

In the High Court of New Zealand
Auckland Registry
I Te Kōti Matua o Aotearoa
Tāmaki Makaurau

CIV-2024-404-2124

in the matter of: a scheme of arrangement under part 15 of the
Companies Act 1993

between: **Arvida Group Limited**
Applicant

Final orders approving scheme of arrangement under Part 15 of
the Companies Act 1993

Dated: 18 October 2024



Reference: L L Fraser (laura.fraser@chapmantripp.com)
L C Bercovitch (liora.bercovitch@chapmantripp.com)

**FINAL ORDERS APPROVING SCHEME OF ARRANGEMENT UNDER
PART 15 OF THE COMPANIES ACT 1993**

To the Applicant, Arvida Group Limited

The originating application made by the applicant, Arvida Group Limited, on 26 August 2024 was determined by the Honourable Justice Campbell on 18 October 2024.

The determination was made following a hearing held on 17 October 2024. The Court heard from Ms Fraser and Ms Bercovitch, counsel for the Applicant and from Mr Wilson and Mr Sharpe on behalf of the bidder, Stonepeak Alps BidCo Limited.

The Court received: memoranda of counsel from Ms Fraser, solicitor for the applicant, dated 26 August 2024, 11 October 2024 and 16 October 2024. The Court read the originating application for orders approving the scheme of arrangement under Part 15 of the Companies Act 1993 dated 26 August 2024, the affidavits of Anthony Montgomery Beverley dated 23 August 2024 and 10 October 2024, and the affidavits of Briar Rachael Frost Malpas dated 26 August 2024 and 16 October 2024. The Court also received affidavits of Darren Stephen Keogh dated 27 August 2024 and 10 October 2024, and a notice of appearance in support of the scheme of arrangement on behalf of Stonepeak Alps BidCo Limited dated 16 October 2024.

The following orders were made:

- 1 the proposed scheme of arrangement between the applicant, Arvida Group Limited (*Arvida*) and its shareholders, as described in the Scheme Plan (**annexed** to these orders) is approved and binding upon Arvida, all of its shareholders, Stonepeak Alps BidCo Limited, and all such other persons as are necessary to give effect to the Scheme; and
- 2 Arvida is granted leave to apply to the Court for approval of any amendment, modification or supplement to the Scheme.

Date: 18 October 2024

Signature:

Susan Parker

Registrar/Deputy Registrar

S J PARKER
DEPUTY REGISTRAR



ANNEXURE: SCHEME PLAN

Arvida Group Limited - Notice of Meeting and Scheme Booklet

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SCHEME OF ARRANGEMENT UNDER PART 15 OF THE COMPANIES ACT 1993

PARTIES

Arvida Group Limited (*Arvida*)Stonepeak Alps BidCo Limited (*Stonepeak*)

Each person who is registered in the Register as the holder of one or more Scheme Shares (together the *Scheme Shareholders*)

1. DEFINITIONS AND INTERPRETATION

1.1 Definitions: In this Scheme Plan, unless the context otherwise requires:

Business Day means a day (other than a Saturday, Sunday or public holiday) on which banks are generally open in Auckland, New Zealand, New York City, New York, United States of America and Singapore for normal business, and excluding any day between 25 December 2024 and 5 January 2025 (both dates inclusive);

Companies Act means the Companies Act 1993;

Computershare means Computershare Investor Services Limited;

Conditions mean:

- (a) the conditions precedent set out in the first column of the table in clause 3.1 of the Scheme Implementation Agreement; and
- (b) such other conditions made or required by the Court under section 236(1) or section 237(1) of the Companies Act and approved in writing by Arvida and Stonepeak in accordance with clause 3.2 of the Scheme Implementation Agreement;

Consideration means:

- (a) \$1.70 in cash in respect of each Scheme Share held by a Scheme Shareholder, reduced by the per Share value of any dividend the record date for which falls between the date of the Scheme Implementation Agreement and the Implementation Date; or
- (b) such other amount notified to Arvida by Stonepeak in accordance with clause 7.1;

Court means the High Court of New Zealand, Auckland Registry;

Deed Poll means the deed poll entered into by Stonepeak in favour of the Scheme Shareholders;

Encumbrance means:

- (a) any security interest (within the meaning of section 17(1)(a) of the Personal Property Securities

Act 1999) and any option, right to acquire, right of pre-emption, assignment by way of security or trust arrangement for the purpose of providing security, retention arrangement or other security interest of any kind (other than any reservation of title by suppliers in the ordinary course of business); and

(b) any agreement to create any of the foregoing;

End Date has the meaning given to that term in the Scheme Implementation Agreement;

Escrow Agreement means the escrow agreement dated 26 August 2024 between Stonepeak, Arvida and Computershare;

Excluded Shares means any Shares nominated in writing by Stonepeak to Arvida not less than two Business Days prior to the Record Date which are held or controlled by Stonepeak or any of its Associates at 5.00pm on the Record Date;

Final Orders means orders made, on application of Arvida, that the Scheme shall be binding on Arvida, Stonepeak, the Scheme Shareholders and such other persons or class of persons as the Court may specify, in accordance with section 236(1) (and section 237, if applicable) of the Companies Act;

Final Orders Date means the day on which the Final Orders are granted by the Court;

Funds has the meaning given to that term in clause 3.1;

Government Agency means any government, department, officer or minister of any government and any governmental, semi-governmental, regulatory, administrative, fiscal, judicial or quasi-judicial agency, authority, board, commission, tribunal or entity;

Hyperwallet means Hyperwallet Systems Inc. (a company incorporated under the federal laws of Canada) including any of its related companies;

Implementation Date means the day on which the Scheme is to be implemented, being the date which is 12 Business Days after the Record Date, or such other date as Stonepeak and Arvida agree in writing, and *Implementation* correspondingly means the time at which implementation commences with the first step under clause 4.1(d);

NZX means NZX Limited and, where the context requires, the main board financial market that it operates;

NZX Listing Rules means the NZX Listing Rules as amended from time to time;

Record Date means 5.00 pm on the date which is 4 Business Days after the Final Orders Date or such other date Stonepeak and Arvida agree in writing;



Annexure B: Scheme Plan

Register means the Share register maintained by Computershare on behalf of Arvida;

Registered Address means, in relation to a Shareholder, the address of that Shareholder shown in the Register as at the Record Date;

Scheme means this scheme of arrangement, subject to any alterations or conditions made or required by the Court under Part 15 of the Companies Act and approved by Arvida and Stonepeak in writing;

Scheme Implementation Agreement means the scheme implementation agreement dated 20 July 2024 between Arvida and Stonepeak;

Scheme Meeting means the meeting of Shareholders ordered by the Court to be convened pursuant to the Initial Orders in respect of the Scheme and includes any adjournment of that meeting;

Scheme Shareholder means a person who is registered in the Register as the holder of one or more Scheme Shares as at the Record Date;

Scheme Shares means all of the Shares on Issue at 5.00pm on the Record Date other than Excluded Shares;

Share means a fully paid ordinary share in the capital of Arvida;

Shareholder means a person who is registered in the Register as the holder of one or more Shares from time to time;

Takeovers Panel means the Takeovers Panel established by section 5(1) of the Takeovers Act 1993;

Trading Halt Date means the date which is two Business Days after the Final Orders Date or such other date as Stonepeak and Arvida agree in writing;

Trust Account has the meaning given to that term in clause 3.1; and

Unconditional means all of the Conditions having been satisfied or, if capable of waiver in accordance with the Scheme Implementation Agreement, waived.

1.2 Interpretation: In this Scheme Plan, unless the context otherwise requires:

- (a) headings are to be ignored in construing this document;
- (b) the singular includes the plural and vice versa;
- (c) words of any gender include all genders;
- (d) a reference to a clause, is a reference to a clause of this Scheme Plan;
- (e) a reference to a statute or other law includes regulations and other instruments under it and consolidations,

amendments, re-enactments or replacements of any of them;

(f) reference to any document (including this Scheme Plan) includes reference to that document (and, where applicable, any of its provisions) as amended, novated, supplemented, or replaced from time to time;

(g) reference to a party, person or entity includes:

- (i) an individual, partnership, firm, company, body corporate, corporation, association, trust, estate, state, government or any agency thereof, municipal or local authority and any other entity, whether incorporated or not (in each case whether or not having a separate legal personality); and
- (ii) an employee, sub-contractor, agent, successor, permitted assign, executor, administrator and other representative of such party, person or entity;

(h) written and in writing include any means of reproducing words, figures or symbols in a tangible and visible form;

(i) the words including or includes do not imply any limitation;

(j) a reference to any time is a reference to that time in New Zealand; and

(k) references to money or \$ are to New Zealand dollars.

1.3 Things required to be done other than on a Business Day: Unless otherwise indicated, if the day on which any act, matter or thing is to be done is a day other than a Business Day, that act, matter or thing must be done on or by the next Business Day.

1.4 No contra proferentem: No term or condition of this Scheme Plan will be construed adversely to a party solely because that party was responsible for the preparation of this Scheme Plan or a provision of it.

1.5 Defined terms: Capitalised terms which are used but not otherwise defined in this Scheme Plan have the meanings given to them in the Scheme Implementation Agreement.

2. CONDITIONS

2.1 Conditions: The Implementation of the Scheme is conditional in all respects on:

- (a) all of the Conditions having been satisfied or waived in accordance with the terms of the Scheme Implementation Agreement by 8.00am on the Implementation Date; and
- (b) neither the Scheme Implementation Agreement nor the Deed Poll having been terminated in



accordance with its terms before 8.00am on the Implementation Date.

3. CONSIDERATION INTO TRUST ACCOUNT

3.1 Obligation to pay Consideration Into Trust

Account: Subject to the Scheme Implementation Agreement not having been terminated and the Scheme having become Unconditional (except for the Conditions set out in clauses 3.1(e), (f) and (g) of the Scheme Implementation Agreement), Stonepeak must, by no later than 5.00pm on the Business Day before the Implementation Date, deposit (or procure the deposit of) in immediately available cleared funds an amount equal to the aggregate amount of the Consideration payable to Scheme Shareholders in a New Zealand dollar denominated trust account operated by Computershare and notified by Computershare to Stonepeak no later than 5.00pm on the Business Day falling 10 Business Days before the Implementation Date (the *Funds* and that account the *Trust Account*) to be held and dealt with by Computershare in accordance with this Scheme Plan and the Escrow Agreement.

3.2 Details of Trust Account:

- (a) The Trust Account will be established and operated by Computershare in accordance with the Escrow Agreement.
- (b) Prior to payment of the Consideration in accordance with clause 4.1(e) and clause 5, Computershare will hold all amounts deposited by Stonepeak into the Trust Account on trust for Stonepeak and to its order under the Escrow Agreement.
- (c) The details of the Trust Account will be provided to Stonepeak by (or on behalf of) Computershare not less than 10 Business Days before the Implementation Date.

3.3 Interest: Any interest earned on the amount deposited in the Trust Account up to Implementation will be payable to Stonepeak by Computershare as directed by Stonepeak in writing (less bank fees and other third party charges relating to the Trust Account).

3.4 Scheme not Implemented: Should the Implementation of the Scheme not occur by 5.00pm on the Implementation Date for any reason or the Scheme becomes void under clause 7.5, Computershare will immediately repay the Funds to Stonepeak to such New Zealand dollar denominated account instructed to Computershare by Stonepeak in accordance with the Escrow Agreement.

4. IMPLEMENTATION

4.1 Implementation: Subject to:

- (a) any amendments or variations as may be required by the Court;
- (b) Arvida and Stonepeak providing Computershare with written notice that the Scheme is Unconditional in accordance with the Escrow Agreement after 8.00am and prior to 9.00am on the Implementation Date; and
- (c) the Consideration having been deposited into the Trust Account in accordance with clause 3.1 and Computershare confirming in writing to Arvida and Stonepeak that this has occurred,

commencing at 9.00am on the Implementation Date, the following steps will occur sequentially:

- (d) without any further act or formality, all the Scheme Shares, together with all rights and entitlements attaching to them as at the Implementation Date, will be transferred to Stonepeak, and Arvida must enter, or procure Computershare enter, the name of Stonepeak in the Register as holder of all of the Scheme Shares; and
- (e) subject to compliance in full with clause 4.1(d), Stonepeak is deemed to have irrevocably authorised and instructed Computershare to pay or procure the payment from the Trust Account of the Consideration to each Scheme Shareholder based on the number of Scheme Shares held by that Scheme Shareholder as set out in the Register as at the Record Date in accordance with clause 5.

5. PAYMENT OF CONSIDERATION

5.1 Method of payment: The payment obligations under clause 4.1(e) will be satisfied by:

- (a) where a Scheme Shareholder has, prior to the Record Date, provided bank account details to enable Computershare and Arvida to make payments of New Zealand dollars by electronic funds transfer, Computershare must pay the Consideration in New Zealand dollars to the Scheme Shareholder by electronic funds transfer of the relevant amount to the bank account nominated by that Scheme Shareholder;
- (b) where a Scheme Shareholder that has an address outside of New Zealand has, prior to the Record Date, registered to be paid by Hyperwallet, Computershare must transfer the Consideration owed to such Scheme Shareholder to the New Zealand dollar denominated trust account operated by Hyperwallet and instruct Hyperwallet to pay that Consideration (less any applicable costs and fees) to such Scheme Shareholder (in the currency nominated by such Scheme Shareholder to Hyperwallet), or



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- (c) where a Scheme Shareholder has not provided the information and/or taken the steps contemplated by clauses 5.1(a) and 5.1(b) to enable payment to be made to such Scheme Shareholder in a manner contemplated by one of those clauses (or if an electronic payment to such Scheme Shareholder is rejected by the recipient bank), Computershare must retain the Consideration owed to that Scheme Shareholder in the Trust Account to be claimed by the Scheme Shareholder in accordance with clause 5.5.

If a Shareholder has given more than one payment direction, then the later direction in time of receipt will be followed.

5.2 Joint holders: In the case of Scheme Shares held in joint names:

- (a) the Consideration is payable to the bank account nominated by the joint holders or, at the sole discretion of Arvida, nominated by the holder whose name appears first in the Register as at the Record Date; and
- (b) any other document required to be sent under this Scheme Plan will be sent to either, at the sole discretion of Arvida, the holder whose name appears first in the Register as at the Record Date or to the joint holders.

5.3 Surplus in Trust Account: To the extent that, following satisfaction of the obligations under clause 4.1(e), there is a surplus in the Trust Account, that surplus (less the aggregate amount of the Consideration retained in the Trust Account in accordance with clause 5.1(c) or clause 5.6(b), and less bank fees and other third party charges relating to the Trust Account) shall be promptly paid in full to Stonepeak as directed by Stonepeak in writing.

5.4 Holding on Trust: Arvida must, in respect of any monies retained by Computershare pursuant to clause 5.1(c) or clause 5.6(b), instruct Computershare to hold such monies in the Trust Account on trust for the relevant Scheme Shareholders for a period of two years and thereafter, subject to clause 5.6, to pay any remaining money in the Trust Account to Arvida.

5.5 Unclaimed monies: During the period of two years commencing on the Implementation Date, on request in writing from a Scheme Shareholder that has not received payment of the Consideration in accordance with clause 5.1(a) or 5.1(b), Computershare must, if such Scheme Shareholder has taken the necessary steps required to effect payment to such Scheme Shareholder in a manner contemplated by clause 5.1(a) or 5.1(b), pay to that Scheme Shareholder the Consideration held on trust for that Scheme Shareholder in a manner contemplated by clause 5.1(a) or 5.1(b) (or in any other manner approved by Computershare and agreed to by that Scheme Shareholder).

5.6 Orders of a court or Government Agency:

Notwithstanding any other provision of this Scheme Plan, if written notice is given to Arvida prior to the Record Date of an order or direction made by a court of competent jurisdiction or a Government Agency that:

- (a) requires Consideration to be provided to a third party in respect of Scheme Shares held by a particular Scheme Shareholder, which would otherwise be payable to that Scheme Shareholder in accordance with clause 4.1(e), Arvida will be entitled to procure, and Stonepeak will be deemed to have instructed Computershare to ensure, that provision of that Consideration is made in accordance with that order or direction; or

- (b) prevents the Consideration from being provided to any particular Scheme Shareholder in accordance with clause 4.1(e), or the payment of such Consideration is otherwise prohibited by applicable law, the payment (equal to the number of Scheme Shares held by that Scheme Shareholder multiplied by the Consideration) will be retained in the Trust Account until such time as provision of the Consideration to the Scheme Shareholder in accordance with clause 4.1(e) or clause 5.5 (as applicable) is permitted by that order or direction or otherwise by law.

and such provision or retention (as the case may be) will constitute the full discharge of Stonepeak's and Arvida's obligations under clause 4.1(e) with respect to the amount so provided or retained.

5.7 Exchange Rate: If a Scheme Shareholder elects to be paid by Hyperwallet in a foreign currency as contemplated by clause 5.1(b), the conversion of the Consideration into such foreign currency will be undertaken in a manner and at an exchange rate determined by Hyperwallet, and neither Arvida nor Stonepeak will be responsible for (or have any liability in connection with) any such conversion (including for the exchange rate at which the relevant conversion occurs).

6. DEALING IN SHARES

6.1 Trading Halt:

- (a) Following the sealing of the Final Orders Arvida will advise NZX of the grant of the Final Orders and, once known, the Trading Halt Date and Record Date and use its reasonable endeavours to procure that the NZX suspend trading in the Shares from the close of trading on the Trading Halt Date.
- (b) Arvida must not accept for registration, nor recognise for any purpose (except a transfer to Stonepeak pursuant to this Scheme Plan and any subsequent transfer by Stonepeak or its successors in title), any transfer or transmission application or other request received after 5.00pm on the Record Date or received



prior to such time, but not in registrable or actionable forms.

6.2 Register:

- (a) Arvida must register registrable transmission applications or registrable transfers of Shares received prior to the Trading Halt Date before 5.00pm on the Record Date provided that, for the avoidance of doubt, nothing in this clause 6.2(a) requires Arvida to register a transfer that relates to a transfer of Shares on which Arvida has a lien.
- (b) A holder of Scheme Shares (and any person claiming through that holder) must not dispose of, or purport or agree to dispose of, any Scheme Shares, or any interest in them, after 5.00pm on the Trading Halt Date otherwise than pursuant to this Scheme Plan, and any attempt to do so will have no effect and Arvida and Stonepeak shall be entitled to disregard any such disposal.
- (c) For the purposes of determining entitlements to the Consideration, but subject to the requirements of the NZX Listing Rules, Arvida must maintain the Register in accordance with the provisions of this clause 6 until the Consideration has been paid to the Scheme Shareholders. The Register in this form will solely determine entitlements to the Consideration.
- (d) From 5.00pm on the Record Date, each entry that is current on the Register (other than entries on the Register in respect of Excluded Shares), will cease to have effect except as evidence of entitlement to the Consideration in respect of the Shares relating to that entry.
- (e) As soon as possible on the first Business Day after the Record Date and in any event by 5.00pm on that day, Arvida must make available to Stonepeak in the form Stonepeak reasonably requires, details of the names, Registered Addresses and holdings of Shares for each Scheme Shareholder as shown in the Register on the Record Date.

7. GENERAL PROVISIONS

7.1 Amendments to Consideration: Stonepeak may increase the Consideration by written notice at any time to Arvida prior to the Scheme Meeting, provided that the Scheme Implementation Agreement has not been terminated in accordance with its terms prior to the receipt of such notice by Arvida.

7.2 Title to and rights in Scheme Shares:

- (a) To the extent permitted by law, the Scheme Shares (including all rights and entitlements attaching to the Scheme Shares) transferred under this Scheme Plan to Stonepeak will, at the time of transfer to Stonepeak, vest in Stonepeak free from all

encumbrances and free from any restrictions on transfer of any kind.

- (b) Each Scheme Shareholder is taken to have warranted to Stonepeak on the Implementation Date that all their Scheme Shares (including any rights and entitlements attaching to those shares) which are transferred under this Scheme Plan will, at the time of transfer, be fully paid and free from all encumbrances and restrictions on transfer of any kind, and that they have full power and capacity to transfer their Shares to Stonepeak together with any rights and entitlements attaching to those Shares.

7.3 Authority given to Arvida: Each Scheme Shareholder, without the need for any further act:

- (a) on the Final Orders Date, irrevocably appoints Arvida as its attorney and agent for the purpose of enforcing the Deed Poll against Stonepeak (but without limiting each Scheme Shareholder's right to itself enforce the Deed Poll); and
- (b) on the Implementation Date, irrevocably appoints Arvida as its attorney and agent for the purpose of executing any document or doing or taking any other act necessary, desirable or expedient to give effect to the Scheme and the transactions contemplated by it, and Arvida accepts each such appointment. Each such attorney and agent, may sub-delegate its functions, authorities or powers under this clause 7.3 to one or more of Arvida's directors or senior managers.

7.4 Binding effect of Scheme:

- (a) The Scheme binds:
 - (i) Arvida;
 - (ii) Stonepeak; and
 - (iii) all of the Scheme Shareholders (including those who did not attend the Scheme Meeting to vote on the Scheme, did not vote at the Scheme Meeting, or voted against the Scheme at the Scheme Meeting).
- (b) In the event of any inconsistency, this Scheme Plan overrides the constitution of Arvida.

7.5 End Date: If the Scheme has not become Unconditional on or before the End Date, or if the Scheme Implementation Agreement is terminated in accordance with its terms at any time, this Scheme Plan is immediately void and of no further force or effect (other than any provision of the Scheme or this Scheme Plan relating to the repayment to Stonepeak of any Funds deposited in accordance with clause 3 and the interest thereon (less bank fees and other third party charges relating to the Trust Account)).



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7.6 No liability when acting in good faith: Each Scheme Shareholder agrees that none of the directors, officers, employees or advisers of Arvida or Stonepeak will be liable for anything done or omitted to be done in the performance of the Scheme in good faith.

7.7 Successor obligations: To the extent that any provision of the Scheme or this Scheme Plan imposes any obligation on Stonepeak or Arvida that continues or arises after the implementation of the Scheme, such obligation may instead be performed by any successor or related company of Stonepeak or Arvida (as applicable) in which case the obligation will be satisfied as if performed by Stonepeak or Arvida (as applicable).

7.8 Governing law:

- (a) This Scheme Plan and any non-contractual obligations arising out of or in connection with it is governed by and must be construed in accordance with the laws of New Zealand.
- (b) The courts having jurisdiction in New Zealand have non-exclusive jurisdiction to settle any dispute arising out of or in connection with this Scheme Plan (including a dispute relating to any non-contractual obligations arising out of or in connection with this Scheme Plan) and the parties irrevocably submit to the non-exclusive jurisdiction of the courts having jurisdiction in New Zealand.

