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2 March 2023

## Circular to Shareholders

Dear Shareholders

### **Ex MWG Ltd (Formerly McWilliam's Wines Group Ltd) (Subject to Deed of Company Arrangement) ACN 000 024 108 (the Company)**

We refer to the appointment of Gayle Dickerson, Ryan Eagle and myself, Tim Mableson, as Administrators of the Company and to our subsequent appointment as Deed Administrators, firstly on 3 August 2020 pursuant to the first deed of company arrangement (**First DOCA**), and then secondly, pursuant to the second deed of company arrangement (**Second DOCA**) on 29 April 2021.

#### **Company Financial Reports and AGMs**

In order to finalise the Deed Administration, we confirm that we will be holding consecutive Annual General Meetings for the 2019, 2020 and 2021 financial years (**AGM 2019, 2020 & 2021**) in our Sydney office on Thursday, 23 March 2023 from 9:00am (AEDT). Further details are enclosed within the Notice of Meeting attached. The holding of AGM 2019, 2020 & 2021 is in compliance with the Company's obligations to hold annual general meetings in the period required by section 250N of the *Corporations Act 2001* (Cth) (**Act**).

At AGM 2019, 2020 & 2021 we will lay before shareholders the respective financial year financial reports which have been prepared in compliance with the Company's financial reporting obligations required by Part 2M.3 of the Act for the financial years ending 30 June 2019 (**FY19**), 30 June 2020 (**FY20**) and 30 June 2021 (**FY21**).

As of November 2022, the FY19 financial statements have been lodged in draft form (being the form they were in at the date of our original appointment as Administrators on 8 January 2020) with the Australian Securities & Investments Commission (**ASIC**). The FY19 financial statements as lodged in draft with ASIC are enclosed.

The FY20 and FY21 audited financial reports were formally lodged with ASIC on 1 March 2023. . The FY20 and FY21 financial statements lodged with ASIC are enclosed.

The requirement to comply with the Company's financial reporting and annual general meeting obligations follows ASIC's rejection of our Application lodged on 8 November 2021 seeking relief in the form of a no-action letter (**Application**). We lodged an Alternative Application on 19 April 2022 seeking an exemption from compliance with the relevant obligations in Part 2M.3 and section 250N of the Act (**Alternative Application**). We prepared these Applications on the basis that:

- a) throughout the external administration of the Company, as the Deed Administrators we have kept the Company's stakeholders, and importantly its creditors and shareholders, updated regarding all aspects of the external administration;
- b) as a consequence of the external administration, the whole of the Company's assets and undertaking have been sold meaning that the Company's business is no longer a going concern and the business is no longer operated by the Company. The Second DOCA also had the effect of extinguishing the liabilities of the Company, leaving the Company as a shell entity (with no assets and no liabilities) on the effectuation of the Second DOCA. Thus, the effect of the Second DOCA is, in essence, a distribution fund in order to pay dividends to creditors - a position that is analogous to a distribution in a winding up. For clarity's sake, this is



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not an external administration where there is any prospect of the Company continuing to carry on its previous business and, accordingly, the members of the Company have no ongoing economic interest in it;

- c) the Company's majority shareholders (Maxsons and Rueith that together account for a 52.5% of the shareholding in the Company) confirmed in letters to us and provided to ASIC on 3 February 2022 that they were keen for the Second DOCA to be finalised and a final dividend issued as soon as possible. Accordingly, both Maxsons and Rueith supported the Application and Alternative Application;
- d) the Company's Directors have indicated to us their intention to wind up or otherwise deregister the Company once the external administration and Second DOCA has been completed;
- e) our circular to creditors dated 7 December 2021 estimated the return to unsecured creditors between 65.76c/\$ and 66.49c/\$ (noting 64c/\$ has been paid to date). We were advised by the Company's pre-appointment external auditor, Deloitte, that the estimated costs of the Company preparing and finalising the audited financial statements required by Part 2M.3 of the Act would be at least \$680,000 and possibly as high as \$900,000 before considering the additional time costs of the external accountant (Financial Reporting Specialists (**FRS**)) and the Deed Administrators including assisting Deloitte, holding further creditors meetings and preparing reports and remuneration reports for further fee approval from the Company's creditors. The current funds held in the Second DOCA were insufficient to meet all of these costs (including Deloitte's costs) if incurred;
- f) being required to comply with the relevant obligations in Part 2M.3 and section 250N of the Act would further delay completion of the Company's external administration; and
- g) being required to incur such costs and complete such matters against the present state of the Company (i.e. final distribution to creditors and the Company handed back to the Directors with no assets and no liabilities) we considered served no real policy or regulatory purpose to stakeholders of companies in Australia, creditors of the Company or shareholders of the Company.

Despite the above, our Alternative Application lodged on 19 April 2022 seeking an exemption from compliance with the relevant obligations in Part 2M.3 and section 250N of the Act was also rejected by ASIC.

The following tasks in relation to the preparation and lodgement of the financial reports have now been completed:

- a) We provided necessary financial information to two former ex-Company staff members to update the management accounts for the period from 29 April 2020 to 30 June 2021, being the period the management accounts had not been finalised with the Company's external accountant, FRS. This was completed in late October 2022;
- b) We provided the relevant information and management accounts to FRS to review and make any final updates to the draft FY19 financial statements (which there were none made) and prepare the FY20 and FY21 financial statements;
- c) Once the FY20 and FY21 financial statements were completed by FRS, we sought another audit quote to compare against Deloitte. We approached Grant Thornton on the basis they prepared the expert's report we utilised for our application to the Court relating to the First DOCA and therefore Grant Thornton had some familiarity with the Company and our administration. Grant Thornton quoted \$275,000 to complete the audit of the FY20 and FY21 financial statements, which we considered reasonable. The FY20 and FY21 audited financial statements were completed and signed on 28 February 2023.



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### **Notice of AGM 2019, 2020 & 2021**

The Deed Administrators intend to hold consecutive annual general meetings for the Company for the financial years ended 30 June 2019, 30 June 2020 and 30 June 2021 as required by section 250N of the Act on Thursday, 23 March 2023 from 9:00am (AEDT) in our offices at Level 38, Tower 3, 300 Barangaroo Avenue, Sydney NSW 2000.

Please refer to the attached Notice of Meeting for each of the annual general meetings (in total three years to be held consecutively).

Shareholders who wish to participate in AGM 2019, 2020 & 2021 must complete and submit the following forms to this office by 9:00AM (AEDT) on Tuesday, 21 March 2023:

| Form   | Comments  |
|--|---|
| Appointment of Proxy<br>(Form 532)<br><br>(attached) | To facilitate the process for attendance and voting (if required) at the AGM 2019, 2020 & 2021, especially where attendance is by teleconference, the Deed Administrators request shareholders submit a "Special Proxy" instead of a "General Proxy".<br>Individuals voting in person are not required to complete this form but must complete this form if a representative is appointed to vote on their behalf.<br><br><b>Please note that a separate Appointment of Proxy form needs to be completed for each of AGM 2019, 2020 &amp; 2021 (ie in total three Proxy forms).</b> |

Please note, that for those shareholders who cannot attend in person, telephone conference facilities using Microsoft Teams will be available. To attend by telephone conference, please email your three Appointment of Proxy forms (Form 532) to [mcwilliams@kpmg.com.au](mailto:mcwilliams@kpmg.com.au) by no later than 9.00AM (AEDT) on Tuesday, 21 March 2023.

Once received you will be provided by return email with a telephone conference call code to join AGM 2019, 2020 & 2021 on 23 March 2023. There are no items for voting to be considered during AGM 2019, 2020 & 2021.

### **Tasks and Timing to Completion of Second DOCA**

Following holding of AGM 2019, 2020 & 2021, the broad timing for completion of the Deed Administration is as follows:

- Payment of a final dividend to unsecured creditors (est 1 – 1.5 c/\$) – 28 April 2023;
- Effectuation of the Second DOCA – 30 April 2023; and
- Deregistration of the Company – 31 May 2023.

Should you have any queries in relation to this correspondence, please contact this office via email at [mcwilliams@kpmg.com.au](mailto:mcwilliams@kpmg.com.au).

Yours faithfully,

**Ex MWG Ltd (Subject to Deed of Company Arrangement)**

**Tim Mableson**

Joint & Several Deed Administrator