;
 - (b) **Unanimous recommendation from Independent Directors on the Namoi Board:** Namoi procuring its Independent Directors, unanimously recommend to Namoi shareholders (other than Excluded Shareholders) to accept the Takeover Proposal, as set out in Annexure A, subject only to the absence of a Superior Proposal (as that term is defined in Annexure A, which is consistent with the SIA) and the Independent Expert concluding, and continuing to conclude, that the Takeover Proposal is fair and reasonable to Namoi Shareholders;
 - (c) **Break fee:** Namoi and LDC mutually agreeing to a break fee on the terms set out in Annexure A of this letter, which is substantially consistent with the break fee agreed between the parties under the SIA;
 - (d) **Assistance with regulatory approvals:** Namoi continuing to provide all assistance reasonably requested by LDC in relation to its ACCC and FIRB applications;
 - (e) **Bidder's Statement:** We propose Namoi:
 - (i) consents to the accelerated dispatch of LDC's bidder's statement 7 days after it is lodged with ASIC in accordance with step 6 in section 633(1) of the Corporations Act; and
 - (ii) agrees to promptly provide LDC with all details regarding the share register including information validly requested pursuant to section 641 of the Corporations Act and beneficial ownership details.
 - (f) **Replacement Bidder's Statement(s):** in the event LDC is required to issue a replacement bidder's statement in accordance with section 633A of the Corporations Act (as modified by *ASIC Corporations (Replacement Bidder's and Target's Statements) Instrument 2023/688*), following lodgement of the Takeover Proposal by LDC with ASIC, Namoi agrees to the accelerated dispatch of such replacement bidder's statement to Namoi's shareholders in accordance with any requests which may be made by LDC;
 - (g) **Restrictions in relation to Competing Proposals:** following announcement of the Takeover Proposal, to the extent a Competing Proposal (as that term is defined in Annexure A (which is consistent with the SIA)) emerges, the Namoi Board will:
 - (i) not consent to the accelerated dispatch of that party's bidder's statement or replacement bidder's statement which reduces the timeframe by more than the reduction granted to LDC;
 - (ii) grant LDC a matching right in relation to that Competing Proposal, on the terms set in Annexure A (which are consistent with the rights agreed in the SIA); and
 - (iii) provide LDC with a notification right on the terms set in Annexure A (which are consistent with the rights agreed in the SIA) in relation to any Competing Proposal;
 - (h) **No special dividend:** during the offer period under the Takeover Proposal, Namoi agrees to not declare any additional special dividends. Namoi is permitted to declare ordinary dividends consistent with past practice however there will be an equivalent reduction in the Offer Price for any ordinary dividends declared; and
 - (i) **Work Plans:** LDC and Namoi agree to continue to be bound by the terms of the Namoi Performance Rights Work Plan, the Namoi Remuneration Work Plan and the Namoi FY25 Remuneration Work Plan, which are not terminated and remain in full force and effect.

4 **General**

- (a) This letter may be executed in counterparts and this has the same effect as if the signatures on the counterparts were on a single copy of this Agreement.
- (b) Pursuant to the Corporations Act, a company may execute this letter by each of its officers signing electronically or in wet ink, and each officer may sign a separate counterpart of this document. If execution is under common seal, the fixing of the seal may be observed by electronic means.
- (c) This letter will be governed by and construed in accordance with the laws in force in the State of New South Wales and each party submits to the non-exclusive jurisdiction of the courts of that State.

5 LDC believes the Takeover Proposal represents a compelling and mutually attractive opportunity for both Namoi and the LDC Group and their respective stakeholders. We and our advisers are available to answer any questions regarding the Takeover Proposal and look forward to hearing from you at your earliest convenience.

6 Please sign and return a copy of this letter to confirm your acceptance of its terms by no later than **9:00am (AEST) on 29 April 2024**.

Yours sincerely

DocuSigned by:

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Name: Rubens Marques

For and on behalf of Louis Dreyfus Company Melbourne Holdings Pty Ltd

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Namoi acknowledge and agrees to the terms and conditions of this letter:

EXECUTED by NAMOI COTTON LIMITED)
ACN 010 485 588 by:)

DocuSigned by:

524B5F8B7A70487
Signature of director

Tim Watson
Full name of director (print)

On date: 29 April 2024

DocuSigned by:

3876612FF50C434...

Signature of director/company secretary
(delete as applicable)

Andrew Baldwin
Full name of director/company secretary
(print) (delete as applicable)

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Annexure A – Terms and Conditions

1 Definitions and interpretation

1.1 Definitions

Unless the contrary intention appears, these meanings apply:

ACCC	means the Australian Competition and Consumer Commission.
ACCC Clearance Condition	means the Takeover Condition in clause 4(c) of this Annexure.
Affiliate	<p>means, in respect of LDC:</p> <ul style="list-style-type: none"> (a) a person Controlled directly or indirectly by LDC; (b) a person Controlling directly or indirectly LDC; (c) a person directly or indirectly Controlled by a person who Controls LDC (whether alone or with another person or persons); or (d) a person directly or indirectly under the common Control of LDC and another person or persons, <p>and for the avoidance of doubt includes Louis Dreyfus Company B.V. and any company or legal entity directly or indirectly controlled by Louis Dreyfus Company B.V. but expressly excludes other entities controlling Louis Dreyfus Company B.V.</p>
Announcement Date	means the date on which LDC announces publicly that it proposes to make the Takeover Proposal.
ASIC	means the Australian Securities & Investments Commission.
ASX	means ASX Limited, or the market operated by it, as the context requires.
Break Fee	means AU\$1,000,000.
Business Day	means a business day as defined in the Listing Rules.
Competing Transaction	<p>means a proposal, agreement, transaction, or arrangement (whether by way of takeover bid, scheme of arrangement, capital reduction, sale of assets, sale or issue of securities, joint venture or otherwise) which, if completed, would mean a person (other than LDC or its Affiliates) whether alone or together with its Associates would:</p> <ul style="list-style-type: none"> (a) directly or indirectly, acquire an interest or Relevant Interest in or become the holder of 20% or more of the Namoi Shares (other than as custodian, nominee or bare trustee); (b) acquire control of Namoi, within the meaning of section 50AA of the Corporations Act; (c) directly or indirectly acquire, or become the holder of, or otherwise acquire or obtain a right to acquire, or otherwise obtain a legal, beneficial or an economic interest in, or

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- control of, all or a substantial part or a material part of the assets of or business conducted by the Namoi Group; or
- (d) otherwise directly or indirectly acquire or merge (including by a reverse takeover bid or dual listed company structure) with Namoi.
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Control means, with respect to any person other than an individual, the possession of the power to, directly or indirectly:

(a) determine the financial or operating policies of the person;

(b) control the membership of the board or other governing body of the person; or

(c) control the casting of more than one half of the maximum number of votes that may be cast at a general meeting of the person,

regardless of whether the power is in writing or not, express or implied, formal or informal or arises by means of trusts, agreements, arrangements, understandings, practices or otherwise, and **Controlled** and **Controlling** have the corresponding meanings.

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

End Date means 30 September 2024 or such other date as is agreed by LDC and Namoi.

Excluded Shareholder means any Namoi Shareholder who is an LDC Group Member or any Namoi Shareholder who holds any Namoi Shares on behalf of, or for the benefit of, any LDC Group Member and does not hold Namoi Shares on behalf of, or for the benefit of, any other person as at the Announcement Date.

FATA means the *Foreign Acquisitions and Takeovers Act 1975* (Cth).

FIRB means the Foreign Investment Review Board.

FIRB Condition means the Takeover Condition in clause 4(b) of this Annexure.

Independent Directors means, individually, each of the directors from time to time who does not have a conflict of interest due to an association with LDC or any LDC Group Member, which, as at the date of this Annexure, means each of Mr Tim Watson, Mr Robert Green, Ms Juanita Hamparsum, Mr Ian Wilton and Mr James Davies.

Independent Expert means the independent expert appointed by Namoi under clause 3.2(a).

LDC means Louis Dreyfus Company Melbourne Holdings Pty Ltd (ACN 161 877 185).

LDC Board means the board of directors of LDC.

LDC Controlled Entity means a person Controlled directly or indirectly by LDC.

LDC Counterproposal	has the meaning given to that term in clause 6.3.
LDC Group	means LDC and its Affiliates and LDC Group Member means any one of them.
LDC Indemnified Parties	means LDC, its officers, employees and advisers, LDC Controlled Entities and the officers, employees and advisers of each LDC Controlled Entity.
Letter	means this letter agreement between LDC and Namoi dated 29 April 2024.
Listing Rules	means the Listing Rules of ASX and any other applicable rules of ASX modified to the extent of any express written waiver by ASX
Minimum Acceptance Condition	means the Takeover Condition in clause 4(a) of this Annexure.
Namoi	means Namoi Cotton Limited.
Namoi Board	means the board of directors of Namoi (as constituted from time to time and where relevant includes as constituted by the Independent Directors).
Namoi FY25 Remuneration Work Plan	means the remuneration work plan agreed between Namoi and LDC on or about 22 April 2024.
Namoi Group	means Namoi and its Subsidiaries and Namoi Group Member means any one of them.
Namoi Indemnified Parties	means Namoi, its officers, employees, and advisers and its Related Bodies Corporate and the officers, employees and advisers of each of its Related Bodies Corporate.
Namoi Performance Rights	means all performance rights, options or other entitlements for the grant of Namoi Shares which have been issued under long-term incentive plans by Namoi on the date of announcement of the Takeover Proposal or that will be issued in the future pursuant to the Namoi FY25 Remuneration Work Plan.
Namoi Performance Rights Work Plan	means the agreed form document setting out the arrangements to be implemented by Namoi and LDC for the vesting of the Namoi Performance Rights.
Namoi Remuneration Work Plan	means the agreed form document setting out the arrangements to be implemented by Namoi and LDC for the remuneration review of Namoi's directors and employees (including bonuses (if any) and entitlements) in the ordinary course of business for 2023-2024 and 2024-2025 financial years.
Namoi Shares	means an ordinary fully paid share in the capital of Namoi.

NCMA JVA	means the Joint Venture Agreement – Namoi Cotton Marketing Alliance entered into between Namoi, LDC and certain other Namoi Group and LDC Group Members.
Permitted Issue of Securities	means: <ul style="list-style-type: none"> (a) the issue of new performance rights as agreed between Namoi and the LDC Group in the Namoi FY25 Remuneration Work Plan; or (b) the vesting of any Namoi Performance Rights, including as agreed in the Namoi Performance Rights Work Plan or Namoi FY25 Remuneration Work Plan; or (c) the conversion of any Residual Capital Stock (for Residual Capital Stock holders who have already made a valid election to convert their Residual Capital Stock prior to the Announcement Date).
Prescribed Occurrences Condition	means the Takeover Condition in clause 4(d) of this document.
Related Body Corporate	has the meaning it has in the Corporations Act.
Relevant Interest	has the meaning it has in sections 608 and 609 of the Corporations Act.
Representative	means: <ul style="list-style-type: none"> (a) in relation to Namoi: <ul style="list-style-type: none"> (i) a Related Body Corporate; (ii) a director, officer or employee of Namoi or any of Namoi's Related Bodies Corporate; or (iii) an adviser to Namoi or any of Namoi's Related Bodies Corporate, where an "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 (but excludes, for the avoidance of doubt, the Independent Expert); and (b) in relation to LDC: <ul style="list-style-type: none"> (i) an Affiliate; (ii) a director, officer or employee of LDC or any of LDC's Affiliates; or (iii) an adviser to LDC or any of LDC's Affiliates, where an "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.

Superior Proposal	means a bona fide Competing Transaction which the Independent Directors, acting in good faith, and after taking advice from their legal and financial advisers, determine is: <ul style="list-style-type: none"> (a) reasonably capable of being completed taking into account all aspects of the Competing Transaction, including but not limited to its conditions, the identity, reputation, and financial condition of the person or persons making the proposal and relevant legal, regulatory and financial matters, in each case, to the extent known by the Independent Directors; and (b) of a higher financial value if implemented substantially in accordance with its terms, and more favourable to Namoi Shareholders (as a whole) than the Takeover Proposal, taking into account all aspects of the Competing Transaction, including but not limited to consideration, conditionality, funding, certainty and timing.
Takeover Condition	each condition to the Takeover Proposal set out in a paragraph or sub-paragraph of clause 4 of this Annexure.
Takeover Proposal	mean any offer by LDC for all of the issued Namoi Shares by way of takeover bid under Chapter 6 of the Corporations Act on terms no less favourable than the terms set out in the Letter.
Target Statement	means any statement prepared and lodged by Namoi with ASIC in relation to the Takeover Proposal in accordance with the Corporations Act, including any replacement or supplementary statements issued by Namoi.

1.2 General interpretation

Headings and labels used for definitions are for convenience only and do not affect interpretation. Unless the contrary intention appears, in this Annexure:

- (a) the singular includes the plural and vice versa;
- (b) a reference to a document includes any agreement or other legally enforceable arrangement created by it (whether the document is in the form of an agreement, deed or otherwise);
- (c) a reference to a document also includes any variation, replacement or novation of it;
- (d) the meaning of general words is not limited by specific examples introduced by "including", "for example", "such as" or similar expressions;
- (e) a reference to "person" includes an individual, a body corporate, a partnership, a joint venture, an unincorporated association and an authority or any other entity or organisation;
- (f) a reference to a particular person includes the person's executors, administrators, successors, substitutes (including persons taking by novation) and assigns;
- (g) reference to a time of day is a reference to Sydney time;
- (h) reference to dollars, \$ or A\$ is a reference to the currency of Australia;
- (i) reference to "law" includes common law, principles of equity and legislation (including regulations);
- (j) a reference to any legislation includes regulations under it and any consolidations, amendments, re-enactments or replacements of any of them;

- (k) a reference to “regulations” includes instruments of a legislative character under legislation (such as regulations, rules, by-laws, ordinances and proclamations);
- (l) a reference to a group of persons is a reference to any 2 or more of them jointly and to each of them individually;
- (m) a reference to any thing (including an amount) is a reference to the whole and each part of it;
- (n) a period of time starting from a given day or the day of an act or event, is to be calculated exclusive of that day;
- (o) if a party must do something under this Annexure on or by a given day and it is done after 5.00pm on that day, it is taken to be done on the next day, other than as required under clause 6.1;
- (p) if the day on which a party must do something under this Annexure is not a Business Day, the party must do it on the next Business Day, other than as required under clause 6.1; and
- (q) words and phrases which are defined by the Corporations Act have the same meaning in this Annexure, and, if a special meaning is given for the purposes of Chapter 6 or 6A or a provision of Chapter 6 or 6A of the Corporations Act (as relevantly modified by ASIC), have that special meaning.

2 SIA

2.1 Termination of SIA

- (a) LDC and Namoi agree that with effect on and from the Announcement Date, the SIA is terminated pursuant to clause 13.1(f) of the SIA and is of no further effect and neither LDC nor Namoi shall have any further rights, liabilities or obligations, and each party irrevocably and unconditionally releases the other from any and all claims that they have or may have against the other, under the SIA, other than pursuant to clause 13.3(b) of the SIA.
- (b) LDC and Namoi agree and acknowledge that:
 - (i) the call option in clause 14 in the NCMA JVA is amended such that all of the relevant dates are extended by 1 year and for the avoidance of doubt, the relevant Namoi Group Member will have until 1 March 2025 to exercise the relevant call option;
 - (ii) LDC is not entitled to receive the break fee pursuant to clause 10.2 of the SIA; and
 - (iii) Namoi is not entitled to receive the reverse break fee pursuant to clause 11.2 of the SIA;
 as a result of the termination of the SIA under this Annexure.

3 Namoi’s obligations

3.1 Announcement Date

On the Announcement Date, Namoi will announce that:

- (a) the Independent Directors unanimously recommend that Namoi Shareholders should accept the Takeover Proposal; and
- (b) each Independent Director who holds Namoi Shares, intends to accept the Takeover Proposal in respect of his or her Namoi Shares,

in each case, subject to there being no Superior Proposal and the Independent Expert concluding, and continuing to conclude, that the Takeover Proposal is fair and reasonable to Namoi Shareholders.

3.2 Target Statement

- (a) Namoi must:
- (i) promptly appoint the Independent Expert;
 - (ii) provide any assistance and information reasonably requested by the Independent Expert to enable the Independent Expert to prepare its report in relation to the Takeover Proposal as soon as practicable; and
 - (iii) procure the report from the Independent Expert is included in the Target Statement lodged by Namoi in relation to the Takeover Proposal.
- (b) Namoi must use reasonable endeavours to procure that any Target Statement lodged by Namoi includes statements (on the basis of statements made to Namoi by each Independent Director) that:
- (i) the Independent Directors unanimously recommend that Namoi Shareholders should accept the Takeover Proposal; and
 - (ii) each Independent Director who holds Namoi Shares, intends to accept the Takeover Proposal in respect of his or her Namoi Shares,

in each case subject to there being no Superior Proposal and the Independent Expert concluding, and continuing to conclude, that the Takeover Proposal is fair and reasonable to Namoi Shareholders.

3.3 Namoi issued securities

Namoi represents and warrants to LDC that Namoi's issued securities as at the date of this document are:

- (a) 205,314,735 Namoi Shares;
- (b) 1,621,628 Namoi Residual Capital Stock; and
- (c) 1,138,380 Namoi Performance Rights,

and other than as set out in the Namoi Performance Rights Work Plan or the Namoi FY25 Remuneration Work Plan it has not issued or agreed to issue any other securities or instruments which are still outstanding, and which may convert into Namoi Shares.

3.4 Performance rights

Subject to the grant of any required waivers or confirmations from ASX, which Namoi must promptly apply to procure after the Announcement Date, the Namoi Board will vest all of the Namoi Performance Rights and any performance rights issued under the Namoi FY25 Remuneration Work Plan and issue new fully paid ordinary shares to each participant on the next Business Day after LDC has a Relevant Interest in such number of Namoi Shares which represents at least 50.1% (by number) of all of the Namoi Shares (on a fully diluted basis) and the Takeover Proposal is otherwise unconditional.

4 Conditions

The Takeover Proposal is subject to the fulfilment of each Condition set out below:

(a) Minimum Acceptance Condition

Before the end of the offer period under the Takeover Proposal, LDC has a Relevant Interest in such number of Namoi Shares which represents at least 50.1% (by number) of all of the Namoi Shares (on a fully diluted basis).

(b) FIRB Condition

Before the end of the offer period under the Takeover Proposal:

- (i) the Treasurer (or the Treasurer's delegate) has provided a written no objections notification to LDC under FATA to LDC acquiring all of the Namoi Shares under the Takeover Proposal without conditions (other than the conditions set out in the list of 'standard' tax conditions set out in section D of FIRB's guidance note 12 on 'Tax Conditions' (in the form last updated on 10 August 2023 and available on FIRB's website at <https://foreigninvestment.gov.au/sites/foreigninvestment.gov.au/files/2023-08/guidance-note-12-tax-conditions-august-2023.pdf>)); or
- (ii) the Treasurer (and each of the Treasurer's delegates) has ceased to be empowered to make any order or decision under Division 2 of Part 3 of FATA in respect of the acquisition of all of the Namoi Shares by LDC under the Takeover Proposal.

(c) ACCC Clearance Condition

Before the end of the offer period under the Takeover Proposal, the ACCC has advised LDC in writing that it does not intend to oppose, seek to prevent or otherwise intervene in relation to the acquisition of Namoi Shares by LDC (on an unconditional basis).

(d) Prescribed Occurrences Condition

Following lodgement of LDC's bidder's statement with ASIC, none of the following prescribed occurrences (being the events listed in section 652C(1) or (2) of the Corporations Act) happens:

- (i) Namoi converts all or any of its Namoi Shares into a larger or smaller number of shares under section 254H of the Corporations Act;
- (ii) Namoi or a subsidiary resolves to reduce its share capital in any way;
- (iii) Namoi or a subsidiary enters into a buy-back agreement or resolves to approve the terms of such an agreement under sections 257C(1) or 257D(1) of the Corporations Act;
- (iv) Namoi or a subsidiary issues shares or grants an option over its Namoi Shares or agrees to make such an issue or grant such an option;
- (v) Namoi or a subsidiary issues, or agrees to issue, convertible notes;
- (vi) Namoi or a subsidiary disposes or agrees to dispose of the whole, or a substantial part, of its business or property;
- (vii) Namoi or a subsidiary grants, or agrees to grant, a security interest in the whole, or a substantial part of its business or property;
- (viii) Namoi or a subsidiary resolves to be wound up;
- (ix) a liquidator or provisional liquidator of Namoi or of a subsidiary is appointed;
- (x) a court makes an order for the winding up of Namoi or of a subsidiary;
- (xi) an administrator of Namoi, or of a subsidiary, is appointed under sections 436A, 436B or 436C of the Corporations Act;
- (xii) Namoi or a subsidiary executes a deed of company arrangement;
- (xiii) a restructuring practitioner for Namoi, or for a subsidiary, is appointed under section 453B;
- (xiv) Namoi or a subsidiary makes a restructuring plan under Division 3 of Part 5.3B; or

- (xv) a receiver, or a receiver and manager is appointed in relation to the whole, or a substantial part, of the property of Namoi or of a subsidiary.

LDC will not trigger the Prescribed Occurrence Condition in respect of a Permitted Issue of Securities or any matters agreed between Namoi and LDC in writing from time to time.

5 Break Fee

5.1 Background

This clause has been agreed in circumstances where:

- (a) LDC and Namoi believe that the Takeover Proposal will provide significant benefits to LDC, Namoi and their respective shareholders, and LDC and Namoi acknowledge that, if they enter into this Annexure and the Takeover is subsequently not implemented, LDC will have incurred significant costs, including those set out in clause 5.5;
- (b) LDC requested that provision be made for the Break Fee, without which LDC would not have entered into this Annexure;
- (c) both the LDC Board and the Independent Directors believe that it is appropriate for both parties to agree to the payment referred to in this clause to secure LDC's implementation of the Takeover Proposal; and

both parties have received legal advice on this Annexure and the operation of this clause.

5.2 Payment by Namoi to LDC

Namoi agrees to pay the Break Fee to LDC if:

- (a) **(Competing Transaction)** on or before the End Date:
 - (i) a Competing Transaction is announced and within 12 months of the date of such announcement, the third party who made the Competing Transaction completes the Competing Transaction; or
 - (ii) a third party acquires a Relevant Interest in more than 50% of the Namoi Shares under a Competing Transaction that is or has become wholly unconditional;
- (b) **(change of recommendation)** any Independent Director fails to recommend the Takeover Proposal on the basis set out in clause 3.1 or withdraws their recommendation, adversely changes or qualifies their recommendation or otherwise makes a public statement indicating that he or she no longer supports the Takeover Proposal, except where the change of recommendation or statement is made after the Independent Expert concludes that the Takeover Proposal is not fair and reasonable to Namoi shareholders (other than where the Independent Expert changes its conclusion as a result of a Competing Transaction being proposed or announced); or
- (c) **(material breach)** Namoi is in material of a material provision of this Annexure and has failed to rectify that breach within 5 Business Days after such time notice is given.

5.3 No amount payable if Takeover Proposal becomes Effective

Notwithstanding the occurrence of any event in clause 5.2, if LDC becomes the registered legal and beneficial holder of not less than 50.1% of the Namoi Shares (on a fully diluted basis) before the End Date as a result of the transfer of Namoi Shares under the Takeover Proposal:

- (a) no amount is payable by Namoi under clause 5.2; and

- (b) if any amount has already been paid under clause 5.2 it must be refunded by LDC.

5.4 Timing of payment

- (a) A demand by LDC for payment of the Break Fee under clause 5.2 must:
- (i) be in writing;
 - (ii) be made after the occurrence of the event in that clause giving rise to the right to payment;
 - (iii) state the circumstances which give rise to the demand; and
 - (iv) nominate an account in the name of LDC into which Namoi must pay the Break Fee.
- (b) Namoi must pay the Break Fee to LDC under clause 5.2 within 5 Business Days of receipt by Namoi of a valid demand for payment from LDC under clause 5.4(a).

The demand may only be made after the occurrence of an event referred to in clause 5.2.

5.5 Nature of payment

The Break Fee is an amount to compensate LDC for:

- (a) advisory costs;
- (b) costs of management and directors' time;
- (c) out-of-pocket expenses;
- (d) the distraction of LDC's management from conducting LDC's business as usual caused by pursuing the Takeover Proposal;
- (e) reasonable opportunity costs incurred by LDC in pursuing the Takeover Proposal or in not pursuing alternative acquisitions or strategic initiatives which LDC could have developed to further its business and objectives; and
- (f) damage to LDC's reputation associated with a failed transaction and the implications of that damage to LDC's business.

The parties 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 amount payable under clause 5.2.

5.6 Reduction in amount payable

- (a) The Break Fee is reduced by an amount equal to the amount which is recovered by LDC as a result of a claim against Namoi pursuant to any other remedies available to LDC.
- (b) Where the Break Fee has already been paid, LDC must, within 2 Business Days of the event contemplated by clause 5.6(a) which would have reduced the amount payable, refund an amount to Namoi which is equivalent to that calculated under clause 5.6(a).

5.7 Namoi's limitation of liability

Notwithstanding any other provision of this Annexure but subject to clause 5.8:

- (a) the maximum aggregate liability of Namoi to LDC under or in connection with this Annexure including in respect of any breach or repudiation of this Annexure will be an amount equal to the Break Fee; and
- (b) the payment by Namoi of the Break Fee represents the sole, maximum and absolute amount of liability of Namoi and the Namoi Indemnified Parties in aggregate under or in connection with this Annexure and no further damages, fees,

expenses or reimbursements of any kind will be payable by Namoi or the Namoi Indemnified Parties in connection with this Annexure.

5.8 Compliance with law

If it is finally determined following the exhaustion of all reasonable avenues of appeal to the Takeovers Panel or a Court that all or any part of the amount payable under clause 5.2:

- (a) is unlawful or would if performed be, unlawful;
- (b) involves a breach of the duties of the Independent Directors; or
- (c) constitutes unacceptable circumstances within the meaning of the Corporations Act,

then Namoi's obligation to pay the applicable amount or part of the amount payable under clause 5.2 does not apply and if LDC has received any such part of the payment due under clause 5.2 it must refund it within 5 Business Days of such final determination.

The parties must not make or cause or permit to be made any application to a Court, arbitral tribunal or the Takeovers Panel for or in relation to a determination referred to in this clause 5.8.

6 Notification and matching rights

6.1 Notification of approaches

Namoi must promptly (and in any event within 12 hours, unless received after 5:00pm and before 11.59pm, in which case, by no later than 12:00pm on the next day) inform LDC if it, or any of its Related Bodies Corporate or Representatives, receives any unsolicited approach with respect to any Competing Transaction and must disclose to LDC the fact that such an approach has been made and the general nature of the approach (that includes the identity of the proponent, price (or if not cash, implied value), form of consideration, conditions precedent, timing to the extent known by Namoi).

6.2 Matching right

Following the Announcement Date, Namoi:

- (a) must not enter into any legally binding agreement, arrangement or understanding (whether or not in writing) pursuant to which a third party, Namoi or both proposes or propose to undertake or give effect to an actual, proposed or potential Competing Transaction; and
- (b) must use its best endeavours to procure that none of its directors change their recommendation in favour of the Takeover Proposal to publicly recommend an actual, proposed or potential Competing Transaction (or recommend against the Takeover Proposal),

unless:

- (c) the Namoi Board acting in good faith and in order to satisfy what the Namoi Board considers to be its statutory or fiduciary duties (having received written advice from its external legal advisers), determines that the Competing Transaction would be or would be likely to be an actual, proposed or potential Superior Proposal;
- (d) Namoi has provided LDC with the material terms and conditions of the actual, proposed or potential Competing Transaction, including price and the identity of the Third Party making the actual, proposed or potential Competing Transaction;
- (e) Namoi has given LDC 5 Business Days after the date of the provision of the information referred to in clause 6.2(d) to provide a matching or superior proposal to the terms of the actual, proposed or potential Competing Transaction; and

- (f) LDC has not announced or submitted or proposed to Namoi a matching or superior proposal to the terms of the actual, proposed or potential Competing Transaction by the expiry of the 5 Business Day period referred to in clause 6.2(e).

Namoi acknowledges and agrees that each successive modification of any actual, proposed or potential Competing Transaction will constitute a new actual, proposed or potential Competing Transaction for the purposes of the requirements under clauses 6.1 and 6.2 and accordingly Namoi must comply with clause 6.2(a) and clause 6.2(b) of this clause in respect of any new actual, proposed or potential Competing Transaction unless clause 6.2(c) to 6.2(f) (inclusive) apply.

6.3 LDC counterproposal

If LDC proposes or announces a new proposal that constitute a matching or superior proposal to the terms of the actual, proposed or potential Competing Transaction (**LDC Counterproposal**) by the expiry of the 5 Business Day period referred to in clause 6.2(e), Namoi must procure that the Namoi Board considers the LDC Counterproposal and if the Namoi Board, acting reasonably and in good faith, determines that the LDC Counterproposal would provide an equivalent or superior outcome for Namoi Shareholders as a whole compared with the Competing Transaction, taking into account all of the terms and conditions of the LDC Counterproposal, then:

- (a) Namoi and LDC must use their best endeavours to agree the amendments to this document and, if applicable, the Bidder's Statement and Target Statement that are reasonably necessary to reflect the LDC Counterproposal and to implement the LDC Counterproposal, in each case as soon as reasonably practicable; and
- (b) Namoi must use its best endeavours to procure that each of the directors of Namoi continues to recommend the Takeover Proposal (as modified by the LDC Counterproposal) to Namoi Shareholders.

6.4 Legal advice

Namoi and LDC each acknowledge that they have received legal advice on this Annexure and the operation of this clause.