**THINKSMART LIMITED**
**ACN 092 319 698**

# NOTICE OF ANNUAL GENERAL MEETING

**The Annual General Meeting of the Company will be held at the offices of Canaccord Genuity, 88 Wood Street, London EC2V 7QR on Wednesday 11 November 2020, commencing at 8.30am (GMT).**

*This Notice of Annual General Meeting should be read in its entirety. If Shareholders are in doubt as to how they should vote, they should seek advice from their accountant, solicitor or other professional adviser (including professional taxation adviser) prior to voting.*

**Should you wish to discuss any matter please do not hesitate to contact the Company by telephone on +61 (0) 8 9380 8333**

**THINKSMART LIMITED**
**ACN 092 319 698**

## NOTICE OF ANNUAL GENERAL MEETING

Notice is hereby given that the 2020 Annual General Meeting of ThinkSmart Limited (the "Company") ("Meeting") will be held at the offices of Canaccord Genuity, 88 Wood Street, London EC2V 7QR on Wednesday 11 November 2020, commencing at 8.30am (GMT).

In light of the ongoing COVID-19 situation and the United Kingdom government restrictions relating to public gatherings, the Board strongly encourages all Shareholders to lodge a directed proxy form prior to the Meeting. To comply with potential government restrictions on public gatherings in effect at the time of the Meeting, and to otherwise ensure the safety of its Shareholders and other participants, the Company may only be able to admit a limited number of persons to the Meeting and there is a risk that Shareholders intending to attend the Meeting may not be admitted. To address this, the Company will be providing a facility at the offices of Canaccord Genuity in London from 8.30am (GMT) for any Shareholder who had intended to attend the Meeting and vote on the day but is unable to be admitted. This facility will allow such Shareholders to complete a voting card and will be linked to the main Meeting place by an audio communication system to enable the Shareholders to participate in discussion at the Meeting. If the number of attendees at the Meeting may lead to the breach of local public health laws and regulations, the Chairman may postpone or adjourn the Meeting. In the event of the need to postpone or adjourn the Meeting, the Company will provide an update on the AIM platform and its investor website https://www.thinksmartworld.com/investors/.

It is also possible that COVID-19 government restrictions may change prior to the Meeting that make it impractical to hold the Meeting at the offices of Canaccord Genuity. If this occurs, the Company may consider changing the manner in which the Meeting will be held, including the possibility of holding the Meeting via virtual means. In this event, the Company will provide an update on the AIM platform and its investor website https://www.thinksmartworld.com/investors/.

Depositary Interest ("DI") Holders may attend the Meeting but will not be permitted to vote at the Meeting. For their votes to be counted, DI Holders must submit their CREST Voting Instruction to the Company's agent by the required cut-off time set out in section 6 below. Alternatively, DI Holders can vote using the enclosed Form of Instruction as per the instruction set out in section 7 below.

The Explanatory Memorandum to this Notice provides additional information on matters to be considered at the Meeting. The Explanatory Memorandum and the Proxy Form, or Form of Instruction if you are a DI Holder, form part of this Notice.

The directors have determined pursuant to regulation 7.11.37 of the *Corporations Regulations 2001* (Cth) that the persons eligible to vote at the Meeting are those who are registered as ordinary shareholders of the Company ("Shareholders") on Monday 9 November 2020 at 4.30 pm (AWST).

The 2020 Annual Report is available on the Company's website: www.thinksmartworld.com

### 1. Financial Reporting

To receive and consider the financial report of the Company and the consolidated entity (the "Group") and the reports of the directors and the auditors for the financial year ended 30 June 2020. There is no vote on this item.

### 2. Resolution 1 – Retirement and Re-election of Director – Mr David Adams

To consider and, if thought fit, pass the following resolution as an ordinary resolution:

"That Mr David Adams, being a director of the Company who retires in accordance with rule 8.1(d) and 8.1(e) of the Company's Constitution, and being eligible, is re-elected as a director of the Company."

### 3. Resolution 2 – Return of Capital to Shareholders

To consider and, if thought fit, pass the following resolution as an ordinary resolution:

"That, for the purposes of Part 2J.1 of the *Corporations Act 2001* (Cth) and for all other purposes, approval is given for the Company to reduce its share capital by A$4,872,832.22 by way of equal capital reduction, to be effected by the Company paying up to A$0.04575 per share to each registered holder of shares in the Company as at the record date of 5:00pm (GMT) on Friday, 13th November 2020, on the terms set out in the Explanatory Memorandum".

**4. Entitlement to Vote**

It has been determined that under regulation 7.11.37 of the *Corporations Regulations 2001* (Cth), for the purposes of the Annual General Meeting, shares will be taken to be held by the persons who are the registered holders at **4.30pm (AWST) on Monday 9 November 2020.** Accordingly, share transfers registered after that time will be disregarded in determining entitlements to attend and vote at the meeting.

**5. Proxies**

A Proxy Form is attached to the Notice. This is to be used by Shareholders if they wish to appoint a representative (a 'proxy') to vote in their place. All Shareholders are strongly encouraged to sign and return the Proxy Form to the Company prior to the Meeting in accordance with the instructions thereon. Lodgement of a Proxy Form will not preclude a Shareholder from attending and voting at the Meeting in person, subject to the Meeting limitations noted above.

Please note that:

(a) a member of the Company entitled to attend and vote at the Meeting is entitled to appoint a proxy;

(b) a proxy need not be a member of the Company and can either be an individual or body corporate; and

(c) a member of the Company entitled to cast two or more votes may appoint two proxies and may specify the proportion or number of votes each proxy is appointed to exercise, but where the proportion or number is not specified, each proxy may exercise half of the votes.

If a Shareholder appoints a body corporate as a proxy, that body corporate will need to ensure that it:

(a) appoints an individual as its corporate representative to exercise its powers at the Meeting, in accordance with section 250D of the *Corporations Act 2001* (Cth); and

(b) provides satisfactory evidence of the appointment of its corporate representative at the Meeting.

If such evidence is not received at the Meeting, then the body corporate (through its representative) will not be permitted to act as a proxy.

The enclosed Proxy Form provides further details on appointing proxies and lodging Proxy Forms.

A Proxy Form accompanies this Notice and to be effective must be received by the Company: **by no later than 4.30pm (AWST) on Monday 9 November 2020**.

## 6. United Kingdom (CREST Voting Instruction)

DI Holders in CREST may transmit voting instructions by utilising the CREST voting service in accordance with the procedures described in the CREST Manual. CREST personal members or other CREST sponsored members, and those CREST members who have appointed a voting service provider, should refer to their CREST sponsor or voting service provider, who will be able to take appropriate action on their behalf.

In order for instructions made using the CREST voting service to be valid, the appropriate CREST message (a "CREST Voting Instruction") must be properly authenticated in accordance with Euroclear's specifications and must contain the information required for such instructions, as described in the CREST Manual (available via www.euroclear.com/CREST).

To be effective, the CREST Voting Instruction must be transmitted so as to be received by the Company's agent (3RA50) no later than 6 November 2020 at 8:30am (GMT). For this purpose, the time of receipt will be taken to be the time (as determined by the timestamp applied to the CREST Voting Instruction by the CREST applications host) from which the Company's agent is able to retrieve the CREST Voting Instruction by enquiry to CREST in the manner prescribed by CREST. DI Holders in CREST and, where applicable, their CREST sponsors or voting service providers should note that Euroclear does not make available special procedures in CREST for any particular messages. Normal system timings and limitations will therefore apply in relation to the transmission of CREST Voting Instructions. It is the responsibility of the DI Holder concerned to take (or, if the DI Holder is a CREST personal member or sponsored member or has appointed a voting service provider, to procure that the CREST sponsor or voting service provider takes) such action as shall be necessary to ensure that a CREST Voting Instruction is transmitted by means of the CREST voting service by any particular time.

In this connection, DI Holders and, where applicable, their CREST sponsors or voting service providers are referred, in particular, to those sections of the CREST Manual concerning practical limitations of the CREST system and timings.

## 7. United Kingdom (Form of Instruction)

DI Holders are invited to attend the Meeting but are not entitled to vote at the Meeting. In order to have votes cast at the Meeting on their behalf, DI Holders must complete, sign and return the Forms of Instruction forwarded to them along with the Notice to the Company's agent, Computershare UK, by 6 November 2020 at 8:30am (GMT).

By order of the Board

Company Secretary
Date: 15 October 2020

# EXPLANATORY MEMORANDUM

## 1. Introduction

This Explanatory Memorandum is intended to provide Shareholders with sufficient information to assess the merits of the accompanying Notice of Meeting.

The directors recommend that Shareholders read this Explanatory Memorandum in full before making any decision in relation to the Resolutions.

The following information should be noted in respect of the various matters contained in the accompanying Notice of Meeting:

### 1.1 General

This Explanatory Memorandum has been prepared for the information of Shareholders in connection with the business to be conducted at the Meeting to be held at the offices of Canaccord Genuity, 88 Wood Street, London EC2V 7QR on Wednesday 11 November 2020, commencing at 8.30am (GMT). DI Holders are able to attend the Meeting, but may not vote at the Meeting.

This Explanatory Memorandum should be read in conjunction with and forms part of the accompanying Notice. Shareholders should read the Notice and this Explanatory Memorandum carefully before deciding how to vote on the Resolutions.

### 1.2 Financial Statements and Reporting

The *Corporations Act 2001* (Cth) ("Corporations Act") requires:

- the reports of the directors and auditors; and
- the annual financial report, including the financial statements of the Company for the year ended 30 June 2020,

to be laid before the Annual General Meeting. Neither the Corporations Act nor the Constitution requires a vote of Shareholders on the reports or statements. However, Shareholders will be given reasonable opportunity to raise questions or make comments on the financial affairs of the Company at the Annual General Meeting.

Also, a reasonable opportunity will be given to members as a whole at the Meeting to ask the Company's auditor questions relevant to the conduct of the audit, the preparation and content of the auditor's report, the accounting policies adopted by the Company in relation to the preparation of the financial statements and the independence of the auditor in relation to the conduct of the audit.

## 2. Resolution 1 – Re-election of Director – Mr David Adams

The Company's Constitution provides that at every AGM after excluding: (1) a director who is managing director; (2) a director appointed by the directors under rule 8.1 (b) and standing for election, one third of the remaining directors (rounded down to the nearest whole number) must retire from office. The Company's Constitution further provides that no director who is not the managing director may hold office without re-election beyond the third AGM following the meeting at which the director was elected or last elected. Accordingly, Mr Adams retires from office with effect from the end of the Meeting and, being eligible, offers himself for re-election.

A brief description of the candidate follows:

David was appointed to the Board on admission to London AIM in 2016 and has over 30 years of experience. He has previously held executive roles including Chief Financial Officer and Deputy Chief Executive Officer of House of Fraser plc and non-executive roles including Debenhams plc, Jessops plc, Moss Bros plc, Fevertree Drinks plc, Conviviality plc and Hornby plc. David's current appointments include serving as the Senior Independent Non-Executive Director and Chair of the Audit Committee of Halfords plc, Chairman of Park Cameras Limited and Trustee of Walk the Walk (a Breast Cancer Charity). David is Chairman of the Audit Committee and a Member of the Nomination and Remuneration Committee.

*The directors (other than Mr Adams) recommend that Shareholders vote in favour of Resolution 1. Mr Adams, who has an interest in the outcome of Resolution 1, declines to make a recommendation.*

## 3. Resolution 2 – Return of Capital to Shareholders

### Resolution 2 – Return of Capital to Shareholders

**Overview**

On 29 November 2019 at the Company's 2019 Annual General Meeting, Shareholders of the Company approved a capital reduction of up to A$3,834,360. On 20 December 2019 the Company returned a total of A$5,964,560 to Shareholders consisting of the approved return of share capital of A$3,834,360 in aggregate to all Shareholders, being 3.6 cents per share (or DI) and an unfranked dividend (declared to be conduit foreign income) of A$2,130,200 in aggregate to all Shareholders being 2.0 cents per share (or DI).

At the date of this notice, the Group has approximately A$18 million of cash or cash equivalents including cash realised from the reduction in the amount of its capital invested in its lease portfolio.

The Company now intends to return an amount to Shareholders of A$6,497,109.63 consisting of a return of share capital of A$4,872,832.22 in aggregate to all Shareholders, being 4.575 cents per share (or DI) and an unfranked dividend of A$1,624,277.41 in aggregate to all Shareholders, being 1.525 cents per share (or DI) (the "Distribution") whilst ensuring the Company retains sufficient cash reserves for its operations.

The Company has decided not to apply to the Australian Taxation Office ("ATO") for a Class Ruling to determine certain Australian income tax consequences of the Distribution for Shareholders, including what amount of the capital return component of the Distribution will, if any, be a dividend for tax purposes, as opposed to a return of capital. The Company has obtained relevant tax advice regarding the implications for the Company and for Shareholders of the Distribution in determining the proportion of the Distribution that will be in the form of a capital return and the proportion that will be in the form of a dividend. Refer to the taxation comments below, particularly those regarding the risks to Shareholders and the Company of proceeding with the capital return without a Class Ruling. Shareholders should also be aware that they can obtain certainty by way of a private binding ruling from the ATO; the Company recommends that Shareholders discuss this with their tax advisors.

Accordingly, Shareholders are being asked to consider and pass the resolution required to return the A$4,872,832.22 of share capital to Shareholders by way of an equal capital reduction, to be effected by the Company paying up to A$0.04575 per share to each registered holder of the shares as at the record date of 5:00pm (GMT) on Friday, 13th November 2020.

The Company notes that Shareholder approval is not required at law for the Company to pay Shareholders (or DI Holders) the dividend component of the Distribution, however if Resolution 2 is not approved, no funds will be paid to Shareholders via a capital return or dividend and the Board will consider alternative uses for those funds.

**Member approval for equal capital reduction**

The A$4,872,832.22 capital component of the Distribution, the subject of Resolution 2, will constitute an equal capital reduction for the purposes of section 256B(2) of the Corporations Act because:

1. it relates only to ordinary shares;
2. it applies to each holder of ordinary shares in proportion to the number of ordinary shares they hold; and
3. the terms of the reduction are the same for each holder of ordinary shares.

Section 256B(1) of the Corporations Act provides that 3 requirements must be met in order for a company to conduct an equal capital reduction that is not otherwise authorised by law. The following table sets out these requirements and a description of how each requirement is met.

| Requirement | How the requirement is met |
|---|---|
| **The reduction is fair and reasonable to the company's shareholders as a whole** | The directors believe that the return of capital is fair and reasonable to Shareholders as a whole.<br><br>Each Shareholder is treated equally and in the same manner since the terms of the return of capital are the same for each Shareholder, the distribution is on a pro rata basis, and the proportionate ownership interest of each Shareholder in respect of the Company remains the same before and after the return of capital. |
| **The reduction does not materially prejudice the company's ability to pay its creditors** | The directors have carefully considered the Company's assets, liabilities and expected cash flows, and believe that the return of capital will not materially prejudice the Company's ability to pay its creditors. |

| | |
|---|---|
| | The directors have also satisfied themselves as to the solvency of the Company following the return of capital. |
| **The reduction is approved by shareholders under section 256C of the Corporations Act** | This requirement is the reason that approval of Shareholders is being sought pursuant to Resolution 2. Further, as required by section 256C(5), the Company has lodged a copy of the Notice of Meeting and accompanying documentation (being this Explanatory Memorandum, the Proxy Form and the Form of Instruction) with ASIC. |

**Rationale**

The proposed return of capital demonstrates the Company's commitment to efficient capital management, and its focus on providing a satisfactory distribution (including return of capital) to all Shareholders in relevant circumstances, whilst ensuring it has sufficient cash reserves for its operations.

**Impact on capital structure of the Company**

As at 15 October 2020, the Company has 106,509,994 ordinary shares on issue. After the proposed capital return, the number of ordinary shares on issue will remain the same (as no shares will be cancelled) and Shareholders will not be diluted. The share capital of the Company will be reduced by A$4,872,832.22, representing a return per ordinary share of up to A$0.04575.

**Impact on financial position of the Company**

In determining whether to implement the return of capital, the directors have reviewed the Company's assets, liabilities and expected cash flows. The Board considers that the proposed capital return is fair and reasonable to Shareholders as a whole, and will not materially prejudice the Company's ability to pay its creditors, or impact on its solvency position. As at the date of this notice, the Group has approximately A$18 million of cash or cash equivalents and so if the Distribution in the full amount of A$6.5 million (for which approval is sought in relation to A$4,872,832.22) was made at the date of this notice, the Group would have approximately A$11.5 million of cash or cash equivalents remaining.

**Impact on growth strategies of the Company**

The capital return will not materially impact the Company's capacity to fund new investment opportunities given the capacity to raise debt and equity funding if required. The Company will continue to assess opportunities consistent with its objective of providing returns to Shareholders.

**Impact on ability to frank and declare future dividends as conduit foreign income**

In regards to the dividend component of the Distribution:

- The dividend will be unfranked given the Company's limited franking account balance. Therefore, there should not be an impact on the Company's ability to frank future dividends.
- It is likely that the dividend will be declared to be conduit foreign income, such that the dividend is unlikely to be subject to foreign resident Australian dividend withholding tax. This may affect the ability of the Company to declare future unfranked dividends to be conduit foreign income such that Australian dividend withholding tax may apply to future unfranked dividends paid to non-Australian tax resident Shareholders.

**Indicative timetable**

| | |
|---|---|
| Annual General Meeting | 11 November 2020 |
| Company to advise that capital reduction resolution approved by Shareholders | 11 November 2020 |
| Record date for return of capital and dividend | 13 November 2020 |
| Last day for currency elections | 27 November 2020 |
| Return of capital and dividend payment date | 9 December 2020 |

**Taxation**

**Australian Taxation**

***Scope***

This section addresses certain Australian income tax, goods and services tax ("GST") and stamp duty implications of the Distribution for Shareholders. This section deals only with certain Australian taxation implications relevant to Shareholders who are individuals, companies and trusts (other than superannuation or pension funds), of both Australian and non-Australian tax residency, each of whom holds their shares on capital account for income tax purposes.

This section does not apply to Shareholders who:

- are insurance companies, superannuation or pension funds, banks, or partnerships;
- carry on a business of trading in shares;
- hold (or will hold) their shares on revenue account for income tax purposes;
- acquired their shares in connection with an employee share scheme;
- are exempt from Australian tax; or
- are subject to the Taxation of Financial Arrangements rules in Division 230 of the *Income Tax Assessment Act 1997* (the "ITAA 97") in respect of their Company shares.

The information in this section of the Explanatory Memorandum is general in nature and is based on the law in force at the time of issue of this Notice of Meeting. It is not intended to be an authoritative or complete statement of the Australian taxation laws, nor to be relied upon as tax or stamp duty advice. Deloitte Tax Services Pty Ltd, a registered tax agent, has provided the Australian tax and stamp duty comments in this section. Deloitte Tax Services Pty Ltd is not licensed under Chapter 7 of the Corporations Act to provide financial product advice. Taxation issues, such as those covered by this section, are only some of the matters you need to consider when making a decision about a financial product. It should be noted that the Australian taxation laws are complex and the precise taxation implications will depend upon each Shareholder's specific circumstances and the specific circumstances of the Distribution.

The comments in this section are based on the Australian taxation laws (including established interpretations of those laws) as at the date of this Notice of Meeting, which may change. This section does not take into account the tax law of countries other than Australia (such as the tax laws of the United Kingdom).

Neither the Company nor any of its officers, employees or advisors assumes any liability or responsibility for advising Shareholders about the tax consequences of the Distribution. It is recommended that all Shareholders (including Australian tax resident Shareholders and non-Australian tax resident Shareholders) should seek their own independent taxation advice before reaching conclusions as to the possible taxation consequences of the Distribution.

The Company has obtained professional tax advice on the implications of the Distribution to the Company and Shareholders, including in regards to an appropriate split of the Distribution as between capital return and dividend for tax purposes. The Company has had regard to this advice in determining the final composition of the Distribution as between capital return and dividend. However, as noted above, the Company does not intend to seek a Class Ruling from the ATO to confirm, amongst other matters, that the dividend integrity rules will not be applied by the ATO to the capital return component of the Distribution. Further details of the risks to the Company and Shareholders of this approach (i.e. the risks of proceeding without a Class Ruling) are detailed below at *"Tax Considerations / Risks Relevant to Proceeding Without a Class Ruling"*.

For any amount that is treated as a capital amount for tax purposes, the tax treatment explained below at "*Expected Australian Income Tax Treatment for Capital Component*" should apply to that amount. For any amount that is treated as a dividend for tax purposes (excluding application of the dividend integrity measures), the tax treatment explained below at "*Expected Australian Income Tax Treatment for Dividend Component*" should apply to that amount.

***Expected Australian Income Tax Treatment of Capital Component***

Australian tax resident Shareholders

A CGT event (G1) should happen for a Shareholder when the Company pays the capital return to the Shareholder in respect of shares they owned at the capital return record date and continue to hold at the capital return payment date. A Shareholder's cost base for each of their shares should be reduced by the lesser of the cost base and the amount of the capital return per share. A capital gain should arise for a Shareholder where the capital return per share exceeds the Shareholder's cost base of any of their shares. The difference between the Shareholder's cost base of the relevant shares and the capital return received in respect of those shares should be equivalent to the amount of the capital gain.

The capital gain may be reduced by the CGT discount if the shares were held for at least 12 months before the capital return and other relevant requirements are satisfied. The CGT discount is 50% for resident individuals and trusts and 33 1/3% for resident complying superannuation funds. Shareholders that are Australian resident companies are not generally eligible for the CGT discount.

Where the capital return is paid to a Shareholder in respect of a share they owned at the capital return record date but ceased to own at the capital return payment date, a CGT event (C2) should happen when the payment is made. A capital gain should arise for a Shareholder if the capital proceeds from the ending of the right (i.e. the amount of the capital return) exceeds the cost base of the right.

The cost base of the right should not include the cost base or reduced cost base of the share previously owned by the Shareholder that has been applied in working out a capital gain or capital loss made when a CGT event happened to the share, for example, if the Shareholder disposed of the share after the capital return record date but before the capital return payment date. Therefore, if the full cost base or reduced cost base of a share has been previously applied in working out a capital gain or capital loss made when a CGT event happened to that share, the right to receive the return of capital should have a nil cost base. Therefore, the capital gain in this circumstance should equal the full amount of the capital return.

As the right to receive the return of capital was inherent in the share during the time it was owned, the right should be considered to have been acquired at the time when the share was acquired. Therefore, the capital gain should be subject to CGT discount if the shares were held by the Shareholder for at least 12 months before the payment of the return of capital and the other relevant conditions are satisfied (the discount percentages should be as above).

Non-Australian tax resident Shareholders

No Australian tax should generally be payable on capital gains made by non-Australian tax resident Shareholders (that do not hold their shares via an Australian permanent establishment) where:

- their Shareholdings (together with associates) is less than 10% of the Company (at the time of the CGT event and during a greater than 12 month period in the 24 months prior to the CGT event); or
- the Company is not considered "land-rich" for Australian income tax purposes (e.g. 50% or less of the market value of the respective underlying assets of the Company are principally derived from Australian real property).

Given the nature of the Company's assets and operations, the Company should not be considered "land-rich" for Australian income tax purposes.

A non-Australian tax resident Shareholder that holds their investments on revenue account or through an Australian permanent establishment should seek advice about the Australian income tax implications of the capital return based on their individual circumstances.

***Expected Australian Income Tax Treatment of Dividend Component***

The below comments have been prepared on the basis that the dividend will be unfranked.

Australian tax resident Shareholders

Shareholders who are Australian tax residents should include the amount of the dividend as assessable income in their income tax return.

An Australian tax resident Shareholder is not obliged to quote a Tax File Number ("TFN"), or where relevant, Australian Business Number ("ABN"), to the Company. However, to the extent that a dividend is unfranked, if a TFN, or where relevant, ABN, is not quoted by an Australian tax resident Shareholder and no exemption is applicable, income tax is required to be deducted by the Company at the highest marginal rate (currently 45% plus Medicare levy of 2%) from the dividend. Australian tax resident Shareholders may be able to claim a tax credit/rebate (as applicable) in respect of any tax withheld on the dividend in their income tax returns. Australian tax resident Shareholders that have not provided, or are not certain whether they have provided, their TFN / ABN are advised to contact Computershare Investor Services on 1300 850 505 (within Australia) or +61 3 9415 4000 (outside Australia) or online at www.investorcentre.com/au to update their records in order to avoid withholding tax being applied to the dividend component of the Distribution.

Non-Australian tax resident Shareholders

To the extent an unfranked dividend is declared to be conduit foreign income, no dividend withholding tax should be applicable. Shareholders that are not residents of Australia for income tax purposes should not be taxable in Australia on such dividends provided they do not hold their shares through an Australian permanent establishment.

To the extent that a dividend is unfranked and is not declared to be conduit foreign income, the main difference in income tax treatment should be that Australian dividend withholding tax would be applicable (which will be withheld from the Distribution payable by the Company).

Given the Company's conduit foreign income balance, it is likely that the dividend component will be declared to be conduit foreign income, such that no foreign resident Australian dividend withholding tax should be applicable to the dividend. This position will be advised to Shareholders via RNS Announcements.

To the extent Australian dividend withholding tax is applicable to a dividend, it will be levied at a flat rate of 30% on the gross amount of the dividends unless a Shareholder is a tax resident of a country that has an applicable double tax treaty with Australia. Relevantly, the Australian dividend withholding tax is generally limited to a maximum of 15% for Shareholders that are tax resident of the UK (varying rates apply to different countries).

Non-Australian tax resident Shareholders should seek their own independent tax advice as to the tax implications in their country of residence of receiving the dividend (including if a credit is available for any Australian dividend withholding tax).

***Capital Return as Ordinary Assessable Income***

Given the circumstances of the capital return, the capital return should not constitute ordinary income of Shareholders.

***Depositary Interests ("DIs")***

For those Shareholders that hold their shares via DIs and on capital account, the CGT outcomes depend on whether the Shareholder is 'absolutely entitled' to the shares they have a beneficial interest in via their DIs. Where the holders of DIs are 'absolutely entitled' to the underlying shares to which the DIs relate, the CGT consequences of the capital return should generally be attributable to the underlying Shareholders that hold their shares via DIs.

A dividend received via DIs should generally be included as assessable income in the hands of the holder of the DIs. The ability of holders of DIs to access any tax offsets (if any) may be restricted. The rules surrounding taxation of dividends received through the DI facility is complex and it is recommended that affected Shareholders obtain advice to confirm the appropriate taxation considerations and treatment for this situation having regard to their own specific circumstances.

DIs in the context of applicable withholding tax rules (including the no-TFN / no-ABN withholding tax rules described above) are complex. It is the Company's intention to consider these matters further prior to the Distribution being made. The Company will keep Shareholders informed of the withholding tax position via RNS Announcements, as considered necessary.

Shareholders that hold their shares via DIs are strongly advised to obtain their own professional advice regarding:

- whether they are 'absolutely entitled' to the shares they have a beneficial interest in via their DIs; and
- the tax implications of receiving the Distribution,

based on their own specific circumstances, including the nature of their Depositary Interest facility, and the circumstances of the Distribution.

Shareholders are also directed to consider Class Ruling 2017/10 "Income tax: ThinkSmart Limited - delisting from ASX and shares converted into Depositary Interests", which outlines certain Australian income tax implications of holding shares via DIs.

***Foreign Resident Capital Gains Withholding ("FRCGW")***

Rules have been enacted which can apply to the disposal of certain taxable Australian property under contracts entered into on or after 1 July 2016. The current non-final withholding tax rate is 12.5%. The regime applies to certain transactions involving the acquisition of the legal ownership of an asset that is taxable Australian real property, an indirect Australian real property interest (such as membership in a "land rich" company or trust) or an option or right to acquire such property or such an interest from a "relevant foreign resident".

The FRCGW rules should not apply to the Distribution given the nature of the distribution and the nature of the Company's assets and operations.

***GST***

Under current Australian GST law, GST should not be payable on the Distribution. The ability of Shareholders to recover any GST incurred as an input tax credit in relation to costs associated with the Distribution (such as costs relating to professional advice obtained by Shareholders regarding the Distribution) would vary according to individual circumstances and as such this should be reviewed by Shareholders prior to making any claim.

***Stamp Duty***

No Australian stamp duty should be payable by a Shareholder in respect of the Distribution.

***Tax Considerations / Risks Relevant to Proceeding Without a Class Ruling***

There may be adverse tax consequences to the Company and Shareholders relevant to proceeding without a Class Ruling. You should read this section carefully and consider, together with your professional advisors, the relevance of any potential adverse tax consequence to your own situation.

The ATO may, in certain circumstances, treat the whole or part of a capital return as an unfranked dividend for tax purposes. This generally occurs where the ATO forms the view (based on specific circumstances) that the capital return (or a part of it) relates to the profits of the company making the capital return. Relevantly, Shareholders should be aware that as part of the process for the Class Rulings obtained for the capital return made to Shareholders in March 2019, the ATO expressed that, in the ATO's view at that time and in the absence of further relevant capital releasing transactions, all or a large part of any subsequent distribution of cash should be treated as a dividend for tax purposes. This potentially increases the risk that the ATO would seek to challenge the tax treatment of the capital component of the Distribution.

As noted above, the Company has obtained relevant professional tax advice on the implications of the Distribution to the Company and Shareholders, including in regards to an appropriate split of the Distribution as between capital return and dividend for tax purposes. The Company has had regard to this advice in determining the composition of the Distribution as

between capital return and dividend. The Company has adopted a position that it believes, having regard to the professional tax advice it has received, has reasonable grounds to successfully defend a challenge by the ATO. However, Shareholders should be aware that the Company (and its officers, employees and advisors, including Deloitte Tax Services Pty Ltd) cannot guarantee that an ATO challenge would not succeed.

If the capital return is implemented without the ATO issuing a Class Ruling (as is intended), and the ATO subsequently commences a review or audit of the Distribution, the risks outlined below may arise to Shareholders and the Company.

It is recommended that all Shareholders should seek their own independent taxation advice before reaching conclusions as to the possible taxation consequences of the Distribution (including the capital return component of the Distribution).

As noted above in the Explanatory Memorandum, a Shareholder can alternatively obtain certainty by way of a private binding ruling from the ATO. The Company recommends that Shareholders discuss this with their tax advisors.

Risk to Shareholders

The ATO may make a determination to apply the relevant dividend integrity measures deeming all or part of the Distribution that is a capital return to be an unfranked dividend in the hands of Shareholders. In this situation, it is possible that the ATO would seek to treat all (or substantially all) of the capital return as an unfranked dividend. In this case, the following adverse tax consequences would potentially arise to Shareholders:

- For Shareholders who are Australian tax residents, the deemed unfranked dividend should be included in assessable income (the Company may be subject to no-TFN / ABN withholding in respect of relevant Australian tax resident Shareholders). For completeness, it is noted that this primary tax position should be materially similar to the position if the Company had paid an actual unfranked dividend (given the limited franking account balance of the Company); and

- For Shareholders who are non-Australian tax residents, the deemed unfranked dividend should be subject to dividend withholding of up to 30% (which would likely be a cost borne by the Company). For completeness, it is noted that this tax position is different to the position if the Company had paid an actual unfranked dividend (given that an actual unfranked dividend could be declared to be conduit foreign income to mitigate the withholding tax).

Shareholders may also be subject to:

- Penalties of 25% to 75% of the primary tax (however, the 75% rate should only apply if it is found that there has been an intentional disregarded of the law, which should be only a remote possibility);
- Interest charges relating to any outstanding unpaid tax amounts; and
- Legal and tax advisor costs associated with defending any proceedings brought by the ATO.

Worked examples of the potential primary tax consequences to Shareholders of the dividend integrity rules applying to the capital component of the Distribution are outlined at Annexure A. The potential consequences should be read in conjunction with the relevant qualifications and assumptions in Annexure A.

Risk to the Company

The ATO may make a determination to apply the relevant dividend integrity measures to all or part of the capital return component of the Distribution. In this situation, it is possible that the ATO would seek to treat all (or substantially all) of the capital return as an unfranked dividend. In this case, the following adverse tax consequences would potentially arise to the Company:

- The Company may be subject to withholding tax liabilities, particularly in respect of the capital return paid to non-Australian tax resident Shareholders. The amount of potential withholding tax liabilities (and associated penalties and interest) would depend on the quantum of the deemed unfranked dividend and the profile of relevant Shareholders. Based on the profile of the Distribution and the Company's shareholder composition (as between Australian residents and non-residents), the potential withholding tax liabilities may be up to approximately A$0.4 million to A$0.5 million.

- There may be franking account consequences for the Company (by way of penalty franking debits). This should only arise if the ATO determines that a more than incidental purpose of the capital return (or a relevant portion of it) was to avoid franking debits arising to the Company. This outcome is considered a remote risk given the Company's limited franking account balance. However, for completeness, it is noted that if a franking debit were to arise, it should broadly be equal to what the debit would have been if the deemed unfranked dividend were franked. Based on the profile of the Distribution, the potential penalty franking debit may be up to approximately A$1.7 million to A$2.1 million. As the Company's franking account balance is limited, such a franking debit will cause the Company's franking account to fall into deficit (approximately by an amount equal to the penalty franking debit), and the Company should then be liable for associated franking deficit tax (equal to the deficit / penalty franking debit). This franking deficit tax is likely to be largely a permanent cash cost to the Company given the group's future Australian income tax liabilities are not expected to be significant as the group's operations are currently located outside of Australia.

The Company may also incur legal and tax advisor costs associated with defending any proceedings brought by the ATO.

**How payment will be received**

If Resolution 2 is approved, and you voted against the resolution, you will still receive the funds you are entitled to under the Distribution ("Entitlement").

If you have a direct credit authority for payments in relation to your Company shares recorded by Computershare Investor Services Pty Ltd ("Registry") on the record date 5:00pm (GMT) on 13 November 2020, your Entitlement due to you will be credited to your nominated account.

If you wish, you may add/change your current direct credit instructions by providing written instructions to the Registry before the record date at:

Online: at www.investorcentre.com/au

By Post: Computershare Investor Services Pty Limited
GPO Box 2975
MELBOURNE VIC 3001
AUSTRALIA

Please note that if you do alter your nominated bank account details, this will be taken to be your nominated bank account for future distribution payments by the Company.

Holders of DIs will be paid electronically directly through the CREST system by Computershare Investor Services PLC (the "Depositary") procuring a credit to the cash memorandum account linked to the CREST participant ID in which the DIs are registered as at the record date. In order to facilitate payment through CREST, the Depositary will make arrangements to convert the payment from Australian dollars into pounds sterling. The actual amount of proceeds to be payable in pounds sterling received will depend upon the exchange rate prevailing on the day on which funds are made available to the Depositary. Holders of DIs should be aware that the currency exchange rate which prevails at the date on which the return of capital becomes effective and on the dates of dispatch and receipt of payment may be different from that prevailing on the date on which the Depositary converts the Australian dollars into pounds sterling. In all cases, fluctuations in the exchange rates are at the risk of the holder of the DIs.

In all other cases, you will be sent (at your risk) a cheque for your Entitlement in Australian dollars to your address as recorded by the Registry on the record date. Payments to these accounts and the dispatch of cheques to those addresses will satisfy the Company's obligations to pay your Entitlement.

**Other material information**

There is no other information material to the making of a decision by Shareholders whether or not to vote in favour of the proposal (being information that is known to directors of the Company which has not previously been disclosed to holders of shares in the Company) other than as set out in this document.

*The directors are of the opinion that the proposed capital return is fair and reasonable to all Shareholders and unanimously recommend that Shareholders vote in favour of the proposed resolution.*

*No director of the Company will receive any payment or benefit of any kind as a consequence of the proposed return of capital other than as an ordinary Shareholder of the Company.*

*Ends*

**ANNEXURE A – Worked examples of potential consequences of proceeding without a Class Ruling**

***It is recommended that you contact your taxation advisor regarding your income tax calculations having regard to your own circumstances and the circumstances of the Distribution.***

***Assumptions***

The worked examples set out below are based on the following assumptions:

- Shareholder A is an Australian tax resident individual who holds 10,000 Company shares (directly and not through a DI facility).
- Shareholder B is an individual who is not an Australian tax resident who holds 10,000 Company shares (directly and not through a DI facility).
- Shareholder A and B have an original tax cost base of 15 cents in each of their original Company shares.
- Shareholder A and B receive a Distribution of 6.1 cents per share. The Distribution consists of:
    - 1.525 cents per share as an unfranked dividend declared to be conduit foreign income; and
    - 4.575 cents per share as a capital return.
- At the time Shareholder A divests their Company shares, the shares will be listed on the Alternative Investment Market ("AIM") at 60 cents per share.
- Shareholder A and B holds their shares on capital account.
- Shareholder A has a marginal tax rate of 47% (including the Medicare levy of 2%) for income tax purposes and is eligible for the 50% CGT discount.
- Shareholder A has no other capital gains or losses, or previously unapplied net capital losses from previous income years.
- The shares in the Company are not taxable Australian property of Shareholder B.
- Australian dividend withholding tax on any deemed unfranked dividend to Shareholder B is paid for by Shareholder B.
- All amounts are in Australian dollars / cents.

***Worked Example (Shareholder A)***

This worked example illustrates the Australian income tax implications to Shareholder A where the ATO successfully applies the dividend integrity rules to recharacterise the capital return of 4.575 cents per share to be an unfranked dividend. This worked example does not factor in any penalties and interest that may apply.

The following table contrasts the tax outcomes to Shareholder A of:

- The distribution received under the return of capital where the ATO **does not** apply the dividend integrity rules (i.e. the distribution comprises a capital return of 4.575 cents per share and an unfranked dividend declared to be conduit foreign income of 1.525 cents per share); and

- The distribution received under the return of capital where the ATO **successfully applies** the dividend integrity rules to deem the capital return amount to be an unfranked dividend.

| **Shareholder A** | **Reference** | **Distribution paid (capital return and unfranked dividend)** | **Distribution following dividend integrity rules (deemed unfranked dividend and unfranked dividend)** | **Difference** |
|---|---|---|---|---|
| Total distribution per share *(cents per share)* | - | 6.100 | 6.100 | |
| *Capital return (cents per share)* | A | *4.575* | *0.000* | |
| *Dividend (unfranked) (cents per share)* | B | *1.525* | *1.525* | |
| *Deemed dividend (unfranked) (cents per share)* | C | *0.000* | *4.575* | |
| | | | | |
| Total capital return (A$) ([A] x 10,000) | D | 457.50 | 0.00 | |
| Total dividends (A$) (([B] + [C]) x 10,000) | E | 152.50 | 610.00 | |
| **Assessable income (A$) ([E])** | **F** | **152.50** | **610.00** | **457.50** |
| | | | | |
| **Income tax payable by Shareholder A (A$@47%) ([F] x 47%)** | **G** | **71.68** | **286.70** | **215.02** |
| **Net cash proceeds from the Distribution (A$) (([D] + [E]) – [G])** | **H** | **538.32** | **323.30** | **(215.02)** |
| Original tax cost base per share *(cents per share)* | I | 15.00 | 15.00 | |
| Original tax cost base of shares (A$) ([I] x 10,000) | J | 1,500.00 | 1,500.00 | |
| **New tax cost base of shares (A$) ([J] – [D])** | **K** | **1,042.50** | **1,500.00** | **457.50** |
| | | | | |
| Future share price at time of divestment *(cents per share)* | L | 60.00 | 60.00 | |
| Future capital proceeds from divestment (A$) ([L] x 10,000] | M | 6,000.00 | 6,000.00 | |
| | | | | |
| Future capital gain on divestment (A$) ([M] – [K]) | N | 4,957.50 | 4,500.00 | **(457.50)** |

| | | | | |
|---|---|---|---|---|
| **Future assessable income (i.e. *discounted* net capital gain) (A$) ([N] x 50% CGT discount)** | **O** | **2,478.75** | **2,250.00** | **(228.75)** |
| | | | | |
| **Future income tax payable by Shareholder A on (A$@47%) ([O] x 47%)** | **P** | **1,165.01** | **1,057.50** | **(107.51)** |
| **Net cash proceeds from divestment (A$) ([M] – [P]** | **Q** | **4,834.99** | **4,942.50** | **107.51** |
| | | | | |
| **Total cash tax payable (A$) ([G] + [P])** | | **1,236.69** | **1,344.20** | **107.51** |
| **Total cash proceeds (A$) ([H] + [Q])** | | **5,373.31** | **5,265.80** | **(107.51)** |

The $215.02 (i.e. $457.50 x 47% marginal tax rate) increase in income tax payable results from the deemed unfranked dividend of $457.50 where the ATO successfully applies the dividend integrity rules to the capital return made to Shareholder A. A corresponding increment in cost base of $457.50 should, however, provide Shareholder A with a $107.51 (i.e. $457.50 x 50% CGT discount x 47% marginal tax rate) decrease in income tax payable on their divestment of Company shares.

***Worked Example (Shareholder B)***

This worked example illustrates the Australian dividend withholding tax implications to Shareholder B where the ATO successfully applies the dividend integrity rules to recharacterise the capital return of 4.575 cents per share to be an unfranked dividend. This worked example does not factor in any penalties and interest that may apply.

Non-Australian tax resident Shareholders should seek their own independent tax advice as to the tax implications in their country of residence.

The following table contrasts the tax outcomes to Shareholder B of:

- The distribution received under the return of capital where the ATO **does not** apply the dividend integrity rules (i.e. the distribution comprises a capital return of 4.575 cents per share and an unfranked dividend declared to be conduit foreign income of 1.525 cents per share); and

- The distribution received under the return of capital where the ATO **successfully applies** the dividend integrity rules to deem the capital return amount to be an unfranked dividend.

| **Shareholder B** | **Reference** | **Distribution paid (capital return and unfranked dividend)** | **Distribution following dividend integrity rules (deemed unfranked dividend and unfranked dividend)** | **Difference** |
|---|---|---|---|---|
| Total distribution per share (cents per share) | - | 6.100 | 6.100 | |
| *Capital return (cents per share)* | A | *4.575* | *0.000* | |
| *Dividend (unfranked) (cents per share)* | B | *1.525* | *1.525* | |
| *Deemed dividend (unfranked) (cents per share)* | C | *0.000* | *4.575* | |
| | | | | |
| Total capital return (A$) ([A] x 10,000) | D | 457.50 | 0.00 | |
| Total dividends (A$) (([B] + [C]) x 10,000) | E | 152.50 | 610.00 | |
| | | | | |
| Dividends not subject to Australian dividend withholding tax (A$) (([B]) x 10,000) | F | 152.50 | 152.50 | 0.00 |
| Dividends subject to Australian dividend withholding tax (A$) ([C] x 10,000) | G | 0.00 | 457.50 | 457.50 |
| | | | | |
| ***Australian dividend withholding tax @ 30% (i.e. foreign jurisdiction with no double tax treaty with Australia) (A$) ([G] x 30%)** | **H** | **0.00** | **137.25** | **137.25** |
| **Net cash proceeds from the Distribution(A$) (([D] + [E]) – [H])** | | **610.00** | **472.75** | **(137.25)** |
| ***Australian dividend withholding tax @ 15% (e.g. under the UK-Australia double tax treaty) (A$) ([G] x 15%)** | **I** | **0.00** | **68.63** | **68.63** |
| **Net cash proceeds from the Distribution (A$) (([D] + [E]) – [I])** | | **610.00** | **541.37** | **(68.63)** |

It is likely that the Australian dividend withholding tax would be a cost borne by the Company (i.e. the Company would remit the amount of dividend withholding tax to the ATO from its post-Distribution cash balance) rather than non-Australian tax resident shareholders like Shareholder B. In this case, the net cash proceeds from the Distribution retained by Shareholder B should not be reduced.

* To the extent Australian dividend withholding tax is applicable to a dividend, it will be levied at a flat rate of 30% on the gross amount of the dividends unless a Shareholder is a tax resident of a country that has an applicable double tax treaty with Australia. Relevantly, the Australian dividend withholding tax is generally limited to a maximum of 15% for Shareholders that are tax resident of the UK (varying rates apply to different countries). Australian dividend withholding tax should only be levied on an amount once (i.e. in the worked example above, either at 15% or 30% based on the tax residence of Shareholder B) and may be creditable in some foreign jurisdictions. Non-Australian tax resident Shareholders should seek their own tax advice as to the implications in their country of tax residence in respect of receiving the Distribution (including if a credit is available for any Australian dividend withholding tax paid in respect of any deemed unfranked dividends).

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