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12 May 2023

## Proposed Acquisition of Cellnet by Wentronic

### Key Highlights

- Cellnet Group Limited (“Cellnet” or the “Company”) has entered into a Scheme Implementation Deed (“SID”) with Wentronic Holding GmbH (“Wentronic”), under which Wentronic has agreed to acquire all of the shares in Cellnet not currently owned by Wentronic and its associates (“Wentronic Shareholders”) by way of a scheme of arrangement (“Scheme”).
- Under the Scheme, Cellnet shareholders (excluding the Wentronic Shareholders) will be entitled to receive 2.7c per share in cash, which represents an attractive premium of 50% to Cellnet’s closing share price on 10 May 2023.
- Cellnet’s Independent Board Committee (“IBC”) unanimously recommends that Cellnet shareholders (excluding the Wentronic Shareholders) vote in favour of the Scheme, in the absence of a Superior Proposal<sup>1</sup> and subject to an Independent Expert concluding (and continuing to conclude) that the Scheme is in the best interests of Cellnet shareholders (excluding the Wentronic Shareholders).
- Subject to the same qualifications, each independent director comprising the Cellnet IBC intends to vote all of the shares that they hold or control in favour of the Scheme.

### Proposed Transaction

Cellnet advises that it has entered into a Scheme Implementation Deed with Wentronic, under which Wentronic has agreed to acquire all of the shares in Cellnet not currently owned by Wentronic and its associates by way of a scheme of arrangement.

Wentronic is a leading manufacturer and distributor of consumer electronics accessories. Wentronic is privately held, with its headquarters in Braunschweig, Germany and offices in Hong Kong, Shenzhen and Ningbo, servicing over 2,600 international customers worldwide. Wentronic has been a major shareholder in Cellnet since 2017 and currently holds (with its associates) approximately 53.2% of Cellnet shares on issue.

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<sup>1</sup> As defined in the SID.

If the Scheme is implemented, Cellnet Shareholders (excluding the Wentronic Shareholders) will be entitled to receive 2.7c per share in cash, representing an implied equity value of approximately \$6.6 million on a 100% ownership basis. This represents a:

- 50% premium to Cellnet's closing share price of 1.8c on 10 May 2023.
- 50% premium to Cellnet's 30-day volume weighted average share price of 1.8c.
- 15% premium to Cellnet's 90-day volume weighted average share price of 2.3c.

### **Independent Board Committee unanimously recommends the Scheme**

In order to evaluate Wentronic's proposal, Cellnet has established an IBC comprising the Company's two independent directors, Mr Tony Pearson and Mr Giles Karhan.

The IBC unanimously recommends that Cellnet shareholders (excluding the Wentronic Shareholders) vote in favour of the Scheme, in the absence of a Superior Proposal<sup>2</sup>, and subject to an Independent Expert concluding (and continuing to conclude) that the Scheme is in the best interests of Cellnet shareholders (excluding the Wentronic Shareholders).

Subject to those same qualifications, each independent director comprising the IBC intends to vote all of the shares that they hold or control in favour of the Scheme.

### **Details of the Scheme Implementation Deed**

A copy of the SID, which sets out the terms and conditions of the Scheme, is attached to this announcement.

Implementation of the Scheme is subject to certain customary conditions for a transaction of this nature, including:

- an Independent Expert concluding (and continuing to conclude) that the Scheme is in the best interests of Cellnet shareholders (excluding the Wentronic Shareholders);
- Cellnet shareholder approval and court approvals;
- no material adverse change, prescribed occurrence or regulated event (each defined in the SID) occurring in respect of Cellnet; and
- the vesting or cancellation of all unexpired Cellnet options.

The SID is not subject to any financing or due diligence conditions.

The SID contains customary deal protections, including "no talk", "no shop", "no due diligence", "notification" and "matching right" obligations for the benefit of Wentronic. Cellnet and Wentronic have also agreed to reciprocal break fees of \$250,000 payable in certain circumstances. Full details of the terms and conditions of the Scheme, deal protection provisions and other implementation matters are set out in the attached copy of the SID.

### **Indicative timetable and next steps**

At this stage, Cellnet shareholders do not need to take any action. Cellnet will continue to update shareholders as appropriate. An indicative transaction timeline is set out in Schedule 1 of the SID attached to this ASX release.

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<sup>2</sup> As defined in the SID.

Cellnet expects to send a notice of Scheme Meeting and explanatory statement containing information about the Scheme (“Scheme Booklet”) to Cellnet shareholders in early-to-mid June 2023. The Scheme Booklet will contain information relating to the Scheme, the reasons for the Cellnet IBC recommendation, an Independent Expert’s Report opining on whether the Scheme is in the best interests of Cellnet Shareholders (excluding the Wentronic Shareholders), details of the Scheme Meeting and other material information in relation to Cellnet’s shareholders’ vote on the Scheme.

The Scheme Meeting is expected to be held in early August 2023, at which Cellnet shareholders will have the opportunity to vote on the proposed Scheme. Subject to court approval and satisfaction of all other conditions, the Scheme is expected to be implemented in late August 2023. These dates are indicative and may be subject to change.

Commenting on the Scheme, Tony Pearson, Cellnet’s Chair, stated *“The SID announced today provides Cellnet shareholders with an opportunity to realise an attractive cash amount of 2.7c per share, reflecting a compelling 50% premium<sup>3</sup> over the current market value of Cellnet shares. The SID provides certainty for Cellnet shareholders in the context of an uncertain economic outlook.”*

Michael Wendt, Wentronic’s CEO and Managing Director, stated *“We believe that the acquisition of Cellnet will benefit both the business and Cellnet’s customers, suppliers, employees and other stakeholders through Wentronic’s commitment to the market, greater financial stability and scale, and better integration with our global business. The proposed 2.7c per share cash scheme consideration is a significant premium to the current share price, provides certainty of value and represents a compelling price having regard to market conditions, Cellnet’s recent financial performance and the future capital requirements of the business.”*

Ends

Authorised for release by the Cellnet Independent Board Committee.

For further information, please contact Cellnet Investor Relations on [ir@cellnet.com.au](mailto:ir@cellnet.com.au).

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<sup>3</sup> Based on Cellnet’s undisturbed closing share price of 1.8c on 10 May 2023.



L A W Y E R S

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## **Scheme Implementation Deed**

**Cellnet Group Limited**

**Wentronic Holding GmbH**

KHQ Lawyers  
Level 4, 600 Bourke Street  
Melbourne VIC 3000  
PO Box 597  
Collins Street West VIC 8007  
#230532

03 9663 9877  
[contact@khq.com.au](mailto:contact@khq.com.au)  
[www.khq.com.au](http://www.khq.com.au)

**Contents**

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Contents .....	ii
BACKGROUND.....	1
1. DEFINITIONS AND INTERPRETATION.....	1
2. AGREEMENT TO PROPOSE SCHEME .....	13
3. CONDITIONS PRECEDENT.....	13
4. TRANSACTION STEPS.....	17
5. IMPLEMENTATION.....	18
6. BOARD RECOMMENDATION.....	24
7. CONDUCT OF BUSINESS BEFORE THE IMPLEMENTATION DATE .....	26
8. ACTIONS ON AND FOLLOWING IMPLEMENTATION DATE.....	30
9. REPRESENTATIONS AND WARRANTIES .....	30
10. CONFIDENTIALITY AND PUBLIC ANNOUNCEMENT.....	32
11. TERMINATION.....	33
12. REIMBURSEMENT PAYMENT .....	34
13. REVERSE REIMBURSEMENT PAYMENT .....	36
14. EXCLUSIVITY .....	38
15. RELEASES.....	41
16. DIRECTORS' AND OFFICERS' INSURANCE .....	42
17. NOTICES.....	42
18. GOVERNING LAW.....	43
19. GENERAL .....	43
Schedule 1 Indicative Timetable.....	46
Signing Page.....	47
Annexure A Scheme of arrangement.....	49
Annexure B Deed Poll .....	50

**SCHEME IMPLEMENTATION DEED**

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**Parties**

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Name	<b>Cellnet Group Limited</b>
ACN	010 721 749
Notice details	Address: Tenancy E1 5 Greville Street, Brisbane Airport, QLD 4008
	Email: [REDACTED]
	Attention: [REDACTED]
	<b>(Cellnet)</b>

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Name	<b>Wentronic Holding GmbH</b>
Notice details	Address: C/- Pillmannstraße, 12, 38112, Braunschweig, Germany
	Email: [REDACTED]
	Attention: [REDACTED]
	<b>(Bidder)</b>

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**Date of deed**

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**BACKGROUND**

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- A. Cellnet and the Bidder have agreed that the Bidder will acquire Cellnet by way of the Scheme.
- B. Cellnet and the Bidder have agreed to implement the Scheme and certain other matters in connection with the Scheme on and subject to the terms and conditions of this deed.

**This deed witnesses as follows:**

**1. DEFINITIONS AND INTERPRETATION**

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**1.1 Definitions**

In this deed, these terms have the following meanings:

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

**Associate** means that term as defined in section 12 of the Corporations Act.

**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.

**Bidder Group** means the Bidder and each of its Related Bodies Corporate (excluding, at any time, Cellnet and its Subsidiaries to the extent that Cellnet and its Subsidiaries are Subsidiaries of the Bidder at that time). A reference to a **member of the Bidder Group** or a **Bidder Group Member** is a reference to the Bidder or any such Related Body Corporate.

**Bidder Information** means such information regarding the Bidder Group that is provided or approved by the Bidder or any of their advisors to Cellnet or the Independent Expert:

- (a) to enable the Scheme Booklet to be prepared and completed in compliance with all applicable laws; and
- (b) otherwise in compliance with the Bidder's obligations under clause 5.2(a).

**Bidder Parties** means the members of the Bidder Group and their respective Representatives.

**Bidder Warranties** means the representations and warranties of the Bidder set out in clause 9.2.

**Business** means the business of sourcing and distributing lifestyle technology products (including mobile phone, gaming, tablet and notebook/hybrid accessories) into retail and business channels in Australia and New Zealand and fulfilment services to the mobile telecommunications and retail industries in Australia and New Zealand.

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

**Cellnet Board** means the board of directors of Cellnet as constituted from time to time

**Cellnet Group** means Cellnet and each of its Related Bodies Corporate. A reference to a **member of the Cellnet Group** or a **Cellnet Group Member** is a reference to Cellnet or any Related Body Corporate.

**Cellnet Information** means information to be included by Cellnet in the Scheme Booklet that explains the effect of the Scheme and sets out the information prescribed by the Corporations Act and the Corporations Regulations, and any other information that is material to the making of a decision by Cellnet Shareholders as to whether or not to vote in favour of the Scheme, being information that is within the knowledge of the Independent Directors and has not previously been disclosed to Cellnet Shareholders, but does not include the Bidder Information and the Independent Expert Report.

**Cellnet Parties** means each member of the Cellnet Group and their Related Bodies Corporate and Representatives.

**Cellnet Prescribed Occurrence** means the occurrence of any of the following on or after the date of this deed:

- (a) Cellnet converts all or any of its shares into a larger or smaller number of shares;
- (b) any member of the Cellnet Group resolves to reduce its share capital in any way;
- (c) any member of the Cellnet Group:
  - (i) enters into a buy-back agreement; or

## SCHEME IMPLEMENTATION DEED

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- (ii) resolves to approve the terms of a buy-back agreement under section 257C(1) or section 257D(1) of the Corporations Act;
- (d) any member of the Cellnet Group issues, or agrees to issue, convertible notes or any other security or instrument that is convertible into shares;
- (e) any member of the Cellnet Group issues shares, convertible securities or grants a performance right or an option over its shares, or agrees to make such an issue or grant such a performance right or an option other than pursuant to the exercise of an option or performance right before the Record Date where that option or performance right was on issue immediately before the date of this deed;
- (f) any member of the Cellnet Group disposes, or agrees to dispose, of the whole, or a substantial part, of its business or property;
- (g) any member of the Cellnet Group creates or agrees to create, any mortgage, charge, lien or other encumbrance over the whole, or a substantial part, of its business or property other than a lien which arises by operation of law or legislation securing an obligation that is not yet due; or
- (h) an Insolvency Event occurs in respect of any member of the Cellnet Group (other than a dormant entity),

provided that a Cellnet Prescribed Occurrence will not include any matter:

- (i) required to be done or procured by Cellnet pursuant to this deed or which is expressly contemplated by this deed or the Scheme;
- (j) Fairly Disclosed in:
  - (i) the Due Diligence Materials;
  - (ii) an announcement made by Cellnet to ASX, or a publicly available document lodged by it with ASIC, in each case at least one Business Day before the date of this deed; or
  - (iii) publicly available documents which would be disclosed in a search of:
    - A. the PPS Register;
    - B. the registry of the New South Wales Land Registry Services or the Victorian Land Titles Office; or
    - C. IP Australia,had each such search been conducted on the Business Day before the date of this deed;
- (k) approved by a majority of the Cellnet Board (in circumstances where all Cellnet Directors are eligible to vote on the relevant decision); or
- (l) the undertaking of which the Bidder has consented to in writing.

**Cellnet Regulated Event** means the occurrence of any of the following on or after the date of this deed:

- (a) Cellnet adopts a new constitution or modifies or repeals its constitution or any provision of it;



**SCHEME IMPLEMENTATION DEED**

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- (b) Cellnet makes, declares, pays or incurs any liability to make or pay any distribution (whether by way of dividend, capital reduction or otherwise and whether in cash or in specie);
- (c) a member of the Cellnet Group ceases or threatens to cease, the whole or a material part of its business;
- (d) Cellnet Shares are delisted or are subject to suspension from quotation for 5 or more trading days, other than as a result of this deed or any action taken by the Bidder;
- (e) a member of the Cellnet Group changes any accounting policy applied by them to report their financial position other than any change in policy required by a change in accounting standards;
- (f) a member of the Cellnet Group purchases, leases, acquires or disposes of any assets (excluding inventory), or undertakes or commits to any capital expenditure, the value of which exceeds \$250,000 in aggregate;
- (g) a member of the Cellnet Group enters into, terminates, amends or varies any material lease, agreement, commitment or licence;
- (h) a member of the Cellnet Group:
  - (i) changes or agree to change the terms of employment, including salaries and benefits, of employees on a salary of more than \$200,000 per year or grant any bonus, severance or retention benefit to any employee or officer other than in accordance with such employee's or officer's contractual entitlements;
  - (ii) enters into any new agreements, arrangements or understandings involving more than \$200,000 in aggregate;
  - (iii) increases salaries and benefits of employees which in aggregate amount to more than \$200,000 per year, other than in accordance with such employees' contractual or legal entitlements;
- (i) the Cellnet Group pays, incurs or agrees to pay or incur any amount of Transaction Costs which in aggregate exceeds \$250,000,  
provided that a Cellnet Regulated Event will not include any matter:
  - (j) required to be done or procured by Cellnet pursuant to this deed or which is expressly contemplated by this deed or the Scheme;
  - (k) Fairly Disclosed in:
    - (i) the Due Diligence Materials;
    - (ii) an announcement made by Cellnet to ASX, or a publicly available document lodged by it with ASIC, in each case at least one Business Day before the date of this deed; or
    - (iii) publicly available documents which would be disclosed in a search of:
      - A. the PPS Register;
      - B. the registry of the New South Wales Land Registry Services or the Victorian Land Titles Office; or

C. IP Australia,

had each such search been conducted on the Business Day before the date of this deed;

- (l) the undertaking of which the Bidder has consented to in writing (which response must not be unreasonably delayed more than 5 Business Days from the date of the request from Cellnet);
- (m) approved by a majority of the Cellnet Board (in circumstances where all Cellnet Directors are eligible to vote on the relevant decision);
- (n) in paragraph (f), (g) or (h) where undertaken in the ordinary course of business of Cellnet Group; or
- (o) required by any applicable law, regulation or contract entered into and a copy of which was Fairly Disclosed to the Bidder before the date of this deed.

**Cellnet Shareholder** means each person who is registered in the Share Register as a holder of one or more Shares.

**Cellnet Warranties** means the representations and warranties of Cellnet set out in clause 9.1.

**Claim** means in relation to a person, a demand, claim, action or proceeding made or brought by or against the person, however arising and whether present, unascertained, immediate, future or contingent.

**Competing Proposal** means any proposal, offer, agreement or transaction, which if entered into or completed, would result in a Third Party (alone or with an Associate):

- (a) acquiring a relevant interest, voting power, economic interest or derivative transaction in 20% or more of the Shares or of the securities of any of member of the Cellnet Group;
- (b) directly or indirectly acquiring or obtaining an interest (including an economic interest) in all or a substantial part or material part of the Business or assets or property of, Cellnet or any member of the Cellnet Group (where a material part means assets or property representing 20% or more of the value of the Cellnet Group's total assets);
- (c) acquiring Control of Cellnet or any member of the Cellnet Group; or
- (d) acquiring, or merging with, Cellnet or any member of the Cellnet Group (including by way of takeover bid, scheme of arrangement, capital reduction, buy-back, sale of assets, sale of securities, strategic alliance, dual listed company structure, joint venture or partnership),

or any proposal by Cellnet to implement any reorganisation of capital or any proposal, offer or transaction that is similar in structure to, or that would be reasonably regarded as being an alternative proposal to, the Proposed Transaction, or any proposal that would otherwise result in the Proposed Transaction not being able to be implemented on the basis set out in this deed.

**Conditions** means the conditions set out in clause 3.1 and Condition means any one of them.

**Confidentiality Deed** means the confidentiality deed between Cellnet and the Bidder dated 2 May 2023.

**Control** means that term as defined in section 50AA of the Corporations Act.

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

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

**Court** means the Federal Court of Australia or such other court of competent jurisdiction agreed between the parties.

**Deed Poll** means the deed poll to be executed by the Bidder prior to the First Court Date, in the form set out in Annexure B or in such other form as is agreed in writing between the parties.

**Delivery Time** means in relation to the Second Court Date, not later than two hours before the commencement of the hearing or if the commencement of the hearing is adjourned, the commencement of the adjourned hearing, of the Court to approve the Scheme in accordance with section 411(4)(b) of the Corporations Act.

**Director** means a director of Cellnet.

**Due Diligence Material** means the written information, documents and responses disclosed or made available to the Bidder or its Representatives by or on behalf of Cellnet 1 Business Day before the date of this deed in the data room (an index of which has been initialled for identification by a representative of Cellnet's and by a representative of the Bidder).

**Effective** means when used in relation to the Scheme, 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 that Scheme.

**Effective Date** means with respect to the Scheme, the date on which the Scheme becomes Effective.

**End Date** means the later of:

- (a) 31 October 2023; and
- (b) such other date and time agreed in writing between Cellnet and the Bidder.

**Exclusivity Period** means the period commencing on the date of this deed and ending on the earliest of:

- (a) the End Date;
- (b) the Effective Date of the Scheme; and
- (c) the date this deed is terminated in accordance with its terms.

**Excluded Share** means a Scheme Share held by an Excluded Shareholder as at the Record Date.

**Excluded Shareholder** means the Bidder and its Associates.

**Fairly Disclosed** means in relation to a matter, event or circumstance, that information about the matter, event or circumstance is disclosed in writing in sufficient detail so as to enable a reasonable person experienced in the industries in the which the Cellnet Group and the Bidder operate to identify and reasonably and properly assess the nature, scope and consequences of the relevant matter, event or circumstance (and, for the avoidance of doubt, if a plan or proposal is disclosed, the implementation of that plan or proposal is also considered disclosed).

**First Court Date** means the date the Court first hears the application to order the convening of the Scheme Meeting under section 411(1) of the Corporations Act or, if the application is adjourned or subject to appeal for any reason, the day on which the adjourned application is heard.

**Government Agency** means any foreign or Australian Government or governmental, semi-governmental, administrative, fiscal or judicial body, department, commission, authority, tribunal, agency or entity, or any minister of the Crown in right of the Commonwealth of Australia or any state, and any other federal, state, provincial or local government, whether foreign or Australian.

**GST** means goods and services tax in terms of the GST Act.

**GST Act** means *A New Tax System (Goods and Services Tax) Act 1999* (Cth).

**GST Law** means the meaning given to that term in the GST Act.

**Headcount Test** means the requirement under section 411(4)(a)(ii)(A) of the Corporations Act that the resolution to approve the Scheme at the Scheme Meeting is passed by a majority in number of Cellnet Shareholders present and voting, either in person or by proxy.

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

**Independent Directors** means the directors of Cellnet other than Kevin Gilmore, Michael Wendt and Brian Danos.

**Independent Expert** means the independent expert in respect of the Scheme appointed by Cellnet.

**Independent Expert Report** means a report (including any updates to such report) of the Independent Expert stating whether or not in its opinion the Scheme is in the best interest of Cellnet Shareholders (other than Excluded Shareholders).

**Insolvency Event** means in relation to an entity:

- (a) the entity resolving or applying to court for an order that it be wound up or a court making an order for the winding up or dissolution of the entity (other than where the order is set aside within 14 days);
- (b) a liquidator, provisional liquidator, administrator, receiver, receiver and manager, trustee or other insolvency official being appointed to the entity or in relation to the whole, or a substantial part, of its assets;
- (c) the entity executing a deed of company arrangement or other compromise or arrangement with its creditors or any class of them;
- (d) the entity ceases, or threatens to cease to, carry on substantially all the business conducted by it as at the date of this deed;

**SCHEME IMPLEMENTATION DEED**

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- (e) the entity is or becomes unable to pay its debts when they fall due within the meaning of the Corporations Act (or, if appropriate, legislation of its place of incorporation) unless that entity has or has access to financial support from a Related Body Corporate such that it is able to pay its debts;
- (f) the entity being deregistered as a company or otherwise dissolved; or
- (g) something having a substantially similar effect to any of the things described in paragraphs (a) to (f) happens in connection with the entity under the law of Australia or any foreign jurisdiction.

**Listing Rules** means the official listing rules of ASX as amended from time to time.

**Losses** means all claims, demands, damages, losses, costs, expenses and liabilities.

**Material Adverse Change** means a change, event, circumstance, occurrence or matter that occurs after the date of this deed which (whether individually or when aggregated with all such changes, events, circumstances, occurrences or matters occurring after the date of this deed) has resulted in or is reasonably likely to result in:

- (a) the consolidated net assets of the Cellnet Group being diminished by at least \$3,000,000 against the consolidated net assets of the Cellnet Group as at the date of this deed; or
- (b) the consolidated earnings before interest, tax, depreciation and amortisation of the Cellnet Group for
  - (i) the financial year ending 30 June 2023; or
  - (ii) the 12 month period commencing on the date of the relevant change, event, circumstance, occurrence or matter,

being reduced by at least \$1,500,000, against what it would reasonably be expected to have been at the end of a financial year but for that change, event, circumstance, occurrence or matter,

in each case, other than changes, event, circumstances, occurrences or matters:

- (c) to be done or procured by Cellnet pursuant to this deed or which is expressly contemplated by this deed or the Scheme;
- (d) consented to in writing by the Bidder;
- (e) approved by a majority of the Cellnet Board (in circumstances where all Cellnet Directors are eligible to vote on the relevant decision);
- (f) Fairly Disclosed in:
  - (i) the Due Diligence Materials;
  - (ii) an announcement made by Cellnet to ASX, or a publicly available document lodged by it with ASIC, in each case at least one Business Day before the date of this deed; or
  - (iii) publicly available documents which would be disclosed in a search of:
    - A. the PPS Register;
    - B. the registry of the New South Wales Land Registry Services or the Victorian land Titles Office; or

C. IP Australia,

had each such search been conducted on the Business Day before the date of this deed;

- (g) that are within the actual knowledge of the Bidder at the date of the deed;
- (h) directly relating to Transaction Costs incurred by Cellnet; or
- (i) which arise from any of the following:
  - (i) changes in exchange rates or interest rates;
  - (ii) changes in general economic or business conditions, including any changes or major disruptions to, or fluctuations in, domestic or international financial markets;
  - (iii) changes to generally accepted accounting standards;
  - (iv) any act of terrorism, outbreak or escalation of war (whether or not declared), major hostilities, civil unrest or outbreak or escalation of any disease epidemic or pandemic (including the outbreak, escalation or any impact of, or recovery from, the Coronavirus or COVID-19 pandemic); or
  - (v) any act of God, natural disaster, lightning, storm flood, bushfire, earthquake, explosion, cyclone, tidal wave, landslide, on or after the date of this deed.

**Option** means an option to acquire Shares.

**PPS Register** means the Personal Property Securities Register established under the *Personal Property Securities Act 2009* (Cth).

**Proposed Transaction** means:

- (a) the proposed acquisition by the Bidder of all of the Scheme Shares through the implementation of the Scheme, in accordance with the terms and conditions of this deed; and
- (b) all associated transactions and steps contemplated by this deed.

**Record Date** means 5.00pm on the fifth Business Day after the Effective Date or such other time and date agreed to in writing between the parties.

**Reimbursement Payment** means \$250,000.

**Related Body Corporate** of a person, means a related body corporate of that person under section 50 of the Corporations Act and includes any body corporate that would be a related body corporate if section 48(2) of the Corporations Act was omitted.

**Relevant Interest** has the meaning given to that term in sections 608 and 609 of the Corporations Act.

**Representatives** means, in respect of a party, an employee, agent, officer, director, adviser or financier of or to that party (or of a Related Body Corporate of that party), and, in the case of advisers and financiers, includes employees, officers and agents of the adviser or financier (as applicable) but excluding the Independent Expert. It includes any Related Bodies Corporate.

**Reverse Reimbursement Payment** means \$250,000.

**RG 60** means ASIC Regulatory Guide 60: Schemes of arrangement (RG 60).

**Scheme** means the proposed scheme of arrangement pursuant to Part 5.1 of the Corporations Act between Cellnet and Scheme Shareholders in respect of all Scheme Shares, substantially in the form set out in Annexure A or in such other form as the parties agree in writing, subject to any alterations or conditions made or required by the Court under section 411(6) of the Corporations Act and approved in writing by each party.

**Scheme Booklet** means the scheme booklet to be prepared by Cellnet in respect of the Scheme in accordance with the terms of this deed and to be dispatched to Cellnet Shareholders and that must include or be accompanied by:

- (a) a copy of the Scheme;
- (b) an explanatory statement complying with the requirements of the Corporations Act, the Corporations Regulations and RG 60;
- (c) the Independent Expert Report;
- (d) a copy or summary of this deed;
- (e) a copy or summary of the executed Deed Poll;
- (f) a notice of meeting; and
- (g) a proxy form.

**Scheme Consideration** means in respect of each Scheme Share held by a Scheme Shareholder, \$0.027 cash for each Scheme Share.

**Scheme Meeting** means the meeting of Cellnet Shareholders ordered by the Court to be convened under section 411(1) of the Corporations Act to consider and vote on the Scheme and includes any meeting convened following any adjournment or postponement of that meeting.

**Scheme Share** means a Share on issue as at the Record Date other than the Excluded Shares.

**Scheme Shareholder** means a Cellnet Shareholder as at the Record Date other than an Excluded Shareholder.

**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 or scheduled to be heard or, if the application is adjourned for any reason, means the date on which the adjourned application is heard or scheduled to be heard.

**Share** means an issued fully paid ordinary share in the capital of Cellnet.

**Share Register** means the share register of Cellnet and **Share Registry** has a corresponding meaning.

**Share Splitting** means the splitting by a holder of Shares into two or more parcels of Shares whether or not it results in any change in beneficial ownership of the Shares.

**Subsidiary** has the meaning given to that term in section 46 of the Corporations Act.

## SCHEME IMPLEMENTATION DEED

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**Superior Proposal** mean a bona fide Competing Proposal that the Independent Directors determine, acting in good faith and to satisfy what the Independent Directors reasonably consider to be their fiduciary or statutory duties:

- (a) is reasonably capable of being completed substantially in accordance with its terms; and
- (b) would, if completed substantially in accordance with its terms, be likely to result in a transaction more favourable to Cellnet Shareholders than the Proposed Transaction, having regard to all relevant matters, including consideration, conditionality, funding, certainty and timing.

**Third Party** means any person or entity other than a member of the Bidder Group or a member of the Cellnet Group.

**Timetable** means the indicative timetable in relation to the Proposed Transaction set out in Schedule 1 with such modifications as may be agreed in writing by the parties.

**Transaction Costs** means investment banking, financial adviser, legal, accounting, Share Registry and other costs payable to other advisers or third party service providers, and retention payments, incurred by Cellnet in respect of the Scheme, in each case inclusive of GST.

### 1.2 Interpretation

In this deed the following rules of interpretation apply, unless the contrary intention appears or context otherwise requires:

- (a) Headings and subheadings are for convenience only and do not affect the interpretation of this deed.
- (b) References to clauses, Schedules, annexures, appendices, attachments and exhibits are references to the clauses of, and the Schedules, annexures, appendices, attachments and exhibits to, this deed.
- (c) References to parties are references to the parties to this deed.
- (d) Words denoting the singular include the plural and words denoting the plural include the singular.
- (e) Where a word or phrase is defined, other parts of speech and grammatical forms of that word or phrase have corresponding meanings.
- (f) The word "person" includes any individual, corporation or other body corporate, partnership, joint venture, trust, association and any Government Agency.
- (g) References to clauses are references to clauses of this deed.
- (h) A reference to a law includes:
  - (i) legislation, regulations and other instruments made under legislation and any consolidations, amendments, re-enactments or replacements of them;
  - (ii) any constitutional provision, treaty or decree;
  - (iii) any judgment;
  - (iv) any rule or principle of common law or equity,



and is a reference to that law as amended, consolidated, re-enacted, replaced or applied to new or different facts.

- (i) Specifying anything in this deed after the terms "include", "including", "includes", "for example", "such as" or any similar expression does not limit the sense of the words, description, definition, phrase or term preceding those terms unless there is express wording to the contrary.
- (j) A reference to conduct includes an omission, statement or undertaking, whether or not in writing.
- (k) If a period of time begins on a given day or the day of an act or event, it is to be calculated exclusive of that day.
- (l) A reference to time is a reference to Melbourne, Victoria, Australia time unless otherwise specified.
- (m) A reference to a day is to be interpreted as the period of time commencing at midnight and ending 24 hours later.
- (n) If any act is required to be performed under this deed by a party on or by a specified day and the act is performed after 5.00 pm on that day, the act is deemed to be performed on the next day.
- (o) If any act is required to be performed under this deed on or by a specified day and that day is not a Business Day, the act must be performed on or by the next Business Day.
- (p) This deed includes all Schedules, annexures, appendices, attachments and exhibits to it.
- (q) A reference to "writing" or "written" includes fax and email (unless otherwise expressly provided in this deed).
- (r) No provision of this deed will be construed adversely to a party because that party was responsible in any way for the preparation of any part of that provision or this deed.

### **1.3 Consent or approvals**

If the doing of any act, matter or thing under this deed is dependent on the consent or approval of a party or is within the discretion of a party, the consent or approval may be given or the discretion may be exercised conditionally or unconditionally or withheld by the party in its absolute discretion unless expressly provided otherwise.

### **1.4 Listing requirements includes as law**

A listing rule or operating rule of a financial market or of a clearing and settlement facility 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.

### **1.5 Reasonable and best endeavours**

Any provision of this deed which requires a party to use reasonable endeavours or best endeavours to procure that something is performed or occurs or does not occur does not include any obligation:

## SCHEME IMPLEMENTATION DEED

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- (a) to pay any money or provide any financial compensation, valuable consideration or any other incentive to or for the benefit of any person except for payment of any applicable fee for the lodgement or filing of any relevant application with any Government Agency; or
- (b) to commence any legal action or proceeding against any person, except where that provision expressly specifies otherwise.

## 2. AGREEMENT TO PROPOSE SCHEME

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- (a) Cellnet agrees to propose and implement the Scheme on and subject to the terms and conditions of this deed, and substantially in accordance with the Timetable.
- (b) The Bidder agrees to assist Cellnet to propose and implement the Scheme on and subject to the terms of this deed.

## 3. CONDITIONS PRECEDENT

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### 3.1 Conditions to scheme

Subject to this clause 3, the Scheme will not become Effective, and the respective obligations of the parties in relation to the implementation of the Scheme will not be binding, unless and until each of the following conditions precedent is satisfied or waived to the extent and in the manner set out in this clause 3:

- (a) **(no Cellnet Prescribed Occurrence)** no Cellnet Prescribed Occurrence occurs between the date of this deed and the Delivery Time;
- (b) **(no Cellnet Regulated Event)** no Cellnet Regulated Event occurs between the date of this deed and the Delivery Time;
- (c) **(no Cellnet Material Adverse Change)** no Cellnet Material Adverse Change occurs between the date of this deed and the Delivery Time;
- (d) **(no restraints)** no restraining order, preliminary or permanent injunction or other order issued by any court of competent jurisdiction in Australia or Government Agency, or other material legal restraint or prohibition recognised under the laws of Australia preventing the Scheme from becoming Effective is in effect at the Delivery Time;
- (e) **(Cellnet Warranties)** the Cellnet Warranties are true and correct in all material respects on the date of this deed and at the Delivery Time;
- (f) **(Bidder Warranties)** the Bidder Warranties are true and correct in all material respects on the date of this deed and at the Delivery Time;
- (g) **(Shareholder approval)** the Scheme is approved by Cellnet Shareholders at the Scheme Meeting by the majorities required under section 411(4)(a)(ii) of the Corporations Act;
- (h) **(Independent Expert)** the Independent Expert:
  - (i) issues an Independent Expert's Report which concludes that the Scheme is in the best interests of Cellnet Shareholders (other than Excluded Shareholders) before the time when the Scheme Booklet is registered by ASIC; and

- (ii) does not change its conclusion or withdraw its Independent Expert's Report before the Delivery Time;
- (i) **(Court approval)** the Court approved the Scheme in accordance with section 411(4)(b) of the Corporations Act either unconditionally or on conditions that do not impose unduly onerous obligations on either party (acting reasonably) and a copy of those orders has been lodged with ASIC as contemplated in section 411(10); and
- (j) **(Options)** before the Delivery Time, all actions have been taken and arrangements have been put in place so that all Options will vest, have lapsed or have been cancelled before the Record Date.

### 3.2 Benefit and waiver of Conditions

- (a) The Conditions in clause 3.1(a) (no Cellnet Prescribed Occurrence), clause 3.1(b) (no Cellnet Regulated Event), clause 3.1(c) (no Cellnet Material Adverse Change), clause 3.1(e) (Cellnet Warranties) and clause 3.1(j) (Options) are for the sole benefit of the Bidder and any breach or non-fulfilment of them may only be waived by the Bidder giving its written consent.
- (b) The Conditions in clause 3.13.1(f) (Bidder Warranties) and clause 3.1(h) (Independent Expert) are for the sole benefit of Cellnet and any breach or non-fulfilment of them may only be waived by Cellnet giving its written consent.
- (c) A party entitled to waive a Condition pursuant to this clause 3.2 may do so in its absolute discretion. Any waiver of a Condition by a party for whose benefit the Condition applies must take place on or prior to the Delivery Time.
- (d) The Conditions in clause 3.1(d) (no restraints), clause 3.1(g) (Shareholder approval) and clause 3.1(i) (Court approval) cannot be waived.
- (e) If a party waives the breach or non-fulfilment of any of the Conditions in clause 3.1, that waiver will not preclude it from suing the other party for any breach of this deed including without limitation a breach that resulted in the non-fulfilment of the Condition that was waived.

### 3.3 Reasonable endeavours

Cellnet and the Bidder must use their respective reasonable endeavours to procure that:

- (a) each of the Conditions is satisfied as soon as reasonably practicable after the date of this deed and continues to be satisfied at all times until the last time they are to be satisfied (as the case may require); and
- (b) there is no occurrence within its control which would prevent any of the Conditions being (or remaining) satisfied.

### 3.4 Notifications

Each of the Bidder and Cellnet must:

- (a) keep the other party promptly and reasonably informed of the steps it has taken and of its progress towards satisfaction of the Conditions;
- (b) promptly notify the other party in writing if it becomes aware that any Condition has been satisfied; and

## SCHEME IMPLEMENTATION DEED

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- (c) promptly notify the other party in writing if it becomes aware that any Condition is or has become incapable of being satisfied (having regard to the respective obligations of each party under clause 3.3).

### 3.5 Certificate

Before the Delivery Time:

- (a) the Bidder and Cellnet will provide a joint certificate to the Court confirming whether or not the Condition set out in clause 3.1(d) (no restraints) has been satisfied or waived in accordance with the terms of this deed;
- (b) Cellnet will provide a certificate to the Court confirming, in respect of matters within its knowledge, whether or not the Conditions (other than the Condition set out in clause 3.1(d) (no restraints), clause 3.1(f) (Bidder Warranties) and clause 3.1(i) (Court approval)) have been satisfied or waived in accordance with the terms of this deed;
- (c) the Bidder will provide a certificate to the Court confirming, in respect of matters within its knowledge, whether or not the Condition set out in clause 3.1(f) (Bidder Warranties) have been satisfied or waived in accordance with the terms of this deed;
- (d) Cellnet will provide a certificate to the Bidder confirming whether or not it has breached any of its obligations under this deed (including a breach of a representation or warranty), and if it has, giving details of such breaches; and
- (e) the Bidder will provide a certificate to Cellnet confirming whether or not it has breached any of its obligations under this deed (including a breach of a representation or warranty), and if it has, giving details of such breaches.

### 3.6 Scheme voted down

If the Scheme is not approved by Cellnet Shareholders at the Scheme Meeting by reason only of the Headcount Test not being satisfied and Cellnet or the Bidder considers (acting reasonably) that Share Splitting or other improper conduct is reasonably likely to have caused or contributed to the failure of the Headcount Test, Cellnet must:

- (a) apply for an order of the Court under section 411(4)(a)(ii)(A) of the Corporations Act to seek Court approval of the Scheme under section 411(4)(b) of the Corporations Act, notwithstanding that the Headcount Test has not been satisfied; and
- (b) make submissions to the Court and file such evidence as Cellnet, in consultation with its legal counsel and with the Bidder, considers is reasonably required to seek to have the Court exercise its discretion under section 411(4)(a)(ii)(A) of the Corporations Act by making an order to disregard the Headcount Test.

### 3.7 Conditions not capable of being fulfilled

- (a) If there is an event or occurrence that would, does, or will prevent any of the Conditions being satisfied (including, for the avoidance of doubt, if Cellnet Shareholders do not vote in favour of the Scheme at the Scheme Meeting by the requisite majorities), or if any of the Conditions will not otherwise be satisfied, by the earlier of:

**SCHEME IMPLEMENTATION DEED**

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(i) the time and date specified in this deed for the satisfaction of that Condition; and

(ii) the End Date,

or such Condition is otherwise not satisfied by that specified time and date or by the End Date (as applicable), then:

(iii) if the Bidder has given notice to Cellnet under clause 3.4 in respect of an actual or alleged breach of one or more of the Conditions in clause 3.1(a) (no Cellnet Prescribed Occurrence), clause 3.1(b) (no Cellnet Regulated Event), clause 3.1(c) (no Cellnet Material Adverse Change), if Cellnet remedies the breach within 10 Business Days (or any shorter period ending at 5.00pm on the Business Day before the Second Court Date) after the date on which that notice is given, the relevant Condition or Conditions (as applicable) will not be taken to have been breached or not satisfied; and

(iv) Cellnet and the Bidder must consult in good faith with a view to determining whether:

- A. the Scheme may proceed by way of alternative means;
- B. to extend the relevant time or date for satisfaction of the Condition;
- C. to change the date of the application to be made to the Court for orders under section 411(4)(b) of the Corporations Act approving the Scheme or adjourning that application (as applicable) to another date agreed by the parties; or
- D. to extend the End Date.

(b) Subject to clause 3.7(c), if a Condition becomes incapable of being satisfied before the End Date and Cellnet and the Bidder are unable to reach agreement under clause 3.7(a) within five Business Days of the date on which they both become aware that the Condition has become incapable of being satisfied (or, if earlier, by the Delivery Time), then unless the relevant Condition (where capable of waiver) is waived:

(i) in relation to the Condition in clause 3.1(d)(no restraints) or clause 3.1(g) (Shareholder approval), either the Bidder or Cellnet may terminate this deed by giving the other party notice without any liability to any party by reason of that termination alone;

(ii) in relation to the Conditions in 3.1(a) (no Cellnet Prescribed Occurrence), clause 3.1(b) (no Cellnet Regulated Event), clause 3.1(c) (no Cellnet Material Adverse Change), clause 3.1(e) (Cellnet Warranties) and clause 3.1(j) (Options), the Bidder may terminate this deed by giving Cellnet notice without any liability to any party by reason of that termination alone; and

(iii) in relation to the Condition in clause 3.1(f) (Bidder Warranties) and clause 3.1(h) (Independent Expert), Cellnet may terminate this deed by giving the Bidder notice without any liability to any other party by reason of that termination alone.

- (c) A party will not be entitled to terminate this deed pursuant to clause 3.7(b) if the relevant Condition has not been satisfied as a result of:
- (i) a breach of this deed by that party; or
  - (ii) a deliberate act or omission of that party which either alone or together with other circumstances prevents that Condition being satisfied.

### 3.8 Interpretation

For the purposes of this clause 3, a Condition will be incapable of satisfaction, or incapable of being fulfilled if there is an act, failure to act or occurrence that will prevent the Condition being satisfied by the End Date (and the breach or non-fulfilment that would otherwise have occurred has not already been waived in accordance with this deed).

## 4. TRANSACTION STEPS

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### 4.1 Scheme

Cellnet must, substantially in accordance with the Timetable, propose the Scheme under which, subject to the Scheme becoming Effective, all of the Scheme Shares will be transferred to the Bidder and the Scheme Shareholders will be entitled to receive, for each Scheme Share held at the Record Date, the Scheme Consideration.

### 4.2 Scheme Consideration

The Bidder covenants in favour of Cellnet (in Cellnet's own right and separately as trustee for each Scheme Shareholder) that, in consideration of the transfer to the Bidder of the Scheme Shares under the terms of the Scheme, on the Implementation Date, the Bidder will:

- (a) accept that transfer; and
- (b) provide each Scheme Shareholder the Scheme Consideration, in accordance with the Scheme.

### 4.3 Fractional entitlements

Where the calculation of the aggregate Scheme Consideration payable to a particular Scheme Shareholder would result in the payment of a fraction of a cent, the fractional entitlement will be rounded down to the nearest cent.

### 4.4 Deed Poll

The Bidder covenants in favour of Cellnet (in Cellnet's own right and separately as trustee for each of the Scheme Shareholders) to execute, deliver and perform the Deed Poll prior to the First Court Date.

### 4.5 No amendment to the Scheme without consent

Cellnet must not consent to any modification of, or amendment to, or the making or imposition by the Court of any condition in respect of, the Scheme without the prior written consent of the Bidder.

## 5. IMPLEMENTATION

### 5.1 Cellnet's obligations

Cellnet must take all steps reasonably necessary to propose and implement the Scheme as soon as reasonably practicable after the date of this deed and substantially in accordance with the Timetable, including taking each of the following steps:

- (a) **(Announce Independent Director recommendation)** following execution of this deed, announce, in a form agreed between Cellnet and the Bidder (on the basis of statements made to Cellnet by each Independent Director), that:
  - (i) the Independent Directors unanimously recommend that Cellnet Shareholders vote in favour of the Scheme qualified only by the words "in the absence of a Superior Proposal and the Independent Expert continuing to consider the Scheme to be in the best interests of Cellnet Shareholders (other than Excluded Shareholders)"; and
  - (ii) each Independent Director who has a Relevant Interest in Cellnet Shares, intends to vote his or her Cellnet Shares in favour of the Scheme qualified only by the words "in the absence of a Superior Proposal and the Independent Expert continuing to consider the Scheme to be in the best interests of Cellnet Shareholders (other than Excluded Shareholders)";
- (b) **(Scheme Booklet)** prepare the Scheme Booklet in accordance with clause 5.3;
- (c) **(Independent Expert)** promptly appoint the Independent Expert and provide all assistance and information reasonably requested by the Independent Expert in connection with the preparation of the Independent Expert Report for inclusion in the Scheme Booklet;
- (d) **(Approval of draft for ASIC)** as soon as reasonably practicable after the preparation of an advanced draft of the Scheme Booklet suitable for review by ASIC, procure that a meeting of the committee of the Independent Directors, is held to consider approving that draft as being in a form appropriate for provision to ASIC for its review and approval for the purposes of section 411(2) of the Corporations Act;
- (e) **(Draft to ASIC)** as soon as reasonably practicable after the date of this deed, and in any event no later than 14 days before the First Court Date:
  - (i) provide an advanced draft of the Scheme Booklet, in a form approved, to ASIC for its review and approval for the purposes of section 411(2) of the Corporations Act, and provide a copy to the Bidder immediately thereafter; and
  - (ii) liaise with ASIC during the period of its consideration of that draft of the Scheme Booklet and keep the Bidder reasonably informed of any matters raised by ASIC in relation to the Scheme Booklet and where practical to do so, consult with the Bidder in good faith, prior to taking any steps or actions to resolve any such matters (provided that, where any matters raised by ASIC relate to the Bidder Information, Cellnet must not take any steps or actions to resolve them without the Bidder's prior written consent, not to be unreasonably withheld);

**SCHEME IMPLEMENTATION DEED**

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- (f) **(Approval of Scheme Booklet)** as soon as reasonably practicable after the conclusion of the review by ASIC of the Scheme Booklet, procure that a meeting of the committee of Independent Directors, is held to consider approving the Scheme Booklet for dispatch to the Cellnet Shareholders, subject to orders of the Court under section 411(1) of the Corporations Act;
- (g) **(Section 411(17)(b) statements)** apply to ASIC for the production of:
  - (i) an indication of intent letter stating that it does not intend to appear before the Court on the First Court Date; and
  - (ii) a statement in writing pursuant to section 411(17)(b) of the Corporations Act stating that ASIC has no objection to the Scheme;
- (h) **(First Court hearing)** lodge all documents with the Court and take all other reasonable steps to ensure that promptly after, and provided that, the required approvals have been received, an application is heard by the Court for an order under section 411(1) of the Corporations Act directing Cellnet to convene the Scheme Meeting;
- (i) **(Court representation)** engage suitable counsel to represent Cellnet in all Court proceedings related to the Scheme and not oppose any application by the Bidder for leave of the Court to be represented by legal counsel at each Court hearing held in relation to the Scheme;
- (j) **(Registration of explanatory statement)** request ASIC to register the explanatory statement included in the Scheme Booklet in relation to the Scheme in accordance with section 412(6) of the Corporations Act;
- (k) **(Convening Scheme Meeting)** take all reasonable steps necessary to comply with the orders of the Court including, as required, dispatching the Scheme Booklet to the Cellnet Shareholders and convening and holding the Scheme Meeting;
- (l) **(Share Registry details)** subject to the terms of the Scheme, provide:
  - (i) all necessary information about the Cellnet Shareholders known to Cellnet which the Bidder reasonably requires in order to solicit votes at the Scheme Meeting; and
  - (ii) all necessary directions to the Share Registry to promptly provide any information that the Bidder requires in relation to the Share Register, including any sub-register, and where requested by the Bidder, Cellnet must procure that information to be provided in the electronic form as reasonably requested by the Bidder;
- (m) **(Share Register changes)** inform the Bidder within two Business Days of any changes to the Share Register involving a Cellnet Shareholder increasing its Relevant Interest in Cellnet Shares by 1% or more (calculated as a proportion of the total number of Cellnet Shares on issue);
- (n) **(Proxies):**
  - (i) after the date the Scheme Booklet is sent to Cellnet Shareholders, provide the Bidder with a daily report detailing proxies received in respect of the Scheme Meeting; and



**SCHEME IMPLEMENTATION DEED**

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- (ii) provide to the Bidder copies of all call centre scripts proposed to be used by Cellnet for Cellnet Shareholder canvassing activities and take into account any reasonable comments made by the Bidder;
- (o) **(Promotion of Scheme)** provide all reasonable co-operation in the promotion of the Scheme to Cellnet Shareholders as requested by the Bidder (acting reasonably), including procuring that senior Cellnet employees meeting with key Cellnet Shareholders and communicate with employees, customers and suppliers in a manner which is supportive of the Scheme;
- (p) **(Court approval application if parties agree that conditions are capable of being satisfied)** subject to all Conditions, other than clause 3.1(i) being satisfied or waived in accordance with this deed, apply (and, to the extent necessary, re-apply) to the Court for orders approving the Scheme;
- (q) **(Appeal process)** if the Court refuses to make any orders directing Cellnet to convene the Scheme Meeting or approving the Scheme, Cellnet and the Bidder must appeal the Court's decision to the fullest extent possible except to the extent that:
  - (i) the parties agree otherwise; or
  - (ii) an independent senior legal counsel advises that, in their view, an appeal would have no reasonable prospect of success before the End Date;
- (r) **(Implementation of Scheme)** if the Scheme is approved by the Court:
  - (i) subject to the Listing Rules, lodge with ASIC an office copy of the orders approving the Scheme in accordance with section 411(10) of the Corporations Act within one Business Day of receipt (or such later date agreed by the bidder);
  - (ii) determine the identity of the Scheme Shareholders and their entitlements to the Scheme Consideration as at the Record Date in accordance with the Scheme;
  - (iii) execute proper instruments of transfer, and effect and register the transfer, of the Scheme Shares to the Bidder on the Implementation Date; and
  - (iv) do all other things contemplated by or necessary to give effect to the Scheme and the orders of the Court approving the Scheme;
- (s) **(Bidder Information)** without the prior written consent of the Bidder, not use the Bidder Information for any purposes other than those expressly contemplated by this deed or the Scheme;
- (t) **(Documents)** consult with the Bidder in relation to the content of the documents required for the purpose of the Scheme (including originating process, affidavits, submissions and draft minutes of Court orders) and consider, for the purpose of amending drafts of those documents, any reasonable comments from the Bidder on those documents;
- (u) **(Suspension of trading)** apply to ASX to suspend trading in Cellnet Shares with effect from the close of trading on the Effective Date;
- (v) **(Listing)** take all reasonable steps to maintain Cellnet's listing on ASX, notwithstanding any suspension of the quotation of Cellnet Shares, up to and

including the Implementation Date, including making appropriate applications to ASX and ASIC; and

- (w) **(Compliance with laws)** do everything reasonably within its power to ensure that all transactions contemplated by this deed are effected in accordance with all applicable laws and regulations.

## 5.2 Bidder's obligations

The Bidder must take all steps reasonably necessary to assist Cellnet to implement the Scheme as soon as reasonably practicable and substantially in accordance with the Timetable, including taking each of the following steps:

- (a) **(Bidder Information)** provide to Cellnet, in a form appropriate for inclusion in the Scheme Booklet, all information regarding the Bidder that is required by all applicable law, the Listing Rules and RG 60 for inclusion in the Scheme Booklet and consent to inclusion of that information in the Scheme Booklet;
- (b) **(Scheme Booklet and Court documents)** promptly provide any assistance or information reasonably requested by Cellnet in connection with preparation of the Scheme Booklet (including any updated or supplementary Scheme Booklet) and any documents required to be filed with the Court in respect of the Scheme, promptly review the drafts of the Scheme Booklet (including any updated or supplementary Scheme Booklet) prepared by Cellnet and promptly provide comments on those drafts in good faith;
- (c) **(Assist Independent Expert)** promptly provide all assistance and information reasonably requested by the Independent Expert to enable it to prepare the Independent Expert Report for inclusion in the Scheme Booklet;
- (d) **(Review drafts of Scheme Booklet)** as soon as reasonably practicable after delivery, review the drafts of the Scheme Booklet prepared by Cellnet and provide comments on those drafts;
- (e) **(Approval of draft for ASIC)** as soon as reasonably practicable after the preparation of an advanced draft of the Scheme Booklet suitable for review by ASIC, procure that a meeting of the appropriate decision-makers of the Bidder is held to consider approving those sections of that draft that relate to the Bidder as being in a form appropriate for provision to ASIC for review;
- (f) **(Approval of Scheme Booklet)** as soon as reasonably practicable after the conclusion of the review by ASIC of the Scheme Booklet, procure that a meeting of the appropriate decision-makers of the Bidder is held to consider approving those sections of the Scheme Booklet that relate to the Bidder as being in a form appropriate for dispatch to Cellnet Shareholders, subject to approval of the Court;
- (g) **(Representation)** procure that, if requested by Cellnet, Bidder is represented by legal counsel at the Court hearings convened for the purposes of section 411(1) and (4)(b) of the Corporations Act;
- (h) **(Cellnet Information)** without the prior written consent of Cellnet, not use Cellnet Information for any purposes other than those expressly contemplated by this deed or the Proposed Transaction;
- (i) **(Deed Poll)** by no later than the Business Day prior to the First Court Date, execute and deliver to Cellnet the Deed Poll;

**SCHEME IMPLEMENTATION DEED**

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- (j) **(share transfer)** if the Scheme becomes Effective:
  - (i) accept a transfer of the Scheme Shares as contemplated; and
  - (ii) execute instruments of transfer in respect of the Scheme Shares;
- (k) **(Scheme Consideration)** if the Scheme becomes Effective provide the Scheme Consideration in the manner and amount contemplated by clause 4 and the terms of the Scheme and the Deed Poll;
- (l) **(certificate)** before the commencement of the hearing on the Second Court Date provide to Cellnet for provision to the Court at that hearing a certificate (signed for and on behalf of the Bidder) in the form of a deed confirming (in respect of matters within the Bidder's knowledge) whether or not the Conditions for which the Bidder is responsible have been satisfied or waived in accordance with this deed, a draft of which certificate must be provided by Bidder to Cellnet by no later than 4.00 pm on the Business Day prior to the Second Court Date;
- (m) **(assistance)** up to (and including) the Implementation Date and subject to obligations of confidentiality owed to third parties and undertakings to Government Agencies, provide Cellnet with reasonable access during normal business hours to information and personnel of the Bidder that Cellnet reasonably requests for the purpose of preparation of the Scheme Booklet and implementation of the Scheme;
- (n) **(Compliance with laws)** do everything reasonably within its power to ensure that all transactions contemplated by this deed are effected in accordance with all applicable laws and regulations; and
- (o) **(Implementation)** if the Scheme becomes Effective, do all things contemplated of it under the Scheme in accordance with the Deed Poll.

**5.3 Scheme Booklet preparation principles**

- (a) As soon as reasonably practicable and substantially in accordance with the Timetable, Cellnet must prepare the Scheme Booklet in compliance with:
  - (i) all applicable laws, in particular with the Corporations Act, RG 60 and the Listing Rules; and
  - (ii) this clause 5.3.
- (b) The Scheme Booklet will include:
  - (i) a statement that the Independent Directors unanimously recommend that Cellnet Shareholders vote in favour of the Scheme qualified only by the words "in the absence of a Superior Proposal and the Independent Expert continuing to consider the Scheme to be in the best interests of Cellnet Shareholders (other than Excluded Shareholders)";
  - (ii) a statement that each Independent Director who has a Relevant Interest in Cellnet Shares, intends to vote his or her Cellnet Shares in favour of the Scheme qualified only by the words "in the absence of a Superior Proposal and the Independent Expert continuing to consider the Scheme to be in the best interests of Cellnet Shareholders (other than Excluded Shareholders)";
  - (iii) the terms of the Scheme;

**SCHEME IMPLEMENTATION DEED**

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- (iv) the notice of Scheme Meeting, and any other notice of meeting in respect of any resolution that is necessary, expedient or incidental to give effect to the Scheme, together with a proxy form for the Scheme Meeting and for any ancillary meeting;
  - (v) the Cellnet Information;
  - (vi) the Bidder Information;
  - (vii) a copy of this deed (without the Schedules or annexures) or a summary of it;
  - (viii) a copy of the executed Deed Poll; and
  - (ix) a copy of the Independent Expert Report.
- (c) The Scheme Booklet must include a statement that:
- (i) other than the Bidder Information and the Independent Expert Report, the Scheme Booklet has been prepared by Cellnet and is the responsibility of Cellnet, and that the Bidder assumes no responsibility for the accuracy or completeness of the Scheme Booklet (other than the Bidder Information); and
  - (ii) the Bidder Information has been provided by the Bidder and is the responsibility of the Bidder, and Cellnet assumes no responsibility for the accuracy or completeness of the Bidder Information.
- (d) Cellnet must make available to the Bidder drafts of the Scheme Booklet (including, subject to clause 5.3(e), a draft of the Independent Expert Report), consult with the Bidder in relation to the content of those drafts (other than the Bidder Information), and consider, acting reasonably and in good faith, for the purpose of amending those drafts, comments from the Bidder on those drafts. Bidder acknowledges and agrees that Cellnet has ultimate discretion (provided that such discretion is exercised in good faith) with respect to the preparation, form and content of the Scheme Booklet, other than as expressly provided in this deed with respect to the Bidder Information.
- (e) Cellnet must make available to the Bidder a factual accuracy draft of the Independent Expert Report and consider any reasonable comments, which comments must be limited to matters of factual accuracy and Cellnet makes no representation, and gives no assurance, as to the extent to which such comments will be considered or incorporated by the Independent Expert.
- (f) Cellnet must seek approval from the Bidder for the form and context in which the Bidder Information appears in the Scheme Booklet, and the Bidder must not unreasonably withhold or delay such approval, and Cellnet must not lodge the Scheme Booklet with ASIC until such approval is obtained from the Bidder.
- (g) Cellnet must take all reasonable steps to ensure that the Scheme Booklet (other than the Bidder Information) is not misleading or deceptive in any material respect (whether by omission or otherwise) as at the date it is dispatched to Cellnet Shareholders.
- (h) Bidder must take all reasonable steps to ensure that the Bidder Information is not misleading or deceptive in any material respect (whether by omission or otherwise) as at the date on which the Scheme Booklet is dispatched to Cellnet Shareholders.

- (i) Cellnet must provide to the Bidder all such further or new information of which Cellnet becomes aware that arises after the Scheme Booklet has been dispatched until the date of the Scheme Meeting where this is or may be necessary to ensure that the Scheme Booklet continues to comply with the Corporations Act, RG 60 and the Listing Rules.
- (j) The Bidder must provide to Cellnet all such further or new information of which the Bidder becomes aware that arises after the Scheme Booklet has been dispatched until the date of the Scheme Meeting where this is or may be necessary to ensure that the Bidder Information continues to comply with the Corporations Act, RG 60 and the Listing Rules.
- (k) Each party must undertake appropriate verification processes for the information supplied by that party in the Scheme Booklet.
- (l) Cellnet and the Bidder agree that the efficient preparation of the Scheme Booklet and the implementation of the Scheme are in the interests of Cellnet Shareholders and the Bidder, and that they will use all reasonable endeavours and all necessary resources (including management resources and the resources of external advisers) to comply with their respective obligations under this clause 5.3 and to implement the Scheme as soon as reasonably practicable and substantially in accordance with the Timetable.

## **6. BOARD RECOMMENDATION**

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### **6.1 Recommendation**

Subject to clause 6.3, Cellnet represents and warrants to the Bidder that, as at the date of this deed, it has been advised by each Independent Director that they will recommend that Cellnet Shareholders vote in favour of the Scheme, qualified only by the words “in the absence of a Superior Proposal and the Independent Expert continuing to consider the Scheme to be in the best interests of Cellnet Shareholders (other than Excluded Shareholders)” and each Independent Director has agreed not to do anything inconsistent with their recommendation (including changing, withdrawing, modifying or in any way qualifying their recommendation or voting intention).

### **6.2 Public announcements to contain recommendation**

Subject to clause 6.3, Cellnet must ensure that the Scheme Booklet and any public announcement made by Cellnet includes:

- (a) a unanimous recommendation by the Independent Directors that Cellnet Shareholders vote in favour of the Scheme qualified only by the words “in the absence of a Superior Proposal and the Independent Expert continuing to consider the Scheme to be in the best interests of Cellnet Shareholders (other than Excluded Shareholders)”; and
- (b) a statement that each Independent Director will vote in favour of the Scheme, in respect of all Shares in which they have a Relevant Interest, qualified only by the words “in the absence of a Superior Proposal and the Independent Expert continuing to consider the Scheme to be in the best interests of Cellnet Shareholders (other than Excluded Shareholders)”.

**6.3 Withdrawal or modification of recommendation**

- (a) Subject to clause 6.3(b), clause 6.3(c) and clause 6.3(d), Cellnet represents and warrants to the Bidder, as at the date of this deed, that it has been advised by each Independent Director that they will not:
- (i) change, withdraw, modify or qualify in any way their recommendation that Cellnet Shareholders vote in favour of the Scheme; or
  - (ii) make any public statement or take any other action that is inconsistent with their recommendation that Cellnet Shareholders vote in favour of the Scheme.
- (b) Clause 6.3(a) does not apply:
- (i) where Cellnet receives a Competing Proposal and the Independent Directors unanimously or by a majority determine that the Competing Proposal constitutes a Superior Proposal; or
  - (ii) due to a requirement or a request by the Court or a Government Agency that a Director abstains from making a recommendation.
- (c) For the purposes of this clause 6.3, a qualification contained in the Scheme Booklet or any public announcements relating to the Scheme to the recommendation by the Independent Directors to Cellnet Shareholders to vote in favour of the Scheme by words to the effect of:
- (i) 'in the absence of a Superior Proposal';
  - (ii) in respect of a public announcement issued before the issue of the Scheme Booklet, 'subject to the Independent Expert concluding in the Independent Expert's Report (and continuing to conclude) that the Scheme is in the best interests of Scheme Shareholders (other than Excluded Shareholders)'; or
  - (iii) in respect of the Scheme Booklet or a public announcement issued at or after the issue of the Scheme Booklet, 'subject to the Independent Expert continuing to conclude that the Scheme is in the best interests of Scheme Shareholders (other than Excluded Shareholders)',
- will not be regarded as a failure to make, or a change, withdrawal, modification or qualification of, a recommendation in favour of the Scheme.
- (d) Despite anything to the contrary in this clause 6.3, a statement made by Cellnet or the Independent Director to the effect that no action should be taken by Scheme Shareholders pending the assessment of a Competing Proposal by the Independent Directors or the completion of the matching right process set out in clause 14.6 shall not contravene this clause 6.

**6.4 Notification**

Without limiting clause 14, if any Independent Director proposes to change, withdraw, modify or qualify in any way their recommendation or voting intention in accordance with clause 6.3 then, subject to clause 14.7.:

- (a) Cellnet must notify the Bidder in writing immediately; and

- (b) the parties must consult in good faith for 2 Business Days after the date on which the notification in clause 6.4(a) is given to consider and determine whether the recommendation and voting intention in place at the time can be maintained. The recommendation or voting intention cannot be withdrawn or changed in accordance with clause 6.3 until the end of the consultation period.

## **7. CONDUCT OF BUSINESS BEFORE THE IMPLEMENTATION DATE**

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### **7.1 Conduct of Cellnet business**

Subject to clause 7.3, from the date of this deed up to and including the Implementation Date, Cellnet must, and must procure that each Cellnet Group Member:

- (a) carries on and operates the Business as a going concern, in the ordinary and normal course and in substantially the same manner as it was conducted in the 12 months before the date of this deed unless approved by a majority of the Cellnet Board;
- (b) use reasonable endeavours to preserve their relationships with material customers, suppliers, landlords and others having material business dealings with them, and to retain the services of all key employees;
- (c) keeps available the services of its officers and key employees;
- (d) perform and comply, in all material respects, with any material lease, agreement, commitment or licence;
- (e) keeps the Bidder reasonably and promptly informed of, and reasonably considers the Bidder's views about, material developments in the business of the Cellnet Group;
- (f) comply in all material respects with all laws, licences and consents applicable to any member of the Cellnet Group or its business and ensure that it continues to hold any material licences or, if a material licence expires that material licence is promptly renewed;
- (g) pay to the Australian Taxation Office or other relevant tax authority where due all taxes which become due and payable before the Implementation Date; and
- (h) promptly notifies the Bidder in writing if any of the following of which Cellnet becomes aware, and such written notification must include a reasonable summary of the relevant matter:
  - (i) events, facts, matters or circumstances which would or would reasonable be expected to:
    - A. constitute a Cellnet Material Adverse Change, Cellnet Regulated Event or a Cellnet Prescribed Occurrence;
    - B. constitute a breach of this clause 7;
    - C. constitute a breach of Cellnet Warranties; or
    - D. have a material adverse effect on the financial or operational performance, or the reputation, of the Cellnet Group or the Cellnet Group's relationships with Government Agencies;

- (ii) any breach of, or default under, any material commitment, laws, licences or consents applicable to any member of the Cellnet Group and which is reasonably likely to result in a material liability for the Cellnet Group (save that Cellnet is not obligated to provide any information to the extent that doing so would breach any existing obligations of confidence to which a member of the Cellnet Group is subject or result in loss of legal privilege).

## 7.2 Prohibited actions

Subject to clause 7.3, from the date of this deed up to and including the Implementation Date, Cellnet must not, and must procure that the Cellnet Group does not:

- (a) make an election to form a consolidated tax group, whether for direct or indirect taxes;
- (b) file any amended Tax return, settle any Tax claim, audit or action, surrender any right to claim a material Tax refund, offset or other reduction in Tax liability or change its method of Tax accounting, in each case, if such action would have the effect of increasing the Tax liabilities of the Cellnet Group by an amount that exceeds \$100,000;
- (c) purchase, lease, acquire or dispose of any assets (other than inventory), the value of which exceeds \$250,000 in aggregate;
- (d) undertake or commit to any capital expenditure in respect of which the cost of the item (or series of related items) exceeds \$250,000;
- (e) enter into, terminate, amend or vary any material lease, agreement, commitment or licence;
- (f) do anything that would have a material adverse effect on the goodwill of the Business, including the relationship of the Business with customers, suppliers, landlords and key employees;
- (g) increase, reduce or otherwise alter its share capital or issue any convertible securities or grant any options or performance rights for the issue of shares or other securities in Cellnet;
- (h) declare or pay a dividend or make any other distribution to shareholders;
- (i) change or agree to change the terms of employment, including salaries and benefits, of employees on a salary of more than \$200,000 per year or grant any bonus, severance or retention benefit to any employee or officer other than in accordance with such employee's or officer's contractual entitlements;
- (j) incur additional borrowing, grant any loan or advance, or enter into any off balance sheet financing or assume, guarantee or endorse the obligations of any person;
- (k) enter into any new agreements, arrangements or understandings involving costs or expenses of more than \$250,000 in aggregate;
- (l) increase salaries and benefits of employees which in aggregate amount to more than \$200,000 per year, other than in accordance with such employees' contractual or legal entitlements;
- (m) hire, or agree to hire, any employee, agent or contractor with a salary of \$200,000 or above, except in the ordinary course of business;



## SCHEME IMPLEMENTATION DEED

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- (n) enter into, or vary, any collective bargaining agreement or other agreement with a union or other organisation representing employees;
- (o) give or agree to give a financial benefit to a related party of Cellnet;
- (p) amend its constitution;
- (q) make any draw downs on its existing debt facility (or any other debt facility), or otherwise incur any additional financial indebtedness (including incur any contingent liability by requesting new, or increasing the face value of any existing, any bank guarantees, letters of credit or like instruments);
- (r) enter into any restraint of trade, non-competition undertaking or similar agreement which places a material restriction on any member of the Cellnet Group's ability to carry on business activities which it undertakes in the ordinary course of business or vary any existing restraint of trade, non-competition undertaking or similar agreement which places a material restriction on any member of the Cellnet Group's ability to carry on business activities where such variation increases the term, nature or scope of the restriction;
- (s) settle or offer to settle any action, claim, dispute, litigation, prosecution, regulatory inquiry or investigation by a Government Agency or other form of proceeding, where:
  - (i) the aggregate settlement amount exceeds \$100,000; or
  - (ii) the settlement involves the imposition of an injunction against, or restriction on, any member of the Cellnet Group undertaking any business activity, where that injunction or restriction will have a material impact on the business of the Cellnet Group as a whole; or
- (t) authorise, commit or agree to take any of the steps or actions set out above.

### 7.3 Cellnet permitted activities

The obligations of Cellnet under clause 7.1 and clause 7.2 do not apply in respect of any matter that:

- (a) is required by any applicable law, regulation, Government Agency or any contract entered into and a copy of which was Fairly Disclosed to the Bidder before the date of this deed;
- (b) has been Fairly Disclosed to the Bidder in the Due Diligence Material;
- (c) in the reasonable opinion of Cellnet (acting in good faith), is required to respond, on a prudent basis, to an emergency or a disaster;
- (d) is expressly contemplated in this deed or consented to in writing by the Bidder (which response must not be unreasonably delayed more than 5 Business Days from the date of the request from Cellnet);
- (e) is otherwise in the ordinary course of business of Cellnet Group; or
- (f) is approved by a majority of the Cellnet Board (in circumstances where all Cellnet Directors are eligible to vote on the relevant decision).

#### 7.4 Access

- (a) From the date of this deed up to and including the Implementation Date, Cellnet must, subject to clause 7.4(b) and clause 7.4(c):
- (i) provide the Bidder with all reasonable access during business hours (on reasonable notice by the Bidder of any request for meetings or access) to the management (including executive team), offices, books, records and business operations of Cellnet that the Bidder reasonably requires in order to implement the Scheme or for the Bidder to prepare for the transition of ownership of the Business, provided that such access is at all times in the presence of a representative of Cellnet, if Cellnet so requires, and the Bidder complies with the reasonable requirements of Cellnet in relation to such access; and
  - (ii) share such information as is reasonably required to implement the Proposed Transaction, provided that Cellnet will not be required to provide access under clause 7.4(a) to the extent that to do so would, in the reasonable opinion of Cellnet:
    - A. cause unreasonable disruption to the Business or the operations of the Cellnet Group;
    - B. result in any member of the Cellnet Group breaching an obligation of confidentiality to any person or any applicable law (including privacy laws) or requirement of any Government Agency; or
    - C. be reasonably likely to result in a loss of legal professional privilege.
- (b) Nothing in clause 7.2(a):
- (i) gives the Bidder any rights to undertake further due diligence investigations, or any rights as to the decision-making of any member of the Cellnet Group or the Business; or
  - (ii) obliges Cellnet to provide to the Bidder or its Representatives any information concerning its Independent Directors' consideration of the Scheme or any Competing Proposal (other than as expressly provided in this deed).
- (c) Any information provided by Cellnet pursuant to clause 7.4(a) will be subject to the Confidentiality Deed.

#### 7.5 Change of control

- (a) As soon as practicable after the date of this deed, Cellnet must:
- (i) seek to identify any change of control or similar provisions in any material contracts to which any member of the Cellnet Group is a party which may be triggered by the implementation of the Scheme (**Change of Control Requirements**); and
  - (ii) use reasonable endeavours to obtain the consents which are required in accordance with the terms of any identified Change of Control Requirements.

## SCHEME IMPLEMENTATION DEED

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- (b) A failure by Cellnet to obtain any counterparty consent as part of the Change of Control Requirements will not constitute a breach of this deed, and together with any consequences which arise, will be disregarded when assessing the operation of any other provision of this deed.
- (c) The Bidder must cooperate with, and provide reasonable assistance to, Cellnet to obtain such consents or confirmations in relation to any identified Change of Control Requirements, including by promptly providing any information reasonably required by counterparties.

## 8. ACTIONS ON AND FOLLOWING IMPLEMENTATION DATE

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### 8.1 Reconstitution of the board of each member of the Cellnet Group

- (a) On the Implementation Date, but subject to the Scheme Consideration having been paid by the Bidder in accordance with the Scheme and receipt by Cellnet of signed consents to act, Cellnet must take all actions necessary (and in accordance with the constitution of the relevant Cellnet Group Member, the Corporations Act and the Listing Rules) to appoint the persons nominated by the Bidder as new Directors and new directors of each Cellnet Group Member.
- (b) Without limiting clause 8.1(a), on the Implementation Date, but subject to receipt by Cellnet of written notices of resignation to the effect that the outgoing Directors have no claim outstanding against any member of the Cellnet Group, Cellnet must procure that, immediately following the appointment of the Directors taking effect under clause 8.1(a):
  - (i) all outgoing Directors (other than Michael Wendt) resign from the Cellnet Board; and
  - (ii) all outgoing directors of each Cellnet Group Member (other than Michael Wendt) resign from their office of director.

### 8.2 Sequence of actions on the Implementation Date

On the Implementation Date, the transactions that form part of the Scheme and the ancillary transactions contemplated by this deed will be implemented in the following sequence:

- (a) the Bidder will provide the Scheme Consideration in accordance with the Scheme;
- (b) Cellnet will pay the Scheme Consideration to Scheme Shareholders in accordance with the Scheme;
- (c) the Cellnet Board and the board of each Cellnet Group Member will be reconstituted in accordance with clause 8.1; and
- (d) the Bidder will acquire all of the Scheme Shares in accordance with the Scheme.

## 9. REPRESENTATIONS AND WARRANTIES

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### 9.1 Representations and warranties by Cellnet

Cellnet represents and warrants to the Bidder that:

- (a) it is validly existing under the laws of its place of incorporation or registration;

**SCHEME IMPLEMENTATION DEED**

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- (b) it has the power to enter into and perform its obligations under this deed and to carry out the transactions contemplated by this deed;
- (c) it has taken all necessary action to authorise its entry into and performance of this deed and to carry out the transactions contemplated by this deed;
- (d) no member of the Cellnet Group is the subject of an Insolvency Event, and an Insolvency Event will not occur to any Subsidiary of Cellnet prior to implementation of the Scheme;
- (e) Cellnet's obligations under this deed are valid and binding and enforceable against it in accordance with their terms and this deed does not result in a breach of or default under any provision of Cellnet's constitution or any deed or any writ, order or injunction, rule or regulation to which Cellnet is a party or is bound and Cellnet is not otherwise bound by any agreement that would prevent or restrict it from entering into or performing this deed;
- (f) as at the date of this deed, Cellnet is in compliance with its continuous disclosure obligations under the Listing Rules and is not withholding from disclosure to ASX any material information in reliance on Listing Rule 3.1A, and immediately following release of the agreed public announcement in accordance with clause 10.2, Cellnet will not be withholding from disclosure to ASX any material information in reliance on Listing Rule 3.1A;
- (g) any Due Diligence Materials were provided or made available to the Bidder in good faith, and Cellnet is not aware of any material misleading or deceptive factual statement in any of the Due Diligence Material on the date they were provided or made available to the Bidder;
- (h) as at the date the Scheme Booklet is despatched to Cellnet Shareholders, the Cellnet Information contained in the Scheme Booklet will comply in all material respects with the requirements of the Corporations Act, Corporations Regulations, Listing Rules and RG 60 and will not be misleading or deceptive in any material respect (whether by omission or otherwise);
- (i) Cellnet financial statements as disclosed to the ASX have been prepared in accordance with the accounting standards on a basis consistent with past practice financial statements and, so far as Cellnet is aware, there has not been any event, change, effect or development which would require Cellnet to restate its financial statements as disclosed to the ASX; and
- (j) as at the date of this deed:
  - (i) the issued capital of Cellnet is 243,594,634 Shares;
  - (ii) 4,000,000 Options have been granted and issued;
  - (iii) no member of the Cellnet Group has issued, or agreed to issue, any other securities or instruments that may convert into Shares or any other securities in Cellnet other than the Options referred to in paragraph (ii); and
  - (iv) no Cellnet Prescribed Occurrence has occurred.

**9.2 Representations and warranties by the Bidder**

The Bidder represents and warrants to Cellnet that:

- (a) it is validly existing under the laws of its place of incorporation or registration;
- (b) it has the power to enter into and perform its obligations under this deed and to carry out the transactions contemplated by this deed;
- (c) it has taken all necessary action to authorise its entry into and performance of this deed and to carry out the transactions contemplated by this deed;
- (d) its obligations under this deed are valid and binding and enforceable against it in accordance with their terms;
- (e) no member of the Bidder Group is the subject of an Insolvency Event, and an Insolvency Event will not occur to the Bidder prior to implementation of the Scheme; and
- (f) at least five Business Days prior to the Second Court Date, it will have sufficient cash amounts (whether from internal cash or binding agreements) to fund its obligations to pay the Scheme Consideration in accordance with its obligations under this deed, the Scheme and the Deed Poll, conditional only on procedural items such as delivery of a draw request, mechanical conditions that can only be satisfied on implementation of the Scheme and conditions relating to progressing the Scheme such as requisite Cellnet Shareholder approval, Court approval and lodging of the court order with ASIC.

**9.3 Timing of representations and warranties**

Each representation and warranty made or given under clause 9.1 and clause 9.2 is given:

- (a) at the date of this deed;
- (b) at the Delivery Time; or
- (c) where expressed, at the time at which the representation or warranty is expressed to be given.

**9.4 Survival of representations and warranties**

Each representation and warranty in clause 9.1 and clause 9.2:

- (a) is severable;
- (b) will survive the termination of this deed; and
- (c) is given with the intent that liability under them will not be confined to breaches that are discovered prior to the date of termination of this deed.

**10. CONFIDENTIALITY AND PUBLIC ANNOUNCEMENT**

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**10.1 Confidentiality**

Each party agrees and acknowledges that it is bound by the terms of the Confidentiality Deed save that the terms of this deed will prevail over the Confidentiality Deed to the extent of any inconsistency.

**10.2 Public announcements on execution**

Immediately after the execution of this deed, the parties must issue public announcements in a form previously agreed to in writing between them.

**10.3 Further public announcements**

Subject to clause 10.4, any further public announcements by Cellnet or the Bidder in relation to, or in connection with, the Scheme or any other transaction the subject of this deed, may only be made in a form approved by each party in writing (acting reasonably) subject to where a party is required by law or the Listing Rules to make any announcement or to make any disclosure in relation to, or in connection with, the Scheme or any other transaction the subject of this deed.

**10.4 Required announcement**

Where a party is required by applicable law, the Listing Rules or any other applicable financial market regulation to make any announcement or to make any disclosure in connection with the Scheme or any other transaction the subject of this deed, it may do so but must use reasonable endeavours, to the extent practicable and lawful, to consult with the other party before making the relevant disclosure and must give the other party as much notice as reasonably practical.

**10.5 Statements on termination**

The parties must use all reasonable endeavours to issue agreed statements in respect of any termination of this deed and, to that end but without limitation, clause 10.3 and clause 10.3 will apply to any such statements or disclosures.

**11. TERMINATION**

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**11.1 Termination by notice**

- (a) The Bidder or Cellnet may, by notice in writing to the other party, terminate this deed at any time prior to the Delivery Time:
- (i) in accordance with clause 3.7(b);
  - (ii) if the other party is in breach of a material obligation under this deed (including a material breach of a representation or warranty), and, if capable of remedy, the other party has failed to remedy that breach within five Business Days (or 5.00pm on the day before the date of the Second Court Date if earlier) of receipt by it of a notice in writing from the terminating party setting out details of the relevant circumstance and requesting the other party to remedy the breach; or
  - (iii) if the Effective Date for the Scheme has not occurred on or before the End Date.
- (b) Cellnet may, by notice in writing to the Bidder, terminate this deed at any time prior to the Delivery Time if, at any time before then, all or a majority of the Independent Directors change, withdraw, or modify their recommendations of the Scheme in accordance with clause 6.3, provided that Cellnet has not otherwise breached its obligations under clause 14.

## SCHEME IMPLEMENTATION DEED

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- (c) The Bidder may, by notice in writing to Cellnet, terminate this deed at any time prior to the Delivery Time if, at any time before then any Independent Director:
  - (i) fails to recommend the Scheme in accordance with clause 6.1 and clause 6.2; or
  - (ii) publicly changes, withdraws, modifies or qualifies in any way their recommendation of the Proposed Transaction or makes any public statement, or takes any other action that is inconsistent with their recommendation of the Scheme (including where a Competing Proposal is announced and is recommended by any Independent Director).

### 11.2 Effect of termination

- (a) In the event of termination of this deed under clause 3.7(b) or clause 11.1, this deed will become void and have no effect, except that the provisions of clause 10.5 (Statements on termination), clause 11 (Termination), clause 12 (Reimbursement Payment), 13 (Reverse Reimbursement Payment), clause 17 (Notices), clause 18 (Governing law) and clause 19 (General), which survive termination.
- (b) Termination of this deed does not affect any accrued rights of a party in respect of a breach of this deed prior to termination or in respect of right to payment of an amount under clause 12.

### 11.3 Damages

Subject to clause 12.4 and clause 13.4 (as applicable), in addition to the right of termination under clause 11, where there is no appropriate remedy for the breach in this deed (other than termination), the non-defaulting party is entitled to damages for Losses suffered by it and expenses incurred by it as a result of the breach of the terms of this deed.

## 12. REIMBURSEMENT PAYMENT

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### 12.1 Acknowledgement

Cellnet and the Bidder acknowledge and agree that:

- (a) the Bidder and Cellnet have incurred and will continue to incur significant costs and expenses in pursuing and implementing the Scheme, including advisory costs, costs of management and directors' time, funding and opportunity costs and out of pocket expenses;
- (b) the entry by the parties into this deed and the parties' agreement to proceed with the Proposed Transaction (and the incurrance of significant costs, expenses and losses as a result) is of substantial value to Cellnet, Cellnet Shareholders and to the Bidder;
- (c) the Bidder and Cellnet would not have entered into this deed and agreed to proceed with the Proposed Transaction without an agreement on the matters covered by this clause 12; and

- (d) Cellnet and the Bidder have received external legal and financial advice in relation to this clause 12 and each represents to the other that it has concluded that it is reasonable and appropriate for each of them to agree to the matters set out in this clause 12 to secure the parties' engagement and participation in the Scheme.

## **12.2 Reimbursement Payment**

Subject to clause 12.3 and provided that the Bidder is not in breach of a material obligation under this deed, Cellnet must pay the Reimbursement Payment to the Bidder, within ten Business Days after receipt of a written demand from the Bidder, if any of the following events occur:

- (a) before the Delivery Time, any Independent Director:
  - (i) changes, withdraws, modifies or in any way qualifies their recommendation that Scheme Shareholders vote in favour of the resolution to approve the Scheme; or
  - (ii) publicly recommend a Competing Proposal,  
other than where the Independent Expert has concluded that the Scheme is not or is no longer in the best interests of Cellnet Shareholders (other than Excluded Shareholders) (including in any updated or supplementary Independent Expert Report released, or which will be released, to ASX) except where this conclusion of the Independent Expert is due to the existence of a Competing Proposal;
- (b) the Bidder terminates this deed in accordance with clause 11.1(a)(ii);
- (c) a Competing Proposal is publicly announced by a Third Party after the date of this deed and before the Delivery Time, and, within 12 months after such announcement, the Third Party making the Competing Proposal (or any of its Associates) implements the Competing Proposal, acquires all or a majority of the Cellnet Shares or assets, or otherwise acquires Control of Cellnet; or
- (d) at any time before termination of this deed or the Implementation Date, Cellnet enters into any arrangement, agreement or understanding (in writing or otherwise) to implement a Competing Proposal.

## **12.3 Qualifications to Reimbursement Payment**

- (a) Despite the occurrence of any event under clause 12.2, no amount is payable under clause 12.2 if the Scheme becomes Effective.
- (b) The Reimbursement Payment is not payable merely because the resolution submitted to the Scheme Meeting in respect of the Scheme is not approved by the majorities required under section 411(4)(a)(ii) of the Corporations Act.
- (c) This clause 12 imposes obligations on the Bidder and Cellnet only to the extent that the performance of those obligations:
  - (i) does not constitute unacceptable circumstances as declared by the Takeovers Panel;
  - (ii) are not found by a court to constitute a breach of the fiduciary or statutory duties of any director; or
  - (iii) is not otherwise unlawful or held to be unenforceable by a court.



- (d) If the Reimbursement Payment has been paid by Cellnet and any of clauses 14.3(a) to (c) applies, the Bidder must reimburse all (or the relevant portion specified by a court or the Takeovers Panel, as applicable) of that amount to Cellnet within ten Business Days after receipt of a written demand for reimbursement from Cellnet.

#### **12.4 Maximum liability**

The Bidder and Cellnet agree that:

- (a) the payment of the Reimbursement Payment by Cellnet to the Bidder is the Bidder's sole and exclusive remedy in respect of the matter giving rise to the payment of the Reimbursement Payment and otherwise in respect of this deed and no further damages, fees, expenses or reimbursements of any kind will be payable by Cellnet in respect of such matter or otherwise in connection with this deed;
- (b) the maximum liability of Cellnet and the maximum aggregate amount that Cellnet may be required to pay in relation to any breach of this deed by Cellnet is the Reimbursement Payment; and
- (c) if the Reimbursement Payment is paid to the Bidder in accordance with clauses 12.2, neither the Bidder nor any of its Related Bodies Corporate may make any claim (of any nature) against Cellnet nor any Cellnet Party under or in connection with this deed or the Scheme.

#### **12.5 Nature of payment**

The Reimbursement Payment is an amount to compensate the Bidder for:

- (a) advisory costs;
- (b) costs of management and directors' time;
- (c) out-of-pocket expenses;
- (d) the distraction of the Bidder's management from conducting its business as usual caused by pursuing the Scheme;
- (e) reasonable opportunity costs incurred by the Bidder in pursuing the Scheme or in not pursuing alternative acquisitions or strategic initiatives which it could have developed to further its business and objectives; and
- (f) damage to the Bidder's reputation associated with a failed transaction and the implications of that damage to its business.

The parties agree that the costs incurred are of a nature that they cannot be accurately quantified and that a genuine pre-estimate of the costs would equal or exceed the amount payable under this clause 12.

### **13. REVERSE REIMBURSEMENT PAYMENT**

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#### **13.1 Acknowledgement**

Cellnet and the Bidder acknowledge and agree that:

- (a) the Bidder and Cellnet have incurred and will continue to incur significant costs and expenses in pursuing and implementing the Scheme, including advisory costs,

costs of management and directors' time, funding and opportunity costs and out of pocket expenses;

- (b) the entry by the parties into this deed and the parties' agreement to proceed with the Proposed Transaction (and the incurrence of significant costs, expenses and losses as a result) is of substantial value to Cellnet, Cellnet Shareholders and to the Bidder;
- (c) the Bidder and Cellnet would not have entered into this deed and agreed to proceed with the Proposed Transaction without an agreement on the matters covered by this clause 13; and
- (d) Cellnet and the Bidder have received external legal and financial advice in relation to this clause 13 and each represents to the other that it has concluded that it is reasonable and appropriate for each of them to agree to the matters set out in this clause 13 to secure the parties' engagement and participation in the Scheme.

### 13.2 Reverse Reimbursement Payment

Subject to clause 13.3 and provided that Cellnet is not in breach of a material obligation under this deed, the Bidder must pay the Reverse Reimbursement Payment to Cellnet, within ten Business Days after receipt of a written demand from Cellnet, if any of the following events occur:

- (a) Cellnet terminates this deed in accordance with clause 11.1(a)(ii); or
- (b) the Scheme becomes Effective but the Bidder does not pay the Scheme Consideration in accordance with its obligations under this deed and the Deed Poll.

### 13.3 Qualifications to Reverse Reimbursement Payment

- (a) This clause 13 imposes obligations on the Bidder and Cellnet only to the extent that the performance of those obligations:
  - (i) does not constitute unacceptable circumstances as declared by the Takeovers Panel;
  - (ii) are not found by a court to constitute a breach of the fiduciary or statutory duties of any director; or
  - (iii) is not otherwise unlawful or held to be unenforceable by a court.
- (b) If the Reverse Reimbursement Payment has been paid by the Bidder and clause 14.3(a) applies, Cellnet must reimburse all (or the relevant portion specified by a court or the Takeovers Panel, as applicable) of that amount to the Bidder within ten Business Days after receipt of a written demand for reimbursement from the Bidder.

### 13.4 Maximum liability for other claims

- (a) Subject to clause 13.4(b), the Bidder and Cellnet agree that the maximum aggregate liability of the Bidder for any claims under this deed is \$1,500,000 and in no event will the aggregate liability of the Bidder for Claims under or in connection with this deed exceed \$1,500,000.
- (b) Nothing in clause 13.4(a) or this deed will limit the Bidder's liability under or in connection with a breach of clause 4.2 or the Deed Poll.

**13.5 Nature of payment**

The Reverse Reimbursement Payment is an amount to compensate the Cellnet for:

- (a) advisory costs;
- (b) cost of management and directors' fee; and
- (c) out-of-pocket expenses.

The parties agree that the costs incurred are of a nature that they cannot be accurately quantified and that a genuine pre-estimate of the costs would equal or exceed the amount payable under this clause 13.

**14. EXCLUSIVITY**

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**14.1 No existing discussions**

Other than in relation to the discussions with the Bidder in connection with the Proposed Transaction and this deed, Cellnet represents and warrants to the Bidder that, as at the date of this deed:

- (a) neither itself nor any of its Representatives is a party to any agreement, arrangement or understanding with a Third Party entered into for the purpose of facilitating a Competing Proposal; and
- (b) neither itself nor any of its Representatives is participating in any discussions or negotiations with a Third Party that concern, or that could reasonably be expected to lead to, a Competing Proposal or to Cellnet not proceeding with the Proposed Transaction.

**14.2 No-shop**

During the Exclusivity Period, Cellnet must not, and must ensure that its Representatives do not, directly or indirectly solicit, invite, initiate or encourage any Competing Proposal or any enquiries, proposals, discussions or negotiations with any Third Party in relation to (or that could reasonably be expected to lead to) a Competing Proposal or to Cellnet not proceeding with the Proposed Transaction, or communicate any intention to do any of these things.

**14.3 No-talk**

Subject to clause 14.7, during the Exclusivity Period, Cellnet must not, and must ensure that its Representatives do not, directly or indirectly:

- (a) negotiate or enter into or participate in negotiations or discussions with any person; or
- (b) communicate any intention to do any of these things,

in relation to (or that may reasonably be expected to lead to) a Competing Proposal, even if that person's Competing Proposal was not directly or indirectly solicited, encouraged or initiated by Cellnet or any of its Representatives, or that person has publicly announced the Competing Proposal.

#### 14.4 No due diligence

During the Exclusivity Period, Cellnet must not, and must ensure that its Representatives do not, directly or indirectly:

- (a) solicit, invite, initiate or encourage, or (subject to clause 14.7) facilitate or permit, any person (other than the Bidder) to undertake due diligence investigations in respect of Cellnet, its Related Bodies Corporate or any of their businesses and operations, in connection with such person formulating, developing or finalising, or assisting in the formulation, development or finalisation of, a Competing Proposal; or
- (b) subject to clause 14.7, make available to any person (other than the Bidder) or permit any such person to receive any non-public information relating to Cellnet, its Related Bodies Corporate, or any of their businesses and operations, in connection with such person formulating, developing or finalising, or assisting in the formulation, development or finalisation of, a Competing Proposal.

#### 14.5 Notification of approaches

- (a) During the Exclusivity Period, Cellnet must promptly (and in any event within 24 hours) notify the Bidder in writing if Cellnet or any of its Representatives receives any approach, inquiry or proposal made by any person, to initiate any discussions or negotiations that could reasonably be expected to lead to, a Competing Proposal.
- (b) A notice given under clause 14.5(a) must be accompanied by all material details of the relevant event and Competing Proposal, including (as the case may be):
  - (i) the identity of the person who made the relevant approach, inquiry or proposal to initiate discussions or negotiations referred to in clause 14.5(a); and
  - (ii) the material terms and conditions (including price, conditions precedent, timetable and break free (if any)) of any Competing Proposal or any proposed Competing Proposal (to the extent known).
- (c) During the Exclusivity Period, Cellnet must promptly provide to the Bidder:
  - (i) in the case of written materials, a copy of; or
  - (ii) in any other case, a written statement of,  
  
any material non-public information relating to Cellnet, its Related Bodies Corporate, or any of their businesses and operations made available or received by any person in connection with such person formulating, developing or finalising, or assisting in the formulation, development or finalisation of, a Competing Proposal and which has not previously been provided to the Bidder.

#### 14.6 Matching right

Without limiting clauses 14.2 and 14.3, during the Exclusivity Period, Cellnet must not enter into any legally binding agreement, arrangement or understanding (whether or not in writing) which would give effect to an actual, proposed or potential Competing Proposal and must use its best endeavours to procure that none of the Independent Directors of Cellnet change their recommendation and voting intention to publicly recommend an

actual, proposed or potential Competing Proposal (or recommend against the Scheme) (subject to clause 6.3), unless:

- (a) the Independent Directors, acting in good faith and in order to satisfy what the Independent Directors consider to be their statutory or fiduciary duties and after consultation with Cellnet's financial adviser, determine that the Competing Proposal would be or would be likely to be an actual, proposed or potential Superior Proposal;
- (b) Cellnet has provided the Bidder with the material terms and conditions of the actual, proposed or potential Competing Proposal in accordance with clause 14.5 (subject to clause 14.7); and
- (c) within 5 Business Days of receiving the information referred to in clause 14.6(b), the Bidder does not make an offer in writing to Cellnet in respect of an amendment to the Scheme Consideration or other terms of the Scheme, or proposing any other form of transaction (**Bidder Counterproposal**) that the Independent Directors determine, acting in good faith and after consultation with Cellnet's financial adviser, would result in an outcome for Scheme Shareholders that is at least as favourable as under the Competing Proposal.

Cellnet acknowledges and agrees that each successive modification of any Competing Proposal will constitute a new Competing Proposal for the purposes of the requirements under this clause 14.6 and accordingly Cellnet must comply with clause 14.6 in respect of any new Competing Proposal.

If the Bidder provides to Cellnet a Bidder Counterproposal before the expiry of the 5 Business Day period referred to in clause 14.6(c), Cellnet must procure that the Independent Directors consider the Bidder Counterproposal and if the Independent Directors, acting reasonably and in good faith, determine by majority that the Bidder Counterproposal would result in an outcome for Scheme Shareholders that is at least as favourable as under the Competing Proposal, then:

- (d) Cellnet and the Bidder must use their best endeavours to agree the amendments to this deed and, if applicable, the Scheme and Deed Poll that are reasonably necessary to reflect the Bidder Counterproposal and to implement the Bidder Counterproposal, in each case as soon as reasonably practicable and in any event within 3 Business Days; and
- (e) Cellnet must use its best endeavours to procure that each of the Independent Directors continue to recommend the Scheme (as modified by the Bidder Counterproposal) to Cellnet Shareholders.

#### 14.7 **Fiduciary exception**

The restrictions in clause 14.3 and clause 14.4, and the obligations in clause 14.5(a), clause 14.5(b)(i) and clause 6.4 do not apply to the extent they restrict Cellnet or any Independent Director from taking or not taking any action with respect to a Competing Proposal (in relation to which there has been no contravention of clause 14.1 or clause 14.2) provided that:

- (a) the Competing Proposal is bona fide and is made by or on behalf of a person that the Independent Directors reasonably consider is of sufficient commercial standing to implement the Competing Proposal; and
- (b) the Independent Directors have determined in good faith:

- (i) after consultation with Cellnet's advisors that the Competing Proposal is or may reasonably be expected to lead to a Superior Proposal; and
- (ii) after receiving advice from Cellnet's external legal counsel practising in the area of corporate law, that taking the action or refusing to take the action (as the case may be) with respect to the Competing Proposal would be likely to constitute a breach of the fiduciary or statutory obligations of the Independent Directors.

#### 14.8 Legal advice

Cellnet acknowledges that it has received legal advice on this document and the operation of this clause.

### 15. RELEASES

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#### 15.1 Cellnet parties

- (a) Subject to clause 15.1(a)(i), the Bidder (for itself and as agent of every member of the Bidder Group) releases all rights against, and agrees with Cellnet that it will not make a Claim against, any officers, employees and advisers of Cellnet or its Related Bodies Corporate (**Cellnet Party**) in connection with:
  - (i) any breach of any representation, covenant and warranty of Cellnet in this deed;
  - (ii) any disclosure made by any Cellnet Party including in due diligence or otherwise (including the Due Diligence Materials) that contains any statement that is false or misleading whether in content or by omission, except to the extent the relevant Cellnet Party has not acted in good faith or has engaged in wilful misconduct or fraud or to the extent the Claim is actually covered under an insurance policy that is paid for by the Cellnet Group where the relevant insurer accepts liability for the Claim.
- (b) This clause is subject to any Corporations Act restriction and will (if and to the extent required) be read down accordingly.
- (c) Cellnet receives and holds the benefit of this clause as trustee for each other Cellnet Party.

#### 15.2 Bidder parties

- (a) Subject to clause 15.2(b), Cellnet releases its rights against, and agrees with the Bidder that it will not make a Claim against, any officers, employees and advisers of Bidder or its Related Bodies Corporate (**Bidder Party**) in connection with:
  - (i) any breach by the Bidder of any representation, covenant and warranty in this deed;
  - (ii) any disclosure made by any Bidder Party that contains any statement that is false or misleading whether in content or by omission, except to the extent that the relevant Bidder Party has not acted in good faith or has engaged in wilful misconduct or fraud.

## SCHEME IMPLEMENTATION DEED

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- (b) This clause is subject to any Corporations Act restriction and will (if and to the extent required) be read down accordingly.
- (c) Bidder receives and holds the benefit of this clause as trustee for each other Bidder Party.

## 16. DIRECTORS' AND OFFICERS' INSURANCE

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### 16.1 Prior to the Effective Date

Cellnet must at its cost, subject to the Bidder's approval of the relevant quotation (such approval not to be unreasonably withheld):

- (a) prior to the Effective Date, arrange for the cover currently provided under its directors' and officers' insurance policy (**Policy**) to be extended for a further period of 12 months; and
- (b) by no later than the Implementation Date, to the extent practicable at normal commercial rates, arrange for the cover provided under the Policy to be amended so as to provide run off cover in accordance with the terms of the Policy for a seven-year period from the end of the term of the Policy, and pay all premiums required so as to ensure that insurance cover is provided under the Policy on those terms until that date.

### 16.2 After the Implementation Date

From the Implementation Date, the Bidder must ensure that Cellnet does not:

- (a) vary or cancel the Policy; or
- (b) unless required under the Policy, commit any act or omission that may prejudice any claim by a Director or officer of Cellnet under the Policy as extended under clause 16.1.

## 17. NOTICES

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Any communication under or in connection with this deed:

- (a) must be in writing;
- (b) must be addressed as set out in the Details (or as otherwise notified by that party to the other party from time to time);
- (c) must be signed or sent by the party making the communication or by a person duly authorised by that party;
- (d) must be delivered to the address, or sent by email to the email address, of the addressee, in accordance with clause 17(b); and
- (e) will be deemed to be received by the addressee:
  - (i) (in the case of email) four hours after the time sent (as recorded on the device from which the sender sent the email) unless the sender receives an automated message that the email has not been delivered; or unless that local time of the recipient is not a Business Day, or is after 5.00 pm on a Business Day, when that communication will be deemed to be received at 9.00 am on the next Business Day; and

## SCHEME IMPLEMENTATION DEED

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- (ii) (in the case of postal or hand delivery) on delivery at the address of the addressee as provided in Clause 17(b), unless that delivery is not made on a Business Day, or after 5.00 pm on a Business Day, when that communication will be deemed to be received at 9.00 am on the next Business Day.

## 18. GOVERNING LAW

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- (a) This deed is governed by and will be construed according to the laws of Victoria, Australia.
- (b) Each party irrevocably submits to the non-exclusive jurisdiction of the courts of Victoria and of the courts competent to determine appeals from those courts, provided that Cellnet may bring proceedings in connection with this deed in Germany to seek to enforce the obligations of the Bidder under this deed or the Deed Poll. Each party irrevocably waives any objection to the venue of any legal process in these courts on the basis that the process has been brought in an inconvenient forum.

## 19. GENERAL

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### 19.1 Further acts

Each party will promptly do and perform all further acts and execute and deliver all further documents (in form and content reasonably satisfactory to that party) required by law or reasonably requested by any other party to give effect to this deed.

### 19.2 Timetable

The parties agree that the Timetable is indicative only and is not binding on the parties.

### 19.3 Payments

Unless otherwise expressly provided in this deed, where an amount is required to be paid to a party (the **Receiving Party**) by another party under this deed, that amount shall be paid:

- (a) in immediately available and irrevocable funds by electronic transfer to a bank account or accounts notified by the Receiving Party in writing on or before the due date for payment, or in other such immediately payable funds as the parties may agree; and
- (b) without deduction, withholding or set-off.

### 19.4 GST

- (a) Words used in this clause 19.4 that have a defined meaning in the GST Law have the same meaning as in the GST Law unless the context indicates otherwise.
- (b) Unless expressly included, the consideration for any supply under or in connection with this deed does not include GST.
- (c) To the extent that any supply made by a party (**Supplier**) to another party (**Recipient**) under or in connection with this deed is a taxable supply, the Recipient must pay to the Supplier, in addition to the consideration to be provided under this deed but for the application of this clause 19.4(c) for that supply (**GST Exclusive**



**Consideration**), an amount equal to the amount of the GST Exclusive Consideration (or its GST exclusive market value) multiplied by the rate at which GST is imposed in respect of the supply.

- (d) This clause does not apply to any taxable supply under or in connection with this deed that is expressly stated to include GST.
- (e) The amount on account of GST payable in accordance with this clause will be paid in the same manner and at the same time as the consideration otherwise payable for the supply is provided subject to the Recipient receiving a tax invoice.
- (f) Any reference in the calculation of any consideration or of any indemnity, reimbursement or similar amount to a cost, expense or liability incurred by a person (**Relevant Expense**) is a reference to the relevant expense reduced by an amount equal to any input tax credit entitlement of that person (or of the representative member of any GST group to which the person belongs) in relation to the Relevant Expense. A party will be assumed to have an entitlement to a full input tax credit unless it demonstrates otherwise prior to the date on which the relevant payment or consideration must be provided.

#### 19.5 Stamp Duty

The Bidder must pay all stamp duties (if any) and any fines and penalties with respect to stamp duty in respect of this deed or the Scheme or the steps to be taken under this deed (including without limitation, the acquisition or transfer of Scheme Shares pursuant to the Scheme).

#### 19.6 Expenses

Except as otherwise provided in this deed, each party will pay its own costs and expenses in connection with the negotiation, preparation, execution and performance of this deed and the Scheme Booklet, and the proposed, attempted or actual implementation of this deed and the Scheme.

#### 19.7 Assignment

A party cannot assign, novate or otherwise transfer any of its rights or obligations under this deed without the prior written consent of each other party, which consent that other party may give or withhold in its absolute discretion.

#### 19.8 Waiver

- (a) Failure to exercise or enforce or a delay in exercising or enforcing or the partial exercise or enforcement of any right, power or remedy provided by law or under this deed by any party will not in any way preclude, or operate as a waiver of, any exercise or enforcement, or further exercise or enforcement of that or any other right, power or remedy provided by law or under this deed.
- (b) Any waiver or consent given by any party under this deed will only be effective and binding on that party if it is given or confirmed in writing by that party.
- (c) No waiver of a breach of any term of this deed will operate as a waiver of another breach of that term or of a breach of any other term of this deed.
- (d) Nothing in this deed obliges a party to exercise a right to waive any conditional term of this deed that may be in its power.

**19.9 Amendments**

This deed may only be varied by a deed signed by or on behalf of each of the parties.

**19.10 Counterparts**

- (a) This deed may be executed in any number of counterparts and by the parties on separate counterparts. Each counterpart constitutes the agreement of each party who has executed and delivered that counterpart. Each counterpart is an original but the counterparts together are one and the same agreement.
- (b) This deed is binding on the parties on the exchange of duly executed counterparts.

**19.11 Entire agreement**

- (a) Subject to Clause 19.11(b), this deed:
  - (i) embodies the entire understanding of the parties and constitutes the entire terms agreed on between the parties; and
  - (ii) supersedes any prior agreement (whether or not in writing) between the parties.
- (b) The Confidentiality Deed continues to apply to the parties in accordance with its terms, except to the extent of any express inconsistency, in which case this deed prevails.

**19.12 No Representation or Reliance**

Each party acknowledges that no party (nor any person acting on its behalf) has made any representation or other inducement to it to enter into this deed, except for representations or inducements expressly set out in this deed.

**19.13 No Merger**

The rights and obligations of the parties will not merge on completion of any transaction under this deed. They will survive the execution and delivery of any assignment or other document entered into for the purpose of implementing any transaction.

**SCHEME IMPLEMENTATION DEED**

**Schedule 1 Indicative Timetable**

<b>Event</b>	<b>Date</b>
Enter into scheme implementation deed	11 May 2023
Lodge Scheme Booklet with ASIC for review and comment (and filing of court documents)	9 June 2023
First Court Date	30 June 2023 (subject to court availability and ASIC review)
Dispatch Scheme Booklet to Cellnet Shareholders	6 July 2023
Scheme Meeting	4 August 2023
Second Court Date	10 August 2023 (subject to court availability)
Effective Date: lodge office copy of Court order approving the Scheme with ASIC	11 August 2023
Record Date	18 August 2023 (fifth Business Day after Effective Date)
Implementation Date: pay Scheme Consideration	25 August 2023 (fifth Business Day after Record Date)

**SCHEME IMPLEMENTATION DEED**

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**Signing Page**

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**Executed as a deed**

**Cellnet**

**EXECUTED** by **Cellnet Group Limited** in  
accordance with section 127(1) of the  
Corporations Act 2001 (Cth):

\_\_\_\_\_  
Signature of director

\_\_\_\_\_  
Signature of secretary/director

\_\_\_\_\_  
Name of director (please print)

\_\_\_\_\_  
Name of secretary/director (please print)

**Bidder**

**SIGNED, SEALED AND DELIVERED** by  
**Wentronic Holding GmbH** in accordance  
with its constituent documents and the laws in  
its place of incorporation:

\_\_\_\_\_  
Signature of **authorised representative**

\_\_\_\_\_  
Name of **authorised representative**

**Annexure A Scheme of arrangement**

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L A W Y E R S

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## **Scheme of Arrangement**

**Cellnet Group Limited**

**Scheme Shareholders**

KHQ Lawyers  
Level 4, 600 Bourke Street  
Melbourne VIC 3000  
PO Box 597  
Collins Street West VIC 8007  
#230532

03 9663 9877  
[contact@khq.com.au](mailto:contact@khq.com.au)  
[www.khq.com.au](http://www.khq.com.au)

This scheme of arrangement is made under section 411 of the *Corporations Act 2001* (Cth)

Between the parties

Name	<b>Cellnet Group Limited</b>
ACN	010 721 749
Notice details	Address: Tenancy E1 5 Greville Street, Brisbane Airport, QLD 4008
	Email [REDACTED]
	Attention: [REDACTED] [REDACTED]
	<b>(Cellnet)</b>

The Scheme Shareholders

## 1. DEFINITIONS AND INTERPRETATION

### 1.1 Definitions

Unless the context requires otherwise, the following definitions apply in this Scheme:

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

**Associate** means that term as defined in section 12 of the Corporations Act

**ASX** means ASX Limited ACN 008 624 691, or as the context requires or permits, the financial market known as the Australian Securities Exchange operated by it.

**Bidder** means Wentronic Holding GmbH (Commercial Register ID HRB204940, LEI 529900WN67CC1ERVP920) of C/- Pillmannstraße, 12, 38112, Braunschweig, Germany.

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

**Cellnet Shareholder** means a person who is registered in the register maintained by Cellnet under section 168 of the Corporations Act as a holder of one or more Shares.

**CHESS** means the clearing house electronic subregister system of share transfers operated by ASX Settlement Pty Limited ACN 008 504 532 and ASX Clear Pty Limited ACN 001 314 503.

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

**Court** means the Federal Court of Australia or such other court of competent jurisdiction agreed between the parties.



**Deed Poll** means the deed poll to be executed by the Bidder, in the form set out in Annexure B of the Scheme Implementation Deed or in such other form as is agreed in writing between the parties, under which the Bidder covenants in favour of the Scheme Shareholders to perform the actions attributed to it under this Scheme.

**Delivery Time** means in relation to the Second Court Date, two hours before the commencement of the court hearing or, if the commencement of the hearing is adjourned, the commencement of the adjourned hearing, of the Court to approve this Scheme in accordance with section 411(4)(b) of the Corporations Act.

**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 the end date determined in accordance with the Scheme Implementation Deed.

**Excluded Share** means a Scheme Share held by an Excluded Shareholder as at the Record Date.

**Excluded Shareholder** means the Bidder and its Associates

**Government Agency** means any foreign or Australian Government or governmental, semi- governmental, administrative, fiscal or judicial body, department, commission, authority, tribunal, agency or entity, or any minister of the Crown in right of the Commonwealth of Australia or any state, and any other federal, state, provincial or local government, whether foreign or Australian.

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

**Listing Rules** means the official listing rules of ASX as amended from time to time.

**Record Date** means 5.00 pm on the fifth Business Day after the Effective Date or such other time and date agreed to in writing between Cellnet and the Bidder.

**Registered Address** means in relation to a Cellnet Shareholder, the address shown in the Share Register as at the Record Date.

**Scheme** means this scheme of arrangement under Part 5.1 of the Corporations Act between Cellnet and the Scheme Shareholders, subject to any alterations or conditions agreed between Cellnet and the Bidder and approved by the Court or any alterations or conditions made or required by the Court under section 411(6) of the Corporations Act and agreed to by Cellnet and the Bidder.

**Scheme Consideration** means in respect of each Scheme Share held by a Scheme Shareholder, \$0.027 per Scheme Share.

**Scheme Implementation Deed** means the scheme implementation deed dated 11 May 2023 between Cellnet and the Bidder.

**Scheme Meeting** means the meeting of Cellnet Shareholders ordered by the Court to be convened under section 411(1) of the Corporations Act to consider and vote on this Scheme and includes any meeting convened following any adjournment or postponement of that meeting.

**Scheme Share** means a Share on issue as at 5.00pm on the Record Date other than the Excluded Shares.

**Scheme Shareholder** means a person who holds one or more Scheme Shares other than the Excluded Shareholders.

**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 this Scheme is heard or scheduled to be heard or, if the application is adjourned for any reason, means the date on which the adjourned application is heard or scheduled to be heard.

**Settlement Rules** means the ASX Settlement Operating Rules.

**Share** means an issued fully paid ordinary share in the capital of Cellnet.

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

**Share Registry** means Link Market Services Limited or any replacement provider of share registry services to Cellnet.

**Share Transfer Form** means, for each Scheme Shareholder, a duly completed and executed proper instrument of transfer of the Scheme Shares held by that Scheme Shareholder for the purposes of section 1071B of the Corporations Act, which may be a master transfer of all Scheme Shares.

**Subsidiary** means that term as defined in section 46 of the Corporations Act.

**Trust Account** means an Australian dollar denominated trust account operated by Cellnet as trustee for the benefit of Scheme Shareholders.

## 1.2 Interpretation

In this agreement the following rules of interpretation apply, unless the contrary intention appears or context otherwise requires:

- (a) Headings and subheadings are for convenience only and do not affect the interpretation of this agreement.
- (b) References to clauses, Schedules, annexures, appendices, attachments and exhibits are references to the clauses of, and the Schedules, annexures, appendices, attachments and exhibits to, this agreement.
- (c) References to parties are references to the parties to this agreement.
- (d) Words denoting the singular include the plural and words denoting the plural include the singular.
- (e) Where a word or phrase is defined, other parts of speech and grammatical forms of that word or phrase have corresponding meanings.
- (f) The word "person" includes any individual, corporation or other body corporate, partnership, joint venture, trust, association and any Government Agency.
- (g) References to clauses are references to clauses of this agreement.
- (h) A reference to a law includes:
  - (i) legislation, regulations and other instruments made under legislation and any consolidations, amendments, re-enactments or replacements of them;

## SCHEME OF ARRANGEMENT

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- (ii) any constitutional provision, treaty or decree;
- (iii) any judgment; and
- (iv) any rule or principle of common law or equity,

and is a reference to that law as amended, consolidated, re-enacted, replaced or applied to new or different facts.

- (i) Specifying anything in this agreement after the terms “include”, “including”, “includes”, “for example”, “such as” or any similar expression does not limit the sense of the words, description, definition, phrase or term preceding those terms unless there is express wording to the contrary.
- (j) A reference to conduct includes an omission, statement or undertaking, whether or not in writing.
- (k) If a period of time begins on a given day or the day of an act or event, it is to be calculated exclusive of that day.
- (l) A reference to time is a reference to Melbourne, Victoria, Australia time unless otherwise specified.
- (m) A reference to a day is to be interpreted as the period of time commencing at midnight and ending 24 hours later.
- (n) If any act is required to be performed under this agreement by a party on or by a specified day and the act is performed after 5.00 pm on that day, the act is deemed to be performed on the next day.
- (o) If any act is required to be performed under this agreement on or by a specified day and that day is not a Business Day, the act must be performed on or by the next Business Day.
- (p) This agreement includes all Schedules, annexures, appendices, attachments and exhibits to it.
- (q) A reference to “writing” or “written” includes fax and email.

### 1.3 **Business Day:**

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

### 1.4 **Listing requirements included in 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**

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### 2.1 **Cellnet**

- (a) Cellnet is a public company limited by shares, registered in Queensland, Australia and admitted to the official list of ASX.

## SCHEME OF ARRANGEMENT

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- (b) The Shares are officially quoted on ASX, and as at the date of the Scheme Implementation Deed:
  - (i) 243,594,634 Shares were on issue which are officially quoted on ASX; and
  - (ii) 4,000,000 options were on issue which are not quoted on any financial market.

### 2.2 Bidder

The Bidder is a limited liability company incorporated in Braunschweig, Lower Saxony, Germany.

### 2.3 General

- (a) Cellnet and the Bidder have agreed by executing the Scheme Implementation Deed to implement this Scheme.
- (b) This Scheme attributes actions to the Bidder but does not itself impose an obligation on it to perform those actions, as the Bidder is not a party to this Scheme. The Bidder has agreed, by executing the Deed Poll, to perform the actions attributed to it under this Scheme, including the provision of the Scheme Consideration to the Scheme Shareholders.

### 2.4 Consequences of this Scheme becoming Effective

If this Scheme becomes Effective, on the Implementation Date:

- (a) the Bidder will provide or procure the provision of the Scheme Consideration to Scheme Shareholders in accordance with this Scheme and the Deed Poll; and
- (b) all the Scheme Shares, together with all rights and entitlements attaching to the Scheme Shares, will be transferred to the Bidder; and
- (c) Cellnet will enter the Bidder in the Share Register as the holder of all the Scheme Shares.

## 3. CONDITIONS

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### 3.1 Conditions

This Scheme is conditional on, and will have no force or effect until, the satisfaction of each of the following conditions precedent:

- (a) all the conditions precedent in clause 3.1 of the Scheme Implementation Deed (other than the condition in clause 3.1(i) (Court approval) of the Scheme Implementation Deed) having been satisfied or waived in accordance with the terms of the Scheme Implementation Deed by no later than the Delivery Time;
- (b) neither the Scheme Implementation Deed nor the Deed Poll having been terminated in accordance with their terms by no later than the Delivery Time;
- (c) approval of this Scheme by the Court under section 411(4)(b) of the Corporations Act, including with any alterations made or required by the Court under section 411(6) of the Corporations Act;
- (d) such other conditions imposed by the Court under section 411(6) of the Corporations Act, as are acceptable to the parties, having been satisfied; and

## SCHEME OF ARRANGEMENT

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- (e) the orders of the Court made under section 411(4)(b) (and if applicable, section 411(6)) of the Corporations Act approving the Scheme coming into effect, pursuant to section 411(10) of the Corporations Act, on or before the End Date (or any later date Cellnet and the Bidder agree in writing).

### 3.2 Termination

Without limiting any rights of the parties to the Scheme Implementation Deed under the Scheme Implementation Deed, the Scheme will lapse and be of no further force or effect if:

- (a) the Scheme has not become Effective on or before the End Date; or
- (b) the Scheme Implementation Deed or Deed Poll is terminated in accordance with its terms,

unless Cellnet and the Bidder otherwise agree in writing (and, if required, as approved by the Court).

### 3.3 Certificate in relation to conditions precedent

- (a) Cellnet and the Bidder must provide to the Court on the Second Court Date a certificate executed as a deed poll confirming (in respect of matters within their knowledge) whether or not all of the conditions precedent set out in clause 3.1 of this Scheme (other than the conditions precedent in clauses 3.1(c), 3.1(d) and 3.1(e) of this Scheme) have been satisfied or waived as at the Delivery Time.
- (b) The certificate referred to in this clause 3.5 will constitute conclusive evidence of whether the conditions precedent referred to in clause 3.1 of this Scheme (other than the conditions precedent in clauses 3.1(c), 3.1(d) and 3.1(e) of this Scheme) have been satisfied or waived as at the Delivery Time.

## 4. IMPLEMENTATION

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### 4.1 Lodgement of Court Orders

Cellnet must, in accordance with section 411(10) of the Corporations Act, lodge with ASIC office copies of any Court orders made under section 411(4)(b) (and if applicable, section 411(6)) of the Corporations Act approving this Scheme as soon as possible and, in any event, no later than by 5.00 pm on the first Business Day after the Court approves this Scheme or such later time as Cellnet and the Bidder agree in writing.

### 4.2 Transfer and registration of Scheme Shares

Subject to the Scheme becoming Effective, on the Implementation Date:

- (a) subject to the payment by Cellnet of the Scheme Consideration in the manner contemplated by clause 5.2(b), the Scheme Shares, together with all rights and entitlements attaching to the Scheme Shares at the Implementation Date, will be transferred to the Bidder, without the need for any further act by any Scheme Shareholder (other than acts performed by Cellnet or its officers as agent and attorney of the Scheme Shareholders under clause 8.6 or otherwise), by:
  - (i) Cellnet delivering to the Bidder a duly completed and executed Share Transfer Form to transfer all the Scheme Shares to the Bidder, executed on behalf of the Scheme Shareholders by Cellnet; and

- (ii) the Bidder duly executing such Share Transfer Form and delivering it to Cellnet for registration; and
- (b) immediately after receipt of the Share Transfer Form in accordance with clause 4.2(a)(ii), Cellnet must enter, or procure the entry of, the name of the Bidder in the Share Register in respect of the Scheme Shares transferred to the Bidder in accordance with this Scheme.

## 5. SCHEME CONSIDERATION

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### 5.1 Amount of Scheme Consideration

On the Implementation Date, in consideration for the transfer to the Bidder of the Scheme Shares, each Scheme Shareholder will be entitled to receive the Scheme Consideration in respect of each of their Scheme Shares in accordance with this clause 5 of the Scheme.

### 5.2 Payment of Scheme Consideration

- (a) Subject to the Scheme becoming Effective, the Bidder must, by no later than the Business Day before the Implementation Date, deposit (or procure the deposit) in cleared funds into the Trust Account an amount equal to the aggregate amount of the total Scheme Consideration payable to all Scheme Shareholders, such amount to be held by Cellnet on trust for the Scheme Shareholders and for the purpose of paying the aggregate Scheme Consideration to the Scheme Shareholders (except that any interest on the amount will be for the account of the Bidder).
- (b) On the Implementation Date and subject to funds having been deposited in accordance with clause 5.2(a), Cellnet must pay or procure the payment of the Scheme Consideration to each Scheme Shareholder from the Trust Account by doing any of the following at its election:
  - (i) sending (or procuring the Share Registry to send) it to the Scheme Shareholder's Registered Address by cheque in Australian dollars drawn out of the Trust Account; or
  - (ii) depositing (or procuring the Share Registry to deposit) it into an account with any Australian authorised deposit-taking institution (as defined in the Corporations Act) notified to Cellnet (or the Share Registry) by an appropriate authority from the Scheme Shareholders.
- (c) To the extent that, following satisfaction of Cellnet's obligations under clause 5.2(b), there is a surplus in the amount held in the Trust Account, that surplus may be paid by Cellnet to the Bidder.

### 5.3 Joint Holders

In the case of Scheme Shares held in joint names:

- (a) any cheque required to be sent under this Scheme will be made payable to the joint holders and sent to the holder whose name appears first in the Share Register as at the Record Date; and
- (b) any other document required to be sent under this Scheme, will be forwarded to the holder whose name appears first in the Share Register as at the Record Date.

#### 5.4 Fractional Entitlements

Where the calculation of the Scheme Consideration to be paid to a Scheme Shareholder would result in the Scheme Shareholder becoming entitled to a fraction of a cent, that fractional entitlement will be rounded down to the nearest whole cent.

#### 5.5 Unclaimed Monies

To the extent that a cheque properly dispatched by or on behalf of the Bidder pursuant to this Clause 5 is returned to Cellnet as undelivered, or the cheque is not presented by a Scheme Shareholder earlier than six months after the date on which the cheque was sent (**Unclaimed Consideration**):

- (a) Cellnet must deal with the Unclaimed Consideration in accordance with any applicable unclaimed monies legislation; and
- (b) subject to Cellnet complying with its obligations under clause 5.5(a), Cellnet may cancel the cheque and is discharged from liability to any Scheme Shareholder in respect of the Unclaimed Consideration.

#### 5.6 Order of a Court

If:

- (a) written notice is given to Cellnet (or the Share Registry) of an order or direction made by a court of competent jurisdiction or by another Government Agency that requires payment to a third party of a sum in respect of Scheme Shares held by a particular Scheme Shareholder, which would otherwise be payable to that Scheme Shareholder by Cellnet in accordance with this clause 5, then Cellnet may procure that payment is made in accordance with that order or direction; or
- (b) written notice is given to Cellnet (or the Share Registry) of an order or direction made by a court of competent jurisdiction or by another Government Agency that prevents Cellnet from making a payment to any particular Scheme Shareholder in accordance with clause 5.2(b), or such payment is otherwise prohibited by applicable law, then Cellnet may retain an amount equal to the number of Scheme Shares held by that Scheme Shareholder multiplied by the Scheme Consideration until such time as payment in accordance with this clause 5 is permitted by that order or direction or otherwise by law,

and the payment or retention by Cellnet (or the Share Registry) will constitute the full discharge of Cellnet's obligations under clause 5.2(b) with respect of the amount so paid or retained until, in the case of clause 5.6(b), it is no longer required to be retained.

#### 5.7 Definition of "sending"

For the purposes of clause 5, the expression 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 Record Date; or
- (b) delivery to the Registered Address of that Scheme Shareholder as at the Record Date by any other means at no cost to the recipient.

## 6. DEALINGS IN SHARES

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### 6.1 Determination of Scheme Shareholders

To establish the identity of the Scheme Shareholders, dealings in Shares or other alterations to the Share Register will only be recognised if:

- (a) in the case of dealings of the type to be effected using CHESSE, the transferee is registered in the Share Register as the holder of the relevant Shares on or before 5.00 pm on the Record Date; and
- (b) in all other cases, registrable transmission applications or transfers in respect of those dealings are received on or before 5.00 pm on the Record Date occurs at the place where the Share Register is kept,

and Cellnet will not accept for registration, nor recognise for any purpose (except a transfer to the Bidder under this Scheme and any subsequent transfer by the Bidder or its successors in title), any transfer or transmission application or other request received after such times, or received prior to such times but not in registrable or actionable form, as appropriate.

### 6.2 Register

- (a) **(Registration of transfers)** Cellnet must register registrable transmission applications or transfers of the kind referred to in clause 6.1(b) by or as soon as reasonably practicable after the Record Date (provided that for the avoidance of doubt, nothing in this clause 6.2 requires Cellnet to register a transfer that would result in a Cellnet Shareholder holding a parcel of Shares that is less than a “marketable parcel” (as defined in the Settlement Rules)).
- (b) **(No registration after Record Date)** Cellnet will not accept for registration nor recognise for any purpose any transmission application or transfer in respect of Shares received after the Record Date, other than to the Bidder in accordance with this Scheme and any subsequent transfer by the Bidder or its successors in title.
- (c) **(Maintenance of Share Register)** For the purpose of determining entitlements to the Scheme Consideration, Cellnet must maintain the Share Register in accordance with the provisions of this clause 6.2 until the Scheme Consideration has been delivered to the Scheme Shareholders. The Share Register in this form will solely determine entitlements to the Scheme Consideration.
- (d) **(No disposal after Record Date)** From the Record Date until registration of the Bidder in respect of all Scheme Shares under clause 4.2(b), no Cellnet Shareholder may dispose nor otherwise deal with Shares in any way except as set out in this Scheme and any attempt to do so will have no effect and Cellnet will be entitled to disregard any such disposal or dealing.
- (e) **(Statements of holding from Record Date)** All statements of holding for Shares (other than statements of holding in favour of the Excluded Shareholders) will cease to have effect from the Record Date as documents of title in respect of those shares. As from the Record Date, each entry current at that date on the Share Register (other than entries in favour of the Excluded Shareholders) will cease to have effect except as evidence of entitlement to the Scheme Consideration in respect of the Scheme Shares relating to that entry.



- (f) **(Provision of Scheme Shareholder details)** As soon as practicable after the Record Date and in any event within one Business Day after the Record Date, Cellnet will ensure that details of the names, Registered Addresses and holdings of Shares for each Scheme Shareholder as at 5.00 pm on the Record Date are available to the Bidder in the form the Bidder reasonably requires.

## 7. REMOVAL FROM ASX

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### 7.1 Apply to ASX

Cellnet will apply to ASX to suspend trading on the ASX in Shares with effect from the close of trading on the Effective Date.

### 7.2 Removal from ASX

On a date after the Implementation Date to be determined by the Bidder, and only after the transfer of the Scheme Shares has been registered in accordance with clause 4.2(b), Cellnet will apply:

- (a) for termination of the official quotation of Shares on ASX; and
- (b) to have itself removed from the official list of ASX.

## 8. GENERAL SCHEME PROVISIONS

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### 8.1 Consent to amendments to this Scheme

If the Court proposes to approve this Scheme subject to any alterations or conditions:

- (a) Cellnet may, by its legal counsel, consent on behalf of all persons concerned, to those alterations or conditions to which the Bidder has consented in writing; and
- (b) each Scheme Shareholder agrees to any such alterations or conditions to which legal counsel for Cellnet has consented.

### 8.2 Binding effect of Scheme

If approved by the requisite majorities of Cellnet Shareholders, and approved by the Court, this Scheme will bind Cellnet and all Scheme Shareholders (including those who did not attend the Scheme Meeting, those who did not vote at that meeting, or voted against this Scheme at that meeting) and, to the extent of any inconsistency, overrides the constitution of Cellnet.

### 8.3 Scheme Shareholders' agreements and acknowledgment

Each Scheme Shareholder irrevocably:

- (a) agrees to the transfer of their Scheme Shares together with all rights and entitlements attaching to those Scheme Shares in accordance with this Scheme;
- (b) agrees to any variation, cancellation or modification of the rights attached to their Scheme Shares constituted by or resulting from this Scheme; and
- (c) acknowledges and agrees that this Scheme binds Cellnet and all Scheme Shareholders (including those who did not attend the Scheme Meeting or did not vote at that meeting or voted against this Scheme at that Scheme Meeting).

#### 8.4 Warranties by Scheme Shareholders

- (a) Each Scheme Shareholder is deemed to have warranted to the Bidder, is deemed to have authorised Cellnet as its attorney and agent to warrant to the Bidder, that as at the Implementation Date:
  - (i) all of its Scheme Shares that are transferred to the Bidder under this Scheme, including any rights and entitlements attaching to those Scheme Shares, will, at the time of transfer, be free from all mortgages, charges, liens, encumbrances, pledges, security interests (including any "security interests" within the meaning of the *Personal Property Securities Act 2009* (Cth)) and interests of third parties of any kind, whether legal or otherwise, and restrictions on transfer of any kind;
  - (ii) all of its Schemes Shares that are transferred to the Bidder under this Scheme will, on the date on which they are transferred to the Bidder be fully paid;
  - (iii) it has full power and capacity to transfer its Scheme Shares to the Bidder together with any rights attaching to those shares; and
  - (iv) it has no existing right to be issued any Scheme Shares.
- (b) Cellnet provides the warranties in clause 8.4(a) to the Bidder as agent and attorney of each Scheme Shareholder.

#### 8.5 Title to and rights in Scheme Shares

- (a) To the extent permitted by law, the Scheme Shares (including all rights and entitlements attaching to the Scheme Shares) transferred under this Scheme will be transferred free from all mortgages, charges, liens, encumbrances, pledges, security interests (including any "security interests" within the meaning of the *Personal Property Securities Act 2009* (Cth)) and interests of third parties of any kind, whether legal or otherwise, and restrictions on transfer of any kind.
- (b) On and from the Implementation Date, immediately after the payment by Cellnet of the Scheme Consideration in the manner contemplated in clause 5.2(b), the Bidder will be beneficially entitled to the Scheme Shares transferred to it under this Scheme pending registration by Cellnet of the Bidder in the Share Register as the holder of the Scheme Shares.

#### 8.6 Authority given to Cellnet

- (a) Each Scheme Shareholder will be deemed to have authorised Cellnet to do and execute all acts, matters, things and documents on the part of each Scheme Shareholder necessary for or incidental to the implementation of this 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 4.2.
- (b) Each Scheme Shareholder, without the need for any further act, irrevocably appoints Cellnet 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 the Share Transfer Form, and Cellnet accepts such appointment.

## 8.7 Appointment of sole proxy

Immediately after the payment by Cellnet of the Scheme Consideration in the manner contemplated in clause 5.2(b) until Cellnet registers the Bidder as the holder of all Shares in the Share Register, each Scheme Shareholder:

- (a) is deemed to have irrevocably appointed the Bidder as its attorney and agent (and directed the Bidder in such capacity) to appoint an officer or agent nominated by the Bidder as its sole proxy and, where applicable, corporate representative to attend shareholders' meetings of Cellnet, exercise the votes attaching to the Scheme Shares registered in its name and sign any Shareholders' resolution;
- (b) undertakes not to otherwise attend shareholders' meetings, exercise the votes attaching to Scheme Shares registered in their names or sign or vote on any resolutions (whether in person, by proxy or by corporate representative) other than as under Clause 8.7(a)
- (c) must take all other actions in the capacity of a registered holder of Scheme Shares as the Bidder reasonably directs; and
- (d) acknowledges and agrees that in exercising the powers referred to in clause 8.7(a), the Bidder and any officer or agent nominated by the Bidder under clause 8.7(a) may act in the best interests of the Bidder as the intended registered holder of the Scheme Shares.

## 8.8 Instructions and elections

If not prohibited by law, all instructions, notifications or elections by a Scheme Shareholder to Cellnet binding or deemed binding between the Scheme Shareholder and Cellnet relating to Cellnet or Scheme Shares (including any email addresses, instructions relating to communications from Cellnet, whether dividends are to be paid by cheque or into a specific bank account, notices of meetings or other communications from Cellnet) will be deemed from the Implementation Date (except to the extent determined otherwise by the Bidder in its sole discretion), by reason of this Scheme, to be made by the Scheme Shareholder to the Bidder until that instruction, notification or election is revoked or amended in writing addressed to the Bidder at its registry.

## 9. GENERAL

### 9.1 Stamp Duty

The Bidder must pay all stamp duty payable in connection with the transfer of the Scheme Shares to the Bidder.

### 9.2 Notices

- (a) If a notice, transfer, transmission application, direction or other communication referred to in this Scheme is sent by post to Cellnet, 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 Cellnet's registered office or at the office of the Share Registry.
- (b) The accidental omission to give notice of the Scheme Meeting or the non-receipt of such a notice by any Shareholder may not, unless so ordered by the Court, invalidate the Scheme Meeting or the proceedings of the Scheme Meeting.

**9.3 Further Assurances**

- (a) Cellnet must do anything necessary (including executing agreements and documents) or incidental to give full effect to this Scheme and the transactions contemplated by it.
- (b) Each Scheme Shareholder consents to Cellnet doing all things necessary or incidental to give full effect to this Scheme and the transactions contemplated by it.

**9.4 Governing law and jurisdiction**

- (a) This Scheme is governed by the laws of Victoria, Australia.
- (b) The parties irrevocably submit to the non-exclusive jurisdiction of courts exercising jurisdiction in Victoria, Australia and courts of appeal from them in respect of any proceedings arising out of or in connection with this Scheme, provided that Cellnet may bring proceedings in connection with this Scheme in Germany to seek to enforce the obligations of the Bidder under the Deed Poll and the Scheme Implementation Deed. The parties irrevocably waive any objection to the venue of any legal process in these courts on the basis that the process has been brought in an inconvenient forum.

**9.2 No liability when acting in good faith**

None of Cellnet, the Bidder or any of their respective officers, employees and advisers (as applicable), will be liable for anything done or omitted to be done in the performance of this Scheme in good faith.





L A W Y E R S

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## Deed Poll

Wentronic Holding GmbH

KHQ Lawyers  
Level 4, 600 Bourke Street  
Melbourne VIC 3000  
PO Box 597  
Collins Street West VIC 8007  
#230532

03 9663 9877  
[contact@khq.com.au](mailto:contact@khq.com.au)  
[www.khq.com.au](http://www.khq.com.au)

**This deed poll is made**

---

<b>By</b>	<b>Name</b>	<b>Wentronic Holding GmbH</b>
	<b>Notice details</b>	Address: C/- Pillmannstraße, 12, 38112, Braunschweig, Germany
		Email [REDACTED]
		Attention: [REDACTED]
		<b>(Bidder)</b>

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**On**

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**In favour of** each person registered as a holder of fully paid ordinary shares in Cellnet in the Share Register as at 5.00 pm on the Record Date (other than the Excluded Shareholders)

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**BACKGROUND**

- A. Cellnet and the Bidder entered into a Scheme Implementation Deed to provide for (among other matters) the implementation of the Scheme.
- B. The Bidder enters into this deed poll to covenant in favour of Scheme Shareholders to:
  - (a) perform the actions attributed to it under the Scheme; and
  - (b) provide the Scheme Consideration in accordance with the Scheme.

**This deed poll provides as follows:**

**1. DEFINITIONS AND INTERPRETATION**

**1.1 Definitions:**

The following definitions apply in this document.

**Cellnet** means Cellnet Group Limited ACN 010 721 749 of Tenancy E1, 5 Greville Street, Brisbane Airport, QLD 4008.

**Scheme Implementation Deed** means the Scheme Implementation Deed dated 11 May 2023 between Cellnet and the Bidder.

**1.2 Terms defined in Scheme Implementation Deed**

Words and phrases defined in the Scheme Implementation Deed have the same meaning in this deed poll unless the context requires otherwise.

**1.3 Incorporation by reference**

Clause 1 of the Scheme Implementation Deed forms part of this deed poll as if set out at length in this deed poll but with "deed poll" substituted for "deed" and with any reference to "party" being taken to include the Scheme Shareholders.

**2. NATURE OF THIS DEED POLL**

The Bidder acknowledges and agrees that:

- (a) this deed poll may be relied on and enforced by any Scheme Shareholder in accordance with its terms even though the Scheme Shareholders are not a party to it; and
- (b) under the Scheme, each Scheme Shareholder irrevocable appoints Cellnet and each of its directors, officers and secretaries (jointly and each of them severally) as its agent and attorney to enforce this deed poll against the Bidder.

**3. CONDITIONS**

**3.1 Conditions**

The obligations of the Bidder under clause 4 are subject to the Scheme becoming Effective.

**3.2 Termination**

Subject to clause 6, this deed poll and the obligations of the Bidder will automatically terminate and this deed poll will be of no further force or effect if:

- (a) the Scheme Implementation Deed is terminated in accordance with its terms before the Scheme becomes Effective, or
- (b) the Scheme is not Effective on or before the End Date.

**3.3 Consequences of termination**

If this deed poll terminates under clause 3.2, in addition and without prejudice to any other rights, powers or remedies available to them:

- (a) the Bidder is released from its obligations to further perform this deed poll; and
- (b) each Scheme Shareholder retains the rights they have against the Bidder in respect of any breach of this deed poll which occurred before it terminated.

**4. PERFORMANCE OF OBLIGATIONS**

**4.1 Generally**

Subject to clause 3, the Bidder undertakes in favour of Scheme Shareholders to:

- (a) perform the actions attributed to it under the Scheme and otherwise comply with the Scheme as if the Bidder was a party to the Scheme; and
- (b) comply with its obligations under the Scheme Implementation Deed, in so far as that agreement relates to the Scheme and do all things necessary or expedient on its part to implement the Scheme.



#### 4.2 Provision of Scheme Consideration

Subject to clause 3, the Bidder undertakes in favour of each Scheme Shareholder to:

- (a) deposit, or procure the deposit of, in cleared funds, by no later than the Business Day before the Implementation Date, an amount equal to the aggregate amount of the Scheme Consideration payable to all Scheme Shareholders under the Scheme into an Australian dollar denominated trust account with an ADI operated by Cellnet or the Share Registry as trustee for the Scheme Shareholders, provided that any interest on the amounts deposited (less bank fees and other charges) will be credited to Bidder's account; and
- (b) provide Cellnet with written confirmation of that deposit; and
- (c) undertake all other actions, and give each acknowledgement, representation and warranty (if any), attributed to it under the Scheme,

subject to and in accordance with the terms of the Scheme.

#### 5. WARRANTIES

The Bidder represents and warrants to each Scheme Shareholder that:

- (a) **(status)** it is a corporation duly incorporated and validly existing under the laws of the place of its incorporation;
- (b) **(power)** it has the power to enter into and perform its obligations under this deed poll and to carry out the transactions contemplated by this deed poll;
- (c) **(corporate authorisations)** it has taken all necessary corporate action to authorise the entry into and performance of this deed poll and to carry out the transactions contemplated by this deed poll;
- (d) **(documents binding)** this deed poll is valid and binding on it and enforceable against it in accordance with its terms;
- (e) **(transactions permitted)** the execution and performance by it of this deed poll and each transaction contemplated by this deed poll did not and will not violate in any respect a provision of:
  - (i) its constitution or other constituent documents; or
  - (ii) any writ, order or injunction, judgment, law, rule or regulation or other document to which it is a party or subject or which is binding on it or its assets; and
- (f) **(solvency)** it is solvent and no resolutions have been passed nor has any other step been taken or legal action or proceedings commenced or threatened against it for its winding up, deregistration or dissolution or for the appointment of a liquidator, receiver, administrator or similar officer over any or all of its assets.

#### 6. CONTINUING OBLIGATIONS

This deed poll is irrevocable and, subject to clause 3, remains in full force and effect until the earlier of:

- (a) the Bidder having fully performed its obligations under this deed poll; and
- (b) termination of this deed poll under clause 3.2.

## 7. NOTICES

Any notice, demand or other communication (a **Notice**) to the Bidder in respect of this deed poll:

- (a) must be in writing and signed by the sender or a person duly authorised by it;
- (b) must be delivered to the intended recipient by prepaid post (if posted to an address in another country, by registered airmail), by hand to the address specified on Page 1 or email to the email address specified on Page 1; and
- (c) will be conclusively taken to be duly given or made:
  - (i) in the case of delivery in person, when delivered at the address of the addressee as provided in clause 7(b) unless that delivery is not made on a Business Day, or is made after 5.00 pm on a Business Day, in which case that Notice will be deemed to be received at 9.00 am on the next Business Day; or
  - (ii) in the case of delivery by post, seven Business Days after the date of posting (if posted to an address in the same country) or ten Business Days after the date of posting (if posted to an address in another country); or
  - (iii) in the case of transmission by email, on the day of transmission, provided that the sender does not receive an automated notice generated by the sender's or the recipient's email server that the email was not delivered.

## 8. GENERAL PROVISIONS

### 8.1 Assignment

- (a) The rights and obligations of the Bidder and each Scheme Shareholder under this deed poll are personal. They cannot be assigned, charged, encumbered or otherwise dealt with at law or in equity without the prior written consent of Cellnet and the Bidder.
- (b) Any purported dealing in contravention of clause 8.1(a) is invalid.

### 8.2 Variation

A provision of this deed poll may not be varied unless:

- (a) before the First Court Date, the variation is agreed to in writing by Cellnet; or
- (b) on or after the First Court Date, the variation is agreed to in writing by Cellnet and the Court indicates that the variation would not of itself preclude approval by the Court of the Scheme,

in which event the Bidder will enter into a further deed poll in favour of each Scheme Shareholder giving effect to the amendment.

### 8.3 Cumulative rights

The rights, powers and remedies of the Bidder and each Scheme Shareholder under this deed poll are cumulative with and do not exclude any other rights, powers or remedies provided by law independently of this deed poll.

#### 8.4 Execution opinion

On the date of this deed poll, the Bidder must obtain from its foreign counsel in the jurisdiction in which it is incorporated, and provide to Cellnet, a written legal opinion, in a form agreed between Bidder and Cellnet, acting reasonably, prior to entry into this deed poll, confirming that the Bidder has duly executed this deed in accordance with the laws of the place of incorporation and articles and by-laws and Bidder's good standing under its governing jurisdiction laws.

#### 8.5 No waiver

A provision of, or a right under, this deed poll may not be waived except in writing signed by the person granting the waiver. A waiver of any right is limited to the specific instance to which it relates and to the specific purpose for which it is given.

#### 8.6 Stamp Duty

The Bidder:

- (a) must pay or procure the payment of all stamp duty (if any) and any related fines, penalties and interest in respect of the Scheme and this deed poll (including the acquisition or transfer of Scheme Shares pursuant to the Scheme), the performance of this deed poll and each transaction effected by or made under or pursuant to the Scheme and this deed poll; and
- (b) indemnifies and undertakes to keep indemnified each Scheme Shareholder against any liability arising from failure to comply with clause 8.6(a).

#### 8.7 Further Assurances

The Bidder will, at its own expense, do all things reasonably required of it to give full effect to this deed poll.

#### 8.8 Governing law and jurisdiction

- (a) This deed poll is governed by the laws of Victoria, Australia.
- (b) In relation to this deed poll and related non-contractual matters, the Bidder irrevocably submits to the non-exclusive jurisdiction of courts with jurisdiction in Victoria, Australia and courts of appeal from them, provided that Cellnet may bring proceedings in connection with this deed poll in Germany to seek to enforce the obligations of the Bidder under this deed poll. The Bidder irrevocably waives any right to object to the venue on any ground.

**DEED POLL**

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**Signing Page**

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**Executed as a deed poll**

**SIGNED, SEALED AND DELIVERED** by  
**Wentronic Holding GmbH** in accordance  
with its constituent documents and the laws in  
its place of incorporation:

\_\_\_\_\_  
Signature of **authorised representative**

\_\_\_\_\_  
Name of **authorised representative**