

ENGLAND AND WALES / JUDGMENT

Nurtur.Group Limited, Re

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Neutral Citation Number: [2025] EWHC 2679 (Ch) Case No: CR-2025-000147 IN THE HIGH COURT OF JUSTICE BUSINESS AND PROPERTY COURTS OF ENGLAND AND WALES COMPANIES COURT (ChD) The Rolls Building 7 Rolls Buildings Fetter Lane London EC4A 1NL Date of hearing: 16 July 2025 Before: MR JUSTICE HILDYARD

- ----- IN THE MATTER OF NURTUR. GROUP LIMITED

- and - IN THE MATTER OF THE COMPANIES ACT 2006

- ----- MR ANDREW THORNTON KC appeared on behalf of the Company.

- ----- APPROVED JUDGMENT

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its genesis, and no one has appeared before me in opposition. The aggregate value of the proposed acquisition is some £70,614,531. This consideration is to be shared between the various classes of redeemable shares in accordance with the sharing arrangements prescribed under the Company's Articles of Association, as I elaborate later. The Scheme has been unanimously recommended by the directors of the Company and, as is usual and required, the reasoning for their recommendation is set out in the chairman's letter, which was included in the Court bundle before me. The only wrinkles in the Scheme, or perhaps they are better called "frills", relate to the multiplicity of those share classes within the Company, and, secondly, to the fact that some shareholders are to receive cash consideration only, whereas others are to receive part cash and part share consideration. When I mention that there are some 18 classes of shares comprising 17 classes of redeemable shares and a single class of ordinary shares, it might be thought that there would be some complexity or difficulty in terms of the proper class meetings, which are a pre-condition to the Court sanction and require the statutory proportion of the irrelevant classes each to vote in favour of the Scheme. However, these difficulties are much attenuated because, as foreshadowed previously, the respective rights of all 17 classes of the redeemable shares are set out in the Articles of Association, and their share in any acquisition consideration is established under formulae there set out, which also has a sliding scale according to the aggregate amount of the acquisition consideration payable. Not all the classes of redeemable shares will, under that formula, be entitled to any share in the acquisition consideration. Indeed, I think some seven classes will not have any entitlement at all. They will, in that sense, be underwater for the purposes of any sharing of consideration. In the case of those seven classes, it is, I think, important to record that they are not part of the Scheme, and those shares are not Scheme shares. They are to be acquired by Bidco but under a separate arrangement, and I think for nil or nominal consideration.

High Court - Approved Judgment MR JUSTICE HILDYARD IN THE MATTER OF NURTUR GROUP LIMITED 16/07/2025 9. 10. 11. 12. 13. 14. 15. The Court only has power to sanction the Scheme if various jurisdictional requirements are satisfied. The first of these, in terms of the sequence in Part 26, is set out in s.895 under that Part, and relates to the definitions of "arrangement" and "company". Both those definitions must be satisfied. In this case, there is no difficulty as regards either. The Company is plainly a company within the meaning of Part 26, and the transfer Scheme is plainly an arrangement, at least according to the conventional view of that word. By that I mean that although the Company's role is, in a sense, exiguous in that the only thing it probably has to do is to pass the relevant transfers, that of itself suffices as a conventional matter and accordance with an authority, namely, *Re Jelf Group plc* [2015] EWHC 3857 (Ch), which I think has been followed loyally ever since it was pronounced in 2015, and that authority, in a sense, gave the imprimatur of the Court to the convention which has long been established. Section 896 in the sequence of sections in Part 26 requires as a pre-condition that there should have been class meetings for the purposes of considering the proposed Scheme of Arrangement, and that those meetings should have received proper information to enable an informed decision in the form of an explanatory statement set out with proper notice before the meetings itself. By s.898, an

explanatory statement is also required to include disclosure of certain matters, most particularly the material interests of the directors. I am satisfied that the explanatory statement which was sent is compliant, in terms of its form and substance, with the relevant requirements, and I am satisfied that the notice was given in accordance with directions made by ICC Judge Paul Greenwood when the matter was before him at the convening stage on 6th June 2025. Importantly, at that convening hearing, ICC Judge Greenwood accepted the proposal of the Company that there be only two classes of shareholders notwithstanding the proliferation of redeemable share classes, which I have described. The two classes which he directed were one class of what have been called “cash out shares”. Those are the ordinary shares, and such classes as are receiving only cash consideration. The second class comprise various classes whose holders are described as Management and Industry shareholders, and Tosca shareholders, Tosca being also a private equity investor which has been involved until now, and which will continue via the non-cash consideration to be involved, at least for the present, in terms of an investment in Bidco. The rationale for this division was essentially that it is appropriate for those shareholders who have received only cash to meet to discuss between them whether what is offered is acceptable, and for the other blended non-cash and cash consideration shareholders to meet together, having regard to the fact that those are many classes of redeemable shares, and their entitlements have been pre-agreed in the formula set out in the Articles of Association, to which I have already referred. It is important to bring to mind in that context that it is not sufficient for the purposes of defining or setting out the composition of classes to identify the various classes, it is important to describe, or to have in mind, whether there is any such difference between them as makes it impossible for them to meet together and discuss matters with a view to their common interest, which is the long-established and hallowed test. Suffice it to say in this context that although the multiplicity of share classes suggests, at first blush at least, some considerable frill, or complication, at the end of the day the classes seem to me to have been High Court - Approved Judgment MR JUSTICE HILDYARD IN THE MATTER OF NURTUR. GROUP LIMITED 16/07/2025 appropriately directed, and the class proposal which was accepted by ICC Judge Greenwood was and is correct. 16. 17. The two class meetings proceeded in accordance with the directions given by the ICC judge. Unsurprisingly, since of 100 per cent of the holders of shares who were to receive part cash, part share consideration, and just over 70 per cent of the other shareholders included in the Scheme, had already given irrevocable undertakings to support the Scheme, the two class meetings each voted resoundingly in favour of the Scheme. The numbers have been set out in Mr Thornton KC’s skeleton argument and in the evidence, and to the extent necessary I would invite the tables at p.273 as regards the equity shareholders, and p.361 as regards the cash only shareholders, to be set out underneath these two paragraphs in this judgment. Poll Results of Equity Scheme Shareholders Court Meeting: Poll Results of the Cash Out Scheme Shareholders Court Meeting: High Court - Approved Judgment MR JUSTICE HILDYARD IN THE MATTER OF NURTUR. GROUP LIMITED 16/07/2025 18. 19. 20. 21. 22. 23. 24. Being satisfied as to each of the jurisdictional pre-conditions having been fulfilled, as I am, and also being satisfied that the interests of the directors were sufficiently set out in the

explanatory statement as required, and it being the fact that the Scheme has been approved by resounding majorities, I must turn to the question whether it is fair for the Court to give its sanction to this Scheme. It is always rehearsed, and is important that it should be, that the Court must consider overall the fairness of exercising its jurisdiction once satisfied that it has it. In that regard, the passage from Buckley on the Companies Acts at para.219, which Mr Thornton has set out in para.43 of his skeleton argument, provides a masterful description of the nature of the discretion. In an earlier 13th Edition of Buckley substantially the same passage was also approved by Plowman J in *Re National Bank Limited* [1966] 1 WLR 819 at

829. That approach has also been brought, as it were, into the 21 st century by *Re Telewest Communications (No. 2) Limited* [2005] 1 BCLC 772, paras.20-22 in the judgment of David Richards J (as he then was), and more recently still by Morgan J in *Re TDG Plc* [2009] 1 BCLC 445. In that latter case the matters to be addressed were set out simply as being, first, that the Court must be satisfied the provisions of the statute had been complied with, and I have explained in that regard that I am so satisfied. Second, the Court must be satisfied that the class of shareholders subject to the Court meeting was fairly represented by those who attended the meeting, and the statutory majority are acting bona fide and not coercing the minority in order to promote interest adverse to those of the class they represent. That is, of course, a different test than the mere numerical test prescribed by the statute and really goes to the point as to whether there are indications that the majority are voting not in the interests of the class but in their own separate interests such that the Court considers that the result of the meeting is vitiated and cannot be relied upon as a proper commercial assessment of the scheme by reference to the overall interests of the class concerned. Again, the numbers and the fact of irrevocable undertakings make it more unlikely that there should have been any such thing. There is no sign of it, and I am satisfied that this requirement is also fulfilled. Thirdly, the Court must step back and determine whether an intelligent and honest person, a member of the class concerned, and acting in respect of its own interest, might reasonably approve the Scheme. This is a required but not easy consideration where the relevant shareholders, who are ordinarily considered to be the best judges of their own economic interest, have voted so resoundingly in favour. One point that I have considered in standing back from the results of the class meetings is whether the cash consideration on the one hand and the cash and non-cash consideration on the other hand are commensurate. That involved an issue of valuation that was addressed in the explanatory statement, where it is stated that this was a matter which was carefully assessed by Investec, who were satisfied in that regard, and I see no reason to challenge that. Suffice it to say, that, having regard to the provisions of the Articles of Association, it seems to me plain that an intelligent and honest person acting in his own interest could in the case of each class, reasonably have approved this Scheme, whether as a prospective recipient of cash or of non-cash consideration. High Court - Approved Judgment MR JUSTICE HILDYARD IN THE MATTER OF NURTUR. GROUP LIMITED 16/07/2025 25. 26. The fourth consideration is summarised in a rather quaint word, which is that there must be no “blot”

on the Scheme. The term “blot” is generally thought to refer to some technical or legal defect in the Scheme, for example, it does not work according to its own terms, or that it would infringe some mandatory provision of the law. I have seen no such blot. Accordingly, I am satisfied that the Scheme is one which I have jurisdiction to sanction and which I should sanction subject only to Mr Thornton confirming that the relevant conditions have all been satisfied, save those within the Court’s control, that Bidco is, as presumably it wishes to be, bound by the Scheme, and that the order proposed is satisfactory.

(This Judgment has been approved by the Judge.) Digital Transcription by Marten Walsh Cherer Ltd 2nd Floor, Quality House, 6-9 Quality Court, Chancery Lane, London WC2A 1HP Tel No: 020 7067 2900. DX: 410 LDE Email: info@martenwalshcherer.com Web: www.martenwalshcherer.com

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