

**IN THE HIGH COURT OF JUSTICE
BUSINESS AND PROPERTY COURTS OF ENGLAND AND WALES
INSOLVENCY & COMPANIES LIST (ChD)**

Claim No: CR-2020-004030



CR-2020-004030

**BEFORE THE HONOURABLE MRS JUSTICE JOANNA SMITH DBE
DATED 28 JANUARY 2021**

**IN THE MATTER OF MCCARTHY & STONE PLC
- and -
IN THE MATTER OF THE COMPANIES ACT 2006**

ORDER

UPON THE ADJOURNED APPLICATION by Part 8 Claim Form issued on 9 November 2020 of the above named McCarthy & Stone plc (the **Company**) (company number 06622199) whose registered office is situated at Fourth Floor, 100 Holdenhurst Road, Bournemouth, Dorset, England, BH8 8AQ

AND UPON HEARING Andrew Thornton QC, Counsel for the Company, via Microsoft Teams

AND UPON READING the Claim Form and the evidence

AND UPON Mastiff Bidco Limited appearing by the Company's Counsel (being its counsel for this purpose) and undertaking to be bound by the Scheme of Arrangement hereinafter sanctioned and to execute and do, or procure to be executed and done, all such documents, acts and things as may be necessary or desirable to be executed or done by it for the purpose of giving effect to the Scheme of Arrangement

THE COURT HEREBY SANCTIONS the Scheme of Arrangement set out in the Schedule to this Order

AND IT IS ORDERED that a copy of this Order be produced to the Registrar of Companies



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COMPANIES HOUSE

Service of the Order:

The Court has provided a sealed copy of this order to the serving party:

Allen & Overy LLP, One Bishops Square, London E1 6AD, Solicitors for the Claimant

**PART FOUR
THE SCHEME OF ARRANGEMENT**

IN THE HIGH COURT OF JUSTICE
BUSINESS AND PROPERTY COURTS
OF ENGLAND AND WALES
COMPANIES COURT (ChD)

CR-2020-004030

IN THE MATTER OF MCCARTHY & STONE PLC

- and -

IN THE MATTER OF THE COMPANIES ACT 2006

SCHEME OF ARRANGEMENT
(under Part 26 of the Companies Act 2006)

between

MCCARTHY & STONE PLC

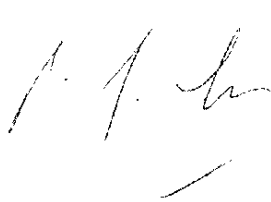
and

THE HOLDERS OF THE SCHEME SHARES
(as hereinafter defined)

PRELIMINARY

(A) In this Scheme, unless inconsistent with the subject or context, the following expressions have the following meanings:

Bidco	Mastiff Bidco Limited, a company incorporated in Jersey (registered number 132525) whose registered office is at 44 Esplanade, St Helier, Jersey JE4 9WG;
Bidco Group	Bidco and its subsidiary undertakings (if any);
business day	a day (other than Saturdays, Sundays and public holidays in the UK) on which banks are open for business in the City of London;
certificated or in certificated form	in relation to a Scheme Share, one which is not in uncertificated form (that is, not in CREST);
Code	the City Code on Takeovers and Mergers issued from time to time by the Panel;



Companies Act	the Companies Act 2006, as amended, modified, consolidated, re-enacted or replaced from time to time;
Conditions	the conditions to the implementation of the Scheme, as set out in Part A of Part Three (<i>Conditions to and further terms of the Scheme and the Acquisition</i>) of the Scheme Document;
Court	the High Court of Justice in England and Wales;
Court Meeting	the meeting of Scheme Shareholders (and any adjournment of such meeting) convened pursuant to an order of the Court pursuant to section 896 of the Companies Act for the purpose of considering and, if thought fit, approving (with or without modification) this Scheme;
Court Order	the order of the Court sanctioning this Scheme under section 899 of the Companies Act;
CREST	the relevant system (as defined in the CREST Regulations) in respect of which Euroclear is the Operator (as defined in the CREST Regulations) for the paperless settlement of trades in securities and the holding of uncertificated securities;
CREST Regulations	the Uncertificated Securities Regulations 2001 (SI 2001/3755), as amended;
Effective Date	the date on which this Scheme becomes effective in accordance with its terms;
Euroclear	Euroclear UK & Ireland Limited;
Excluded Shares	any McCarthy & Stone Shares: (i) registered in the name of, or beneficially owned by, Bidco, a subsidiary of Bidco (if any) or their respective nominees; or (ii) held in treasury by McCarthy & Stone (if any), in each case at the Scheme Record Time;
holder	a registered holder and includes any person(s) entitled by transmission;
Latest Practicable Date	13 November 2020 (being the latest practicable date before the publication of the Scheme Document);
Link Group	Link Group, The Registry, 34 Beckenham Road, Beckenham, Kent, BR3 4TU, McCarthy & Stone's registrars;
McCarthy & Stone	McCarthy & Stone plc, a company incorporated in England and Wales with registered number 06622199;
McCarthy & Stone Shareholders	the holders of McCarthy & Stone Shares from time to time;
McCarthy & Stone Share Plans	the McCarthy & Stone Sharesave Plan, the McCarthy & Stone Share Incentive Plan, the McCarthy & Stone Long Term Incentive Plan, and the McCarthy & Stone Annual and Deferred Bonus Plan;
McCarthy & Stone Shares	ordinary shares of 8 pence each in the capital of McCarthy & Stone;

Panel	the UK Panel on Takeovers and Mergers, or any successor to it;
Registrar of Companies	the registrar of companies in England and Wales;
Scheme	this scheme of arrangement in its present form or with or subject to any modification, addition or condition which McCarthy & Stone and Bidco each agree and which is approved or imposed by the Court;
Scheme Document	the circular dated 16 November 2020 sent by McCarthy & Stone to McCarthy & Stone Shareholders and persons with information rights, of which this Scheme forms a part;
Scheme Effective Time	the time on the Effective Date at which this Scheme becomes effective in accordance with clause 6;
Scheme Record Time	6.30 p.m. on the business day immediately following the date on which the Court makes the Court Order;
Scheme Sanction Hearing	the hearing of the Court at which the Court Order will be sought;
Scheme Shareholder	a holder of Scheme Shares at any relevant date or time;
Scheme Shares	<p>all McCarthy & Stone Shares:</p> <ul style="list-style-type: none"> (i) in issue at the date of the Scheme Document; (ii) (if any) issued after the date of the Scheme Document but before the Voting Record Time; and (iii) (if any) issued at or after the Voting Record Time and before the Scheme Record Time on terms that the original or any subsequent holders thereof are bound by the Scheme or in respect of which such holders are, or shall have agreed in writing to be, so bound, <p>in each case excluding the Excluded Shares;</p>
subsidiary undertaking	has the meaning given in section 1162 of the Companies Act;
uncertificated or in uncertificated form	in relation to a Scheme Share, one which is recorded on the relevant register as being held in uncertificated form in CREST;
UK or United Kingdom	the United Kingdom of Great Britain and Northern Ireland; and
Voting Record Time	6.30 p.m. on the day which is two days (excluding any part of a day that is not a business day) before the date of the Court Meeting or any adjournment of it (as the case may be).
(B)	References to clauses, sub-clauses and paragraphs are to clauses, sub-clauses and paragraphs of this Scheme.
(C)	The issued share capital of McCarthy & Stone as at the Latest Practicable Date was £43,021,353.60, divided into 537,766,920 ordinary shares of 8 pence each, all of which were issued and credited as fully paid. As at the Latest Practicable Date, no ordinary shares were held in treasury.

- (D) As at the Latest Practicable Date, no McCarthy & Stone Shares are registered in the name of, or beneficially owned by, Bidco, and member of the Bidco Group or any of their respective nominees.
- (E) Bidco has, subject to the satisfaction or, where capable, waiver of the Conditions agreed to appear by Counsel at the Scheme Sanction Hearing and to undertake to the Court to be bound by the provisions of this Scheme in so far as it relates to Bidco and to execute and do or procure to be executed and done all such documents, acts and things as may be necessary or desirable to be executed or done by it to give effect to this Scheme.
- (F) References to times are to London time.
- (G) All references to £ and pence are to the lawful currency of the United Kingdom.

THE SCHEME

1. Transfer of Scheme Shares

- 1.1 At and with effect from the Scheme Effective Time, Bidco (and/or its nominee(s)) shall acquire all the Scheme Shares fully paid with full title guarantee, free from all liens, equitable interests, charges, encumbrances, rights of pre-emption and any other third party rights and interests of any nature, and together with all rights attaching or accruing to such Scheme Shares at the Scheme Effective Time or thereafter, including (without limitation) voting rights and the right to receive and retain, in full, (subject to sub-clause 2.2) all dividends, other distributions or return of capital (if any), announced, declared, made, paid or payable in respect of the Scheme by reference to a record date on or after the Scheme Effective Time.
- 1.2 For the purposes of such acquisition, the Scheme Shares shall be transferred to Bidco (and/or its nominees) by means of a form or forms of transfer or other instrument or instruction of transfer, or by means of CREST, and, to give effect to such transfers, any person may be appointed by McCarthy & Stone as attorney and/or agent, and is authorised as such attorney and/or agent, on behalf of the holder or holders concerned to execute and deliver as transferor a form of transfer or other instrument of transfer (whether as a deed or otherwise) of, or give any instructions to transfer (whether as a deed or otherwise), or procure the transfer by means of CREST of such Scheme Shares and every form, instrument or instruction of transfer so executed or instruction given or transfer procured shall be effective as if it had been executed or given or procured by the holder or holders of the Scheme Shares transferred by it. Such instrument, form or instruction of transfer shall be deemed to be the principal instrument of transfer and the equitable or beneficial interest in the Scheme Shares shall only be transferred to Bidco (and/or its nominee(s)), together with the legal interest in such Scheme Shares, pursuant to such instruction, form or instrument of transfer.
- 1.3 With effect from the Scheme Effective Time and until the register of members of McCarthy & Stone is updated to reflect the transfer of the Scheme Shares pursuant to sub-clauses 1.1 and 1.2, each Scheme Shareholder irrevocably:
 - (a) appoints Bidco (and/or its nominee(s)) as its attorney and/or agent to exercise on its behalf (in place of and to the exclusion of the relevant Scheme Shareholder) any voting rights attached to the Scheme Shares and any or all rights and privileges (including the right to requisition the convening of a general meeting of the Company or of any class of its shareholders) attaching to the Scheme Shares;
 - (b) appoints Bidco (and/or its nominee(s)) and any one or more of its directors or agents to sign on behalf of such Scheme Shareholder any such documents, and do such things, as may in the opinion of Bidco and/or any one or more of its directors or agents be necessary or desirable in connection with the exercise of any votes or other rights or privileges attaching to the relevant Scheme Shares (including, without limitation, an authority to sign any consent to short notice of any general or separate class meetings of McCarthy & Stone as attorney or agent for, and on behalf of, such Scheme Shareholder and/or to attend and/or execute a form of proxy in respect of its Scheme Shares appointing any person nominated by Bidco and/or any one or more of its directors or agents to attend any general and separate

class meetings of McCarthy & Stone (or any adjournment thereof) and to exercise or refrain from exercising the votes attaching to the Scheme Shares on such Scheme Shareholder's behalf); and

- (c) authorises McCarthy & Stone and/or its agents to send to Bidco (and/or its nominee(s)) at its registered office any notice, circular, warrant or other document or communication which may be required to be sent to a Scheme Shareholder as a member of McCarthy & Stone in respect of such Scheme Shares (including any share certificate(s) or other document(s) of title issued as a result of conversion of their Scheme Shares into certificated form),

such that from the Scheme Effective Time, no Scheme Shareholder shall be entitled to exercise any voting rights attached to the Scheme Shares or (subject to sub-clause 2.2) any other rights or privileges attaching to the Scheme Shares.

2. Consideration for the transfer of Scheme Shares

- 2.1 In consideration for the transfer of the Scheme Shares to Bidco (and/or its nominee(s)) referred to in sub-clause 1.1, Bidco shall, subject to the provisions of this clause 2, pay or procure that there shall be paid to or for the account of each Scheme Shareholder (as appearing on the register of members of the Company at the Scheme Record Time) an amount of 120 pence in cash for each Scheme Share held by such Scheme Shareholder at the Scheme Record Time.
- 2.2 Subject to sub-clause 2.4, if any dividend, other distribution or return of capital is announced, declared, made, payable or is paid by McCarthy & Stone in respect of a McCarthy & Stone Share on or after 23 October 2020 and before the Effective Date, Bidco shall have the right to reduce the value of the consideration payable for each Scheme Share by the amount of all or part per Scheme Share of such dividend, other distribution or return of capital (as the case may be), except where the Scheme Share is, or will be, acquired pursuant to the Scheme on a basis which entitles Bidco to receive such dividend, distribution or other return of capital (as the case may be) and to retain it.
- 2.3 If Bidco exercises the right referred to in sub-clause 2.2 to reduce the consideration payable by Bidco for each Scheme Share by all or part of the amount of the dividend, distribution or other return of capital (as the case may be), then: (a) Scheme Shareholders shall be entitled to receive and retain that dividend, other distribution or return of capital in respect of the Scheme Shares they hold; (b) any reference in this Scheme to the consideration payable under the Scheme shall be deemed to be a reference to the consideration as so reduced; and (c) the exercise of such rights shall not be regarded as constituting any revision or variation of the terms of this Scheme.
- 2.4 If and to the extent that any such dividend, other distribution or return of capital is authorised, declared, made or paid and it is cancelled prior to the Effective Date, the consideration payable under the Scheme shall not be subject to change under sub-clause 2.2.

3. Share certificates and cancellation of CREST entitlements

With effect from, or as soon as practicable after, the Scheme Effective Time:

- (a) all certificates representing Scheme Shares shall cease to have effect as documents of title to the Scheme Shares comprised in the certificates and every Scheme Shareholder shall be bound at the request of McCarthy & Stone to deliver up the same to McCarthy & Stone (or any person appointed by McCarthy & Stone to receive them), or, as it may direct, to destroy the same;
- (b) McCarthy & Stone shall procure that entitlements to Scheme Shares held within CREST are disabled and Euroclear is instructed to cancel or transfer the entitlements of Scheme Shareholders to Scheme Shares in uncertificated form and (if necessary) that entitlements to such Scheme Shares are rematerialised; and

- (c) subject to completion and delivery of any form of transfer or other instrument or instruction of transfer as may be required in accordance with sub-clause 1.2 and the payment of any stamp duty on them, McCarthy & Stone shall make, or procure to be made, appropriate entries in the register of members of McCarthy & Stone to reflect the transfer of the Scheme Shares to Bidco (and/or its nominee(s)).

4. Settlement

- 4.1 No later than 14 days after the Effective Date (or such other period as may be agreed between McCarthy & Stone and Bidco and approved by the Panel), Bidco shall, subject to sub-clause 4.6:
 - (a) in the case of the Scheme Shares which at the Scheme Record Time are in certificated form, despatch, or procure the despatch of, to the persons entitled to them in accordance with the provisions of sub-clause 4.2, cheques for the sums payable to them respectively in accordance with clause 2; and
 - (b) in the case of the Scheme Shares which at the Scheme Record Time are in uncertificated form, procure that Euroclear is instructed to create an assured payment obligation in favour of the payment bank of the persons entitled to the sums payable in accordance with clause 2 and in accordance with the CREST assured payment arrangements, provided that Bidco shall be entitled to make payment of the consideration by cheque as aforesaid in sub-clause 4.1(a) if, for any reason, it is not able to effect settlement in accordance with this sub-clause 4.1(b).
- 4.2 All deliveries of cheques pursuant to this Scheme shall be effected by sending the same by first class post (or by international standard post, if overseas) in pre-paid envelopes addressed to the persons entitled to them at their respective registered addresses as appearing in the register of members of McCarthy & Stone at the Scheme Record Time (or in the case of any joint holders, at the address of the joint holder whose name stands first in the register of members of McCarthy & Stone in respect of such joint holding at the Scheme Record Time) and none of McCarthy & Stone, Bidco or their respective agents or nominees or Link Group shall be responsible for any loss or delay in the transmission of any cheques sent in accordance with this sub-clause 4.2 which shall be sent at the risk of the person or persons entitled to them.
- 4.3 All cheques shall be in Sterling drawn on a branch of a UK clearing bank and shall be made payable to the Scheme Shareholder concerned, or, in the case of joint holders, the joint holder whose name stands first in the register of members of McCarthy & Stone in respect of such joint holding at the Scheme Record Time (save that, in the case of joint holders, Bidco reserves the right to make the cheque payable to all joint holders), and the encashment of any such cheque shall be a complete discharge of Bidco's obligation under this Scheme to pay the monies represented by such cheques.
- 4.4 In the case of Scheme Shareholders that have not encashed cheques within six months from the Effective Date, the consideration due to such Scheme Shareholders under the Scheme shall be remitted to McCarthy & Stone to be held by it on trust for such Scheme Shareholders and McCarthy & Stone shall procure that a notification is sent to such Scheme Shareholders at their addresses as appearing in the register of members at that time. Pending receipt of valid claims by such Scheme Shareholders, McCarthy & Stone shall hold the consideration due to such Scheme Shareholders on trust for a period of 12 years from the Effective Date, in a separate, interest-bearing UK bank account established solely for that purpose, and such Scheme Shareholders may claim the consideration due to them (plus any interest accrued thereon, but net of any expenses or taxes) by written notice to McCarthy & Stone in a form which McCarthy & Stone determines evidences their entitlement to such consideration at any time during the period of 12 years from the Effective Date.
- 4.5 In respect of payments made through CREST, Bidco shall procure that Euroclear is instructed to create an assured payment obligation in accordance with the CREST assured payment arrangements. The creation of such an assured payment obligation shall be a complete discharge of Bidco's obligation under this Scheme with reference to the payments made through CREST.
- 4.6 In the case of any Scheme Shares issued or transferred under the McCarthy & Stone Share Plans after the Scheme Sanction Hearing and before the Scheme Record Time, Bidco may satisfy the consideration due to the relevant

Scheme Shareholders in respect of such Scheme Shares under sub-clause 4.1 by the payment to McCarthy & Stone (or any of its subsidiary undertakings or otherwise at its or their discretion) of the aggregate consideration in respect of such Scheme Shares by no later than 14 days after the Effective Date, by such method as may be agreed with McCarthy & Stone, and McCarthy & Stone shall procure that any such sums paid to it (or any of its subsidiary undertakings or otherwise at its or their discretion) are paid to the relevant Scheme Shareholders through the payroll of the relevant Scheme Shareholders' employing company as soon as practicable and subject to all deductions or withholdings required by law (including applicable exercise price, income taxes and social security contributions or their equivalent in any jurisdiction).

- 4.7 The preceding paragraphs of this clause 4 shall take effect subject to any prohibition or condition imposed by law.

5. Mandates

Each mandate and other instructions given to McCarthy & Stone by Scheme Shareholders in force at the Scheme Record Time shall, as from the Scheme Effective Time, cease to be valid.

6. Effective time

- 6.1 This Scheme shall become effective upon a copy of the Court Order being delivered to the Registrar of Companies.
- 6.2 Unless this Scheme has become effective on or before 28 February 2021, or such later date (if any) as Bidco and McCarthy & Stone may agree and (if required) the Panel and the Court may allow, this Scheme shall never become effective.

7. Modification

McCarthy & Stone and Bidco may jointly consent on behalf of all persons concerned to any modification of or addition to this Scheme or to any condition which the Court may approve or impose. Any such modification or addition shall require the consent of the Panel where such consent is required under the Code.

8. Governing law

This Scheme is governed by the laws of England and Wales and is subject to the jurisdiction of English courts. The rules of the Code will apply to this Scheme on the basis provided in the Code.

Dated: 16 November 2020