

# DIVERSA

GROUP

27 September 2016

## ASX MARKET RELEASE

### LODGEMENT OF COURT ORDERS WITH ASIC

Further to its announcement of 26 September 2016 that the Federal Court of Australia (Court) had approved the scheme of arrangement (Scheme) under which OneVue Holdings Limited (ASX:OVH) will acquire 100% of the ordinary shares in Diversa Limited (ASX:DVA)(Diversa), Diversa confirms that a copy of the orders made by the Court has now been lodged with the Australian Securities and Investments Commission and the Scheme has accordingly become legally effective.

A copy of the Court's orders and the Scheme of Arrangement is attached.

Diversa will apply for its shares to be suspended from trading on the ASX from the close of trading today.

Key dates for implementation of the Scheme are set out below:

Key Dates	
Effective Date: - Court order lodged with the Australian Securities and Investments Commission and announced to ASX - Last day of trading in Diversa shares on ASX (with shares suspended from close of trading)	Tuesday 27 September 2016
Election Date - last date and time to lodge election forms in respect of the Scheme Consideration	Thursday 29 September 2016 (5.00pm)
Record date for determining entitlements to scheme consideration	Thursday 29 September 2016 (7.00pm)
Implementation date (for payment of the Scheme Consideration)	Thursday 6 October 2016

*All dates are indicative only and are subject to change as agreed between OneVue and Diversa and announced to ASX.*

For more information, contact:

Angus Craig, Company Secretary, 07 3212 9260 or [mail@diversa.com.au](mailto:mail@diversa.com.au)

#### **About Diversa:**

*Diversa Ltd (ASX: DVA) is an ASX-listed superannuation and investment company. Diversa provides superannuation trustee, administration, promotion and investment services to wholesale clients such as super fund trustees and super fund promoters, including financial advisers and corporates; and also uses those services to provide superannuation and insurance products directly to its retail clients.*

**Diversa Limited** ABN 60 079 201 835

Level 9, Waterfront Place, 1 Eagle Street, Brisbane, Queensland 4000

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Federal Court of Australia  
District Registry: New South Wales  
Division: General

No: NSD1197/2016

**DIVERSA LIMITED ACN 079 201 835**  
Plaintiff

**ORDER**

**JUDGE:** JUSTICE RARES


**DATE OF ORDER:** 26 September 2016

**WHERE MADE:** Sydney

**THE COURT ORDERS THAT:**

- 1 Pursuant to subsection 411(4)(b) of the *Corporations Act 2001* (Cth) (**Act**), the scheme of arrangement between the plaintiff and its shareholders, in the form of Exhibit 3 in the proceeding, be approved.
- 2 The plaintiff lodge with the Australian Securities and Investments Commission a copy of the approved scheme of arrangement at the time of lodging a copy of these orders.
- 3 Pursuant to subsection 411(12) of the Act, the plaintiff be exempted from compliance with section 411(11) in relation to Order 1.
- 4 The plaintiff not give any direction to Centec Securities Pty Ltd pursuant to cl 5(c) of the agreement between them dated 22 July 2016 that is in any way inconsistent with cl 3.3(b) of the scheme of arrangement approved pursuant to order 1.
- 5 These orders be entered forthwith.

Date that entry is stamped: 26 September 2016.

  
Registrar



## Scheme of Arrangement

Diversa Limited

ACN 079 201 835

The holders of ordinary fully paid shares issued in  
Diversa Limited

## SCHEME OF ARRANGEMENT

### Under section 411 of the Corporations Act

#### BETWEEN:

- (1) Diversa Limited ACN 079 201 835 whose registered office is at Level 9, 1 Eagle St Brisbane, QLD 4000 (**Target**); and
- (2) The holders of fully paid ordinary shares in Target.

#### BACKGROUND

- (A) Target is a public company incorporated in Australia. It is registered in New South Wales and is a company limited by shares. It has its registered office at Level 9, 1 Eagle Street Brisbane, QLD 4000. As at 14 June 2016, 59,323, 421 of Target Shares were on issue.
- (B) OneVue Holdings Limited (**Bidder**) is a public company incorporated in Australia under the Corporations Act. It is registered in Victoria and is a company limited by shares. It has its registered office at Level 5, 10 Spring Street, Sydney, NSW 2000. As at 14 June 2016, 193,158,000 of Bidder Shares were on issue.
- (C) Target and Bidder entered into the Scheme Implementation Deed on or about 14 June 2016 to facilitate the implementation of the Share Scheme. The directors of Target have proposed the Share Scheme to the members of Target and consider that the Share Scheme is in the best interests of Target and its members as a whole.
- (D) Under the Scheme Implementation Deed, Target and Bidder have agreed that each of them will perform their respective obligations under the Share Scheme and do everything within their powers that is necessary to give full effect to the Share Scheme.
- (E) Bidder has executed the Deed Poll under which it covenants in favour of the Scheme Shareholders to carry out its obligations under the Share Scheme, including to provide the Share Scheme Consideration in accordance with the terms of the Share Scheme.
- (F) If the Share Scheme becomes Effective:
  - (1) Bidder will issue the Share Scheme Consideration in accordance with the terms of this Scheme in consideration of the transfer of the Scheme Shares to Bidder; and
  - (2) all the Scheme Shares will be transferred to Bidder and Target will become a wholly owned subsidiary of Bidder; and
  - (3) Target will enter the Bidder's name in the Register as the holder of all Scheme Shares.

#### OPERATIVE PROVISIONS

##### 1. INTERPRETATION

###### 1.1 Definitions

The following definitions apply in this document:

**ASIC** means the Australian Securities and Investments Commission.

**ASX** means the Australian Securities Exchange or ASX Limited (ABN 98 008 624 691), as the context requires.

**ASX Listing Rules** means the listing rules of ASX.

**Bidder Share** means a fully paid ordinary share in Bidder.

**Business Day** means a business day as defined in the ASX Listing Rules.

**CHESS** means the clearing house electronic subregister system for the electronic transfer of securities operated by ASX Settlement Pty Limited, which provides for the electronic transfer, settlement and registration of securities.

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

**Court** means the Federal Court of Australia, NSW Registry.

**Deed Poll** means the deed poll executed by Bidder in favour of Target Shareholders dated [ ] 2016.

**Effective** means the coming into effect, under section 411(1) of the Corporations Act, of the order of the Court made under section 411(4)(b) of the Corporations Act in relation to the Share Scheme.

**Effective Date** means the date on which an office copy of the order of the Court approving the Share Scheme under section 411(4)(b) of the Corporations Act is lodged with ASIC.

**End Date** means the date 6 months after the Scheme Implementation Deed subject to any extension under clause 3.7 of the Scheme Implementation Deed.

**Implementation** means the implementation of the Share Scheme, on it becoming effective under section 411(10).

**Implementation Date** means the fifth Business Day immediately following the Record Date.

**Ineligible Overseas Shareholder** means a Target Shareholder:

- (a) who is (or is acting on behalf of) a resident of a jurisdiction other than Australia or New Zealand and their respective external authorities; or
- (b) whose address shown in the Register is a place outside Australia or New Zealand and their respective external territories.

**New Bidder Share** means Bidder Shares to be issued under the Share Scheme as Share Scheme Consideration.

**Record Date** means 7.00 pm on the day which is five Business Days after the Effective Date or any other date agreed by the parties to be the record date to determine entitlements to receive Share Scheme Consideration under the Share Scheme.

**Register** means the register of Target.

**Registered Address** means, in relation to a Target Shareholder, the address of the shareholder shown in the Register.

**Scheme Implementation Deed** means the Scheme Implementation Deed between Target and Bidder dated 14 June 2016 relating to the implementation of the Share Scheme.

**Scheme Share** means each Target Share on issue as at the Record Date.

**Scheme Shareholder** means each Target Shareholder at the Record Date, taking into account registration of all registrable transfers and transmission applications in accordance with clause 4.1.

**Scheme Transfer**, in relation to Scheme Shares, means a proper instrument of transfer of the Scheme Shares.

**Second Court Date** means the first day on which the Court hears the application for an order under section 411(4)(b) of the Corporations Act approving the Share Scheme or, if the application is adjourned or subject to appeal for any reason, the first day on which the adjourned or appealed application is heard.

**Share Scheme** means the scheme of arrangement under Part 5.1 between Target and the Scheme Shareholders, set out in this document, subject to any alterations or conditions made or required by the Court under section 411(6) of the Corporations Act.

**Share Scheme Consideration** means the consideration to be provided to Target Shareholders under the terms of this scheme for the transfer of their Target Shares to Bidder, as set out in clause 7 of the Scheme Implementation Deed.

**Share Scheme Meeting** means the Target Shareholders' meeting ordered by the Court to be convened under section 411(1) in relation to the Share Scheme.

**Target Share** means each fully paid ordinary share in the capital of Target.

**Target Share Registry** means Link Market Services of Level 15, 324 Queen St, Brisbane, Queensland 4000.

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

## 1.2 **Rules for interpreting this document**

Headings and catchwords are for convenience only, and do not affect interpretation. The following rules also apply in interpreting this document, except where the context makes it clear that a rule is not intended to apply.

- (a) A reference to:
  - (i) a legislative provision or legislation (including subordinate legislation) is to that provision or legislation as amended, re-enacted or replaced, and includes any subordinate legislation issued under it;
  - (ii) a person includes any type of entity or body of persons, whether or not it is incorporated or has a separate legal identity, and any executor, administrator or successor in law of the person; and
  - (iii) anything (including a right, obligation or concept) includes each part of it.
- (b) A singular word includes the plural, and vice versa.
- (c) A word which suggests one gender includes the other genders.
- (d) If a word or phrase is defined, any other grammatical form of that word or phrase has a corresponding meaning.
- (e) If an example is given of anything (including a right, obligation or concept), such as by saying it includes something else, the example does not limit the scope of that thing.

- (f) The words **officer** and **security interest** have the same meaning as in section 9 of the Corporations Act.
- (g) The expression **related body corporate** has the same meaning given in section 50 of the Corporations Act.
- (h) All references to time in this document are references to time in Sydney, Australia.
- (i) A reference to **\$** or **dollar** is to Australian currency.

### 1.3 **Non-Business Days**

If the day on or by which a person must do something under this document is not a Business Day:

- (a) if the act involves a payment that is due on demand, the person must do it on or by the next Business Day; and
- (b) in any other case, the person must do it on or by the previous Business Day.

## 2. **CONDITIONS PRECEDENT**

### 2.1 **Conditions precedent to the Share Scheme**

The Share Scheme is conditional on the following:

- (a) as at 8.00am on the Second Court Date, neither the Scheme Implementation Deed nor the Deed Poll having been terminated;
- (b) all the conditions set out in clause 3.2 of the Scheme Implementation Deed, other than the condition in clause 3.2(e), having been satisfied or waived in accordance with the terms of the Scheme Implementation Deed; and
- (c) the Court having made an order under section 411(4)(b) of the Corporations Act approving the Share Scheme.

### 2.2 **Effective Date**

The Share Scheme takes effect on the Effective Date. Target must lodge with ASIC an office copy of the order of the Court approving the Share Scheme under section 411(4)(b) of the Corporations Act by no later than 10.00 am on the first Business Day after the date on which the Court makes that order.

### 2.3 **End Date**

The Share Scheme will lapse and be of no effect if the Effective Date has not occurred on or before the End Date.

## 3. **THE SCHEME**

### 3.1 **Implementation steps**

On the Implementation Date:

- (a) subject to the provision of the Share Scheme Consideration in accordance with the Share Scheme and Bidder having provided Target with written confirmation of that having occurred, all the Scheme Shares, together with all rights and entitlements attaching to those shares as at the Implementation Date, will be transferred to Bidder without the need for any further act by any Scheme Shareholder (other than

acts performed by Target or its directors and officers as attorney and agent for the Scheme Shareholders under the Share Scheme) by Target effecting a valid transfer or transfers of the Scheme Shares to Bidder under section 1074B of the Corporations Act or, if that procedure is not available for any reason in respect of any Scheme Shares, by:

- (i) Target delivering to Bidder for execution duly completed and, if necessary, stamped Scheme Transfers to transfer the Scheme Shares to Bidder, duly executed by Target or any of its directors and officers as the attorney and agent of each Scheme Shareholder as transferor under clauses 5.2 and 5.3;
  - (ii) Bidder executing the Scheme Transfers as transferee and delivering them to Target;
  - (iii) Target upon receipt of the Scheme Transfers under subparagraph (ii) entering or procuring entry of the name and address of Bidder in the Target Register as the holders of all the Scheme Shares; and
- (b) Bidder must issue and pay to each Scheme Shareholder the Share Scheme Consideration for each Target Share held by the Scheme Shareholder, in accordance with and subject to the terms of this Scheme.
- (c) Any New Bidder Shares to be issued by the Bidder under this Scheme will be duly and validly issued, fully paid and will, upon their issue, rank equally in all respects with all other Bidder Shares then on issue.

### **3.2 Fractional entitlements**

If a fractional entitlement to a New Bidder Share arises from the calculation of the Share Scheme Consideration payable to a Scheme Shareholder in respect of its Scheme Shares, then the fractional entitlement to a New Bidder Share will be rounded to the nearest whole number and will be rounded up if the fractional entitlement is one half.

### **3.3 Ineligible Overseas Scheme Shareholders**

Ineligible Overseas Scheme Shareholders are not entitled to be issued New Bidder Shares as part of the Share Scheme Consideration under clause 3.1(b). Instead, the New Bidder Shares that, but for this clause, would be issued to the Ineligible Overseas Scheme Shareholders will be issued to a person nominated by Target for this purpose (the **Nominee**). Where the Nominee is issued New Bidder Shares under this clause, Target will cause:

- (a) the Nominee, as soon as reasonably practicable (but, in any case within one month after the Implementation Date), to offer all the New Bidder Shares comprising such Share Scheme Consideration for sale on ASX in such manner, at such price or prices and on such other terms as the Nominee determines in good faith (and at the risk of the Ineligible Overseas Scheme Shareholders); and
- (b) as reasonably practicable but in any case within 10 Business Days after settlement of all the sales of the New Bidder Shares comprising the Share Scheme Consideration issued to the Nominee having occurred, to be remitted to each Ineligible Overseas Scheme Shareholder the same proportion of the net proceeds of sale of all such shares (after deduction of any fees and taxes and other charges and costs of sale) as the Share Scheme Consideration issued to the Nominee in respect of that Ineligible Overseas Scheme Shareholder bears to the total number of New Bidder Shares issued to and sold by the Nominee under paragraph (a).

Each Ineligible Overseas Scheme Shareholder appoints Target, and each director and officer of Target, as its agent to receive on its behalf any financial services guide or other



notice that may be given under the Corporations Act by the Nominee to each Ineligible Overseas Scheme Shareholder for or in connection with its appointment or the sales.

#### **3.4 Registration and confirmations**

- (a) Bidder will register, or cause to be registered, the Scheme Shareholders (other than the Ineligible Overseas Scheme Shareholders) and the Nominee (in respect of Ineligible Overseas Scheme Shareholders) as the holders of the New Bidder Shares to which they become entitled under the Share Scheme.
- (b) As required by the Corporations Act Bidder will send confirmations of issue for the New Bidder Shares issued to Scheme Shareholders (at the risk of the Scheme Shareholders) by pre-paid ordinary mail or, in the case of an address outside Australia by airmail, to the Registered Addresses of the respective Scheme Shareholders. In the case of Scheme Shareholders that are joint holders, such confirmations will be sent to the holder whose name appears first in the Register on the Record Date.

#### **3.5 Agreement to become member of Bidder**

Each Scheme Shareholder agrees for all purposes to become a member of Bidder (without the need for any further act on its part) and to be bound by the constitution of Bidder.

#### **3.6 Target Shares transferred free from encumbrance**

- (a) To the extent permitted by law, the Target Shares transferred to Bidder under the Share Scheme will be transferred (subject to Target's constitution) free from all security interests (including mortgages, charges, liens, encumbrances and interests of third parties of any kind, whether legal or otherwise).
- (b) Each Scheme Shareholder is deemed to have warranted to Bidder and, to the extent enforceable, appointed and authorised Target as its agent to warrant to Bidder that all its Scheme Shares (including any rights and entitlements attaching to those Shares) will, as at the time of the transfer of them to Bidder, be fully paid and (subject to Target's constitution) free from all security interests (including mortgages, charges, liens, encumbrances, pledges, security interests and interests of third parties of any kind, whether legal or otherwise), and from any restrictions on transfer of any kind, and that it has full power and capacity to sell and to transfer its Scheme Shares (including any rights and entitlements attaching to those shares) to Bidder under the Share Scheme. Target undertakes in favour of each Scheme Shareholder that it will be taken to have provided such warranty to Bidder on behalf of the Scheme Shareholder as at the time of transfer of the Scheme Shares.

#### **3.7 Bidder beneficially entitled to Scheme Shares**

Subject to provision of the Share Scheme Consideration in accordance with clause 3.1(b), on and from the Implementation Date, Bidder will be beneficially entitled to the Scheme Shares transferred to it under the Share Scheme pending registration by Target of the name and address of Bidder in the Register as the holder of the Scheme Shares.

### **4. DEALINGS IN TARGET SHARES**

#### **4.1 What Target Share dealings are recognised?**

To establish the persons who are Scheme Shareholders, dealings in Target Shares will be recognised only if:

- (a) in the case of dealings of the type to be effected using CHES, the transferee is registered in the Register as the holder of the Target Shares as at the Record Date; and
- (b) in all other cases, registrable transfers or transmission applications in respect of those dealings are received at the Target Share Registry at or before the Record Date.

#### **4.2 Target to register transfer and transmission applications**

Target will register registrable transfers and transmission applications of the kind referred to in clause 4.1(b) by, or as soon as practicable after, the Record Date.

#### **4.3 Transfers received after Record Date not recognised**

Target will not accept for registration, nor recognise for any purpose, any transfer or transmission application in respect of Scheme Shares received after the Record Date.

#### **4.4 Target to maintain Register to determine entitlements**

In order to determine entitlements to the Share Scheme Consideration, Target will maintain, or procure the maintenance of, the Register in accordance with this clause 4 until the Share Scheme Consideration has been paid to Scheme Shareholders and the Register in this form will solely determine entitlements to the Share Scheme Consideration.

#### **4.5 Holding statements no effect from Record Date**

From the Record Date, all holding statements for Scheme Shares will cease to have effect as documents of title (or evidence thereof), and each entry on the Register at the Record Date will cease to have any effect other than as evidence of the entitlements of Scheme Shareholders to the Share Scheme Consideration.

#### **4.6 Target to provide contact information for Scheme Shareholders**

As soon as practicable after Record Date and in any event at least four Business Days before the Implementation Date, Target will give to Bidder or procure that Bidder be given details of the name, Registered Address and the number of Target Shares held by each Scheme Shareholder, as shown in the Register at the Record Date, in whatever form Bidder reasonably requires.

#### **4.7 Suspension of trading**

It is expected that the suspension of trading in Target Shares on the stock market conducted by ASX will occur from the close of trading on the Effective Date.

#### **4.8 Target to apply for termination of quotation of Target Shares**

On a date after the Implementation Date to be determined by Bidder, Target will apply for termination of the official quotation on the stock market conducted by ASX of Target Shares and must apply to have itself removed from the official list of ASX.

### **5. GENERAL PROVISIONS**

#### **5.1 Target giving effect to the Share Scheme**

Target must do anything (including execute any document), and must ensure that its employees and agents do anything (including execute any document), that is necessary, expedient or incidental to give full effect to the Share Scheme and the transactions

contemplated by it. Without limiting Target's power under the Share Scheme, Target has power to do all things that it considers necessary or desirable to give effect to the Share Scheme and the Scheme Implementation Deed.

## 5.2 **Scheme Shareholders' agreements and consents**

Subject to the provision by Bidder of the Share Scheme Consideration, each Scheme Shareholder:

- (a) agrees to the transfer of their Target Shares, together with all rights and entitlements attaching to those Shares, to Bidder, in accordance with the Share Scheme; and
- (b) consents to Target doing all things and executing all deeds, instruments, transfers or other documents as may be necessary, expedient or incidental to Implementation and to give full effect to the Share Scheme and the transactions contemplated by it and Target, as agent of each Scheme Shareholder, may sub-delegate its functions under this document to any of its directors and officers, jointly and severally,

without the need for any further act by the Scheme Shareholder.

## 5.3 **Appointment of Target as attorney of Scheme Shareholders**

Each Scheme Shareholder without the need for any further act, irrevocably appoints Target and each of its directors and officers, jointly and severally, on and from the Effective Date, as the Scheme Shareholder's attorney and agent,

- (a) to execute any document or do any other act necessary, expedient or incidental to give full effect to the Share Scheme and the transactions contemplated by it, including the effecting of a valid transfer or transfers (or execution and delivery of any Scheme Transfer) under clause 3; and
- (b) to enforce the Deed Poll against Bidder,

and Target accepts such appointment. Target may as agent and attorney of each Scheme Shareholder sub-delegate any of its functions, authorities or powers under this clause to all or any of its directors and officers (jointly, severally, or jointly and severally).

## 5.4 **Appointment of Bidder as attorney in respect of Scheme Shares**

- (a) From the Implementation Date until Bidder is registered as the holder of all Scheme Shares, each Scheme Shareholder:
  - (i) irrevocably appoints Bidder as its attorney and agent (and irrevocably appoints Bidder as its agent and attorney to appoint any of the directors and officers of Bidder as its attorney and agent) to:
    - (A) appoint the chairman of the board of directors of Bidder or failing him any director of the Bidder nominated by the Board of the Bidder as its sole proxy and, where applicable, corporate representative to attend shareholders' meetings of Target;
    - (B) exercise the votes attaching to the Target Shares registered in the name of the Scheme Shareholder;
    - (C) sign any Target Shareholders' resolution; and

(ii) must take all other action in the capacity of a registered holder of Scheme Shares as Bidder reasonably directs.

(b) From the Implementation Date no Scheme Shareholder may attend or vote at any shareholders' meetings of Target or sign any Target Shareholders resolution (whether in person, by proxy or by corporate representative) other than under this clause.

#### 5.5 **Binding effect of Scheme**

The Share Scheme binds Target and all Target Shareholders from time to time, including those who do not attend the Share Scheme Meeting, do not vote at that meeting or vote against the Share Scheme.

#### 5.6 **Alteration or condition to Share Scheme**

If the Court proposes to approve the Share Scheme subject to any alteration or condition Target may, by its counsel or solicitors, but subject to the prior approval of Bidder (which may not be unreasonably withheld or delayed), consent on behalf of all persons concerned, including each Scheme Shareholder, to those alterations or conditions.

#### 5.7 **Deed Poll**

Target undertakes in favour of each Scheme Shareholder to enforce the Deed Poll against Bidder for and on behalf of each Scheme Shareholder.

#### 5.8 **Notices**

Where a notice, transfer, transmission application, direction or other communication referred to in the Share Scheme is sent by post to Target, it will be deemed to be received on the date (if any) on which it is actually received at Target's registered office or Share Registry and on no other date.

#### 5.9 **Costs and stamp duty**

(a) Subject to paragraph (b), Target will pay all the costs of the Share Scheme, except that the Bidder must bear its own costs in relation to the Share Scheme, including costs arising out of the negotiation and preparation of this document and the Scheme Implementation Deed.

(b) Bidder will pay all stamp duty and any related fines, penalties and other costs in respect of the Share Scheme (including in connection with the transfer of the Scheme Shares to Bidder) in accordance with the terms of the Share Scheme.

#### 5.10 **Governing law**

This document and any dispute arising out of or in connection with the subject matter of this document is governed by the laws of New South Wales.