

**FEDERAL COURT OF AUSTRALIA APPROVES THE ACQUISITION OF MOSAIC OIL N.L. BY AGL ENERGY LIMITED**

Mosaic Oil N.L. (**Mosaic**) today announces that the Federal Court of Australia has issued orders approving the Scheme of Arrangement between Mosaic and its shareholders pursuant to which AGL Energy Limited (**AGL**) will acquire all of the shares in Mosaic. A copy of the Court orders is attached. The Court orders were made following the overwhelming support of Mosaic shareholders who voted in favour of the Scheme at the Scheme Meeting held on 7 October 2010.

The Court orders have been lodged with the Australian Securities and Investments Commission and the Scheme is therefore Effective as of today. Pursuant to Listing Rule 17.2, Mosaic has requested a suspension from quotation of its securities, which if granted by the ASX, will result in the suspension of trading in Mosaic shares from the close of trading today.

The Scheme is scheduled to be implemented (and the Scheme Consideration is scheduled to be despatched to Mosaic Shareholders) on Wednesday, 20 October 2010. The entitlements to the Scheme Consideration under the Scheme will be determined at 7.00pm on Monday, 18 October 2010.

The following table sets out the envisaged timetable for the completion of the acquisition:

Event	Time and date
Effective Date	Monday, 11 October 2010
Suspension of trading in fully paid Mosaic shares on ASX	Close of trading on Monday, 11 October 2010
New AGL shares commence trading on ASX on a deferred settlement basis	Tuesday, 12 October 2010
Record Date – time and date for determining entitlement to Scheme Consideration under the Scheme	7.00pm on Monday, 18 October 2010
Scrip election forms to be received from Mosaic shareholders not later than	7.00pm on Monday, 18 October 2010
Implementation Date – transfer of Mosaic shares to AGL	Wednesday, 20 October 2010
Despatch of Scheme Consideration	Wednesday, 20 October 2010
Commencement of normal trading of new AGL Shares on ASX	Thursday, 21 October 2010

**For further information:**

Investor Relations:  
 Sally Highducheck, Mosaic Oil  
 +61 2 9247 9324  
[shighducheck@mosaicoil.com](mailto:shighducheck@mosaicoil.com)



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**IN THE FEDERAL COURT OF AUSTRALIA  
NEW SOUTH WALES DISTRICT REGISTRY  
GENERAL DIVISION**

No: (P)NSD1064/2010

IN THE MATTER OF MOSAIC OIL NL (ACN 003 329 084)

MOSAIC OIL NL ACN 003 329 084  
Plaintiff

**ORDER**

**JUDGE:** Justice Jacobson

**DATE OF ORDER:** 11 October 2010

**WHERE MADE:** Sydney



**THE COURT ORDERS THAT:**

1. Pursuant to clause 7.1 of the deed poll ("Deed Poll") executed by AGL Energy Limited ("AGL") in favour of shareholders of Mosaic Oil NL ("Mosaic") other than Excluded Shareholders ("Shareholders") on 3 September 2010, the amendments to the Deed Poll set out in Annexure "A" to these Orders do not preclude approval of the scheme of arrangement between Mosaic and its Shareholders, as set out in the following Orders ("Scheme").
2. Pursuant to s 411(4)(b) and (6) of the *Corporations Act 2001* (Cth) ("the Act"), the Scheme between Mosaic and its Shareholders, being in the form of the Scheme contained in Annexure B of the Scheme Booklet which was registered with the Australian Securities and Investments Commission on 6 September 2010 and assigned document number 026139310, be approved subject to the following alterations to the Scheme:
  - (a) inserting the words "*11 October*" before the reference to "*2010*" in the "Date" of the Scheme on page 1;
  - (b) inserting the words "*(as amended by a deed poll executed by AGL dated 6 October 2010)*" after the words "*Scheme Shareholder*" in the definition of "*Deed Poll*" in clause 1.1 of the Scheme;
  - (c) inserting the words "*(as amended by an Amendment Deed dated 18 August 2010)*" after the words "*between AGL and Mosaic*" in the definition of "*Scheme Implementation Deed*" in clause 1.1 of the Scheme;
  - (d) replacing the words "*[insert date]*" with the date "*7 October 2010*" in clause 2.1(b) of the Scheme;

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- (e) replacing the number “[821,710,775]” with the number “866,910,755” in clause 2.1(b)(i) of the Scheme;
- (f) replacing the number “[19,235,000]” with the number “19,035,000” in clause 2.1(b)(ii) of the Scheme;
- (g) deleting the symbols “[“ and ”]” in clause 2.1(b)(iii) of the Scheme;
- (h) inserting a space after the words “paragraph (a)” in clause 5.3(b) of the Scheme;
- (i) deleting the second full-stop appearing at the end of clause 5.7(b) of the Scheme; and
- (j) replacing the word “Securities” with the word “Shares” in clause 5.7(d) of the Scheme;

so that the Scheme as altered and approved is in the form of Annexure “B” to these Orders.

- 3. Pursuant to s 411(12) of the Act, Mosaic be exempted from compliance with s 411(11) of the Act.
- 4. These orders be entered forthwith.

In these orders, an “Excluded Shareholder” is any Mosaic Shareholder who is a member of the AGL Group, meaning AGL Energy Limited and each of its subsidiaries.

Date that entry is stamped: 11 October 2010



## ANNEXURE A

The Deed Poll is amended as follows:

1. inserting the words “*and, subject to clause 2, to perform its obligations under the Scheme*” after the words “*terms of the Scheme*” in clause 3.1(a) of the Deed Poll.



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## ANNEXURE B

Allens Arthur Robinson 

<b>Date</b>	11 October 2010
<b>Parties</b>	<b>Scheme of Arrangement</b> under Part 5.1 of the Corporations Act.  1. <b>Mosaic Oil NL</b> (ACN 003 329 084) of Level 12, 10 Bridge St, Sydney NSW 2000 ( <i>Mosaic</i> ).  2. The holders of: (a) fully paid ordinary shares in Mosaic; and (b) Mosaic Ordinary Contributing Shares, at the Scheme Record Date (other than Excluded Shareholders).

### 1. Definitions and interpretation

#### 1.1 Definitions

The meanings of the terms used in this scheme of arrangement are set out below.

**AGL** means **AGL Energy Limited** (ACN 115 061 375) of Level 22, 101 Miller St, North Sydney NSW 2060 (*AGL*).

**AGL Group** means AGL and each of its subsidiaries (excluding, at any time, Mosaic and its subsidiaries to the extent that Mosaic and its subsidiaries are subsidiaries of AGL at that time). reference to a *member of the AGL Group* is a reference to AGL or any such subsidiary.

**AGL Register** means the register of members of AGL.

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

**ASX** means ASX Limited (ABN 98 008 624 691) or, as the context requires, the financial market known as the Australian Securities Exchange operated by it.

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

**Cash Consideration** means:

- (a) for each Scheme Share which, at the Scheme Record Date, is a Mosaic fully paid ordinary share - \$0.15 cash (provided that in the event that Mosaic declares or determines to pay or provide any dividend or distribution after the date of the Scheme Implementation Deed and prior to the Implementation Date, that amount will be reduced by the value of that dividend or distribution (as determined by AGL, acting reasonably, in the case of a non-cash dividend or distribution)); and
- (b) for each Scheme Share which, at the Scheme Record Date, is a Mosaic Ordinary Contributing Share - \$0.15 in cash (provided that in the event that Mosaic declares or determines to pay or provide any dividend or distribution after the date of the Scheme



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Implementation Deed and prior to the Implementation Date, that amount will be reduced by the value of that dividend or distribution (as determined by AGL, acting reasonably, in the case of a non-cash dividend or distribution), minus the unpaid amount (if any) on that partly paid share as at the Scheme Record Date, provided that if this results in no amount or a negative amount payable, the consideration offered for that partly paid share is \$0.001.

**CHES** means the clearing house electronic sub-register system of share transfers operated by ASX Settlement and Transfer Corporation Pty Ltd (ABN 49 008 504 532).

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

**Court** means the Federal Court of Australia, New South Wales Registry.

**Deed Poll** means the deed poll dated 3 September 2010 executed by AGL in favour of the Scheme Shareholders (as amended by a deed poll executed by AGL, dated 6 October 2010).

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

**Effective Date** means the date on which this scheme becomes Effective.

**End Date** means 30 November 2010.

**Excluded Shareholder** means any Mosaic Shareholder who is a member of the AGL Group.

**Implementation Date** means the fifth Business Day after the Scheme Record Date or such other date agreed to in writing between AGL and Mosaic.

**Ineligible Foreign Shareholder** means a Scheme Shareholder whose address shown in the Mosaic Share Register at the Scheme Record Date is a place outside of Australia and its external territories or New Zealand unless AGL determines that it is lawful and not unduly onerous or impracticable to issue that Scheme Shareholder with New AGL Shares.

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

**Marketable Parcel** means a marketable parcel as defined by the Market Rules of ASX.

**Mosaic Employee Incentive Plan** means the plan of that name established in respect of the Mosaic Employee Options.

**Mosaic Employee Options** means options to subscribe for fully paid ordinary shares in Mosaic, issued under the Mosaic Employee Incentive Plan.

**Mosaic Employee Share Scheme** means the Mosaic Employee Share Scheme established in 1992, as amended at the Mosaic General Meeting dated 28 November 2001.

**Mosaic Ordinary Contributing Shares** means partly paid ordinary shares in Mosaic issued under the Mosaic Employee Share Scheme.

**Mosaic Registry** means Registries Limited (ABN 14 003 209 836) or any replacement provider of share registry services to Mosaic.

**Mosaic Share** means:

- (a) a fully paid ordinary share in Mosaic; or
- (b) a Mosaic Ordinary Contributing Share.



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**Mosaic Shareholders** means each person who is registered as the holder of Mosaic Shares from time to time.

**Mosaic Share Register** means the register of members of Mosaic maintained in accordance with the Corporations Act.

**New AGL Share** means an ordinary share in the capital of AGL, to be issued as fully paid under the Scheme.

**Registered Address** means, in relation to a Mosaic Shareholder, the address shown in the Mosaic Share Register.

**Sale Agent** means Goldman Sachs & Partners Australia Pty Ltd or any replacement nominee appointed by AGL, with the approval of Mosaic, such consent not to be unreasonably withheld.

**Sale Facility Entitlement** in respect of a particular Sale Facility Participant has the meaning given in clause 5.7(b).

**Sale Facility Participant** has the meaning given in clause 5.7(a).

**Sale Facility Shares** has the meaning given in clause 5.7(a).

**Scheme Booklet** means the information to be approved by the Court and despatched to Mosaic Shareholders (other than Excluded Shareholders) including the scheme, an explanatory statement complying with the requirements of the Corporations Act, an independent expert's report, the Deed Poll, notice of the Scheme Meeting and proxy form for the Scheme Meeting.

**Scheme Consideration** means:

- (a) for each Scheme Shareholder who has not submitted a valid Scrip Election Form to the Mosaic Registry prior to the Scheme Record Date, Cash Consideration for each Scheme Share held by that Scheme Shareholder, and
- (b) subject to clauses 5.6 and 5.7, for each Scheme Shareholder who has submitted a valid Scrip Election Form to the Mosaic Registry prior to the Scheme Record Date, Scrip Consideration for each Scheme Share held by that Scheme Shareholder.

**Scheme Implementation Deed** means the Scheme Implementation Deed dated 14 July 2010 between AGL and Mosaic (as amended by an Amendment Deed dated 18 August 2010).

**Scheme Meeting** means the meeting of Mosaic Shareholders (other than Excluded Shareholders) ordered by the Court to be convened under section 411(1) of the Corporations Act.

**Scheme Record Date** means 7pm on the fifth Business Day after the Effective Date or such other date agreed to in writing between AGL and Mosaic.

**Scheme Share** means a Mosaic Share held by a Scheme Shareholder at the Scheme Record Date.

**Scheme Shareholders** means Mosaic Shareholders (other than Excluded Shareholders) at the Scheme Record Date.

**Scrip Consideration** means:

- (a) for each Scheme Share which, at the Scheme Record Date, is a Mosaic fully paid ordinary share – 0.0101 New AGL Shares for every one Scheme Share (provided that in the event that Mosaic declares or determines to pay or provide any dividend or distribution after the date of the Scheme Implementation Deed and prior to the Implementation Date, that



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number of New AGL Shares will be reduced by the proportion which the value of that dividend or distribution (as determined by AGL, acting reasonably, in the case of a non-cash dividend or distribution) bears to \$0.15); and

- (b) for each Scheme Share which, at the Scheme Record Date, is a Mosaic Ordinary Contributing Share, a number of New AGL Shares for every one Scheme Share determined in accordance with the following formula:

$$A = \frac{B}{C} \times D$$

where:

A = the number of New AGL Shares to be issued for every one such Scheme Share;

B = C, minus the unpaid amount (if any) on that partly paid share as at the Scheme Record Date, provided that if this results in no amount or a negative amount payable, then B is \$0.001;

C = 0.15 (provided that in the event that Mosaic declares or determines to pay or provide any dividend or distribution after the date of the Scheme Implementation Deed and prior to the Implementation Date, that amount will be reduced by the value of that dividend or distribution (as determined by AGL, acting reasonably, in the case of a non-cash dividend or distribution)); and

D = the scrip ratio, 0.0101, provided that in the event that Mosaic declares or determines to pay or provide any dividend or distribution after the date of this deed and prior to the Implementation Date, that scrip ratio will be reduced by the proportion which the value of that dividend or distribution (as determined by AGL, acting reasonably, in the case of a non-cash dividend or distribution) bears to \$0.15).

**Scrip Election** means a valid election under clause 5.4(a) by way of Scrip Election Form by a Scheme Shareholder to receive Scrip Consideration for all of that Scheme Shareholder's Scheme Shares, subject to the terms of the Scheme.

**Scrip Election Form** means a form which forms part of the Scheme Booklet and is to be completed by Mosaic Shareholders to record their election to receive the Scrip Consideration under the Scheme.

**Second Court Date** means the first day on which an application made to the Court for an order under section 411(4)(b) of the Corporations Act approving the Scheme is heard.

**Trustee** means Mosaic as trustee for the Scheme Shareholders.

**Unmarketable Parcel** means a number of AGL Shares which is less than a "marketable parcel" under the market rules of the ASX (currently, a parcel of less than \$500), calculated based on the highest closing price for AGL Shares on ASX during the period between the date of the Scheme Booklet and the Scheme Record Date.

**Unmarketable Parcel Shareholder** means a Scheme Shareholder whose holding of Scheme Shares is such that, if they made a valid Scrip Election, the total number of AGL Shares which that



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shareholder would otherwise be entitled to receive as Scrip Consideration would be an Unmarketable Parcel.

## 1.2 Interpretation

Headings are for convenience only and do not affect interpretation. The following rules apply unless the context requires otherwise.

- (a) The singular includes the plural, and the converse also applies.
- (b) A gender includes all genders.
- (c) If a word or phrase is defined, its other grammatical forms have a corresponding meaning.
- (d) A reference to a person, corporation, trust, partnership, unincorporated body or other entity includes any of them.
- (e) A reference to a clause or schedule is a reference to a clause of or schedule to this scheme.
- (f) A reference to an *agreement* or *document* (including a reference to this scheme) is to the agreement or document as amended, supplemented, novated or replaced, except to the extent prohibited by this scheme or that other agreement or document, and includes the recitals, schedules and annexures to that agreement or document.
- (g) A reference to a party to this scheme or another agreement or document includes the party's successors, permitted substitutes and permitted assigns (and, where applicable, the party's legal personal representatives).
- (h) A reference to legislation or to a provision of legislation includes a modification or re-enactment of it, a legislative provision substituted for it and a regulation or statutory instrument issued under it.
- (i) A reference to conduct includes an omission, statement or undertaking, whether or not in writing.
- (j) A reference to an *agreement* includes any undertaking, deed, agreement and legally enforceable arrangement, whether or not in writing, and a reference to a *document* includes an agreement (as so defined) in writing and any certificate, notice, instrument and document of any kind.
- (k) A reference to *dollars* and \$ is to Australian currency.
- (l) All references to time are to Sydney, Australia time.
- (m) Mentioning anything after *includes, including, for example,* or similar expressions, does not limit what else might be included.
- (n) Nothing in this scheme is to be interpreted against a party solely on the ground that the party put forward scheme or a relevant part of it.
- (o) A term or expression which is defined in the Corporations Act but is not defined in this scheme, has the meaning given in the Corporations Act.

## 1.3 Business Day

Where the day on or by which any thing is to be done is not a Business Day, that thing must be done on or by the next Business Day.



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#### 1.4 Listing requirements Included as law

A listing rule or business rule of a financial market will be regarded as a *law*, and a reference to such a rule is to be taken to be subject to any waiver or exemption granted to the compliance of those rules by a party.

## 2. Preliminary

### 2.1 Mosaic

- (a) Mosaic is a public no liability company, registered in New South Wales.
- (b) Mosaic Shares are officially quoted on ASX and the stock exchange for Papua New Guinea ("PoMSOX"). As at 7 October 2010, Mosaic had the following securities on issue:
  - (i) 866,910,775 Mosaic fully paid ordinary shares;
  - (ii) 19,035,000 Mosaic Ordinary Contributing Shares; and
  - (iii) 1,707,818 Mosaic Employee Options.

### 2.2 AGL

AGL is a public company limited by shares and admitted to the official list of ASX.

### 2.3 Consequence of this scheme becoming Effective

- (a) If this scheme becomes Effective:
  - (i) AGL will provide the Scheme Consideration to Scheme Shareholders in accordance with this scheme; and
  - (ii) all the Scheme Shares, together with all rights and entitlements attaching to the Scheme Shares, will be transferred to AGL, and Mosaic will enter AGL in the Mosaic Share Register as the holder of the Scheme Shares with the result that Mosaic will become a wholly-owned subsidiary of AGL.
- (b) AGL and Mosaic have entered into the Scheme Implementation Deed to facilitate the proposal of this scheme by Mosaic and its implementation.



## 3. Conditions

- (a) This scheme is conditional on all the conditions precedent in clause 3.1 of the Scheme Implementation Deed (other than the condition in clause 3.1(d) (Court approval) of the Scheme Implementation Deed) having been satisfied or waived in accordance with the terms of the Scheme Implementation Deed by 8am on the Second Court Date.
- (b) The satisfaction of clause 3(a) is a condition precedent to the operation of clauses 4.2 and 5.
- (c) This scheme will lapse and be of no further force or effect if:
  - (i) the Effective Date does not occur on or before the End Date or any later date agreed in writing between AGL and Mosaic; or

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- (ii) the Scheme Implementation Deed is terminated prior to implementation of this scheme on the Implementation Date.

#### 4. Implementation

##### 4.1 Lodgement of Court orders

Mosaic must lodge with ASIC office copies of any Court orders under section 411 of the Corporations Act approving this scheme by 5pm on the Business Day the Court approves this scheme or by 5pm on the Business Day on which the Court orders are entered, whichever is the later.

##### 4.2 Transfer of Scheme Shares

On the Implementation Date:

- (a) subject to the provision of the Scheme Consideration in the manner contemplated by clause 5, the Scheme Shares, together with all rights and entitlements attaching to the Scheme Shares at the Implementation Date, will be transferred to AGL, without the need for any further act by any Scheme Shareholder by:
- (i) Mosaic delivering to AGL a duly completed and executed share transfer form to transfer all the Scheme Shares to AGL; and
- (ii) AGL duly executing such transfer form and delivering it to Mosaic for registration; and
- (b) immediately after receipt of the transfer form in accordance with paragraph (a)(ii), Mosaic must enter the name of AGL in the Mosaic Share Register in respect of the Scheme Shares.



#### 5. Scheme Consideration

##### 5.1 Amount of Scheme Consideration

- (a) Subject to clause 5.1(b), each Scheme Shareholder is entitled to receive Cash Consideration in respect of each Scheme Share held by that Scheme Shareholder.
- (b) Subject to clauses 5.6 and 5.7, each Scheme Shareholder who has made a valid Scrip Election under clause 5.4(a) is entitled to receive Scrip Consideration (in lieu of Cash Consideration) in respect of each Scheme Share which is held by that Scheme Shareholder and is the subject of that election.

##### 5.2 Joint holders

In the case of Scheme Shares held in joint names:

- (a) Cash Consideration (or any other cheque required to be sent under this scheme) will be made payable to, and sent to, the holder whose name appears first in the Mosaic Share Register at the Scheme Record Date;
- (b) Scrip Consideration will be provided by the relevant New AGL Shares being issued to and registered in the names of the joint holders; and

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- (c) any other document required to be sent under this scheme will be forwarded to the holder whose name appears first in the Mosaic Register as at the Scheme Record Date.

### 5.3 Cash Consideration

- (a) On the Implementation Date, AGL must deposit an amount equal to the aggregate amount of the Cash Consideration payable to those Scheme Shareholders who are entitled to receive the Cash Consideration in cleared funds in an Australian dollar denominated trust account operated by the Trustee, to be held on trust for those Scheme Shareholders, except that any interest on the amount deposited (less bank fees and other charges) will be to AGL's account. The obligation of AGL to pay the Cash Consideration to Scheme Shareholders who are entitled to receive the Cash Consideration will be satisfied by AGL making the payment required by this clause 5.3(a).
- (b) Subject to AGL having complied with paragraph (a), as soon as practicable following implementation of this scheme on the Implementation Date, the Trustee must pay from the account referred to in paragraph (a) to each relevant Scheme Shareholder who is entitled to receive Cash Consideration such amount of cash as is due to that Scheme Shareholder under clause 5.1 as Scheme Consideration in respect of all that Scheme Shareholder's Scheme Shares.
- (c) The amount referred to in paragraph (b) must be paid by the Trustee doing any of the following at its election:
- (i) sending (or procuring the Mosaic Registry) to send it to the Scheme Shareholder's Registered Address by cheque in Australian currency drawn out of the trust account established in accordance with paragraph (a); or
  - (ii) depositing (or procuring the Mosaic Registry) to deposit it into an account with any Australian ADI (as defined in the Corporations Act) notified to Mosaic (or the Mosaic Registry) by an appropriate authority from the Scheme Shareholders.
- (d) If there is any surplus in the amount held by the Trustee in the trust account, that surplus must be paid by the Trustee to AGL following the satisfaction of the Trustee's obligations under this clause 5.3.

### 5.4 Scrip Election procedure

- (a) Subject to this clause 5.4, clause 5.6 and clause 5.7, each Scheme Shareholder may elect to receive Scrip Consideration (rather than the default Cash Consideration) by completing the Scrip Election Form and returning it to the address specified in the Scrip Election Form so that it is received by the Mosaic Registry prior to the Scheme Record Date.
- (b) An election under clause 5.4(a) must be made in accordance with the terms and conditions on the Scrip Election Form.
- (c) Subject to clause 5.4(d), a valid election made or deemed to be made by a Scheme Shareholder under clause 5.4(a) will be deemed to apply in respect of the Scheme Shareholder's entire holding of Scheme Shares, regardless of whether the Scheme Shareholder's holding of Scheme Shares is greater or less than the Scheme Shareholder's holding at the time it made its election.





- (d) A Scheme Shareholder who is noted on the Mosaic Register as holding Mosaic Shares as trustee or nominee for, or otherwise on account of, more than one person, may make an election under clause 5.4(a) in relation to part only of its holding, being such part as is held for some only of those persons (subject to the trustee or nominee providing to Mosaic and AGL any information they require, and provided that any such election which would result in the creation of an Unmarketable Parcel will be of no force or effect).
- (e) A Scheme Shareholder may withdraw any election made by it under clause 5.4(a) prior to the Scheme Record Date. To withdraw such an election, a Scheme Shareholder must follow the procedure set out in the Scrip Election Form.
- (f) Subject to clause 5.4(g), an election which is not made or deemed to have been made in accordance with clause 5.4(a) will not be a valid election for the purpose of this scheme and will not be recognised by Mosaic or AGL for any purpose.
- (g) Mosaic may, with the agreement of AGL, settle as it thinks fit any difficulty, matter of interpretation or dispute which may arise in connection with determining the validity of any election, and any such decision will be conclusive and binding on Mosaic, AGL and the relevant Scheme Shareholder.

#### 5.5 Provision of Scrip Consideration

- (a) The obligation of AGL to provide the Scrip Consideration to Scheme Shareholders who have made a valid election in accordance with clause 5.4(a) and who are not Ineligible Foreign Shareholders or Unmarketable Parcel Shareholders will be satisfied by AGL:
- (i) procuring that:
- (A) the name and address of each such Scheme Shareholder is entered into the AGL Register on the Implementation Date in respect of the New AGL Shares to which it is entitled; and
- (B) a holding statement (or equivalent document) is sent to the Registered Address of each such Scheme Shareholder representing the number of New AGL Shares issued to the Scheme Shareholder pursuant to this scheme; and
- (ii) depositing an amount equal to the aggregate amount of any cash amounts in lieu of fractional entitlements (referred to in clause 5.6) payable to those Scheme Shareholders in cleared funds in the Australian dollar denominated trust account operated by the Trustee referred to in clause 5.3, to be held on trust for those Scheme Shareholders, except that any interest on the amount deposited (less bank fees and other charges) will be to AGL's account. The obligation of AGL to pay any cash amounts in lieu of fractional entitlements will be satisfied by AGL making the payment required by this clause 5.5(a). The provisions in clauses 5.3(b), (c) and (d) will apply with such modifications as are necessary to the payment by the Trustee of the amount referred to in this clause to the relevant Scheme Shareholders.
- (b) The obligation of AGL to provide the Scrip Consideration to Scheme Shareholders who have made a valid election in accordance with clause 5.4(a) and who are Ineligible Foreign





Shareholders or Unmarketable Parcel Shareholders will be satisfied by AGL issuing the Sale Facility Shares to the Sale Agent in accordance with clause 5.7.

#### 5.6 Fractional entitlements

Where the calculation of the aggregate number of New AGL Shares to be issued to any Scheme Shareholder who has made a valid election in accordance with clause 5.4(a) would result in the issue of a fraction of an AGL Share, the entitlement will be rounded down to the nearest whole number of New AGL Shares. In relation to any fractional entitlement which is lost through rounding down, AGL will pay the Scheme Shareholder who would otherwise have received that fraction of a New AGL Share a cash amount determined in accordance with the following formula:

$$A = (B \div 0.0101) \times \$0.15$$

Where:

A is the amount payable in lieu of the fraction of a New AGL Share; and

B is that fraction (expressed as a decimal and rounded down to two decimal places).

For the avoidance of doubt, this clause does not apply in relation to New AGL Shares to be issued to the Sale Agent under clause 5.7.



#### 5.7 Ineligible Foreign Shareholders and Unmarketable Parcel Shareholders

- (a) AGL will provide the Scheme Consideration to those Scheme Shareholders who have made a valid Scrip Election under clause 5.4(a) and who are Ineligible Foreign Shareholders or Unmarketable Parcel Shareholders (*Sale Facility Participants*) by issuing to the Sale Agent, as nominee for sale in accordance with this clause, that total number of New AGL Shares (the *Sale Facility Shares*) which is equal to the sum of the Sale Facility Entitlements of all Sale Facility Participants. If the number of Sale Facility Shares is not itself a whole number, that number will be rounded up to the nearest whole number.
- (b) The *Sale Facility Entitlement* of a particular Sale Facility Participant is the aggregate of the number of New AGL Shares which would otherwise have been issued to that Sale Facility Participant under clause 5.1(b), rounded down to two decimal places. For the purposes of determining Sale Facility Entitlements, rounding under clause 5.6 will not apply and no amount will be payable under that clause to a Sale Facility Participant.
- (c) AGL must procure that the Sale Agent:
  - (i) sells the Sale Facility Shares on ASX within 5 Business Days after the Implementation Date, in such manner, including selling the Sale Facility Shares in one or more lots, at such price or prices and on such other terms as the Sale Agent determines in good faith; and
  - (ii) within 3 Business Days after the last sale of Sale Facility Shares is completed under (c)(i) above:
    - (A) deducts from the gross proceeds of sale of all Sale Facility Shares any sale costs or applicable taxes or charges; and
    - (B) pays the net proceeds of sale of all Sale Facility Shares to the Mosaic Registry in trust for the Sale Facility Participants.

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- (d) Within 3 Business Days after the date the Sale Agent pays the net proceeds of sale of all Sale Facility Shares to the Mosaic Registry as required by clause 5.7(c)(ii), AGL will cause the Mosaic Registry to pay to each Sale Facility Participant their pro-rata share of that amount, being the proportion which their Sale Facility Entitlement bears to the total number of Sale Facility Shares. The amount payable to each Sale Facility Participant under this clause will, if necessary, be rounded down to the nearest whole cent, and any part of the amount referred to in clause 5.7(c)(ii) remaining after such rounding will be paid by the Mosaic Registry to a charity nominated by AGL.
- (e) Payment by the Mosaic Registry to a Sale Facility Participant in accordance with this clause 5.7 satisfies in full the Sale Facility Participant's right to the Scheme Consideration.
- (f) None of AGL, Mosaic, the Sale Agent or the Mosaic Registry gives any assurance as to the price that will be achieved for the sale of the Sale Facility Shares by the Sale Agent. The sale of the Sale Facility Shares under this clause will be at the risk of the Sale Facility Participants.
- (g) Each Sale Facility Participant appoints Mosaic as its agent to receive on its behalf any financial services guide or other notices which may be given by the Sale Agent to that Sale Facility Participant.

#### 5.8 Issue and trading of New AGL Shares

- (a) The New AGL Shares will be issued fully paid and will rank equally in all respects with all other AGL Shares then issued and outstanding.
- (b) Each Scheme Shareholder who is entitled to receive New AGL Shares in accordance with clause 5.4(a) agrees to be bound by AGL's constitution and authorises AGL to enter its name in the AGL Register in respect of those AGL Shares.
- (c) Each Scheme Shareholder shall be deemed to have irrevocably appointed AGL and each of its directors and officers (jointly and severally) as its attorneys for the purpose of executing any form of application, letter of transmittal or other instruments or documents required for the New AGL Shares.



#### 6. Dealings in Mosaic Shares

- (a) To establish the identity of the Scheme Shareholders, dealings in Mosaic Shares will only be recognised if:
- (i) in the case of dealings of the type to be effected using CHESS, the transferee is registered in the Mosaic Share Register as the holder of the relevant Mosaic Shares on or before the Scheme Record Date; and
  - (ii) in all other cases, registrable transmission applications or transfers in respect of those dealings are received on or before the Scheme Record Date at the place where the Mosaic Share Register is kept.
- (b) Mosaic must register registrable transmission applications or transfers of the kind referred to in clause 6(a)(ii) on the Scheme Record Date (provided that for the avoidance of doubt nothing in this clause 6(b) requires Mosaic to register a transfer that would result in a

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Mosaic Shareholder holding a parcel of Mosaic Shares that is less than a Marketable Parcel).

- (c) Mosaic will not accept for registration or recognise for any purpose any transmission application or transfer in respect of Mosaic Shares received after the Scheme Record Date.
- (d) For the purpose of determining entitlements to the Scheme Consideration, Mosaic must maintain the Mosaic Share Register in accordance with the provisions of this clause 6 until the Scheme Consideration has been provided to the Scheme Shareholders. The Mosaic Share Register in this form will solely determine entitlements to the Scheme Consideration.
- (e) All statements of holding for Mosaic Shares will cease to have effect from the Scheme Record Date as documents of title in respect of those shares (other than statements of holding in favour of any member of the AGL Group and its successors in title). As from the Scheme Record Date, each entry current at that date on the Mosaic Share Register (other than entries in respect of any member of the AGL Group and its successors in title) will cease to have effect except as evidence of entitlement to the Scheme Consideration in respect of the Mosaic Shares relating to that entry.
- (f) As soon as possible after the Scheme Record Date and in any event at least two Business Days before the Implementation Date, Mosaic will ensure that details of the names, Registered Addresses and holdings of Mosaic Shares for each Scheme Shareholder are available to AGL in the form AGL reasonably requires.



## 7. Quotation of Mosaic Shares

- (a) It is expected that suspension of trading on ASX in Mosaic Shares will occur from the close of trading on the day Mosaic notifies ASX that the Court has approved this scheme under section 411(4)(b) of the Corporations Act.
- (b) On a date after the Implementation Date to be determined by AGL, Mosaic will apply:
  - (i) for termination of the official quotation of Mosaic Shares on ASX; and
  - (ii) to have itself removed from the official list of ASX.

## 8. General Scheme Provisions

### 8.1 Consent

If the Court proposes to approve this scheme subject to any alterations or conditions, Mosaic may, by its counsel, consent on behalf of all persons concerned to those alterations or conditions to which AGL has given its prior written consent.

### 8.2 Agreement of Scheme Shareholders

- (a) Scheme Shareholders agree to the transfer of their Mosaic Shares in accordance with this scheme and agree to the variation, cancellation or modification of the rights attached to their Mosaic Shares constituted by or resulting from this scheme.

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- (b) Each of the Scheme Shareholders acknowledges that this scheme binds Mosaic and all Scheme Shareholders (including those who do not attend the Scheme Meeting or do not vote at that meeting or vote against this scheme at that Scheme Meeting).

### 8.3 Warranties by Scheme Shareholders

Each Scheme Shareholder is deemed to have warranted to Mosaic, in its own right and for the benefit of AGL that:

- (a) all of its Mosaic Shares which are transferred to AGL under this scheme will, on the date on which they are transferred to AGL, be free from all mortgages, charges, liens, encumbrances and interests of third parties of any kind;
- (b) all of its Mosaic Shares which are transferred to AGL under this scheme will, on the date on which they are transferred to AGL, be fully paid (or, for each Mosaic Share which is a Mosaic Ordinary Contributing Share, paid up to at least the amount disclosed by Mosaic in the latest ASX announcement which discloses the amount paid up on that partly paid share); and
- (c) it has full power and capacity to sell and (subject to the removal of the transfer restrictions pursuant to the Mosaic director and member resolutions referred to in clauses 5.1(o) and 3.1(b)(ii) of the Scheme Implementation Deed respectively) to transfer its Mosaic Shares to AGL.

### 8.4 Beneficial entitlement to Mosaic Shares

From the Implementation Date, AGL will be beneficially entitled to the Mosaic Shares transferred to it under this scheme pending registration by Mosaic of AGL in the Mosaic Share Register as the holder of the Mosaic Shares.

### 8.5 Authority given to Mosaic

- (a) Scheme Shareholders will be deemed to have authorised Mosaic to do and execute all acts, matters, things and documents on the part of each Scheme Shareholder necessary to implement the scheme, including executing, as agent and attorney of each Scheme Shareholder, a share transfer or transfers in relation to Scheme Shares as contemplated by clause 8.5(b).
- (b) Each Scheme Shareholder, without the need for any further act, irrevocably appoints Mosaic and all of its directors, secretaries and officers (jointly and severally) as its attorney and agent for the purpose of executing any document necessary to give effect to this scheme including, a proper instrument of transfer of its Scheme Shares for the purposes of section 1071B of the Corporations Act which may be a master transfer of all the Scheme Shares and for enforcing the Deed Poll against AGL.

### 8.6 Appointment of sole proxy

Upon this scheme becoming Effective and until Mosaic registers AGL as the holder of all Mosaic Shares in the Mosaic Share Register, each Scheme Shareholder:

- (a) is deemed to have irrevocably appointed AGL as that Scheme Shareholder's attorney and agent (and directed AGL in such capacity) to appoint an officer or agent nominated by



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AGL as its sole proxy and, where applicable, corporate representatives to attend shareholders' meetings of Mosaic, exercise the votes attaching to the Scheme Shares registered in its name and sign any shareholders' resolutions, whether in person, by proxy or by corporate representative; and

- (b) must take all other actions in the capacity of a registered holder of Scheme Shares as AGL reasonably directs.

## **9. General**

### **9.1 Stamp duty**

AGL will pay all stamp duty payable in connection with the transfer of the Scheme Shares to AGL.

### **9.2 Definition of 'sending'**

For the purposes of clauses 5.2, 5.3 and 5.5 the expressions 'sending' means, in relation to each Scheme Shareholder:

- (a) sending by ordinary pre-paid post or courier to the Registered Address of that Scheme Shareholder as at the Scheme Record Date; or
- (b) delivery to the Registered Address of that Scheme Shareholder as at the Scheme Record Date by any other means at no cost to the recipient.



### **9.3 Notices**

- (a) If a notice, transfer, transmission application, direction or other communication referred to in this document is sent by post to Mosaic, it will not be taken to be received in the ordinary course of post or on a date and time other than the date and time (if any) on which it is actually received at the place where Mosaic's Share Registry is kept.
- (b) The accidental omission to give notice of the Scheme Meeting or the non-receipt of such a notice by any Shareholder shall not, unless so ordered by the Court, invalidate the Scheme Meeting or the proceedings of the Scheme Meeting.

### **9.4 Governing law and jurisdiction**

This scheme is governed by the laws of New South Wales. In relation to it and related non-contractual matters each party irrevocably submits to the non-exclusive jurisdiction of courts with jurisdiction there.

### **9.5 Further assurances**

Mosaic must do anything necessary (including executing agreements and documents) to give full effect to this scheme and the transactions contemplated by it.

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