



28 September 2015

Lux Wigneswaran
ASX Compliance Pty Ltd
20 Bridge Street
Sydney NSW 2000

By email to: luxmy.wigneswaran@asx.com.au

Dear Lux

Merger Implementation Agreement

Further to the announcement earlier today of the proposed scheme of arrangement between Vocus Communications Limited and M2 Group Limited, I enclose a copy of the executed Merger Implementation Agreement.

Yours sincerely

A handwritten signature in black ink, appearing to read "Mark Simpson".

Mark Simpson
Company Secretary

Vocus Communications Ltd | ABN: 96 084 115 499

A: Vocus House, Level 1, 189 Miller Street, North Sydney, NSW 2060, Australia

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Vocus Communications Limited (ASX:VOC) is a company listed on the Australian Securities Exchange Limited



Execution version

Merger implementation agreement

M2 Group Ltd (**M2**)

Vocus Communications Limited (**Vocus**)

MinterEllison

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Merger implementation agreement

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Details

Date 27 September 2015

Parties

Name **M2 Group Ltd**
ABN/ACN 74 091 575 021
Short form name **M2**
Notice details Level 10, 452 Flinders Street, Melbourne VIC 3000
E-mail: vaughan.bowen@m2.com.au
Attention: Executive Director
With a copy to: General Counsel and Company Secretary
legal@m2.com.au

Name **Vocus Communications Limited**
ABN/ACN 96 084 115 499
Short form name **Vocus**
Notice details Level 1, Vocus House
189 Miller Street
North Sydney NSW 2060
E-mail: mark.simpson@vocus.com.au
Facsimile: +61 2 9959 4348
Attention: General Counsel and Company Secretary

Background

- A M2 and Vocus have agreed to implement the Proposed Transaction on and subject to the terms and conditions of this agreement.
- B M2 and Vocus have agreed certain other matters in connection with the Proposed Transaction as set out in this agreement.

Agreed terms

1. Defined terms & interpretation

1.1 Defined terms

In this agreement, unless the context otherwise requires, the following words and expressions have meanings as follows:

ACCC means the Australian Competition and Consumer Commission.

Accounting Standards means the accounting standards made or in force under the Corporations Act, and if any matter is not covered by those accounting standards, generally accepted Australian accounting principles.

Adviser means any person who is engaged to provide professional advice of any type (including legal, accounting, consulting or financial advice) to M2 or Vocus or any of their respective Related Bodies Corporate.

ASIC means the Australian Securities and Investments Commission.

Associate has the meaning given in Division 2 of Part 1.2 of the Corporations Act as if section 12(1) of that Act included a reference to this agreement and, when the term "Associate" is used in the definition of "M2 Competing Proposal", M2 was the designated body, and when the term "Associate" is used in the definition of "Vocus Competing Proposal", Vocus was the designated body.

ASX means ASX Limited (ABN 98 008 624 691) or, if the context requires, the financial market operated by it.

Authorised Person means, in respect of a person:

- (a) a director, officer, member or employee of the person;
- (b) an Adviser of the person; and
- (c) a director, officer or employee of an Adviser of the person.

Business Day means a day that is not a Saturday, Sunday or a public holiday or bank holiday in:

- (a) Melbourne, Australia; or
- (b) Sydney, Australia.

Competition Act means the *Competition and Consumer Act 2010* (Cth).

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

Confidentiality Agreement means the confidentiality agreement between M2 and Vocus dated 30 July 2015.

Control has the meaning given under section 50AA of the Corporations Act. **Controlled** has the equivalent meaning.

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

Court means the Supreme Court of Victoria or any other court of competent jurisdiction under the Corporations Act as the parties may agree in writing.

Deed Poll means the deed poll to be executed by Vocus prior to the First Court Date, in the form set out in Schedule 2 or in such other form as is acceptable to M2 acting reasonably.

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) (and, if applicable, section 411(6)) of the Corporations Act in relation to the Scheme.

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

End Date means:

- (a) 30 April 2016; or
- (b) such other date and time agreed in writing between Vocus and M2.

Excluded Shareholder means any M2 Shareholder who is Vocus or a Related Body Corporate of Vocus.

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

- (a) the End Date;
- (b) the Implementation Date; and
- (c) the date this agreement is terminated in accordance with its terms.

Explanatory Booklet means the explanatory booklet to be prepared in respect of the Scheme in accordance with the terms of this agreement and to be despatched by M2 to M2 Shareholders.

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.

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 M2 Shareholders present and voting, either in person or by proxy.

Implementation Date means, with respect to the Scheme, the third Business Day, or such other Business Day as the parties agree or as may be required by ASX, following the Record Date for the Scheme.

Independent Expert means an expert, independent of the parties, engaged by M2 in good faith to opine on whether the Scheme is in the best interests of M2 Shareholders.

Independent Expert's Report means the report prepared by the Independent Expert and stating whether the Scheme is in the best interests of M2 Shareholders, and any update to such report that the Independent Expert issues prior to the Scheme Meeting.

Ineligible Foreign Shareholder means a Scheme Shareholder whose address as shown in the M2 Register (as at the Record Date) is located outside of Australia and its external territories and New Zealand, and any other jurisdictions as may be agreed in writing by M2 and Vocus (unless Vocus is satisfied, acting reasonably, that it is permitted to allot and issue New Vocus Shares to that Scheme Shareholder pursuant to the Scheme by the laws of that place either unconditionally or after compliance with conditions that Vocus in its sole discretion regards as acceptable and not unduly onerous or impracticable).

Insolvency Event means in relation to a person:

- (a) (**insolvency official**) the appointment of a liquidator, provisional liquidator, administrator, statutory manager, controller, receiver, receiver and manager or other insolvency official (whether under an Australian law or a foreign law) to the person or to the whole or a substantial part of the property or assets of the person and the action is not stayed, withdrawn or dismissed within 14 days;

- (b) (**arrangements**) the entry by the person into a compromise or arrangement with its creditors generally;
- (c) (**winding up**) the calling of a meeting to consider a resolution to wind up the person (other than where the resolution is frivolous or cannot reasonably be considered to be likely to lead to the actual winding up of the person) or the making of an application or order for the winding up or deregistration of the person other than where the application or order (as the case may be) is set aside or withdrawn within 14 days;
- (d) (**suspends payments**) the person suspends or threatens to suspend payment of its debts as and when they become due;
- (e) (**ceasing business**) the person ceases or threatens to cease to carry on business;
- (f) (**insolvency**) the person is or becomes unable to pay its debts when they fall due within the meaning of the Corporations Act or is otherwise presumed to be insolvent under the Corporations Act;
- (g) (**deregistration**) the person being deregistered as a company or otherwise dissolved;
- (h) (**deed of company arrangement**) the person executing a deed of company arrangement;
- (i) (**person as trustee or partner**) the person incurs a liability while acting or purporting to act as trustee (or co-trustee) or general partner of a trust or partnership (including a limited partnership) and the person is not entitled to be fully indemnified against the liability out of trust or partnership assets because of one or more of the following:
 - (i) a breach of trust or obligation as partner by the person;
 - (ii) the person acting outside the scope of its powers as trustee or partner;
 - (iii) a term of the trust or partnership denying, or limiting, the person's right to be indemnified against the liability; or
 - (iv) the assets of the trust or partnership being insufficient to discharge the liability; or
- (j) (**analogous events**) anything analogous to those set out in any of paragraphs (a) to (i) inclusive occurs in relation to the person under the laws of a foreign jurisdiction.

Investigating Accountant means the accountant appointed in accordance with clause 5.1(c).

Investigating Accountant's Report means the report prepared by the Investigating Accountant for inclusion in the Explanatory Booklet.

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

M2 Board means the board of directors of M2 as constituted from time to time (or any committee of the board of directors of M2 constituted from time to time to consider the Proposed Transaction on behalf of M2).

M2 Competing Proposal means any offer, proposal or expression of interest, transaction or arrangement (including, by way of takeover bid or scheme of arrangement other than the Proposed Transaction) under which, if ultimately completed substantially in accordance with its terms, a person or two or more persons who are Associates would directly or indirectly:

- (a) acquire a relevant interest or voting power in or become the holder of more than 20% of the M2 Shares;
- (b) acquire, obtain a right to acquire, or otherwise obtain an economic interest in, 20% or more by value of the business or property of M2 or any member of the M2 Group;
- (c) acquire Control of M2;

- (d) otherwise acquire or merge with M2 or amalgamate with, or acquire a significant shareholding or economic interest in M2 or any member of M2 Group or 20% or more by value of the total assets or business of any member of M2 Group, whether by way of takeover bid, scheme of arrangement, shareholder approved acquisition, capital reduction, share buy-back or repurchase, sale or purchase of assets, joint venture, reverse takeover, dual-listed company structure, recapitalisation, establishment of a new holding entity for M2 or the M2 Group or other synthetic merger or any other transaction or arrangement; or
- (e) M2 will cease to be admitted to the official list of ASX or the M2 Shares will cease to be officially quoted on the market operated by ASX,

or which may otherwise compete with, or be inconsistent in any material respect with the consummation of, the Proposed Transaction.

M2 Counterproposal is defined in clause 15.6(d).

M2 Disclosure Letter means the letter so entitled from M2 provided to Vocus on or prior to the date of execution of this agreement and countersigned by Vocus.

M2 Due Diligence Material means the information disclosed by or on behalf of the M2 Group (including management presentations and in response to requests for information) to Vocus or any of its Authorised Persons prior to the date of this agreement as evidenced conclusively by schedule 2 to the M2 Disclosure Letter.

M2 Group means M2 and its Subsidiaries.

M2 Information means information to be included by M2 in the Explanatory Booklet that explains the effect of the Scheme and sets out the information prescribed by the Corporations Act and the *Corporations Regulations 2001* (Cth), and any other information that is material to the making of a decision by M2 Shareholders whether or not to vote in favour of the Scheme, being information that is within the knowledge of M2's directors and has not previously been disclosed to M2 Shareholders, other than the Vocus Information, the Independent Expert's Report and the Investigating Accountant's Report.

M2 Material Adverse Change means an event, matter or circumstance (including a change in law) that occurs, is announced or becomes known (in each case whether or not it becomes public) after the date of this agreement which:

- (a) has or could reasonably be expected to have individually or when aggregated with all such events, matters or circumstances the effect of diminishing the net assets of the M2 Group by 10% or more (as compared to M2's most recent audited financial statements as at the date of this agreement);
- (b) has the result that the impact on the EBITDA of the M2 Group that was generated from contracts that are either lost or become non-revenue generating exceeds \$23.1 million on an annualised basis;
- (c) has the result (or is reasonably likely to have the result) that the business of the M2 Group is unable to be carried on in substantially the same manner as carried on at the date of this agreement; or
- (d) has the result (or is reasonably likely to have the result) that present or future third party monetary obligations of a member of the M2 Group in respect of moneys borrowed or raised totalling at least \$10 million (or, without limitation, its equivalent in any other currency or currencies) becomes capable of being declared due and payable before their stated maturity or expiry (other than as a result of the Proposed Transaction),

but does not include any event, matter or circumstance:

- (e) required to be done or procured by M2 or a member of the M2 Group pursuant to this agreement or the Scheme;
- (f) done with the express prior written consent of Vocus;
- (g) to the extent that it was Fairly Disclosed in the M2 Disclosure Letter or the M2 Due Diligence Material;
- (h) to the extent that it was Fairly Disclosed in documents that were publicly available prior to the date which is two Business Days prior to the date of this agreement from public filings of M2 with ASX or ASIC or public registers;
- (i) relating to costs and expenses incurred by M2 associated with the Scheme process, including all fees payable to external advisers of M2, to the extent such amounts are Fairly Disclosed in the M2 Disclosure Letter or the M2 Due Diligence Material; or
- (j) to the extent that event, matter or circumstance was actually known to Vocus prior to the date of this agreement (which does not include knowledge of the risk of an event, matter or circumstance occurring).

M2 Option means an option granted by M2 to acquire by way of issue one or more M2 Shares.

M2 Optionholder means the person who is recorded in the register maintained by M2 under section 168(1) of the Corporations Act as the holder of M2 Options.

M2 Performance Right means a right granted under M2's Long Term Incentive Plan to acquire by way of issue or transfer one or more M2 Shares subject to the terms of such plan.

M2 Performance Right Holder means a person who is the holder of M2 Performance Rights.

M2 Permitted Securities means M2 Options and M2 Performance Rights issued with the consent of M2, such consent not to be withheld:

- (a) unreasonably; or
- (b) where the M2 Options or M2 Performance Rights are issued by M2 in the ordinary course of business and in accordance with past practice.

M2 Prescribed Occurrence means the occurrence of any of the following on or after the date of this agreement:

- (a) M2 converts all or any of its shares into a larger or smaller number of shares;
- (b) any member of the M2 Group reduces or resolves to reduce its share capital in any way;
- (c) any member of the M2 Group:
 - (i) enters into a buy-back agreement; or
 - (ii) resolves to approve the terms of a buy-back agreement under subsections 257C(1) or 257D(1) of the Corporations Act;
- (d) any member of the M2 Group issues securities, or grants a performance right or an option over its securities or to subscribe for its securities, or agrees to make such an issue or grant such a right or an option, other than:
 - (i) pursuant to the exercise of a M2 Option or M2 Performance Right on issue immediately before the date of this agreement;
 - (ii) as a result of an issue under a dividend reinvestment plan; or

- (iii) the issue of M2 Permitted Securities;
- (e) any member of the M2 Group issues, or agrees to issue, convertible notes or any other security or instrument convertible into shares;
- (f) any member of the M2 Group disposes, or agrees to dispose, of any assets, properties or businesses where the amount or value involved in such transactions exceeds \$20 million in aggregate;
- (g) any member of the M2 Group acquires, or agrees to acquire, any assets, properties or businesses where the amount or value involved in such transactions exceeds \$20 million in aggregate;
- (h) any member of the M2 Group enters into a commitment or a series of commitments for capital expenditure where the amounts or value involved in such commitments or commitments exceeds \$5 million in aggregate;
- (i) any member of the M2 Group creates or agrees to create, any Security Interest over the whole, or a substantial part, of its business or property, other than in relation to the Refinancing;
- (j) an Insolvency Event occurs in relation to any member of the M2 Group;
- (k) M2 pays, declares, distributes or incurs a liability to make or pay a dividend, bonus or other share of its profits, income, capital or assets by way of dividend or other form of distribution;
- (l) any member of the M2 Group makes any change to its constitution or convenes a meeting to consider a resolution to change a constitution of any member of the M2 Group;
- (m) any member of the M2 Group ceases, or threatens to cease to, carry on the business conducted as at the date of this agreement;
- (n) any member of the M2 Group (other than a dormant, non-operating member of the M2 Group) being deregistered as a company or being otherwise dissolved;
- (o) any disposal of shares or securities by a member of the M2 Group in any member of the M2 Group other than to a member of the M2 Group; or
- (p) any member of the M2 Group directly or indirectly authorising, committing or agreeing to take or announcing any of the actions referred to in paragraphs (a) to (o) above insofar as it applies to the member of the M2 Group the subject of such direct or indirect authorisation, commitment, agreement or announcement,

provided that a M2 Prescribed Occurrence will not include any matter:

- (q) required to be done or procured by M2 or a member of the M2 Group pursuant to this agreement or the Scheme;
- (r) Fairly Disclosed in filings of M2 with the ASX prior to the date of this agreement;
- (s) to the extent it is Fairly Disclosed in the M2 Due Diligence Material or the M2 Disclosure Letter; or
- (t) the undertaking of which Vocus has approved in writing.

M2 Register means the register of members of M2 maintained by or on behalf of M2 in accordance with section 168(1) of the Corporations Act.

M2 Relevant Notice is defined in clause 14.6(b)(iv)(B).

M2 Rival Acquirer is defined in clause 14.6(a)(i).

M2 Senior Manager means an employee of any member of the M2 Group reporting directly to the chief executive officer, chief financial officer or group chief operating officer of M2.

M2 Share means an issued fully paid ordinary share in the capital of M2.

M2 Shareholder means each person who is registered in the M2 Register as a holder of M2 Shares.

M2 Superior Proposal means a bona fide M2 Competing Proposal which in the determination of the M2 Board acting in good faith in order to satisfy what the M2 Board considers to be its fiduciary or statutory duties (after having taken advice from their legal and, if appropriate, financial advisers):

- (a) is reasonably likely to be completed in accordance with its terms, taking into account all financial, regulatory and other aspects of such proposal, including the ability of the proposing party to consummate the transactions contemplated by the M2 Competing Proposal; and
- (b) would, if completed substantially in accordance with its terms, be reasonably likely to result in a transaction more favourable to M2 Shareholders as a whole than the Proposed Transaction, taking into account all of the terms and conditions of the M2 Competing Proposal.

M2 Warranties means the representations and warranties of M2 set out in clause 8.3.

Merger Ratio means 1.625 New Vocus Shares per Scheme Share.

Mutually Exclusive Proposal for Vocus means a bona fide Vocus Competing Proposal which is conditional on the Scheme not becoming Effective or which requires Vocus to abandon the proposed merger with M2.

New Vocus Shares means the new Vocus Shares to be issued under the terms of the Scheme as Scheme Consideration.

Not Open to M2 Shareholders, in relation to a Vocus Competing Proposal, means that the Vocus Competing Proposal is not, at the applicable time, expressed to be open to participation or acceptance by the holders of the New Vocus Shares if the Scheme becomes Effective.

NZ Commerce Act means the *Commerce Act 1986* (NZ).

NZCC means the New Zealand Commerce Commission.

Proposed Transaction means the proposed acquisition by Vocus, in accordance with the terms and conditions of this agreement, of all of the M2 Shares (other than the M2 Shares held by an Excluded Shareholder) through the implementation of the Scheme.

Record Date means, in respect of the Scheme, 7.00pm on the fifth Business Day (or such other Business Day as the parties agree in writing or as may be required by ASX) following the Effective Date.

Refinancing means the refinancing of one or more of the existing finance documents of any member of the M2 Group and/or the Vocus Group, as contemplated by clause 6.4.

Regulatory Approvals means:

- (a) any approval, consent, authorisation, registration, filing, lodgement, permit, franchise, agreement, notarisation, certificate, permission, licence, direction, declaration, authority, waiver, modification or exemption from, by or with a Regulatory Authority; or
- (b) in relation to anything that would be fully or partly prohibited or restricted by law if a Regulatory Authority intervened or acted in any way within a specified period after

lodgement, filing, registration or notification, the expiry of that period without intervention or action,

and includes the approvals set out in clause 3.1(a).

Regulatory Authority means:

- (a) any government or local authority, any department, minister or agency of any government and any other governmental, administrative, fiscal, monetary or judicial body; and
- (b) any other authority, agency, commission or similar entity having powers or jurisdiction under any law or regulation or the listing rules of any recognised stock or securities exchange.

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.

RG 60 means Regulatory Guide 60 issued by ASIC on 22 September 2011.

Scheme means the proposed scheme of arrangement pursuant to Part 5.1 of the Corporations Act between M2 and Scheme Shareholders in respect of all Scheme Shares, substantially in the form set out in Schedule 3 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 Consideration means the consideration to be provided to Scheme Shareholders under the terms of the Scheme (subject to clauses 4.4 and 4.5), being the number of New Vocus Shares for every Scheme Share specified in the Merger Ratio.

Scheme Meeting means the meeting of M2 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 M2 Share on issue as at the Record Date other than any M2 Share then held by an Excluded Shareholder (but including any such M2 Share held on behalf of one or more third parties or otherwise in a fiduciary capacity).

Scheme Shareholder means each person who is registered on the M2 Register as a holder of Scheme Shares at the Record Date.

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 first day on which the adjourned application is heard or scheduled to be heard.

Security Interest has the meaning given in section 12 of the *Personal Property Securities Act 2009* (Cth).

Sensitive Confidential Information is defined in clause 3.3(c).

Share Splitting means the splitting by a holder of M2 Shares into two or more parcels of M2 Shares whether or not it results in any change in beneficial ownership of the M2 Shares.

Shared Costs is defined in clause 13.2.

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

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 Documents means this agreement, the Deed Poll and the Scheme.

Vocus Board means the board of directors of Vocus as constituted from time to time (or any committee of the board of directors of Vocus constituted from time to time to consider the Proposed Transaction on behalf of Vocus).

Vocus Competing Proposal means any offer, proposal or expression of interest, transaction or arrangement (including, by way of takeover bid or scheme of arrangement other than the Proposed Transaction) under which, if ultimately completed substantially in accordance with its terms, a person or two or more persons who are Associates would directly or indirectly:

- (a) acquire a relevant interest or voting power in or become the holder of more than 20% of the Vocus Shares;
- (b) acquire, obtain a right to acquire, or otherwise obtain an economic interest in, 20% or more by value of the business or property of Vocus or any member of the Vocus Group;
- (c) acquire Control of Vocus;
- (d) otherwise acquire or merge with Vocus or amalgamate with, or acquire a significant shareholding or economic interest in Vocus or any member of Vocus Group or 20% or more by value of the total assets or business of any member of Vocus Group, whether by way of takeover bid, scheme of arrangement, shareholder approved acquisition, capital reduction, share buy-back or repurchase, sale or purchase of assets, joint venture, reverse takeover, dual-listed company structure, recapitalisation, establishment of a new holding entity for Vocus or the Vocus Group or other synthetic merger or any other transaction or arrangement; or
- (e) Vocus will cease to be admitted to the official list of ASX or the Vocus Shares will cease to be officially quoted on the market operated by ASX,

or which may otherwise compete with, or be inconsistent in any material respect with the consummation of, the Proposed Transaction.

Vocus Counterproposal is defined in clause 14.6(d).

Vocus Disclosure Letter means the letter so entitled from Vocus provided to M2 on or prior to the date of execution of this agreement and countersigned by M2.

Vocus Due Diligence Material means the information disclosed by or on behalf of the Vocus Group (including management presentations and in response to requests for information) to M2 or any of its Authorised Persons prior to the date of this agreement as evidenced conclusively by schedule 2 to the Vocus Disclosure Letter.

Vocus Group means Vocus and its Subsidiaries.

Vocus Information means such information regarding the Vocus Group, the merged M2-Vocus entity following implementation of the Scheme, the Scheme Consideration and Vocus' intentions in relation to M2 Group's business, assets and employees that is provided by or on behalf of Vocus to M2, the Independent Expert or the Investigating Accountant:

- (a) to enable the Explanatory Booklet to be prepared and completed in compliance with all applicable laws;
- (b) to enable applications for Regulatory Approvals to be made; and
- (c) otherwise in compliance with Vocus' obligations under clause 5.2(a), 5.2(d) and 5.2(e).

Vocus Material Adverse Change means an event, matter or circumstance (including a change in law) that occurs, is announced or becomes known (in each case whether or not it becomes public) after the date of this agreement which:

- (a) has or could reasonably be expected to have individually or when aggregated with all such events, matters or circumstances the effect of diminishing the net assets of the Vocus Group by 10% or more (as compared to Vocus' most recent audited financial statements as at the date of this agreement);
- (b) has the result that the impact on the EBITDA of the Vocus Group that was generated from contracts that are either lost or become non-revenue generating exceeds \$12.1 million on an annualised basis;
- (c) has the result (or is reasonably likely to have the result) that the business of the Vocus Group is unable to be carried on in substantially the same manner as carried on at the date of this agreement; or
- (d) has the result (or is reasonably likely to have the result) that present or future third party monetary obligations of a member of the Vocus Group in respect of moneys borrowed or raised totalling at least \$10 million (or, without limitation, its equivalent in any other currency or currencies) becomes capable of being declared due and payable before their stated maturity or expiry (other than as a result of the Proposed Transaction),

but does not include any event, matter or circumstance:

- (e) required to be done or procured by Vocus or a member of the Vocus Group pursuant to this agreement or the Scheme;
- (f) done with the express prior written consent of M2;
- (g) to the extent that it was Fairly Disclosed in the Vocus Disclosure Letter or the Vocus Due Diligence Material;
- (h) to the extent that it was Fairly Disclosed in documents that were publicly available prior to the date which is two Business Days prior to the date of this agreement from public filings of Vocus with ASX or ASIC or public registers;
- (i) relating to costs and expenses incurred by Vocus associated with the Scheme process, including all fees payable to external advisers of Vocus, to the extent such amounts are Fairly Disclosed in the Vocus Disclosure Letter or the Vocus Due Diligence Material; or
- (j) to the extent that event, matter or circumstance was actually known to M2 prior to the date of this agreement (which does not include knowledge of the risk of an event, matter or circumstance occurring).

Vocus Option means an option granted by Vocus to acquire by way of issue one or more Vocus Shares.

Vocus Performance Right means a right granted under Vocus' Performance Rights Long Term Incentive Plan to acquire by way of issue or transfer a Vocus Share subject to the terms of such plan.

Vocus Permitted Securities means Vocus Options and Vocus Performance Rights issued with the consent of M2, such consent not to be withheld:

- (a) unreasonably; or
- (b) where the Vocus Options or Vocus Performance Rights are issued by Vocus in the ordinary course of business and in accordance with past practice.

Vocus Prescribed Occurrence means the occurrence of any of the following on or after the date of this agreement:

- (a) Vocus converts all or any of its shares into a larger or smaller number of shares;
- (b) any member of the Vocus Group reduces or resolves to reduce its share capital in any way;
- (c) any member of the Vocus Group:
 - (i) enters into a buy-back agreement; or
 - (ii) resolves to approve the terms of a buy-back agreement under subsections 257C(1) or 257D(1) of the Corporations Act;
- (d) any member of the Vocus Group issues securities, or grants a performance right or an option over its securities or to subscribe for its securities, or agrees to make such an issue or grant such a right or an option other than:
 - (i) pursuant to the exercise of a Vocus Option or a Vocus Performance Right on issue immediately before the date of this agreement; or
 - (ii) the issue of Vocus Permitted Securities;
- (e) any member of the Vocus Group issues, or agrees to issue, convertible notes or any other security convertible into shares;
- (f) any member of the Vocus Group disposes, or agrees to dispose, of any assets, properties or businesses where the amount or value involved in such transactions exceeds \$20 million in aggregate;
- (g) any member of the Vocus Group acquires, or agrees to acquire, any assets, properties or businesses where the amount or value involved in such transactions exceeds \$20 million in aggregate;
- (h) any member of the Vocus Group enters into a commitment or a series of commitments for capital expenditure where the amounts or value involved in such commitments or commitments exceeds \$5 million in aggregate;
- (i) any member of the Vocus Group creates or agrees to create, any Security Interest over the whole, or a substantial part, of its business or property, other than in relation to the Refinancing;
- (j) an Insolvency Event occurs in relation to any member of the Vocus Group;
- (k) Vocus pays, declares, distributes or incurs a liability to make or pay a dividend, bonus or other share of its profits, income, capital or assets by way of dividend or other form of distribution;
- (l) any member of the Vocus Group makes any change to its constitution or convenes a meeting to consider a resolution to change a constitution of any member of the Vocus Group;
- (m) any member of the Vocus Group ceases, or threatens to cease to, carry on the business conducted as at the date of this agreement;
- (n) any member of the Vocus Group (other than a dormant, non-operating member of the Vocus Group) being deregistered as a company or being otherwise dissolved;
- (o) any disposal of shares or securities by a member of the Vocus Group in any member of the Vocus Group other than to a member of the Vocus Group; or

- (p) any member of the Vocus Group directly or indirectly authorising, committing or agreeing to take or announcing any of the actions referred to in paragraphs (a) to (o) above insofar as it applies to the member of the Vocus Group the subject of such direct or indirect authorisation, commitment, agreement or announcement,

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

- (q) required to be done or procured by Vocus or a member of the Vocus Group pursuant to this agreement or the Scheme;
- (r) Fairly Disclosed in filings of Vocus with the ASX prior to the date of this agreement;
- (s) to the extent it is Fairly Disclosed in the Vocus Due Diligence Material or the Vocus Disclosure Letter; or
- (t) the undertaking of which M2 has approved in writing.

Vocus Relevant Notice is defined in clause 15.6(b)(ii)(B).

Vocus Rival Acquirer is defined in clause 15.6(a)(i).

Vocus Senior Manager means an employee of any member of the Vocus Group reporting directly to the chief executive officer, chief financial officer or group chief operating officer of Vocus.

Vocus Share means a fully paid ordinary share in the capital of Vocus.

Vocus Shareholder means each person who is registered in the register maintained by Vocus under section 168(1) of the Corporations Act as a holder of Vocus Shares.

Vocus Superior Proposal means a bona fide Vocus Competing Proposal which in the determination of the Vocus Board acting in good faith in order to satisfy what the Vocus Board considers to be its fiduciary or statutory duties (after having taken advice from their legal and, if appropriate, financial advisers):

- (a) is reasonably likely to be completed in accordance with its terms, taking into account all financial, regulatory and other aspects of such proposal, including the ability of the proposing party to consummate the transactions contemplated by the Vocus Competing Proposal; and
- (b) would, if completed substantially in accordance with its terms, be reasonably likely to result in a transaction more favourable to Vocus Shareholders as a whole than the Proposed Transaction, taking into account all of the terms and conditions of the Vocus Competing Proposal.

Vocus Warranties means the representations and warranties of Vocus set out in clause 8.1.

1.2 Interpretation

In this agreement, except where the context otherwise requires:

- (a) the singular includes the plural and vice versa, and a gender includes other genders;
- (b) another grammatical form of a defined word or expression has a corresponding meaning;
- (c) a reference to a clause, paragraph, schedule or annexure is to a clause or paragraph of, or schedule or annexure to, this agreement, and a reference to this agreement includes any schedule or annexure;
- (d) a reference to a document or instrument includes the document or instrument as novated, altered, supplemented or replaced from time to time;

- (e) a reference to **A\$, \$A, dollar** or **\$** is to Australian currency;
- (f) a reference to time is to Sydney, Australia time;
- (g) a reference to a party is to a party to this agreement, and a reference to a party to a document includes the party's executors, administrators, successors and permitted assigns and substitutes;
- (h) a reference to a person includes a natural person, partnership, body corporate, association, governmental or local authority or agency or other entity;
- (i) a reference to a statute, ordinance, code or other law includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements of any of them;
- (j) a word or expression defined in the Corporations Act has the meaning given to it in the Corporations Act;
- (k) the meaning of general words is not limited by specific examples introduced by **including, for example** or similar expressions;
- (l) a rule of construction does not apply to the disadvantage of a party because the party was responsible for the preparation of this agreement or any part of it;
- (m) if a day on or by which an obligation must be performed or an event must occur is not a Business Day, the obligation must be performed or the event must occur on or by the next Business Day; and
- (n) a reference to **Fairly Disclosed** to a party means disclosed to any of that party or any of its Authorised Persons in good faith and in sufficient detail so as to enable a reasonable and sophisticated buyer (or one of its Authorised Persons) experienced in transactions similar to the Proposed Transaction and experienced in a business similar to any business conducted by the M2 Group (if disclosed to Vocus) or the Vocus Group (if disclosed to M2), to identify the nature and scope of the relevant matter, event or circumstance.

1.3 Headings

Headings are for ease of reference only and do not affect interpretation.

2. Agreement to propose Scheme

- (a) M2 agrees to propose and implement the Scheme on and subject to the terms and conditions of this agreement, and to use all reasonable endeavours to do so as soon as is reasonably practicable and otherwise substantially in accordance with the Timetable.
- (b) Vocus agrees to assist M2 in proposing and implementing the Scheme on and subject to the terms and conditions of this agreement, and to use all reasonable endeavours to do so as soon as is reasonably practicable and otherwise substantially in accordance with the Timetable.

3. Conditions precedent and pre-implementation steps

3.1 Conditions to Scheme

Subject to this clause 3, the Scheme will not become Effective, and the obligations of M2 under clause 5.1(n) and Vocus' obligations to provide, or procure the provision of, the Scheme Consideration in accordance with the Deed Poll and clause 4.2 will not be binding, 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) **(Regulatory Approvals):**
- (i) **(ASIC and ASX)** before 8.00am on the Second Court Date, ASIC and ASX issue or provide such consents or approvals as are necessary or which M2 and Vocus agree are desirable to implement the Scheme and such consent, approval or other act has not been withdrawn or revoked before 8.00am on the Second Court Date;
 - (ii) **(ACCC)** Vocus has received written notice from the ACCC to the effect that the ACCC does not propose to oppose, intervene or seek to prevent the implementation of the Scheme under or by reference to section 50 of the Competition Act, which notification is either unconditional or is on or requires conditions or undertakings acceptable to the parties; and
 - (iii) **(NZCC)** Vocus has received written notice from the NZCC to the effect that the NZCC does not propose to oppose, intervene or seek to prevent the implementation of the Scheme under or by reference to section 47 of the NZ Commerce Act, which notification is either unconditional or is on or requires conditions or undertakings acceptable to the parties;
- (b) **(ASX Quotation)** ASX approving the official quotation of the New Vocus Shares, subject to any conditions that ASX may reasonably require, including customary pre-quotation conditions and conditions relating to the Scheme becoming Effective;
- (c) **(No M2 Material Adverse Change)** no M2 Material Adverse Change occurs or is announced or disclosed between the date of this agreement and 8.00am on the Second Court Date;
- (d) **(No Vocus Material Adverse Change)** no Vocus Material Adverse Change occurs or is announced or disclosed between the date of this agreement and 8.00am on the Second Court Date;
- (e) **(No M2 Prescribed Occurrence)** no M2 Prescribed Occurrence occurs between the date of this agreement and 8.00am on the Second Court Date;
- (f) **(No Vocus Prescribed Occurrence)** no Vocus Prescribed Occurrence occurs between the date of this agreement and 8.00am on the Second Court Date;
- (g) **(M2 Warranties)** the M2 Warranties being true and correct in all material respects on the date of this agreement and at 8.00am on the Second Court Date;
- (h) **(Vocus Warranties)** the Vocus Warranties being true and correct in all material respects on the date of this agreement and at 8.00am on the Second Court Date;
- (i) **(Shareholder approval)** the resolution in relation to the Scheme is approved by M2 Shareholders at the Scheme Meeting by the majorities required under section 411(4)(a)(ii) of the Corporations Act;
- (j) **(Court approval)** the Scheme is approved by the Court in accordance with section 411(4)(b) of the Corporations Act;
- (k) **(Independent Expert)** the Independent Expert concluding in the Independent Expert's Report that in its opinion the Scheme is in the best interests of M2 Shareholders on or before the date on which the Explanatory Booklet is registered by ASIC under the Corporations Act and the Independent Expert not having notified M2 in writing that it has withdrawn or qualified this conclusion as at 8.00am on the Second Court Date;
- (l) **(M2 material breach)** before 8.00am on the Second Court Date, M2 has not breached any material provision of this agreement to a material extent in the context of the Scheme taken as a whole;

- (m) (**Vocus material breach**) before 8.00am on the Second Court Date, Vocus has not breached any material provision of this agreement to a material extent in the context of the Scheme taken as a whole;
- (n) (**Restraining orders**) no judgment, order, decree, statute, law, ordinance, rule or regulation, or other temporary restraining order, preliminary or permanent injunction, restraint or prohibition, entered, enacted, promulgated, enforced or issued by any court or other Regulatory Authority of competent jurisdiction remains in effect as at 8.00am on the Second Court Date that prohibits, materially restricts, makes illegal or restrains the completion of the Scheme or any Transaction Document; and
- (o) (**M2 Options and M2 Performance Rights**) before 8.00am on the Second Court Date, arrangements have been put in place and all necessary Regulatory Approvals, consents and waivers have been obtained so that all of the M2 Options and M2 Performance Rights will be cancelled or acquired for consideration as contemplated by clause 16.

3.2 Benefit and waiver of conditions precedent

- (a) The Conditions in clauses 3.1(a), 3.1(b) and 3.1(n) are for the benefit of each party and any breach or non-fulfilment of them may only be waived (if capable of waiver) with the written consent of both parties, which consent either party may give or withhold in its absolute discretion.
- (b) The Conditions in clauses 3.1(c), 3.1(e), 3.1(g), 3.1(l) and 3.1(o) are for the sole benefit of Vocus and any breach or non-fulfilment of them may only be waived by Vocus giving its written consent.
- (c) The Conditions in clauses 3.1(d), 3.1(f), 3.1(h), 3.1(k) and 3.1(m) are for the sole benefit of M2 and any breach or non-fulfilment of them may only be waived by M2 giving its written consent.
- (d) A party entitled to waive a Condition pursuant to this clause 3.2 may do so in its absolute discretion subject to the provision of written notice to the other party. Any waiver of a Condition by a party for whose benefit the condition applies must take place on or prior to 8.00am on the Second Court Date. The Conditions in clauses 3.1(i) and 3.1(j) 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 agreement including without limitation a breach that resulted in the non-fulfilment of the Condition that was waived.
- (f) Waiver of a breach or non-fulfilment in respect of one Condition does not constitute;
 - (i) a waiver of breach or non-fulfilment of any other Condition resulting from the same event; or
 - (ii) a waiver of breach or non-fulfilment of that Condition resulting from any other event.

3.3 Reasonable endeavours

- (a) M2 and Vocus will use their respective reasonable endeavours to procure that each of the Conditions is satisfied as soon as reasonably practicable after the date of this agreement or continues to be satisfied at all times until the last time they are to be satisfied (as the case may require).

- (b) Without limiting clauses 3.4 and 3.5 below, each of M2 and Vocus must:
- (i) promptly apply for all relevant Regulatory Approvals and provide the other party with a copy of all applications for Regulatory Approvals;
 - (ii) take all the steps for which it is responsible as part of the Regulatory Approvals process;
 - (iii) respond to all requests for information in respect of the applications for Regulatory Approvals at the earliest practicable time;
 - (iv) provide the other with all information and assistance reasonably requested in connection with the applications for Regulatory Approvals;
 - (v) to the extent that it is within either party's respective control, use its reasonable endeavours to procure that there is no occurrence that would prevent the Condition being satisfied and no other party shall take any action that will or is likely to hinder or prevent the satisfaction of the Condition except to the extent that such action is required by law; and
 - (vi) so far as it is able, allow the other and its Authorised Persons the opportunity to be present and make submissions at any meetings with any regulatory body relating to the Regulatory Approvals in respect of the Scheme.
- (c) Before providing any document or other information to the other party (in this clause 3.3(c), the **Recipient**) pursuant to clause 3.3(b)(iv), a party (in this clause 3.3(c), the **Discloser**) may redact any part of that document, or not disclose any part of that information, which contains or is confidential, non-public information (**Sensitive Confidential Information**) if the Discloser reasonably believes that:
- (i) the Sensitive Confidential Information is of a commercially sensitive nature; or
 - (ii) the disclosure of the Sensitive Confidential Information to the Recipient would be damaging to the commercial or legal interest of the Discloser or any of its Related Bodies Corporate,
- and may provide the document or disclose the information to the Recipient with any Sensitive Confidential Information redacted or excluded, provided that, where Sensitive Confidential Information is so redacted or excluded, the Discloser must provide:
- (iii) the Recipient with as much details about the relevant communication, submission or correspondence (and any other relevant circumstances) as is reasonably possible without disclosing Sensitive Confidential Information; and
 - (iv) a complete version of the document or other information, without any redaction or exclusion of information, to the Recipient's external lawyers on the basis that the Recipient's external lawyers will not disclose the Sensitive Confidential Information to the Recipient or any other third party including the ACCC without the Discloser's prior written consent and will only use the information for the purpose of satisfying the Condition in clause 3.1(a).

3.4 Notifications

Each of Vocus and M2 must:

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

- (c) promptly notify the other 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), and where a party is entitled to waive that Condition upon receipt or delivery of such a notice (as applicable) that party must notify the other party in accordance with clause 3.2 as soon as possible (in any event before 5.00pm on the Business Day before the Second Court Date) as to whether the party waives the non-fulfilment of the Condition.

3.5 Certificate

On the Second Court Date:

- (a) Vocus and M2 will provide a joint certificate to the Court confirming whether or not the Condition set out in clauses 3.1(a), 3.1(b), 3.1(i) and 3.1(n) have been satisfied or waived in accordance with the terms of this agreement;
- (b) M2 will provide a certificate to the Court confirming whether or not the Conditions set out in clauses 3.1(c), 3.1(e), 3.1(g), 3.1(k), 3.1(l) and 3.1(o) have been satisfied or waived in accordance with the terms of this agreement;
- (c) Vocus will provide a certificate to the Court confirming whether or not the Conditions set out in clauses 3.1(d), 3.1(f), 3.1(h) and 3.1(m) have been satisfied or waived in accordance with the terms of this agreement;
- (d) M2 will provide a certificate to Vocus confirming whether or not it has breached any of its obligations under this agreement (including a breach of a representation or warranty), and if it has, giving details of such breach; and
- (e) Vocus will provide a certificate to M2 confirming whether or not it has breached any of its obligations under this agreement (including a breach of a representation or warranty), and if it has, giving details of such breach.

3.6 Scheme voted down

If the Scheme is not approved by M2 Shareholders at the Scheme Meeting by reason only of the non-satisfaction of the Headcount Test and each of M2 and Vocus considers acting reasonably that Share Splitting or some abusive or improper conduct may have caused or contributed to the Headcount Test not having been satisfied then M2 must:

- (a) apply for an order of the Court contemplated by section 411(4)(a)(ii)(A) of the Corporations Act to disregard the Headcount Test and 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 such submissions to the Court and file such evidence as Counsel engaged by M2 to represent it in Court proceedings related to the Scheme, in consultation with Vocus, considers is reasonably required to seek to persuade the Court to 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:
 - (i) any Condition is not satisfied or (where capable of waiver) waived by the date specified in this agreement for its satisfaction (or an event occurs which would or is likely to prevent a Condition being satisfied by the date specified in this agreement);

- (ii) a circumstance occurs with the result that a Condition is not capable of being fulfilled and, if the Condition is able to be waived by a party under clause 3.2 the party does not waive the Condition within five Business Days after the occurrence of the circumstance; or
 - (iii) the Scheme does not become Effective by the End Date,
- and neither of the following has occurred:
- (i) the Independent Expert opines to the effect that the Scheme is not in the best interests of M2 Shareholders; or
 - (ii) a M2 Superior Proposal or Vocus Superior Proposal has been publicly announced, then M2 and Vocus must consult in good faith with a view to determining whether:
 - (i) the Scheme may proceed by way of alternative means or methods;
 - (ii) to extend the relevant time or date for satisfaction of the Condition;
 - (iii) 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
 - (iv) 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 M2 and Vocus 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 8.00am on the Second Court Date), then unless the relevant Condition (where capable of waiver) is waived:
- (i) in relation to the Conditions in clause 3.1(a), 3.1(b), 3.1(i), 3.1(j) and 3.1(n), either Vocus or M2 may terminate this agreement by giving the other notice;
 - (ii) in relation to the Conditions in clause 3.1(c), 3.1(e), 3.1(g), 3.1(l) and 3.1(o), Vocus may terminate this agreement by giving M2 notice; and
 - (iii) in relation to the Conditions in clauses 3.1(d), 3.1(f), 3.1(h), 3.1(k) and 3.1(m), M2 may terminate this agreement by giving Vocus notice,
- within 10 Business Days (or any shorter period ending before 8.00am on the Second Court Date), without any liability to any other party by reason of that termination alone except as otherwise contemplated in this agreement.
- (c) A party will not be entitled to terminate this agreement pursuant to clause 3.7(b) if the relevant Condition has not been satisfied as a result of:
- (i) a breach of this agreement 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:

- (a) in the case of a Condition relating a Regulatory Approval, the relevant Regulatory Authority makes or has made a final adverse determination in writing to the effect that it will not provide the Regulatory Approval or such Regulatory Approval will be subject to conditions that are unacceptable to M2 or Vocus (acting reasonably); and

- (b) in all other cases, 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 agreement).

4. Scheme structure

4.1 Scheme

- (a) M2 must, as soon as reasonably practicable after the date of this agreement and otherwise substantially in compliance with the Timetable, propose the Scheme under which, subject to the Scheme becoming Effective, all of the Scheme Shares will be transferred to Vocus on the Implementation Date and the Scheme Shareholders will be entitled to receive, for each Scheme Share held at the Record Date, the Scheme Consideration, in each case in accordance with the terms of the Scheme.
- (b) M2 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 Vocus.

4.2 Scheme Consideration

- (a) Vocus covenants in favour of M2, in consideration for the transfer to Vocus of the Scheme Shares held by each Scheme Shareholder under the terms of the Scheme, to provide or procure provision of the Scheme Consideration to each Scheme Shareholder on the Implementation Date and otherwise in accordance with the Scheme.
- (b) Subject to clauses 4.4 and 4.5 and to the Scheme becoming Effective, at 10.00am on the Implementation Date, the transactions which form part of the Scheme will be implemented as follows:
 - (i) all existing Scheme Shares at the Record Date will be transferred to Vocus or a wholly-owned Subsidiary of Vocus; and
 - (ii) in exchange, each Scheme Shareholder will receive the Scheme Consideration for each Scheme Share held by that Scheme Shareholder at the Record Date, which is to be issued in the manner set out in clause 4.3.
- (c) In order to facilitate the provision of the Scheme Consideration, M2 must provide, or procure the provision of, to Vocus a complete copy of the M2 Register as at the Record Date (which must include the name, registered address and registered holding of each Scheme Shareholder as at the Record Date), within one Business Day after the Record Date. The details and information to be provided under this clause must be provided in such form as Vocus or Vocus' share registry may reasonably require, as notified to M2 by Vocus prior to the Record Date.

4.3 Allotment and issue of New Vocus Shares

Subject to clauses 4.4 and 4.5 and to the Scheme becoming Effective, Vocus must:

- (a) allot and issue the New Vocus Shares to Scheme Shareholders in accordance with the Scheme on terms such that each Vocus Share will rank equally in all respects with each existing Vocus Share;
- (b) do everything reasonably necessary to ensure that the New Vocus Shares are approved for official quotation on ASX and that trading in the New Vocus Shares commences as soon as practicable after the Effective Date, initially on a deferred settlement basis and thereafter on a normal settlement basis; and

- (c) ensure that on issue, each New Vocus Share will be fully paid and free from any mortgage, charge, lien, encumbrance or other Security Interest.

4.4 Ineligible Foreign Shareholders

Unless Vocus is satisfied that the laws of an Ineligible Foreign Shareholder's country of residence (as shown in the M2 Register) permit the issue of New Vocus Shares to the Ineligible Foreign Shareholder either unconditionally or after compliance with terms which Vocus reasonably regards as acceptable and practical:

- (a) Vocus will be under no obligation under the Scheme to issue, and will not issue, any New Vocus Shares to Ineligible Foreign Shareholders, and instead will issue the New Vocus Shares that would otherwise have been issued to the Ineligible Foreign Shareholders to a nominee appointed by Vocus;
- (b) Vocus will procure that as soon as reasonably practicable, and in any event no more than 15 Business Days after the Implementation Date, the nominee sell those New Vocus Shares issued to the nominee on-market in such manner, at such price and on such other terms as the nominee determines in good faith;
- (c) promptly after the last sale of those New Vocus Shares, Vocus will procure that the nominee pays the net proceeds from that sale (after deducting any applicable brokerage, stamp duty and other selling costs, taxes and charges) to Vocus; and
- (d) Vocus will then remit the proceeds it receives from the nominee to each Ineligible Foreign Shareholder in accordance with their entitlement.

4.5 Fractional entitlements

Any fractional entitlement of a Scheme Shareholder to a part of a New Vocus Share will be rounded up or down to the nearest whole number of New Vocus Shares (rounded up if the fractional entitlement is equal to or greater than one half, and rounded down if the fractional entitlement is less than one half).

5. Scheme – parties' respective implementation obligations

5.1 M2's obligations

M2 must take all steps reasonably necessary to implement the Scheme as soon as reasonably practicable after the date of this agreement and otherwise substantially in accordance with the Timetable, including without limitation taking each of the following steps:

- (a) **(Explanatory Booklet)** prepare the Explanatory Booklet in accordance with clause 5.3;
- (b) **(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's Report for inclusion in the Explanatory Booklet;
- (c) **(Investigating Accountant)** promptly appoint an investigating accountant (acceptable to M2 and Vocus) **(Investigating Accountant)** to review the financial information included in the Explanatory Booklet and assist with the preparation of the pro forma accounts and provide all assistance and information reasonably requested by the Investigating Accountant in connection with the preparation of the Investigating Accountant's Report for inclusion in the Explanatory Booklet;
- (d) **(approval of draft for ASIC)** as soon as reasonably practicable after the preparation of an advanced draft of the Explanatory Booklet suitable for review by ASIC, procure that a meeting of the M2 Board, or of a committee of the M2 Board appointed for the purpose, 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) (**liaison with ASIC**) as soon as reasonably practicable after the date of this agreement:
 - (i) provide an advanced draft of the Explanatory Booklet, in a form approved in accordance with clauses 5.1(c) and 5.2(h), to ASIC for its review and approval for the purposes of section 411(2) of the Corporations Act; and
 - (ii) liaise with ASIC during the period of its consideration of that draft of the Explanatory Booklet and keep Vocus reasonably informed of any matters raised by ASIC in relation to the Explanatory Booklet and use reasonable endeavours, in consultation with Vocus, to resolve any such matters;
- (f) (**approval of Explanatory Booklet**) as soon as reasonably practicable after the conclusion of the review by ASIC of the Explanatory Booklet, procure that a meeting of the M2 Board, or of a committee of the M2 Board appointed for the purpose, is held to consider approving the Explanatory Booklet for despatch to the M2 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 statements 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 approvals in clauses 5.1(f) and 5.2(i) have been received, an application is heard by the Court for an order under section 411(1) of the Corporations Act directing M2 to convene the Scheme Meeting;
- (i) (**registration of explanatory statement**) if the Court directs M2 to convene the Scheme Meeting, request ASIC to register the explanatory statement included in the Explanatory Booklet in relation to the Scheme in accordance with section 412(6) of the Corporations Act;
- (j) (**convening Scheme Meeting**) take all reasonable steps necessary to comply with the orders of the Court including, as required, despatching the Explanatory Booklet to the M2 Shareholders and convening and holding the Scheme Meeting;
- (k) (**updating Explanatory Booklet**) until the date of the Scheme Meeting, promptly update the Explanatory Booklet with any information that arises after the Explanatory Booklet has been dispatched that is necessary to ensure that the Explanatory Booklet does not contain any material statement that is false or misleading in a material respect (including because of any material omission from that statement);
- (l) (**Court approval application if parties agree that conditions are capable of being satisfied**) if the resolution submitted to the Scheme Meeting is passed by the majorities required under section 411(4)(a)(ii) of the Corporations Act (or, where clause 3.6 applies, the majority required under section 411(4)(a)(ii)(B) of the Corporations Act) and, if necessary, the parties agree on the Business Day immediately following the Scheme Meeting that it can be reasonably expected that all of the Conditions will be satisfied or waived prior to the proposed Second Court Date, apply (and, to the extent necessary, re-apply) to the Court for orders approving the Scheme;
- (m) (**appeal process**) if the Court refuses to make any orders directing M2 to convene the Scheme Meeting or approving the Scheme, M2 and Vocus must:
 - (i) consult with each other in good faith as to whether to appeal the Court's decision; and

- (ii) appeal the Court decision unless the parties agree otherwise or an independent senior counsel opines that, in his or her view, an appeal would have no reasonable prospect of success;
- (n) **(implementation of Scheme)** if the Scheme is approved by the Court:
 - (i) subject to the Listing Rules, promptly lodge with ASIC an office copy of the orders approving the Scheme in accordance with section 411(10) of the Corporations Act;
 - (ii) determine entitlements to the Scheme Consideration as at the Record Date in accordance with the Scheme;
 - (iii) execute proper instruments of transfer of and effect and register the transfer of the Scheme Shares to Vocus 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;
- (o) **(Regulatory notifications)** in relation to the Regulatory Approvals required to be applied for by M2, lodge with any Regulatory Authority within the relevant time periods all documentation and filings required by law to be so lodged by M2 in relation to the Proposed Transaction;
- (p) **(Vocus Information)** during the period until that Vocus Information becomes publicly available, not use that Vocus Information for any purposes other than those expressly contemplated by this agreement or the Scheme without the prior written consent of Vocus;
- (q) **(Documents)** consult with Vocus in relation to the content of the court documents required for the purpose of the Scheme (including originating process, affidavits, submissions and draft minutes of Court orders);
- (r) **(Shareholder support)** promote to its shareholders the merits of the Scheme, in the absence of a superior proposal; and
- (s) **(Compliance with laws)** do everything reasonably within its power to ensure that all transactions contemplated by this agreement are effected in accordance with all applicable laws and regulations.

5.2 Vocus' obligations

Vocus must take all steps reasonably necessary to assist M2 to implement the Scheme as soon as reasonably practicable and otherwise substantially in accordance with the Timetable including, without limitation, taking each of the following steps:

- (a) **(Vocus Information)** prepare and provide to M2, in a form appropriate for inclusion in the Explanatory Booklet, the Vocus Information that is required by all applicable law, the Listing Rules and ASIC Regulatory Guides for inclusion in the Explanatory Booklet and as may be necessary to ensure that Vocus Information contained in the Explanatory Booklet is not, having regard to applicable disclosure requirements, misleading or deceptive in any material respect (whether by omission or otherwise);
- (b) **(Regulatory notifications)** in relation to the Regulatory Approvals required to be applied for by Vocus, lodge with any Regulatory Authority within the relevant time periods all documentation and filings required by law to be so lodged by Vocus in relation to the Proposed Transaction;
- (c) **(ASX quotation)** do everything reasonably necessary to ensure that the New Vocus Shares are approved for official quotation on ASX and that trading in the New Vocus

Shares commences as soon as practicable after the Effective Date, initially on a deferred settlement basis and thereafter on a normal settlement basis;

- (d) (**Independent Expert**) promptly provide all assistance and information reasonably requested by the Independent Expert to enable it to prepare the Independent Expert's Report for inclusion in the Explanatory Booklet;
- (e) (**Investigating Accountant**) promptly provide all assistance and information reasonably requested by the Investigating Accountant to enable it to prepare the Investigating Accountant's Report for inclusion in the Explanatory Booklet;
- (f) (**liaison with ASIC**) provide assistance reasonably requested by M2 to assist M2 to resolve any matter raised by ASIC regarding the Explanatory Booklet or the Scheme during its review of the Explanatory Booklet;
- (g) (**review of Explanatory Booklet**) as soon as reasonably practicable after delivery, review the drafts of the Explanatory Booklet prepared by M2 and provide comments on those drafts in good faith;
- (h) (**approval of draft for ASIC**) as soon as reasonably practicable after the preparation of an advanced draft of the Explanatory Booklet suitable for review by ASIC, procure that a meeting of the Vocus Board, or of a committee of the Vocus Board appointed for the purpose, is held to consider approving the Vocus Information contained in that draft as being in a form appropriate for provision to ASIC for review;
- (i) (**approval of Explanatory Booklet**) as soon as reasonably practicable after the conclusion of the review by ASIC of the Explanatory Booklet, procure that a meeting of the Vocus Board, or of a committee of the Vocus Board appointed for the purpose, is held to consider approving those sections of the Explanatory Booklet that comprise the Vocus Information as being in a form appropriate for despatch to the M2 Shareholders, subject to approval of the Court;
- (j) (**Representation**) procure that, if requested by M2, Vocus is represented by counsel at the Court hearings convened for the purposes of section 411(4)(b) of the Corporations Act;
- (k) (**Deed Poll**) prior to the First Court Date, execute the Deed Poll;
- (l) (**M2 Information**) during the period until that M2 Information becomes publicly available, not use that M2 Information for any purposes other than those expressly contemplated by this agreement or the Scheme without the prior written consent of M2; and
- (m) (**Compliance with laws**) do everything reasonably within its power to ensure that all transactions contemplated by this agreement are effected in accordance with all applicable laws and regulations.

5.3 Explanatory Booklet – preparation principles

- (a) As soon as reasonably practicable after the date of this agreement and otherwise substantially in accordance with the Timetable, M2 must prepare the Explanatory 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,

except that the obligations to do so in respect of the Vocus Information is subject to Vocus complying with its obligations under clauses 5.2(a) and this clause 5.3.

- (b) The Explanatory Booklet will include or be accompanied by:
 - (i) the terms of the Scheme;
 - (ii) the notice convening the 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;
 - (iii) the M2 Information;
 - (iv) the Vocus Information;
 - (v) a copy of this agreement (without the schedules or annexures) or a summary of the terms of this agreement;
 - (vi) a copy of the executed Deed Poll;
 - (vii) a copy of the Independent's Expert Report; and
 - (viii) a copy of the Investigating Accountant's Report.
- (c) M2 must make available to Vocus drafts of the Explanatory Booklet (excluding any draft of the Independent Expert's Report and the Investigating Accountant's Report), consult with Vocus in relation to the content of those drafts (other than the Vocus Information), and consider in good faith, for the purpose of amending those drafts, comments from Vocus on those drafts. Vocus acknowledges and agrees that M2 has ultimate discretion with respect to the preparation, form and content of the Explanatory Booklet, other than as expressly provided in this agreement with respect to the Vocus Information.
- (d) M2 must seek approval from Vocus for the form and context in which the Vocus Information appears in the Explanatory Booklet, which approval Vocus must not unreasonably withhold or delay, and M2 must not lodge the Explanatory Booklet with ASIC until such approval is obtained from Vocus.
- (e) Vocus must provide written consent to M2 in relation to the form and context in which the Vocus Information (and any information solely derived from, or prepared solely in reliance on, the Vocus Information) is used in the Explanatory Booklet, such consent not to be unreasonably withheld or delayed by Vocus;
- (f) M2 must take all reasonable steps to ensure that the Explanatory Booklet (other than the Vocus Information, the Independent Expert's Report and the Investigating Accountant's Report) is not misleading or deceptive in any material respect (whether by omission or otherwise) as at the date it is despatched to M2 Shareholders.
- (g) Vocus must take all reasonable steps to ensure that the Vocus Information is not misleading or deceptive in any material respect (whether by omission or otherwise) as at the date on which the Explanatory Booklet is despatched to M2 Shareholders.
- (h) M2 must provide to Vocus all such further or new information of which M2 becomes aware (or ought reasonably to have become aware after making all reasonable and diligent enquiries) that arises after the Explanatory Booklet has been despatched until the date of the Scheme Meeting where this is or may be necessary to ensure that the Explanatory Booklet continues to comply with the Corporations Act, RG 60 and the Listing Rules or that the M2 Information contained in the Explanatory Booklet is not, having regard to applicable disclosure requirements, misleading or deceptive in any material respect (whether by omission or otherwise).

- (i) Vocus must provide to M2 all such further or new information of which Vocus becomes aware (or ought reasonably to have become aware after making all reasonable and diligent enquiries) that arises after the Explanatory Booklet has been despatched until the date of the Scheme Meeting where this is or may be necessary to ensure that the Vocus Information continues to comply with the Corporations Act, RG 60 and the Listing Rules or that the Vocus Information contained in the Explanatory Booklet is not, having regard to applicable disclosure requirements, misleading or deceptive in any material respect (whether by omission or otherwise).
- (j) M2 and Vocus each agree that the efficient preparation of the Explanatory Booklet and the implementation of the Scheme are in the interests of M2 Shareholders and Vocus and that they will use all reasonable endeavours and utilise 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.
- (k) Vocus and M2 are entitled to separate representation at all Court proceedings affecting the Proposed Transaction. Nothing in this document provides one party with any right or power to give undertakings to the Court on behalf of the other party without that party's written consent.
- (l) M2 must undertake appropriate verification processes in relation to the M2 Information contained in the Explanatory Booklet, and Vocus must undertake appropriate verification processes in relation to the Vocus Information contained in the Explanatory Booklet.

5.4 Responsibility statement

The Explanatory Booklet must contain a responsibility statement to the effect that:

- (a) Vocus is responsible for the Vocus Information (other than any information provided by M2 to Vocus or obtained from M2 public filings on the ASX regarding the M2 Group contained in, or used in the preparation of, the information regarding the merged Vocus-M2 entity following implementation of the Scheme) contained in the Explanatory Booklet; and
- (b) M2 is responsible for the M2 Information contained in the Explanatory Booklet and is also responsible for the information contained in the Explanatory Booklet provided by M2 to Vocus or obtained from M2 public filings on the ASX regarding the M2 Group contained in, or used in the preparation of, the information regarding the merged Vocus-M2 entity following implementation of the Scheme.

5.5 M2 Board recommendation

- (a) Subject to clause 5.5(b), M2 must use its best endeavours to procure that the Explanatory Booklet and all public announcements by M2 in relation to the Proposed Transaction must include statements that:
 - (i) the M2 Board unanimously recommends that M2 Shareholders vote in favour of the Scheme; and
 - (ii) each director of M2 intends to vote all M2 Shares held or controlled by him or her in favour of the Scheme,qualified only by the words to the effect of:
 - (iii) 'in the absence of a superior proposal'; and

- (iv) other than in respect of the Explanatory Booklet or any document issued after the issue of the Explanatory Booklet, 'subject to the Independent Expert opining that the Scheme is in the best interests of M2 Shareholders'.
- (b) M2 must use its best endeavours to ensure that the directors of M2 only make a public statement or take any action that qualifies their support of the Scheme or contradicts, or subsequently change, withdraw or modify the recommendation referred to in clause 5.5(a), in either of the following circumstances:
 - (i) the Independent Expert opines either prior to the despatch of the Explanatory Booklet or prior to the Scheme Meeting to the effect that the Scheme is not in the best interests of M2 Shareholders (except where the Independent Expert opines that the Scheme is not in the best interest of M2 Shareholders as a result of a M2 Competing Proposal); or
 - (ii) a majority of the directors of M2 determine, after Vocus' rights under clause 14.6 have been exhausted, that a M2 Competing Proposal constitutes a M2 Superior Proposal, and the M2 Board has determined in good faith and acting reasonably, after having consulted with its financial and legal advisers, that failure to take this action would or would be likely to constitute a breach of the directors of M2's fiduciary or statutory obligations.
- (c) Subject to clause 5.5(b), M2 represents and warrants to Vocus that it has been advised by each director of M2 in office at the date of this agreement that he or she will act in accordance with this clause 5.5.

6. Conduct of business before the Implementation Date

6.1 Conduct of business

- (a) Subject to clause 6.2(a), from the date of this agreement up to and including the Implementation Date, each party must conduct and must cause each of its Subsidiaries to conduct their businesses in the ordinary and usual course of business and:
 - (i) operate those businesses consistent with past practice, in substantially the same manner as previously conducted;
 - (ii) use reasonable endeavours to preserve their relationships with customers, suppliers, landlords, licensors, licensees and others having material business dealings with them, and to retain the services of all key employees;
 - (iii) use reasonable endeavours to ensure that all assets are maintained in the normal course consistent with past practice;
 - (iv) use reasonable endeavours to comply in all material respects with all material contracts to which a member of the M2 Group or the Vocus Group (as the case may be) is a party, and with laws, authorisations and licenses applicable to each member of the M2 Group or the Vocus Group (as the case may be); and
 - (v) not take or fail to take any action that constitutes a M2 Prescribed Occurrence or a Vocus Prescribed Occurrence (as the case may be) or that could reasonably be expected to result in a M2 Prescribed Occurrence or a Vocus Prescribed Occurrence (as the case may be).

- (b) Without limiting clause 6.1(a) but subject to clause 6.2(a), each party must not, and must procure that its Subsidiaries do not, from the date of this agreement up to and including the Implementation Date, do any of the following (or agree or offer to do any of the following):
- (i) incur any additional financial indebtedness (except for draw-downs on existing banking facilities or utilisation of existing securitisation programs) or guarantee or indemnify the obligations of any person other than a member of the M2 Group or the Vocus Group (as the case may be), other than in the usual and ordinary course of business and consistent with past practice or in connection with the Refinancing;
 - (ii) (except as required by law or as provided in an existing contract in place as at the date of this agreement) make any material change to the terms of employment of (including increasing the remuneration or compensation of), or grant or pay any bonus, retention, severance or termination payment to, any director, executive or a M2 Senior Manager or a Vocus Senior Manager (as the case may be);
 - (iii) (except as pursuant to contractual arrangements in effect on the date of this agreement) enter into any enterprise bargaining agreement or similar collective employment agreement;
 - (iv) in respect of any single transaction or series of related or similar transactions, acquire or dispose of any interest in a business, real property, entity or undertaking, the value of which exceeds \$5 million, individually or when aggregated with all such businesses, real property, entities or undertakings the subject of the transaction or series of related or similar transactions;
 - (v) incur or enter into commitments involving capital expenditure of more than \$5 million whether in one transaction or a series of related transactions;
 - (vi) enter into, vary or terminate any contract, joint venture, partnership or commitment for a duration of over two years involving total expenditure greater than \$5 million per annum, individually or when aggregated with all such contracts, joint ventures, partnerships or commitments;
 - (vii) enter into, vary or terminate any contract, joint venture, partnership or commitment (or any series of related contracts, joint ventures, partnerships or commitments):
 - (A) involving total expenditure greater than \$5 million, individually or when aggregated with all such related contracts, joint ventures, partnerships or commitments;
 - (B) waiving any third party default which has a financial impact upon the M2 Group or the Vocus Group (as the case may be), or accepting as a compromise anything less than the full compensation due to the M2 Group or the Vocus Group (as the case may be), in each case where the applicable expenditure or impact is or will be in excess of \$2 million in any financial year;
 - (C) restraining any material member of the M2 Group or the Vocus Group (as the case may be) from competing with any person or conducting activities in any market; or

- (D) with any related entity of any member of the M2 Group or the Vocus Group (as the case may be) (other than a member of the M2 Group or the Vocus Group (as the case may be));
- (viii) enter into any new financing arrangement, agreement or otherwise provide financial accommodation other than with members of the M2 Group or the Vocus Group (as the case may be) (irrespective of what form that accommodation takes), or amend the terms of any existing financing arrangement, agreement or instrument, in each case other than in connection with the Refinancing;
- (ix) enter into any agreement, arrangement or transaction with respect to derivative instruments (including, but not limited to, swaps, futures contracts, forward commitments, commodity derivatives or options) or similar instruments, except foreign currency hedges or interest rate hedges (including basis swaps on interest rates, such that the net period for the floating interest on the swaps is the same period as the net floating interest period on the relevant loan) or electricity or gas supply related hedges made in the ordinary course of business consistent with past practice and in accordance with existing policy as at the date of this agreement;
- (x) give or agree to give any financial benefit to one of its related parties;
- (xi) pay any fee to any adviser where such fee is contingent on the Proposed Transaction (other than as Fairly Disclosed in writing to the other party before the date of this agreement);
- (xii) issue, or agree to issue, or grant an option to subscribe for, debentures (as defined in section 9 of the Corporations Act) other than under an existing financing arrangement which has been Fairly Disclosed in the M2 Disclosure Letter or the Vocus Disclosure Letter (as the case may be);
- (xiii) alter in any material respect any accounting policy of any member of the M2 Group or the Vocus Group (as the case may be) other than any change required by the Accounting Standards; or
- (xiv) amend in a material respect or terminate any existing shareholders agreement, joint venture agreement or other similar investor agreements or arrangements, or enter into any shareholders agreement, joint venture agreement or other similar investor agreement or arrangement.

6.2 Permitted activities

- (a) The obligations of a party under clause 6.1 do not apply in respect of any matter:
 - (i) undertaken by a member of the M2 Group or the Vocus Group (as the case may be) in conducting its businesses in the usual and ordinary course and consistent with past practice;
 - (ii) required to be done or procured by a party pursuant to, or which is otherwise contemplated by, this agreement or the Scheme;
 - (iii) subject to clause 6.2(b), Fairly Disclosed in the M2 Disclosure Letter or the Vocus Disclosure Letter (as the case may be) as being actions that the M2 Group or the Vocus Group (as the case may be) may carry out between the date of this agreement and the Implementation Date; or
 - (iv) the undertaking of which the other party has approved in writing (which approval must not be unreasonably withheld or delayed).

- (b) Each party must, in respect of any matter referred to in clause 6.2(a)(iii) above that it proposes to undertake:
 - (i) if the M2 Disclosure Letter or the Vocus Disclosure Letter (as the case may be) permits the carrying out of the action only in accordance with certain conditions, ensure those conditions are met;
 - (ii) not undertake that matter (or commit to undertake that matter) without first consulting with the other party; and
 - (iii) promptly provide the other party with any information regarding the matter reasonably requested by the other party.

For the avoidance of doubt, clause 6.2(b) does not operate to provide the other party with a veto right in respect of any matter referred to in clause 6.2(a)(iii).

6.3 Access

- (a) Subject to clause 6.3(c), prior to the Effective Date, each party must:
 - (i) keep the other party fully informed of all material developments relating to the M2 Group or the Vocus Group (as the case may be) and provide to the other party monthly management, financial and operational reports provided to its board; and
 - (ii) share such information as is reasonably required to implement the Proposed Transaction.
- (b) On and from the Effective Date:
 - (i) each party must provide the other party (and its Authorised Persons) with reasonable access to its records and reasonable co-operation for the purpose of:
 - (A) implementation of the Scheme;
 - (B) each party obtaining an understanding of the operations of the other party's business in order to allow and facilitate the smooth implementation of the plans for those businesses following implementation of the Scheme; and
 - (C) any other purpose which is agreed between the parties; and
 - (ii) each party must (and must cause each of its Subsidiaries to) promptly provide the other party with any information reasonably requested by the other party (including, without limitation, information from its share registry),

subject to the proper performance by that party's directors and officers, and the directors and officers of its Subsidiaries, of their fiduciary duties.
- (c) Nothing in this clause 6.3 obliges a party to provide to the other party or its Authorised Persons:
 - (i) any information:
 - (A) concerning its directors' consideration of the Scheme or any M2 Competing Proposal or Vocus Competing Proposal (as the case may be);
 - (B) which would breach an obligation of confidentiality to any person or any applicable privacy laws;
 - (C) which it has redacted or not disclosed under clause 3.3(c) on the basis that it is or contains Sensitive Confidential Information,

in which case it will provide the document or disclose the information to the recipient with any Sensitive Confidential Information redacted or excluded; or

- (ii) any information that is different or in addition to the information it provides to the M2 Board or the Vocus Board (as the case may be) and the M2 Senior Managers or the Vocus Senior Managers (as the case may be) in the usual and ordinary course consistent with past practice.

6.4 Refinancing

M2 and Vocus will use their respective reasonable endeavours to procure that, as soon as practicable after the date of this agreement and before 8.00am on the Second Court Date:

- (a) the lenders under the existing finance documents of each member of the M2 Group and the Vocus Group have:
 - (i) given any necessary consent to the change of control of M2 as a result of the Proposed Transaction and to any representation and warranty, undertaking, review event, event of default or other provision under the existing finance documents of each member of the M2 Group and/or the Vocus Group that will not be complied with as a result of the Proposed Transaction; and
 - (ii) waived all relevant termination, amendment, acceleration or enforcement rights of that lender that may be triggered by the Proposed Transaction, either unconditionally or after compliance with terms which Vocus and M2 reasonably regard as acceptable and practical; or
- (b) M2 and/or Vocus has entered into one or more replacement financing facilities that are acceptable to each of M2 and Vocus, acting reasonably, and each condition precedent to any such replacement financing facilities (other than conditions precedent of a procedural nature that are within the sole control of M2 or Vocus, as applicable, or a condition precedent to the effect that the Scheme becomes Effective) is, and remains, satisfied, or has been waived by the relevant lenders.

7. Board and director matters

7.1 Vocus Board composition

Vocus represents and warrants to M2 that it has been advised by each Vocus director that he or she will, and Vocus must procure that the Vocus Board will, on the Implementation Date, take all actions necessary to ensure that:

- (a) four nominees of M2 are lawfully appointed as directors of Vocus (such nominees being directors of M2 as at the date of this agreement or persons otherwise acceptable to Vocus, acting reasonably), subject to those persons having provided a consent to act as directors of Vocus; and
- (b) four existing directors of Vocus, nominated by Vocus, resign from their office as a Vocus director by providing to the Vocus Board their resignation in writing (such resignation to include a statement to the effect that the outgoing director has no claim outstanding against any member of the Vocus Group),

such that, as at the Implementation Date, the Vocus Board comprises four nominees of Vocus and four nominees of M2, but so that a properly constituted board of directors exists at all relevant times.

7.2 Chairman and Senior Executives

The parties agree that on the Implementation Date:

- (a) the Chairman of Vocus will be David Spence;
- (b) the Deputy Chairman of Vocus will be Craig Farrow;
- (c) the Chief Executive Officer of Vocus will be Geoff Horth; and
- (d) the Executive Directors of Vocus will be James Spenceley and Vaughan Bowen.

7.3 Deeds of insurance and indemnity

- (a) Subject to the Scheme becoming Effective and implementation of the Proposed Transaction, Vocus undertakes in favour of the M2 Group and all of their respective directors, officers and employees that it will use its best endeavours to procure that:
 - (i) for a period of 7 years after the Implementation Date, the constitutions of M2 and each other member of the M2 Group continue to contain such rules as are contained in those constitutions at the date of this agreement that provide for each company to indemnify each of its directors and officers against any liability incurred by that person in his or her capacity as a director or officer of the company to any person other than a member of the M2 Group; and
 - (ii) M2 and each member of the M2 Group complies with any deeds of indemnity, access and insurance made by them in favour of their respective directors and officers from time to time and, without limiting the foregoing, not take any action which would prejudice or adversely affect any directors' and officers' runoff insurance cover taken out prior to the Implementation Date.
- (b) The undertakings contained in this clause 7.2 are subject to any Corporations Act restriction, or any restriction in the law of a jurisdiction in which an entity is incorporated, and will be read down accordingly.
- (c) M2 receives and holds the benefit of this clause 7.2 to the extent it relates to the other members of the M2 Group and each of their respective directors, officers and employees, as trustee for them.

8. Representations and warranties

8.1 Vocus representations

- (a) Vocus represents and warrants to M2 (on its own behalf and separately as trustee for each of its Related Bodies Corporate and Authorised Persons) each of the matters set out in clause 8.1(b) as at the date of this agreement and on each subsequent day until 8.00am on the Second Court Date (except that where any statement is expressed to be made only at a particular date it is given only at that date).
- (b) Other than as Fairly Disclosed in the Vocus Due Diligence Material or the Vocus Disclosure Letter, Vocus represents and warrants that:
 - (i) Vocus is a validly existing corporation registered under the laws of its place of incorporation;
 - (ii) the execution and delivery of this agreement by Vocus has been properly authorised by all necessary corporate action and Vocus has full corporate power and lawful authority to execute and deliver this agreement and to perform or cause to be performed its obligations under this agreement;

- (iii) this agreement constitutes legal, valid and binding obligations on Vocus and the execution of this agreement of itself does not result in a breach of or default under any agreement, deed or any writ, order or injunction, rule or regulation to which Vocus or any of its Subsidiaries is a party or to which they are bound, where such breach or default would have a material adverse effect on the Vocus Group;
- (iv) the Vocus Information provided to M2 in accordance with clause 5.2(a) for inclusion in the Explanatory Booklet will:
 - (A) be prepared and provided in good faith;
 - (B) comply in all material respects with the requirements of the Corporations Act, the Listing Rules and RG 60; and
 - (C) be provided on the understanding that M2 and its Related Bodies Corporate and Authorised Persons will rely on that information for the purposes of preparing the Explanatory Booklet and proposing and implementing the Scheme in accordance with the requirements of the Corporations Act;
- (v) as at the date the Explanatory Booklet is despatched to M2 Shareholders, the Vocus Information, in the form and context in which that information appears in the version of the Explanatory Booklet registered by ASIC under section 412(6) of the Corporations Act will not be misleading or deceptive in any material respect (whether by omission or otherwise);
- (vi) as at the date of this agreement, Vocus is not in breach of its continuous disclosure obligations under the Listing Rules and is not relying on the exclusion in Listing Rule 3.1A to withhold any information from disclosure (other than in relation to the Proposed Transaction or as disclosed in writing to M2 on or before the date of this agreement);
- (vii) as at the date of this agreement, the total issued capital of Vocus is:
 - (A) 231,415,591 Vocus Shares;
 - (B) 218,001 Vocus Options; and
 - (C) 289,533 Vocus Performance Rights,
 and there are no other Vocus options, performance rights, shares, convertible notes or other securities (or offers or agreements to issue any of the foregoing).
- (viii) as at the date of this agreement, there are no Excluded Shareholders;
- (ix) Vocus' financial statements as disclosed to ASX have been prepared in accordance with the Accounting Standards on a basis consistent with past practice financial statements and, so far as Vocus is aware, there has not been any event, change, effect or development which would require Vocus to restate its financial statements as disclosed to ASX;
- (x) the Vocus Due Diligence Material and each disclosure in the Vocus Disclosure Letter have been disclosed in good faith and, so far as the Vocus Board and the senior management of Vocus are aware after due enquiry, Vocus has not knowingly or recklessly:
 - (A) omitted anything from such information such as to make any part of that information materially false or misleading; or
 - (B) included anything materially false or misleading in such information,

but only to the extent that such information has been requested in writing by M2 or its Authorised Persons;

- (xi) as at the date of this agreement, and so far as the Vocus Board and the senior management of any member of the Vocus Group are aware after due and diligent inquiry, there are no material agreements to which any member of the Vocus Group is a party which contain any provision that may be triggered by the implementation of the Proposed Transaction and which would have a material adverse effect on the Proposed Transaction or might otherwise materially adversely affect the business of the Vocus Group;
- (xii) other than expressly contemplated in this agreement, no Regulatory Approvals are required to be obtained by Vocus in order for it to execute and perform the Transaction Documents to which it is a party;
- (xiii) no shareholder approval of Vocus is required to complete the Proposed Transaction;
- (xiv) all information provided by or on behalf of Vocus to the Independent Expert or the Investigating Accountant to enable the Independent Expert's Report and the Investigating Accountant's Report, respectively, to be included in the Explanatory Booklet to be prepared and completed will be provided in good faith and on the understanding that the Independent Expert and the Investigating Accountant will rely upon that information for the purposes of preparing the Independent Expert's Report and the Investigating Accountant's Report, respectively for inclusion in the Explanatory Booklet;
- (xv) Vocus will, as a continuing obligation, provide to M2 all such further or new information which may arise after the Explanatory Booklet has been despatched until the date of the Scheme Meeting which is necessary to ensure that the Vocus Information, in the form and context in which that information appears in the version of the Explanatory Booklet registered by ASIC under section 412(6) of the Corporations Act, is not misleading or deceptive in any material respect (whether by omission or otherwise);
- (xvi) as at the date of this agreement, there is no judgment, injunction, order or decree binding on any member of the Vocus Group that has or would be likely to have the effect of prohibiting, materially restricting or materially impairing after the Effective Date any business of Vocus Group as presently being conducted;
- (xvii) as at the date of this agreement, no member of the Vocus Group, nor the assets, properties or business of any member of the Vocus Group, is subject to any judgment, order, writ, injunction or decree of any court, Regulatory Authority or arbitration tribunal and so far as Vocus is aware:
 - (A) there are no material actions, suits, arbitrations, legal or administrative proceedings pending against any member of the Vocus Group; and
 - (B) no member of the Vocus Group is the subject of any pending investigation;
- (xviii) so far as the Vocus Board and the senior management of any member of the Vocus Group are aware after due and diligent inquiry, there is no material breach by Vocus or any of its Authorised Persons of any Australian or foreign law or regulation applicable to them or order of any Australian or foreign Regulatory Authority having jurisdiction over them, which breach, alone or together with any other breaches of law, has or could reasonably be expected to have the effect of causing:

- (A) any material contract to be terminable or terminated;
 - (B) Vocus or any of its Authorised Persons to be restricted in doing business in any jurisdiction or with any customer or supplier, or being subject to criminal liability; or
 - (C) any other material adverse effect on the Vocus Group (including in relation to the conduct of the business of the Vocus Group, the value of the Vocus Group, the reputation of the Vocus Group, or which has resulted in or is reasonably likely to result in any criminal liability of any member of the Vocus Group involving proof of intention or any criminal penalty exceeding \$5 million);
- (xix) each member of the Vocus Group has all material licenses and permits necessary for it to conduct its business;
 - (xx) as at the date of this agreement, neither ASIC nor ASX (as applicable) has made a determination against any member of the Vocus Group for any contravention of the requirements of the Corporations Act or the Listing Rules or any rules, regulations or policy statements under the Corporations Act or the Listing Rules; and
 - (xxi) there is no material Security Interest over all or any of its or its Subsidiaries' present or future assets or revenues of its business or its Subsidiaries' businesses.

8.2 Vocus' indemnity

Vocus agrees with M2 to indemnify and keep indemnified M2 from and against all claims, actions, proceedings, liabilities, obligations, damages, loss, harm, charges, costs, expenses, duties and other outgoings of whatever nature and however arising which M2 may suffer or incur by reason of any breach of any of the representations and warranties in clauses 8.1(a) or 8.1(b).

8.3 M2 representations

- (a) M2 represents and warrants to Vocus (on its own behalf and separately as trustee for each of its Related Bodies Corporate and Authorised Persons) each of the matters set out in clause 8.3(b) as at the date of this agreement and on each subsequent day until 8.00am on the Second Court Date (except that where any statement is expressed to be made only at a particular date it is given only at that date).
- (b) Other than as Fairly Disclosed in the M2 Due Diligence Material or the M2 Disclosure Letter, M2 represents and warrants that:
 - (i) M2 is a validly existing corporation registered under the laws of its place of incorporation;
 - (ii) the execution and delivery of this agreement by M2 has been properly authorised by all necessary corporate action and M2 has full corporate power and lawful authority to execute and deliver this agreement and to perform or cause to be performed its obligations under this agreement;
 - (iii) this agreement constitutes legal, valid and binding obligations on M2 and the execution of this agreement of itself does not result in a breach of or default under any agreement or deed or any writ, order or injunction, rule or regulation to which M2 or any of its Subsidiaries is a party or to which they are bound, where such breach or default would have a material adverse effect on the M2 Group;

- (iv) the M2 Information contained in the Explanatory Booklet:
 - (A) will be prepared and included in the Explanatory Booklet in good faith; and
 - (B) will comply in all material respects with the requirements of the Corporations Act, Listing Rules and RG 60;
- (v) as at the date the Explanatory Booklet is despatched to M2 Shareholders, the Explanatory Booklet registered by ASIC under section 412(6) of the Corporations Act (excluding the Vocus Information, the Independent Expert's Report and the Investigating Accountant's Report) will not be misleading or deceptive in any material respect (whether by omission or otherwise);
- (vi) as at the date of this agreement, M2 is not in breach of its continuous disclosure obligations under the Listing Rules and is not relying on the exclusion in Listing Rule 3.1A to withhold any information from disclosure (other than in relation to the Proposed Transaction or as disclosed in writing to Vocus on or before the date of this agreement);
- (vii) as at the date of this agreement, the total issued capital of M2 is:
 - (A) 183,381,095 M2 Shares;
 - (B) 633,334 M2 Options; and
 - (C) 427,302 M2 Performance Rights,and there are no other M2 options, performance rights, shares, convertible notes or other securities (or offers or agreements to issue any of the foregoing);
- (viii) as at the date of this agreement, M2 and its Related Bodies Corporate do not hold any Vocus Shares;
- (ix) M2's financial statements as disclosed to ASX have been prepared in accordance with the Accounting Standards on a basis consistent with past practice financial statements and, so far as M2 is aware, there has not been any event, change, effect or development which would require M2 to restate its financial statements as disclosed to ASX;
- (x) the M2 Due Diligence Material and each disclosure in the M2 Disclosure Letter have been disclosed in good faith and, so far as the M2 Board and the senior management of M2 are aware after due enquiry, M2 has not knowingly or recklessly:
 - (A) omitted anything from such information such as to make any part of that information materially false or misleading; or
 - (B) included anything materially false or misleading in such information, but only to the extent that such information has been requested in writing by Vocus or its Authorised Persons;
- (xi) as at the date of this agreement, and so far as the M2 Board and the senior management of any member of the M2 Group are aware after due and diligent inquiry, there are no material agreements to which any member of the M2 Group is a party which contain any provision that may be triggered by the implementation of the Proposed Transaction and which would have a material adverse effect on the Proposed Transaction or might otherwise materially adversely affect the business of the M2 Group;

- (xii) other than expressly contemplated in this agreement, no Regulatory Approvals are required to be obtained by M2 in order for it to execute and perform the Transaction Documents to which it is a party;
- (xiii) no shareholder approval of M2 is required to complete the Proposed Transaction other than the approval referred to in clause 3.1(i);
- (xiv) all information provided by or on behalf of M2 to the Independent Expert or the Investigating Accountant to enable the Independent Expert's Report and the Investigating Accountant's Report, respectively to be included in the Explanatory Booklet to be prepared and completed will be provided in good faith and on the understanding that the Independent Expert and the Investigating Accountant will rely upon that information for the purposes of preparing the Independent Expert's Report and the Investigating Accountant's Report, respectively for inclusion in the Explanatory Booklet;
- (xv) as at the date of this agreement, there is no judgment, injunction, order or decree binding on any member of the M2 Group that has or would be likely to have the effect of prohibiting, materially restricting or materially impairing after the Effective Date any business of M2 Group as presently being conducted;
- (xvi) as at the date of this agreement, no member of the M2 Group, nor the assets, properties or business of any member of the M2 Group, is subject to any judgment, order, writ, injunction or decree of any court, Regulatory Authority or arbitration tribunal and so far as M2 is aware:
 - (A) there are no material actions, suits, arbitrations, legal or administrative proceedings pending against any member of the M2 Group; and
 - (B) no member of the M2 Group is the subject of any pending investigation;
- (xvii) so far as the M2 Board and the senior management of any member of the M2 Group are aware after due and diligent inquiry, there is no material breach by M2 or any of its Authorised Persons of any Australian or foreign law or regulation applicable to them or order of any Australian or foreign Regulatory Authority having jurisdiction over them, which breach, alone or together with any other breaches of law, has or could reasonably be expected to have the effect of causing:
 - (A) any material contract to be terminable or terminated;
 - (B) M2 or any of its Authorised Persons to be restricted in doing business in any jurisdiction or with any customer or supplier, or being subject to criminal liability; or
 - (C) any other material adverse effect on the M2 Group (including in relation to the conduct of the business of the M2 Group, the value of the M2 Group, the reputation of the M2 Group, or which has resulted in or is reasonably likely to result in any criminal liability of any member of the M2 Group involving proof of intention or any criminal penalty exceeding \$5 million);
- (xviii) each member of the M2 Group has all material licenses and permits necessary for it to conduct its business;
- (xix) as at the date of this agreement, neither ASIC nor ASX (as applicable) has made a determination against any member of the M2 Group for any contravention of the requirements of the Corporations Act or the Listing Rules or any rules, regulations or policy statements under the Corporations Act or the Listing Rules; and

- (xx) there is no material Security Interest over all or any of its or its Subsidiaries' present or future assets or revenues of its business or its Subsidiaries' businesses.

8.4 M2's indemnity

M2 agrees with Vocus to indemnify and keep indemnified Vocus from and against all claims, actions, proceedings, liabilities, obligations, damages, loss, harm, charges, costs, expenses, duties and other outgoings of whatever nature and however arising which Vocus may suffer or incur by reason of any breach of any of the representations and warranties in clauses 8.3(a) or 8.3(b).

8.5 Notifications

Each party will promptly advise the other in writing if it becomes aware of any fact, matter or circumstance which constitutes or may constitute a breach of any of the representations or warranties given by it under this clause 8.

8.6 Survival of representations

Each representation and warranty in clauses 8.1 and 8.3:

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

8.7 Survival of indemnities

Each indemnity in this agreement (including those in clauses 8.2 and 8.4) will:

- (a) be severable;
- (b) be a continuing obligation;
- (c) constitute a separate and independent obligation of the party giving the indemnity from any other obligations of that party under this agreement; and
- (d) survive the termination of this agreement.

8.8 Liability of directors and Authorised Persons

- (a) To the fullest extent permitted by law, each party releases its rights against, and will not make any claim against, and covenants not to sue any past or present director or Authorised Person of any other party in relation to information provided to it or in relation to its execution or delivery of this agreement to the extent that the past or present director or Authorised Person has acted in good faith.
- (b) Each party holds the releases in clause 8.8(a) in respect of its directors and Authorised Persons as trustee for its directors and Authorised Persons.

9. Confidentiality and Public Announcement

9.1 Confidentiality

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

9.2 Public announcements on execution

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

9.3 Further public announcements

Except if a M2 Competing Proposal or a Vocus Competing Proposal exists, any further public announcements by M2 or Vocus in relation to, or in connection with, the Proposed Transaction or any other transaction the subject of this agreement or the Scheme 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 Proposed Transaction or any other transaction the subject of this agreement or the Scheme.

10. Termination

10.1 Termination by notice

- (a) Vocus or M2 may, by notice in writing to the other, terminate this agreement at any time prior to 8.00am on the Second Court Date:
 - (i) if the other is in material breach of any of its material obligations under this agreement and:
 - (A) the other party has failed to remedy that breach within five Business Days (or 8.00am on 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
 - (B) the breach cannot be remedied by subsequent action on the part of that other party before 8.00am on the Second Court Date; or
 - (ii) in accordance with clause 3.7.
- (b) M2 may, by notice in writing to Vocus, terminate this agreement at any time prior to 8.00am on the Second Court Date if, at any time before then:
 - (i) a majority of the directors of M2 withdraw or adversely modify their recommendation of the Proposed Transaction, or publicly recommend a M2 Competing Proposal, in accordance with clause 5.5(b);
 - (ii) there is a Vocus Competing Proposal pursuant to which a third party actually acquires a relevant interest in at least 50% of the issued shares of Vocus under a transaction that is or has become unconditional or otherwise acquires Control of Vocus or the Vocus Group;
 - (iii) there is a Vocus Competing Proposal which, at the time of termination:
 - (A) is Not Open to M2 Shareholders (irrespective of whether or not it has been recommended by the Vocus directors); or
 - (B) is recommended by a majority of the Vocus directors; or
 - (iv) a majority of the directors of Vocus recommend a Mutually Exclusive Competing Proposal; or
 - (v) Vocus breaches a Vocus Warranty, and:
 - (A) Vocus fails to remedy that breach within five Business Days of receipt by it of a notice in writing from M2 setting out details of the relevant circumstance and requesting Vocus to remedy the breach or the breach cannot be remedied to the reasonable satisfaction of M2 by subsequent action on the part of Vocus before 8.00am on the Second Court Date; and

- (B) the breach was of a kind that, had it been disclosed to M2 prior to its entry into this agreement, could reasonably be expected to have resulted in M2 either not entering into this agreement or entering into it on materially different terms.
- (c) Vocus may, by notice in writing to M2, terminate this agreement at any time prior to 8.00am on the Second Court Date if, at any time before then:
 - (i) a majority of the directors of M2:
 - (A) fail to recommend the Scheme in accordance with clause 5.5(a); or
 - (B) withdraw or adversely modify their recommendation of the Scheme or make any public statement that is inconsistent with a recommendation of the Scheme in accordance with clause 5.5(a);
 - (ii) a majority of the directors of Vocus determine, after M2's rights under clause 14.6 have been exhausted, that a Vocus Competing Proposal constitutes a Vocus Superior Proposal, and the Vocus Board has determined in good faith and acting reasonably, after having consulted with its financial and legal advisers, that failure to take this action would or would be likely to constitute a breach of the directors of Vocus' fiduciary or statutory obligations;
 - (iii) there is a M2 Competing Proposal pursuant to which a third party actually acquires a relevant interest (under a transaction that is or has become unconditional) in more than that percentage of the issued shares of M2 that would result in the person making the M2 Competing Proposal having a relevant interest in more than 20% of the issued shares of Vocus based on the Merger Ratio and assuming that the Scheme becomes Effective; or
 - (iv) M2 breaches a M2 Warranty, and:
 - (A) M2 fails to remedy that breach within five Business Days of receipt by it of a notice in writing from Vocus setting out details of the relevant circumstance and requesting M2 to remedy the breach or the breach cannot be remedied to the reasonable satisfaction of Vocus by subsequent action on the part of M2 before 8.00am on the Second Court Date; and
 - (B) the breach was of a kind that, had it been disclosed to Vocus prior to its entry into this agreement, could reasonably be expected to have resulted in Vocus either not entering into this agreement or entering into it on materially different terms.

10.2 Effect of termination

- (a) In the event of termination of this agreement under clause 3.7 or 10.1, this agreement will become void and have no effect, except that the provisions of this clause 10 and clauses 1, 8.6, 8.7, 8.8, 9, 11, 12, 13, 17 and 18.3 to 18.18 (inclusive) survive termination.
- (b) Termination of this agreement does not affect any accrued rights of a party in respect of a breach of this agreement prior to termination.

10.3 Survival of obligations

The rights and obligations of the parties under the Confidentiality Agreement survive termination of this agreement.

10.4 Disclosure on termination of agreement

The parties agree that, if this agreement is terminated under this clause 10, any party may disclose:

- (a) the fact that this agreement has been terminated, where such disclosure is required by the relevant listing rules or is in the reasonable opinion of that party required to ensure that the market in its securities is properly informed;
- (b) the fact that this agreement has been terminated to ASIC and the Court; and
- (c) information that is required to be disclosed as a matter of law or in any proceedings.

11. M2 Break Fee

11.1 Background

- (a) M2 acknowledges that, if the parties enter into this agreement and the Scheme is subsequently not implemented, Vocus will incur significant costs including those described in clause 11.2.
- (b) In the circumstances referred to in clause 11.1(a), Vocus has requested that provision be made for the payments outlined in clause 11.3, without which Vocus would not have entered into this agreement.
- (c) The M2 Board believes that the Scheme will provide benefit to M2 and M2 Shareholders and that it is appropriate for M2 to agree to the payments referred to in this clause 11 in order to secure Vocus' participation in the Proposed Transaction.

11.2 Costs incurred by Vocus

- (a) The fee payable under clause 11.3 has been calculated to reimburse Vocus for the following:
 - (i) fees for legal and financial advice in planning and implementing the Proposed Transaction;
 - (ii) reasonable opportunity costs incurred in engaging in the Proposed Transaction or in not engaging in other alternative acquisitions or strategic initiatives;
 - (iii) costs of management and directors' time in planning and implementing the Proposed Transaction;
 - (iv) out of pocket expenses incurred in planning and implementing the Proposed Transaction;
 - (v) costs associated with the financing arrangements in respect of the Proposed Transaction; and
 - (vi) any damage to the Vocus' reputation associated with a failed transaction and the implications of those damages if Vocus seeks to execute alternative acquisitions in the future,in each case, incurred by Vocus directly or indirectly as a result of having entered into this agreement and pursuing the Proposed Transaction.
- (b) The parties acknowledge that:
 - (i) the amount of fees, costs and losses referred to in this clause 11.2 is inherently unascertainable and that, even after termination of this agreement, the costs will not be able to be accurately ascertained; and

- (ii) the amount of the costs payable under clause 11.3 is a genuine and reasonable pre-estimate of those fees, costs and losses (it being acknowledged by the parties that the costs would most likely be in excess of this amount).

11.3 Payment by M2 to Vocus

Subject to clauses 11.4 and 11.6, M2 agrees to pay to Vocus \$15 million (exclusive of GST) (**M2 Break Fee**) if:

- (a) (**M2 Superior Proposal**) a M2 Superior Proposal is publicly announced prior to the End Date and within twelve months from the date of the public announcement of such M2 Superior Proposal the proponent of that M2 Superior Proposal:
 - (i) completes, implements or consummates that M2 Superior Proposal; or
 - (ii) without limiting clause 11.3(a)(i), acquires a relevant interest in at least 50% of the M2 Shares under a transaction that is or has become unconditional or otherwise acquires Control of M2 or the M2 Group;
- (b) (**M2 Competing Proposal**) a M2 Competing Proposal is publicly announced prior to the End Date and within twelve months from the date of the public announcement of such M2 Competing Proposal the proponent of that M2 Competing Proposal:
 - (i) completes, implements or consummates that M2 Competing Proposal; or
 - (ii) without limiting clause 11.3(b)(i), acquires a relevant interest in at least 50% of the M2 Shares under a transaction that is or has become unconditional or otherwise acquires Control of M2 of the M2 Group;
- (c) (**Change of recommendation**) at any time prior to the Second Court Date, a majority of the directors of M2 at that point in time:
 - (i) withdraws or adversely modifies or qualifies their recommendation of the Proposed Transaction or recommends or supports a M2 Competing Proposal;
 - (ii) does not recommend in the Explanatory Booklet that M2 Shareholders approve the Scheme; or
 - (iii) makes any public statement to the effect that the Scheme is not, or is no longer, recommended,other than as a result of:
 - (iv) the Independent Expert opining (including in the Independent Expert's Report or any update, revision or amendment thereto) to the effect that the Scheme is not in the best interests of M2 Shareholders (other than where the reason for that opinion is a M2 Competing Proposal);
 - (v) any matter or thing giving M2 the right to terminate this agreement under clause 10.1(a)(i) or 10.1(b)(v);
 - (vi) the condition in clause 3.1(d) or 3.1(f) is breached or not satisfied and M2 terminates this agreement in accordance with clause 10.1(a)(ii); or
 - (vii) failure of a condition precedent in clause 3.1(a), other than as a result of a breach by M2 of clauses 3.3(a) or 3.3(b).
- (d) (**Material Breach**) Vocus terminates this agreement in accordance with clause 10.1(a)(i);
- (e) (**M2 Material Adverse Change**) the Condition in clause 3.1(c) is breached or not satisfied prior to 8.00am on the Second Court Date (except if that Condition is breached as

a sole result of a change in any applicable law) and Vocus terminates this agreement in accordance with clause 10.1(a)(ii); or

- (f) (**M2 Prescribed Occurrence**) the Condition in clause 3.1(e) is breached or not satisfied prior to 8.00am on the Second Court Date and Vocus terminates this agreement in accordance with clause 10.1(a)(ii),

within five Business Days of receipt by M2 of a demand for payment from Vocus made after the occurrence of an event referred to in this clause 11.3.

11.4 M2 Break Fee not payable

- (a) Despite any other terms of this agreement:
- (i) the M2 Break Fee will not be payable to Vocus if the Scheme becomes Effective; and
 - (ii) the M2 Break Fee is only payable once.
- (b) For the avoidance of doubt, the M2 Break Fee will not be payable merely by reason that the Scheme is not approved by the M2 Shareholders.

11.5 M2's limitation of liability

Notwithstanding any other provisions of this agreement but subject to clause 11.6:

- (a) the maximum liability of M2 to Vocus under or in connection with this agreement including in respect of any breach of the agreement will be the M2 Break Fee referred to in clause 11.3; and
- (b) a payment by M2 in accordance with this clause 11 represents the sole and absolute liability of M2 under or in connection with this agreement and no further damages, fees, expenses or reimbursements of any kind will be payable by M2 in connection with this agreement.

11.6 Compliance with law

If it is finally determined following the exhaustion of all reasonable avenues of appeal to the Takeovers Panel or a Court that all or any part of the M2 Break Fee (**M2 Impugned Amount**):

- (a) would, if paid, be unlawful for any reason;
- (b) involves a breach of the fiduciary or statutory duties of the M2 Board; or
- (c) constitutes unacceptable circumstances (within the meaning of the Corporations Act) or breaches an order of the Takeovers Panel,

then:

- (d) the requirement to pay the M2 Break Fee does not apply to the extent of the M2 Impugned Amount; and
- (e) if Vocus has received the M2 Impugned Amount, it must refund it within five Business Days of the final determination being made.

M2 must not seek any such determination and must use all reasonable endeavours to ensure that no such determination is made.

12. Vocus Break Fee

12.1 Background

- (a) Vocus acknowledges that, if the parties enter into this agreement and the Scheme is subsequently not implemented, M2 will incur significant costs including those described in clause 12.2.
- (b) In the circumstances referred to in clause 12.1(a), M2 has requested that provision be made for the payments outlined in clause 12.3, without which M2 would not have entered into this agreement.
- (c) The Vocus Board believes that the Scheme will provide benefit to Vocus and Vocus Shareholders and that it is appropriate for Vocus to agree to the payments referred to in this clause 12 in order to secure M2's participation in the Proposed Transaction.

12.2 Costs incurred by M2

- (a) The fee payable under clause 12.3 has been calculated to reimburse M2 for the following:
 - (i) fees for legal and financial advice in planning and implementing the Proposed Transaction;
 - (ii) reasonable opportunity costs incurred in engaging in the Proposed Transaction or in not engaging in other alternative acquisitions or strategic initiatives;
 - (iii) costs of management and directors' time in planning and implementing the Proposed Transaction;
 - (iv) out of pocket expenses incurred in planning and implementing the Proposed Transaction;
 - (v) costs associated with the financing arrangements in respect of the Proposed Transaction; and
 - (vi) any damage to M2's reputation associated with a failed transaction and the implications of those damages if M2 seeks to execute alternative acquisitions in the future,in each case, incurred by M2 directly or indirectly as a result of having entered into this agreement and pursuing the Proposed Transaction.
- (b) The parties acknowledge that:
 - (i) the amount of fees, costs and losses referred to in this clause 12.2 is inherently unascertainable and that, even after termination of this agreement, the costs will not be able to be accurately ascertained; and
 - (ii) the amount of the costs payable under clause 12.3 is a genuine and reasonable pre-estimate of those fees, costs and losses (it being acknowledged by the parties that the costs would most likely be in excess of this amount).

12.3 Vocus Break Fee

Subject to clauses 12.4 and 12.6, Vocus agrees to pay to M2 \$15 million (exclusive of GST) (**Vocus Break Fee**) if:

- (a) (**Vocus Superior Proposal**) a Vocus Superior Proposal is publicly announced prior to the End Date and within twelve months from the date of the public announcement of such Vocus Superior Proposal the proponent of that Vocus Superior Proposal:
 - (i) completes, implements or consummates that Vocus Superior Proposal; or

- (ii) without limiting clause 12.3(a)(i), acquires a relevant interest in at least 50% of the Vocus Shares under a transaction that is or has become unconditional or otherwise acquires Control of Vocus or the Vocus Group; or
- (b) (**Vocus Competing Proposal**) a Vocus Competing Proposal is publicly announced prior to the End Date and within twelve months from the date of the public announcement of such Vocus Competing Proposal the proponent of that Vocus Competing Proposal:
 - (i) completes, implements or consummates that Vocus Competing Proposal; or
 - (ii) without limiting clause 12.3(b)(i), acquires a relevant interest in at least 50% of the Vocus Shares under a transaction that is or has become unconditional or otherwise acquires Control of Vocus or the Vocus Group;
- (c) (**Vocus director determination**) a majority of the directors of Vocus determine, after M2's rights under clause 14.6 have been exhausted, that a Vocus Competing Proposal constitutes a Vocus Superior Proposal, other than as a result of:
 - (i) any matter or thing giving Vocus the right to terminate this agreement under clause 10.1(a)(i) or 10.1(c)(iv);
 - (ii) the condition in clause 3.1(c) or 3.1(e) is breached or not satisfied and Vocus terminates this agreement in accordance with clause 10.1(a)(ii); or
 - (iii) failure of a condition precedent in clause 3.1(a), other than as a result of a breach by Vocus of clauses 3.3(a) or 3.3(b);
- (d) (**Material Breach**) M2 terminates this agreement in accordance with clause 10.1(a)(i);
- (e) (**Vocus Material Adverse Change**) the Condition in clause 3.1(d) is breached or not satisfied prior to 8.00am on the Second Court Date (except if that Condition is breached as a sole result of a change in any applicable law) and M2 terminates this agreement in accordance with clause 10.1(a)(ii);
- (f) (**Vocus Prescribed Occurrence**) the Condition in clause 3.1(f) is breached or not satisfied prior to 8.00am on the Second Court Date and M2 terminates this agreement in accordance with clause 10.1(a)(ii); or
- (g) (**Scheme Consideration**) Vocus does not pay the Scheme Consideration in accordance with the terms and conditions of this agreement and the Deed Poll,

within five Business Days of receipt by Vocus of a demand for payment from M2 made after the occurrence of an event referred to in this clause 12.3.

12.4 Vocus Break Fee not payable

Despite any other terms of this agreement:

- (a) the Vocus Break Fee will not be payable to M2 if the Scheme becomes Effective; and
- (b) the Vocus Break Fee is only payable once.

12.5 Vocus' limitation of liability

Notwithstanding any other provisions of this agreement but subject to clause 12.6:

- (a) the maximum liability of Vocus to M2 under or in connection with this agreement including in respect of any breach of the agreement will be the Vocus Break Fee referred to in clause 12.3; and
- (b) a payment by Vocus in accordance with this clause 12 represents the sole and absolute liability of Vocus under or in connection with this agreement and no further damages,

fees, expenses or reimbursements of any kind will be payable by Vocus in connection with this agreement.

12.6 Compliance with law

If it is finally determined following the exhaustion of all reasonable avenues of appeal to the Takeovers Panel or a Court that all or any part of the Vocus Break Fee (**Vocus Impugned Amount**):

- (a) would, if paid, be unlawful for any reason;
- (b) involves a breach of the fiduciary or statutory duties of the Vocus Board; or
- (c) constitutes unacceptable circumstances (within the meaning of the Corporations Act) or breaches an order of the Takeovers Panel,

then:

- (d) the requirement to pay the Vocus Break Fee does not apply to the extent of the Vocus Impugned Amount; and
- (e) if M2 has received the Vocus Impugned Amount, it must refund it within five Business Days of the final determination being made.

Vocus must not seek any such determination and must use all reasonable endeavours to ensure that no such determination is made.

13. Cost sharing

13.1 Circumstances in which costs will be shared

- (a) The parties acknowledge that:
 - (i) if the parties enter into this agreement and the Scheme is subsequently not implemented, the parties will incur significant costs including the Shared Costs; and
 - (ii) they consider the Proposed Transaction to be a merger of equals and as such certain costs, in the event the Scheme is not implemented, should be shared.
- (b) The parties agree that the Shared Costs will be shared equally by them in accordance with clause 13.4 if the agreement is terminated by mutual agreement or if the Scheme is not implemented as a result of the failure to satisfy or waive one or more of the following Conditions Precedent:
 - (i) clause 3.1(a) (Regulatory Approvals);
 - (ii) clause 3.1(b) (ASX Quotation);
 - (iii) clause 3.1(i) (Shareholder approval);
 - (iv) clause 3.1(j) (Court approval);
 - (v) clause 3.1(k) (Independent Expert); and
 - (vi) clause 3.1(n) (Restraining order).

13.2 Costs to be shared

The following costs incurred by M2 or Vocus in connection with pursuing the Proposed Transaction shall be shared by the parties in the circumstances set out in clause 13.1(b), calculated in accordance with clause 13.3:

- (a) fees for financial, legal, accounting and taxation advice in planning and implementing the Proposed Transaction;
 - (b) costs associated with engaging the Independent Expert and the Investigating Accountant;
 - (c) out of pocket expenses incurred in planning and implementing the Proposed Transaction, including printing, registry and postage costs; and
 - (d) costs associated with the Refinancing,
- (the **Shared Costs**).

13.3 Method to calculate cost sharing

- (a) In the circumstances set out in clause 13.1(b), within 10 Business Days after the earlier of the End Date and the termination of this agreement, each of M2 and Vocus shall provide the other party with written documentation to evidence the Shared Costs that have been incurred by that party (the **M2 Shared Cost Amount** and the **Vocus Shared Cost Amount**, respectively).
- (b) The parties shall promptly calculate and agree the total amount of the Shared Costs and divide that amount by two (the **Allocated Shared Cost Amount**).
- (c) If the Allocated Shared Cost Amount:
 - (i) exceeds the Vocus Shared Cost Amount, then Vocus must pay the amount of the excess to M2; or
 - (ii) exceeds the M2 Shared Cost Amount, then M2 must pay the amount of the excess to Vocus,in each case within 5 Business Days after calculation of the Allocated Shared Cost Amount.

13.4 Interaction with the Vocus Break Fee and the M2 Break Fee

If the Vocus Break Fee or the M2 Break Fee is payable in accordance with this agreement, then the sharing of costs contemplated by this clause 13 shall not apply.

14. Exclusivity – M2

14.1 No existing discussions

Other than in relation to the discussions with Vocus in connection with the Proposed Transaction and this agreement, M2 represents and warrants to Vocus that, as at the date of this agreement:

- (a) neither itself, its Related Bodies Corporate nor any of their respective Authorised Persons is a party to any agreement with a third party entered into for the purpose of facilitating a M2 Competing Proposal; and
- (b) neither itself, its Related Bodies Corporate nor any of their respective Authorised Persons is participating in any discussions or negotiations with a third party that concern, or that could reasonably be expected to lead to, a M2 Competing Proposal or to M2 abandoning or not proceeding with the Proposed Transaction.

14.2 No shop

During the Exclusivity Period, M2 must not, and must ensure that its Related Bodies Corporate and their respective Authorised Persons do not, solicit, invite, initiate or encourage any M2 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 M2 Competing Proposal or to M2 abandoning or not proceeding with the Proposed Transaction.

14.3 No Talk

Subject to clause 14.7, during the Exclusivity Period, M2 must not, and must ensure that its Related Bodies Corporate and their respective Authorised Persons 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 which may reasonably be expected to lead to) a M2 Competing Proposal, even if that person's M2 Competing Proposal was not directly or indirectly solicited, encouraged or initiated by M2 or any of its Related Bodies Corporate, or that person has publicly announced the M2 Competing Proposal.

14.4 No due diligence

During the Exclusivity Period, except with the prior written consent of Vocus, M2 must not, and must ensure that its Related Bodies Corporate and their respective Authorised Persons do not, directly or indirectly:

- (a) solicit, invite, initiate, or encourage, or (subject to clause 14.7) facilitate or permit, any person (other than Vocus) to undertake due diligence investigations in respect of M2, 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 M2 Competing Proposal; or
- (b) subject to clause 14.7, make available to any person (other than Vocus) or permit any such person to receive any non-public information relating to M2, 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 M2 Competing Proposal.

14.5 Notification of approaches

- (a) During the Exclusivity Period, M2 must promptly notify Vocus in writing of:
 - (i) any approach, inquiry or proposal made by any person to M2, any of its Related Bodies Corporate or any of their respective Authorised Persons, to initiate any discussions or negotiations that concern, or that could reasonably be expected to lead to, a M2 Competing Proposal; and
 - (ii) any request made by any person to M2, any of its Related Bodies Corporate, or any of their respective Authorised Persons, for any information relating to M2, 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 M2 Competing Proposal.
- (b) Subject to clause 14.7, a notice given under clause 14.5(a) must be accompanied by all material details of the relevant event, 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)(i), or who made the relevant request for information referred to in clause 14.5(a)(ii); and

- (ii) the material terms and conditions (including price, conditions precedent, timetable and break fee (if any)) of any M2 Competing Proposal or any proposed M2 Competing Proposal (to the extent known).
- (c) During the Exclusivity Period, M2 must promptly provide Vocus with:
 - (i) in the case of written materials, a copy of; or
 - (ii) in any other case, a written statement of,

any non-public information relating to M2, 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 M2 Competing Proposal and which has not previously been provided to Vocus.

14.6 M2's response to M2 Rival Acquirer and Vocus' right to respond

- (a) If M2 is permitted by virtue of clause 14.7 to engage in activity that would otherwise breach any of clauses 14.3, 14.4(a), 14.4(b) and 14.5(b):
 - (i) M2 must enter into a confidentiality agreement with the person who has made the applicable M2 Competing Proposal (**M2 Rival Acquirer**) on customary terms and must not enter into any other agreement, understanding or commitment in respect of a M2 Competing Proposal or a potential M2 Competing Proposal except as permitted by clause 14.6(b); and
 - (ii) Vocus and M2 acknowledge and agree that the Confidentiality Agreement will be read down such that the obligations of Vocus under the Confidentiality Agreement are no more onerous in any material respect than the obligations of the proposed acquirer under any confidentiality agreement referred to in clause 14.6(a)(i).
- (b) If M2 receives a M2 Competing Proposal and as a result, any M2 director proposes to either:
 - (i) change, withdraw or modify his or her recommendation of the Scheme; or
 - (ii) approve or recommend entry into any agreement, commitment, arrangement or understanding relating to the M2 Competing Proposal (other than a confidentiality agreement contemplated by clause 14.6(a)),

M2 must ensure that no M2 director does so:

- (iii) unless the M2 Competing Proposal is bona fide; and
- (iv) until each of the following has occurred:
 - (A) the M2 directors have made the determination contemplated by clause 14.7(b) in respect of that M2 Competing Proposal;
 - (B) M2 has given Vocus written notice (**M2 Relevant Notice**) of the M2 director's proposal to take the action referred to in clauses 14.6(b)(i) or 14.6(b)(ii) (subject to Vocus' rights under clause 14.6(d)), including details of the grounds on which the M2 directors propose to take such action;
 - (C) subject to clause 14.6(c), M2 has given Vocus all information that would be required by clause 14.5(b) as if it was not subject in any way to clause 14.7;
 - (D) Vocus' rights under clause 14.6(d) have been exhausted; and

- (E) the M2 directors have made the determination contemplated by clause 14.7(b) in respect of that M2 Competing Proposal after Vocus' rights under clause 14.6(d) have been exhausted and after evaluation of any Vocus Counterproposal (as defined in clause 14.6(d)).
- (c) Prior to giving Vocus the information under clause 14.6(b)(iv)(C), M2 must advise the M2 Rival Acquirer that the M2 Rival Acquirer's name and other details which may identify the M2 Rival Acquirer will be provided by M2 to Vocus on a confidential basis.
- (d) If M2 gives a M2 Relevant Notice to Vocus under clause 14.6(b)(iv)(B), Vocus will have the right, but not the obligation, at any time during the period of 3 Business Days following the receipt of the M2 Relevant Notice, to amend the terms of the Proposed Transaction including altering the amount of consideration offered under the Proposed Transaction or proposing any other form of transaction (each a **Vocus Counterproposal**), and if it does so then the M2 directors must review the Vocus Counterproposal in good faith. If the M2 directors determine that the Vocus Counterproposal would be more favourable, or at least no less favourable, to M2 and the M2 Shareholders than the M2 Competing Proposal (having regard to the matters noted in clause 14.7(b)), then M2 and Vocus must use their best endeavours to agree the amendments to this agreement that are reasonably necessary to reflect the Vocus Counterproposal and to enter into an amended agreement to give effect to those amendments and to implement the Vocus Counterproposal, and M2 must use its best endeavours to procure that the M2 directors recommend the Vocus Counterproposal to the Shareholders and not recommend the applicable M2 Competing Proposal.
- (e) For the purposes of this clause 14.6, each successive material modification of any third party expression of interest, offer or proposal in relation to a M2 Competing Proposal will constitute a new M2 Competing Proposal.

14.7 Fiduciary out

The restrictions in clauses 14.3, 14.4(a) and 14.4(b) and the obligations in clause 14.5(b) do not apply to the extent they restrict M2 or any M2 director from taking or refusing to take any action with respect to a M2 Competing Proposal (in relation to which there has been no contravention of this clause 14) provided that:

- (a) the M2 Competing Proposal is bona fide and is made by or on behalf of a person that the M2 Board considers is of reputable commercial standing; and
- (b) the M2 Board has determined in good faith (after consultation with M2's financial and legal advisers) that the M2 Competing Proposal is or may reasonably be expected to lead to a M2 Superior Proposal and that failing to take the action or refuse to take the action (as the case may be) with respect to the M2 Competing Proposal would be likely to constitute a breach of the fiduciary or statutory obligations of the M2 Board.

15. Exclusivity – Vocus

15.1 No existing discussions

Other than in relation to the discussions with M2 in connection with the Proposed Transaction and this agreement, Vocus represents and warrants to M2 that, as at the date of this agreement:

- (a) neither itself, its Related Bodies Corporate nor any of their respective Authorised Persons is a party to any agreement with a third party entered into for the purpose of facilitating a Vocus Competing Proposal; and

- (b) neither itself, its Related Bodies Corporate nor any of their respective Authorised Persons is participating in any discussions or negotiations with a third party that concern, or that could reasonably be expected to lead to, a Vocus Competing Proposal or to Vocus abandoning or not proceeding with the Proposed Transaction.

15.2 No shop

During the Exclusivity Period, Vocus must not, and must ensure that its Related Bodies Corporate and their respective Authorised Persons do not, solicit, invite, initiate or encourage any Vocus 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 Vocus Competing Proposal or to Vocus abandoning or not proceeding with the Proposed Transaction.

15.3 No Talk

Subject to clause 15.7, during the Exclusivity Period, Vocus must not, and must ensure that its Related Bodies Corporate and their respective Authorised Persons 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 which may reasonably be expected to lead to) a Vocus Competing Proposal, even if that person's Vocus Competing Proposal was not directly or indirectly solicited, encouraged or initiated by Vocus or any of its Related Bodies Corporate, or that person has publicly announced the Vocus Competing Proposal.

15.4 No due diligence

During the Exclusivity Period, except with the prior written consent of M2, Vocus must not, and must ensure that its Related Bodies Corporate and their respective Authorised Persons do not, directly or indirectly:

- (a) solicit, invite, initiate, or encourage, or (subject to clause 15.7) facilitate or permit, any person (other than M2) to undertake due diligence investigations in respect of Vocus, 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 Vocus Competing Proposal; or
- (b) subject to clause 15.7, make available to any person (other than M2) or permit any such person to receive any non-public information relating to Vocus, 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 Vocus Competing Proposal.

15.5 Notification of approaches

- (a) During the Exclusivity Period, Vocus must promptly notify M2 in writing of:
 - (i) any approach, inquiry or proposal made by any person to Vocus, any of its Related Bodies Corporate or any of their respective Authorised Persons, to initiate any discussions or negotiations that concern, or that could reasonably be expected to lead to, a Vocus Competing Proposal; and
 - (ii) any request made by any person to Vocus, any of its Related Bodies Corporate, or any of their respective Authorised Persons, for any information relating to Vocus, 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 Vocus Competing Proposal.

- (b) Subject to clause 15.7, a notice given under clause 15.5(a) must be accompanied by all material details of the relevant event, 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 15.5(a)(i), or who made the relevant request for information referred to in clause 15.5(a)(ii); and
 - (ii) the material terms and conditions (including price, conditions precedent, timetable and break fee (if any)) of any Vocus Competing Proposal or any proposed Vocus Competing Proposal (to the extent known).
- (c) During the Exclusivity Period, Vocus must promptly provide M2 with:
 - (i) in the case of written materials, a copy of; or
 - (ii) in any other case, a written statement of,

any non-public information relating to Vocus, 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 Vocus Competing Proposal and which has not previously been provided to M2.

15.6 Vocus' response to Vocus Rival Acquirer and M2's right to respond

- (a) If Vocus is permitted by virtue of clause 15.7 to engage in activity that would otherwise breach any of clauses 15.3, 15.4 and 15.5(b):
 - (i) Vocus must enter into a confidentiality agreement with the person who has made the applicable Vocus Competing Proposal (**Vocus Rival Acquirer**) on customary terms and must not enter into any other agreement, understanding or commitment in respect of a Vocus Competing Proposal or a potential Vocus Competing Proposal except as permitted by clause 15.6(b); and
 - (ii) M2 and Vocus acknowledge and agree that the Confidentiality Agreement will be read down such that the obligations of M2 under the Confidentiality Agreement are no more onerous in any material respect than the obligations of the proposed acquirer under any confidentiality agreement referred to in clause 15.6(a)(ii).
- (b) If Vocus receives a Vocus Competing Proposal and as a result, any Vocus director proposes to approve or recommend entry into any agreement, commitment, arrangement or understanding relating to the Vocus Competing Proposal (other than a confidentiality agreement contemplated by clause 15.6(a)), Vocus must ensure that no Vocus director does so:
 - (i) unless the Vocus Competing Proposal is bona fide; and
 - (ii) until each of the following has occurred:
 - (A) the Vocus directors have made the determination contemplated by clause 15.7(b) in respect of that Vocus Competing Proposal;
 - (B) Vocus has given M2 written notice (**Vocus Relevant Notice**) of the Vocus director's proposal to take the action referred to in this clause 15.6(b) (subject to M2's rights under clause 15.6(d)), including details of the grounds on which the Vocus directors propose to take such action;
 - (C) subject to clause 15.6(c), Vocus has given M2 all information that would be required by clause 15.5(b) as if it was not subject in any way to clause 15.7;

- (D) M2's rights under clause 15.6(d) have been exhausted; and
 - (E) the Vocus directors have made the determination contemplated by clause 15.7(b) in respect of that Vocus Competing Proposal after M2's rights under clause 15.6(d) have been exhausted and after evaluation of any M2 Counterproposal (as defined in clause 15.6(d)).
- (c) Prior to giving M2 the information under clause 15.6(b)(ii)(C), Vocus must advise the Vocus Rival Acquirer that the Vocus Rival Acquirer's name and other details which may identify the Vocus Rival Acquirer will be provided by Vocus to M2 on a confidential basis.
 - (d) If Vocus gives a Vocus Relevant Notice to M2 under clause 15.6(b)(ii)(B), M2 will have the right, but not the obligation, at any time during the period of 3 Business Days following the receipt of the Vocus Relevant Notice, to amend the terms of the Proposed Transaction including altering the amount of consideration offered under the Proposed Transaction or proposing any other form of transaction (each a **M2 Counterproposal**), and if it does so then the Vocus directors must review the M2 Counterproposal in good faith. If the Vocus directors determine that the M2 Counterproposal would be more favourable, or at least no less favourable, to Vocus and the Vocus Shareholders than the Vocus Competing Proposal (having regard to the matters noted in clause 15.7(b)), then Vocus and M2 must use their best endeavours to agree the amendments to this agreement that are reasonably necessary to reflect the M2 Counterproposal and to enter into an amended agreement to give effect to those amendments and to implement the M2 Counterproposal, and Vocus must use its best endeavours to procure that the Vocus directors recommend the M2 Counterproposal to the Shareholders and not recommend the applicable Vocus Competing Proposal.
 - (e) For the purposes of this clause 15.6, each successive material modification of any third party expression of interest, offer or proposal in relation to a Vocus Competing Proposal will constitute a new Vocus Competing Proposal.

15.7 Fiduciary out

The restrictions in clauses 15.3, 15.4 and the obligations in clause 15.5(b) do not apply to the extent they restrict Vocus or any Vocus director from taking or refusing to take any action with respect to a Vocus Competing Proposal (in relation to which there has been no contravention of this clause 15) provided that

- (a) the Vocus Competing Proposal is bona fide and is made by or on behalf of a person that the Vocus Board considers is of reputable commercial standing; and
- (b) the Vocus Board has determined in good faith (after consultation with Vocus' financial and legal advisers) that the Vocus Competing Proposal is or may reasonably be expected to lead to a Vocus Superior Proposal and that failing to take the action or refuse to take the action (as the case may be) with respect to the Vocus Competing Proposal would be likely to constitute a breach of the fiduciary or statutory obligations of the Vocus Board.

16. M2 securities

16.1 Cancellation of M2 Options

M2 must either:

- (a) procure that the M2 Options vest prior to the Record Date such that the M2 Optionholders may participate in the Scheme in accordance with this agreement; or

- (b) no later than 5.00pm on the day which is five Business Days before the date of the Scheme Meeting, enter into, and procure that all M2 Optionholders have entered into legally binding agreements with Vocus giving effect, subject to the Scheme becoming Effective, to the acquisition by Vocus or cancellation of all M2 Options for consideration that is consistent with clause 16.2, such acquisition or cancellation (as applicable) to take effect on the Implementation Date immediately following implementation of the Scheme.

16.2 Replacement Vocus Options

- (a) The consideration referred to in clause 16.1 must:
- (i) comprise such number of Vocus Options to be calculated by multiplying the Merger Ratio by the number of M2 Options referred to in clause 16.1 held by that M2 Optionholder;
 - (ii) be on terms that are overall not substantially less favourable to the M2 Optionholder than the terms of the M2 Options, except as follows:
 - (A) the exercise price and any vesting conditions of the Vocus Options referable to Vocus' share price shall be referable to the amount determined by the following formula:

$$E = \frac{A}{B} \times P$$

where:

E = the exercise price and any vesting condition of the Vocus Option;

A = Vocus' closing share price on ASX as at the Business Day immediately prior to the date of this agreement;

B = M2's closing share price on ASX as at the Business Day immediately prior to the date of this agreement; and

P = the exercise price or the equivalent vesting condition (as the case may be) of the relevant M2 Options referred to in clause 16.1 held by that M2 Optionholder.

- (b) Vocus undertakes in favour of M2 to comply with, and provide all reasonable assistance to M2 in complying with, this clause 16, including obtaining any and all necessary Regulatory Approvals, entering such legally binding agreements contemplated in clause 16.1 to which it is required to be a party and issuing the replacement Vocus Options on the terms outlined in this clause 16.2.

16.3 Cancellation of M2 Performance Rights

M2 must either:

- (a) procure that the M2 Performance Rights vest prior to the Record Date such that the M2 Performance Rights Holders may participate in the Scheme in accordance with this agreement; or
- (b) no later than 5.00pm on the day which is five Business Days before the date of the Scheme Meeting, enter into, and procure that all M2 Performance Rights Holders have entered into legally binding agreements with Vocus giving effect, subject to the Scheme becoming Effective, to the acquisition by Vocus or cancellation of all M2 Performance Rights for consideration that is consistent with clause 16.4, such acquisition or

cancellation (as applicable) to take effect on the Implementation Date immediately following implementation of the Scheme.

16.4 Replacement Vocus Performance Rights

- (a) The consideration referred to in clause 16.3 must:
- (i) comprise such number of Vocus Performance Rights to be calculated by multiplying the Merger Ratio by the number of M2 Performance Rights referred to in clause 16.3 held by that M2 Performance Rights Holder;
 - (ii) be on terms that are overall not substantially less favourable to the M2 Performance Rights Holder than the terms of the M2 Performance Rights, except as follows:
 - (A) any vesting conditions of the Vocus Performance Rights referable to Vocus' share price shall be the amount determined by the following formula:
$$E = \frac{A}{B} \times P$$
where:
 - E = the vesting condition of the Vocus Performance Right;
 - A = Vocus' closing share price on ASX as at the Business Day immediately prior to the date of this agreement;
 - B = M2's closing share price on ASX as at the Business Day immediately prior to the date of this agreement; and
 - P = the equivalent vesting condition of the relevant M2 Performance Rights referred to in clause 16.3 held by that M2 Performance Rights Holder.
- (b) Vocus undertakes in favour of M2 to comply with, and provide all reasonable assistance to M2 in complying with, this clause 16, including obtaining any and all necessary Regulatory Approvals, entering such legally binding agreements contemplated in clause 16.3 to which it is required to be a party and issuing the replacement Vocus Performance Rights on the terms outlined in this clause 16.4.

17. Notices

Any communication under or in connection with this agreement:

- (a) must be in writing;
- (b) must be addressed as shown below:

M2

Address: Level 10, 452 Flinders Street, Melbourne VIC 3000

E-mail: vaughan.bowen@m2.com.au

For the attention of: Executive Director

With a copy to: General Counsel and Company Secretary

Email: legal@m2.com.au

And with a copy to: Allens (attn: Mark Malinas)

Email: mark.malinas@allens.com.au

Vocus

Address: Level 1, Vocus House, 189 Miller Street, North Sydney NSW 2060
E-mail: mark.simpson@vocus.com.au
Facsimile: +61 2 9959 4348
For the attention of: General Counsel and Company Secretary
With a copy to: MinterEllison (attn: Costas Condoleon and Kevin Ko)
Email: costas.condoleon@minterellison.com and
kevin.ko@minterellison.com

(or as otherwise notified by that party to the other party from time to time);

- (c) must be signed by the party making the communication or by a person duly authorised by that party or, in the case of email, set out the full name and position or title of the duly authorised sender;
- (d) must be delivered or posted by prepaid post to the address, sent by fax to the number, or emailed 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 prepaid post)** on the third Business Day after the date of posting to an address within Australia, and on the fifth Business Day after the date of posting to an address outside Australia;
 - (ii) **(in the case of email)** the earlier of:
 - (A) the time that the sender receives an automated message from the intended recipient's information system confirming delivery of the email;
 - (B) the time that the email is first opened or read by the intended recipient, or an employee or officer of the intended recipient; and
 - (C) two hours after the email is sent (as recorded in the device from which the sender sent the email) unless the sender receives, within that two hour period, an automated message that the email has not been delivered, but if the result is that a notice would be taken to be deemed to have been received at a time that is later than 5.00pm or on a day that is not a Business Day, then it will be deemed to have been received at 9.00am on the next Business Day;
 - (iii) **(in the case of fax)** at the local time (in the place of receipt of that fax) which then equates to the time at which that fax is sent as shown on the transmission report which is produced by the machine from which that fax is sent and which confirms transmission of that fax in its entirety, unless that local time is not a Business Day, or is after 5.00pm on a Business Day, when that communication will be deemed to be received at 9.00am on the next Business Day; and
 - (iv) **(in the case of delivery by hand)** 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 5.00pm on a Business Day, when that communication will be deemed to be received at 9.00am on the next Business Day.

18. General

18.1 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 agreement.

18.2 Timetable

- (a) The parties agree that the Timetable is indicative only and is not binding on the parties.
- (b) Each party must use its reasonable endeavours to ensure that each step in the Timetable is met by the relevant date and must consult with the other party on a regular basis regarding its progress in implementing the Scheme in regards to the Timetable.

18.3 Payments

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

18.4 Interest

- (a) If a party fails to pay any amount payable under this agreement on the due date for payment, that party must pay interest on the amount unpaid at the higher of the daily buying rate displayed at or about 10.30am on the Reuters screen BBSW page for Australian bank bills of a three month duration plus 3% per annum or the rate (if any) fixed or payable under any judgment or other thing into which the liability to pay the amount becomes merged.
- (b) The interest payable under clause 18.4(a):
 - (i) accrues from day to day from and including the due date for payment up to the actual date of payment, before and, as an additional and independent obligation, after any judgment or other thing into which the liability to pay the amount becomes merged; and
 - (ii) may be capitalised by the person to whom it is payable at monthly intervals.

18.5 Consents or approvals

A party may:

- (a) give conditionally or unconditionally; or
- (b) withhold,

its approval or consent in its absolute discretion unless this agreement expressly provides otherwise.

18.6 GST

- (a) Any reference in this clause 18.6 to a term defined or used in the *A New Tax System (Goods and Services Tax) Act 1999* (Cth) is, unless the context indicates otherwise, a reference to that term as defined or used in that Act.
- (b) Unless expressly included, the consideration for any supply under or in connection with this agreement 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 agreement is a taxable supply, the Recipient must pay to the Supplier, in addition to the consideration to be provided under this agreement but for the application of this clause 18.6(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. This clause 18.6(c) does not apply to any taxable supply under or in connection with this agreement that is expressly stated to include GST.
- (d) The amount on account of GST payable in accordance with this clause 18.6 will be paid at the same time and in the same manner as the consideration otherwise payable for the supply is provided.
- (e) 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.

18.7 Stamp duty

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

18.8 Expenses

Except as otherwise provided in clause 13 or elsewhere in this agreement, each party will pay its own costs and expenses in connection with the negotiation, preparation, execution, and performance of this agreement and the Explanatory Booklet and the proposed, attempted or actual implementation of this agreement and the Scheme.

18.9 Amendments

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

18.10 Assignment

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

18.11 Business Day

Except where otherwise expressly provided, where under this agreement the day on which any act, matter or thing is to be done is a day other than a Business Day, such act, matter or thing will be done on the next Business Day.

18.12 Waiver

Without limiting any other provisions of this agreement, the parties agree that:

- (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 agreement 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 agreement;

- (b) any waiver or consent given by any party under this agreement 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 agreement will operate as a waiver of another breach of that term or of a breach of any other term of this agreement; and
- (d) nothing in this agreement obliges a party to exercise a right to waive any conditional term of this agreement that may be in its power.

18.13 Release of officers and directors

Subject to the Corporations Act, none of the past, present or future officers and directors of the parties will be liable for anything done or purported to be done in connection with the Scheme or any transaction contemplated by this agreement in good faith, but nothing in this clause excludes any liability that may arise from wilful misconduct or bad faith on the part of such a person. Each party receives and holds the benefit of this release, as agent for its directors and officers.

18.14 Counterparts

- (a) This agreement 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 agreement is binding on the parties on the exchange of duly executed counterparts.
- (c) The parties agree that a copy of an original executed counterpart sent by electronic mail or facsimile machine to the e-mail address or facsimile number of the other party specified in clause 17, instead of the original, is sufficient evidence of the execution of the original and may be produced in evidence for all purposes in place of the original.

18.15 Entire agreement

- (a) This agreement:
 - (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) Despite clause 18.15(a), the Confidentiality Agreement continues to apply to the parties in accordance with its terms, except to the extent of any express inconsistency, in which case this agreement prevails.

18.16 No representation or reliance

- (a) 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 agreement, except for representations or inducements expressly set out in this agreement.
- (b) Each party acknowledges and confirms that it does not enter into this agreement in reliance on any representation or other inducement by or on behalf of any other party, except for any representation or inducement expressly set out in this agreement.

18.17 No merger

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

18.18 Governing law

- (a) This agreement is governed by and will be construed according to the laws of Victoria.

- (b) Each party irrevocably:
 - (i) submits to the non-exclusive jurisdiction of the courts of Victoria and of the courts competent to determine appeals from those courts, with respect to any proceedings that may be brought at any time relating to this agreement; and
 - (ii) waives any objection it may now or in the future have to the venue of any proceedings, and any claim it may now or in the future have that any proceedings have been brought in an inconvenient forum, if the venue of those proceedings fall within clause 18.18(b)(i).

Schedule 1 – Indicative Timetable

Event	Date
Lodge Explanatory Booklet with ASIC for review and comment	November 2015
First Court Date	December 2015
Explanatory Booklet registered with ASIC	December 2015
Despatch Explanatory Booklet to M2 Shareholders	December 2015
Scheme Meeting	January 2016
Second Court Date	February 2016
Effective Date – lodge office copy of Court order approving the Scheme with ASIC	February 2016
Record Date	February 2016
Implementation Date: - Issue and allot Vocus Shares	February 2016

Schedule 2 – Deed Poll

See next page.

Deed Poll

by

Vocus Communications Limited (**Vocus**)

in favour of

Scheme Shareholders

MinterEllison

Level 40 Governor Macquarie Tower 1 Farrer Place Sydney NSW 2000
Australia DX 117 Sydney
T +61 2 9921 8888 F +61 2 9921 8123
minterellison.com

Deed Poll

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Details

Date

Parties

Name	Vocus Communications Limited ACN 084 115 499
Short form name	Vocus
Notice details	Level 1, Vocus House 189 Miller Street North Sydney NSW 2060 E-mail: mark.simpson@vocus.com.au Facsimile: +61 2 9959 4348 Attention: General Counsel and Company Secretary

Background

- A Vocus Communications Limited ABN 96 084 115 499 (**Vocus**) and M2 Group Limited ABN 74 091 575 021 (**M2**) have entered into a merger implementation agreement dated 27 September 2015 (**Merger Implementation Agreement**).
- B Under the Merger Implementation Agreement, M2 has agreed that it will propose and implement the Scheme in accordance with the Merger Implementation Agreement.
- C Under the Merger Implementation Agreement, Vocus has agreed to take all steps reasonably necessary to assist M2 in proposing and implementing the Scheme in accordance with the Merger Implementation Agreement.
- D Vocus is entering into this Deed Poll for the purpose of:
- (i) covenanting in favour of Scheme Shareholders to perform certain of its obligations under the Merger Implementation Agreement;
 - (ii) covenanting in favour of the Scheme Shareholders to perform the steps attributed to it under the Scheme; and
 - (iii) ensuring that the Scheme Consideration is paid to the Scheme Shareholders.
- E The effect of the Scheme will be that the Scheme Shares, together with all rights and entitlements attaching to them, will be transferred to Vocus in exchange for the Scheme Consideration.

Agreed terms

1. Defined terms & interpretation

1.1 Defined terms

Words and phrases defined in the Merger Implementation Agreement have the same meanings in this Deed Poll unless the context requires otherwise.

1.2 Interpretation

- (a) In this Deed Poll, unless the context otherwise requires:
 - (i) the singular includes the plural and vice versa;
 - (ii) reference to a person includes references to corporations, partnerships, joint ventures, associations, bodies corporate and any Regulatory Authority;
 - (iii) references to agreements or deeds are to agreements or deeds as amended from time to time;
 - (iv) reference to a party includes their executors, administrators and permitted assigns or, being a company, its successors and permitted assigns;
 - (v) an agreement, representation or warranty in favour of two or more persons is for the benefit of each and all of them;
 - (vi) a reference to a clause, party, annexure, exhibit or schedule is a reference to a clause of, and a party, annexure, exhibit and schedule to, this Deed Poll and a reference to this Deed Poll includes any annexure, exhibit and schedule; and
 - (vii) a reference to a statute, ordinance, code or other law includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements to it.
- (b) Clause headings in this Deed Poll do not affect the interpretation of this Deed Poll.
- (c) Where a word or phrase is defined, its other grammatical forms have a corresponding meaning.

1.3 Time for performance

- (a) If the day on or by which a payment or an act is to be done under this Deed Poll is not a Business Day, that act must be done on the next Business Day.
- (b) In this Deed Poll, if a period occurs from, after or before a day or the day of an act or event, it excludes that day.
- (c) In this Deed Poll, a reference to a day is to be interpreted as the period of time commencing at midnight and ending 24 hours later.
- (d) In this Deed Poll a reference to time is a reference to Melbourne, Australia time.

2. Nature of Deed Poll

Vocus acknowledges that 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 party to it.

3. Condition

3.1 Condition

The obligations of Vocus under this Deed Poll are subject to the Scheme becoming Effective.

3.2 Termination

Subject to clause 6, unless Vocus and M2 agree otherwise, the obligations of Vocus under this Deed Poll to Scheme Shareholders will automatically terminate and the terms of this Deed Poll will be of no further force or effect if and only if the Merger Implementation Agreement is terminated in accordance with its terms or the Scheme does not become Effective on or before the End Date.

3.3 Consequences of termination

If this Deed Poll is terminated under clause 3.2, then in addition and without prejudice to any other rights, powers or remedies available to it:

- (a) Vocus is released from its obligations to further perform this Deed Poll except for any obligations which by their nature survive termination; and
- (b) each Scheme Shareholder retains the rights, powers and remedies they have against Vocus in respect of any breach of this Deed Poll which occurs before it is terminated.

4. Performance of Scheme obligations

4.1 Generally

Subject to clause 3:

- (a) Vocus covenants in favour of each Scheme Shareholder to perform the steps attributed to Vocus under, and otherwise comply with, the Scheme as if Vocus were a party to the Scheme.
- (b) Vocus covenants in favour of each Scheme Shareholder to comply with its obligations under the Merger Implementation Agreement, in so far as that agreement relates to the Scheme, and, in respect of Vocus, do all things necessary or expedient on its part to implement the Scheme.

4.2 Payment of Scheme Consideration

- (a) Subject to clause 3, in consideration for the transfer to Vocus of all of the Scheme Shares and all rights and entitlement attaching to them by each Scheme Shareholder, Vocus undertakes in favour of each Scheme Shareholder to provide the Scheme Consideration to each Scheme Shareholder, in accordance with the terms of the Scheme.
- (b) Vocus undertakes in favour of each Scheme Shareholder that the New Vocus Shares which are issued to each Scheme Shareholder in accordance with the Scheme will:
 - (i) rank equally in all respects with all existing issued Vocus Shares; and
 - (ii) be issued fully paid and free from any mortgage, charge, lien, encumbrance or other security interest.

5. Warranties

Vocus represents and warrants to each Scheme Shareholder that:

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

- (b) it has the corporate power to enter into and perform its obligations under this Deed Poll and to carry out the transactions contemplated by this Deed Poll;
- (c) it has taken all necessary corporate action to authorise its entry into this Deed Poll and has taken or will take all necessary corporate action to authorise the performance of this Deed Poll and to carry out the transactions contemplated by this Deed Poll;
- (d) this Deed Poll has been duly and validly executed and delivered by it and is valid and binding upon it; and
- (e) 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) a law, judgment, ruling, order or decree binding on it; or
 - (ii) its constitution or other constituent documents.

6. Continuing obligations

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

- (a) Vocus having fully performed its obligations under this Deed Poll; and
- (b) termination of this Deed Poll under clause 3.2.

7. General

7.1 Stamp duty

Vocus:

- (a) must pay all duty (including stamp duty) and any related fines, penalties and interest in respect of the Scheme and this Deed Poll (including without limitation 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 each Scheme Shareholder against any liability arising from failure to comply with clause 7.1(a).

7.2 Further assurances

Vocus will, at its own expense, do all things reasonably required of it by law to give full effect to this Deed Poll and the transactions contemplated by it.

7.3 Assignment

- (a) The rights and obligations of Vocus and each Scheme Shareholder under this Deed Poll are personal. They cannot be assigned, charged or otherwise dealt with without the prior consent of Vocus and M2.
- (b) Any purported dealing in contravention of clause 7.3(a) is invalid.

7.4 Variation

A provision of this Deed Poll may not be varied, altered or otherwise amended unless:

- (a) before the Second Court Date, the variation, alteration or amendment is agreed to in writing by M2 (which such agreement may be given or withheld without reference to or approval by any M2 Shareholder); or

- (b) on or after the Second Court Date, the variation, alteration of amendment is agreed to in writing by M2 and is approved by the Court (which such agreement may be given or withheld without reference to or approval by any M2 Shareholder),

in which event Vocus will enter into a further deed poll in favour of each Scheme Shareholder giving effect to the variation, alteration or amendment.

7.5 Waiver

- (a) A provision of or right under this Deed Poll may not be waived except in writing signed by the person granting the waiver.
- (b) A failure or delay in exercise, or partial exercise, of:
- (i) a right arising from a breach of this Deed Poll; or
 - (ii) a right, power, authority, discretion or remedy created or arising upon default under this Deed Poll,
- does not result in a waiver of that right, power, authority, discretion or remedy.
- (c) Vocus is not entitled to rely on a delay in the exercise or non-exercise of a right, power, authority, discretion or remedy arising from a breach of this Deed Poll or on a default under this deed poll as constituting a waiver of that right, power, authority, discretion or remedy.
- (d) Vocus may not rely on any conduct of another person as a defence to the exercise of a right, power, authority, discretion or remedy by that other person.
- (e) This clause 7.5 may not itself be waived except in writing.

7.6 Notices

Any communication to Vocus under or in connection with this Deed Poll must be in writing and:

- (a) sent to Vocus at:
- | | |
|-----------------------|--|
| Address: | Level 1, Vocus House, 189 Miller Street, North Sydney NSW 2060 |
| E-mail: | mark.simpson@vocus.com.au |
| Facsimile: | +61 2 9959 4348 |
| For the attention of: | General Counsel and Company Secretary |
| With a copy to: | MinterEllison (attn: Costas Condoleon and Kevin Ko) |
| Email: | costas.condoleon@minterellison.com and
kevin.ko@minterellison.com |
- (or as otherwise notified by Vocus to M2 from time to time);
- (b) must be signed by the party making the communication or by a person duly authorised by that party or, in the case of email, set out the full name and position or title of the duly authorised sender;
- (c) must be delivered or posted by prepaid post to the address, sent by fax to the number or emailed to the email address, of the addressee, in accordance with clause 7.6(a); and
- (d) will be deemed to be received by the addressee:
- (i) **(in the case of prepaid post)** on the third Business Day after the date of posting to an address within Australia, and on the fifth Business Day after the date of posting to an address outside Australia;
 - (ii) **(in the case of email)** the earlier of:

- (A) the time that the sender receives an automated message from the intended recipient's information system confirming delivery of the email;
- (B) the time that the email is first opened or read by the intended recipient, or an employee or officer of the intended recipient; and
- (C) two hours after the email is sent (as recorded in the device from which the sender sent the email) unless the sender receives, within that two hour period, an automated message that the email has not been delivered,

but if the result is that a notice would be taken to be deemed to have been received at a time that is later than 5.00pm or on a day that is not a Business Day, then it will be deemed to have been received at 9.00am on the next Business Day;

- (iii) **(in the case of fax)** at the local time (in the place of receipt of that fax) which then equates to the time at which that fax is sent as shown on the transmission report which is produced by the machine from which that fax is sent and which confirms transmission of that fax in its entirety, unless that local time is not a Business Day, or is after 5.00pm on a Business Day, when that communication will be deemed to be received at 9.00am on the next Business Day; and
- (iv) **(in the case of delivery by hand)** on delivery at the address of the addressee as provided in clause 7.6(a), unless that delivery is not made on a Business Day, or after 5.00pm on a Business Day, when that communication will be deemed to be received at 9.00am on the next Business Day.

7.7 Cumulative rights

The rights, powers and remedies of Vocus and the Scheme Shareholders under this Deed Poll are cumulative with the rights, powers or remedies provided by law independently of this Deed Poll.

7.8 Governing law

- (a) This Deed Poll is governed by and will be construed according to the laws of Victoria.
- (b) Vocus irrevocably:
 - (i) submits to the non-exclusive jurisdiction of the courts of Victoria and of the courts competent to determine appeals from those courts, with respect to any proceedings that may be brought at any time relating to this Deed Poll; and
 - (ii) waives any objection it may now or in the future have to the venue of any proceedings, and any claim it may now or in the future have that any proceedings have been brought in an inconvenient forum, if the venue of those proceedings fall within clause 7.8(b)(i).

Signing page

EXECUTED as a deed poll.

Executed by Vocus Communications Limited ABN 96 084 115 499 in accordance with section 127 of the *Corporations Act 2001* (Cth):

Signature of director

Name of director (print)



Signature of director/company secretary
(Please delete as applicable)

Name of director/company secretary (print)



Schedule 3 – Scheme

See next page.

Scheme of Arrangement

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

M2	M2 Group Ltd ABN 74 091 575 021 of Level 10, 452 Flinders Street, Melbourne VIC 3000 and
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Scheme Shareholders	each person who holds one or more Scheme Shares.
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1. Definitions and interpretation

1.1 Definitions

In this Scheme, unless the context requires otherwise:

ASIC means the Australian Securities and Investments Commission.

ASX means ASX Limited (ABN 98 008 624 691) or, if the context requires, the financial market operated by it.

ASX Settlement means ASX Settlement Pty Ltd (ABN 49 008 504 532).

ASX Settlement Rules means the ASX Settlement Operating Rules.

Business Day means a day that is not a Saturday, Sunday or a public holiday or bank holiday in:

- (a) Melbourne, Australia; or
- (b) Sydney, Australia.

CHESS means the Clearing House Electronic Sub-register System for the electronic transfer of securities operated by ASX Settlement.

Close of Trading means the close of normal trading on ASX on the Effective Date.

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

Court means the Supreme Court of Victoria or any other court of competent jurisdiction under the Corporations Act as the parties may agree in writing.

Deed Poll means the deed poll dated [*] executed by Vocus, pursuant to which Vocus covenants in favour of the Scheme Shareholders to:

- (a) perform the steps attributed to Vocus under, and otherwise comply with, this Scheme as if Vocus were a party to this Scheme; and
- (b) comply with its obligations under the Merger Implementation Agreement, in so far as that agreement relates to this Scheme, and do all things necessary or expedient on its part to implement this Scheme.

Effective means, when used in relation to this Scheme, the coming into effect, under section 411(10) of the Corporations Act, of the Scheme Order in relation to this Scheme.

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

End Date means:

- (a) 30 April 2016; or
- (b) such other date and time agreed in writing between Vocus and M2.

Excluded Shareholder means any M2 Shareholder who is Vocus or a Related Body Corporate of Vocus.

Explanatory Booklet means the explanatory booklet prepared in respect of the Scheme in accordance with the terms of the Merger Implementation Agreement and despatched by M2 to M2 Shareholders.

Implementation Date means, with respect to this Scheme, the third Business Day, or such other Business Day as may be agreed in writing by M2 and Vocus, following the Record Date for this Scheme.

Ineligible Foreign Shareholder means a Scheme Shareholder whose address as shown in the M2 Register (as at the Record Date) is located outside of Australia and its external territories and New Zealand, and any other jurisdictions as may be agreed in writing by M2 and Vocus (unless Vocus is satisfied, acting reasonably, that it is permitted to allot and issue New Vocus Shares to that Scheme Shareholder pursuant to this Scheme by the laws of that place either unconditionally or after compliance with conditions that Vocus in its sole discretion regards as acceptable and not unduly onerous or impracticable).

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

M2 means M2 Group Ltd (ACN 091 575 021).

M2 Option means an option granted by M2 to acquire by way of issue one or more M2 Shares.

M2 Performance Right means a right granted under M2's Long Term Incentive Plan to acquire by way of issue or transfer one or more M2 Shares subject to the terms of such plan.

M2 Register means the register of members of M2 maintained under and in accordance with section 168 of the Corporations Act.

M2 Registrar means Link Market Services Limited (ACN 083 214 537).

M2 Share means an issued fully paid ordinary share in the capital of M2.

M2 Shareholder means a person who is registered in the M2 Register as a holder of M2 Shares.

Merger Implementation Agreement means the agreement entered into between M2 and Vocus dated 27 September 2015, under which each of M2 and Vocus undertakes specific obligations to give effect to this Scheme.

Merger Ratio means 1.625 New Vocus Shares per Scheme Share.

New Vocus Share means the new Vocus Shares to be issued under the terms of this Scheme as Scheme Consideration.

Nominee means the sale agent appointed in accordance with the Merger Implementation Agreement, to sell the New Vocus Shares that are attributable to Ineligible Foreign Shareholders under the terms of this Scheme (and/or a nominee of that person that is a subsidiary of that person).

Record Date means, in respect of this Scheme, 7.00pm on the fifth Business Day (or such other Business Day as may be agreed in writing by M2 and Vocus) following the Effective Date.

Registered Address means, in relation to a M2 Shareholder, the address of that M2 Shareholder as recorded on the M2 Register.

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.

Scheme means this scheme of arrangement pursuant to Part 5.1 of the Corporations Act between M2 and Scheme Shareholders in respect of all Scheme Shares, 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 M2 and Vocus.

Scheme Consideration means the consideration to be provided to Scheme Shareholders under the terms of this Scheme for the transfer to Vocus of their Scheme Shares, as ascertained in accordance with clauses 4.3 and 5.

Scheme Order means the orders of the Court approving this Scheme pursuant to section 411(4)(b) (and, if applicable, section 411(6)) of the Corporations Act.

Scheme Meeting means the meeting of M2 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 adjournment of that meeting.

Scheme Share means a M2 Share on issue as at the Record Date, other than any M2 Share then held by an Excluded Shareholder (but including any such M2 Share held on behalf of one or more third parties or otherwise in a fiduciary capacity).

Scheme Shareholder means each person who is registered on the M2 Register as a holder of Scheme Shares as at the Record Date.

Scheme Share Transfer means for each Scheme Shareholder, one or more proper instruments of transfer in respect of their Scheme Shares for the purposes of section 1071B of the Corporations Act, which may be or include a master transfer of all or part of all of the Scheme Shares.

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 first day on which the adjourned application is heard or scheduled to be heard.

Second Court Hearing means the hearing of the application to the Court for the Scheme Order approving this Scheme.

Security Interest has the meaning given in section 12 of the *Personal Property Securities Act 2009* (Cth).

Share Splitting means the splitting by a holder of M2 Shares into two or more parcels of M2 Shares whether or not it results in any change in beneficial ownership of the M2 Shares.

Vocus means Vocus Communications Limited (ACN 084 115 499).

Vocus Share means a fully paid ordinary share in the capital of Vocus.

Vocus Register means the register of members of Vocus maintained under and in accordance with section 168 of the Corporations Act.

1.2 Interpretation

In this Scheme, except where the context otherwise requires:

- (a) the singular includes the plural and vice versa, and a gender includes other genders;

- (b) another grammatical form of a defined word or expression has a corresponding meaning;
- (c) a reference to a clause, paragraph, schedule or annexure is to a clause or paragraph of, or schedule or annexure to, this Scheme, and a reference to this Scheme includes any schedule or annexure;
- (d) a reference to a document or instrument includes the document or instrument as novated, altered, supplemented or replaced from time to time;
- (e) a reference to **A\$, \$A, dollar** or **\$** is to Australian currency;
- (f) a reference to time is to Melbourne, Australia time;
- (g) a reference to a party is to a party to this Scheme, and a reference to a party to a document includes the party's executors, administrators, successors and permitted assigns and substitutes;
- (h) a reference to a person includes a natural person, partnership, body corporate, association, governmental or local authority or agency or other entity;
- (i) a reference to a statute, ordinance, code or other law includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements of any of them;
- (j) a word or expression defined in the Corporations Act has the meaning given to it in the Corporations Act;
- (k) the meaning of general words is not limited by specific examples introduced by including, for example or similar expressions;
- (l) a rule of construction does not apply to the disadvantage of a party because the party was responsible for the preparation of this Scheme or any part of it; and
- (m) if a day on or by which an obligation must be performed or an event must occur is not a Business Day, the obligation must be performed or the event must occur on or by the next Business Day.

2. Preliminary

2.1 M2

M2 is a public company incorporated in Australia and registered in South Australia and is a company limited by shares. M2 is admitted to the official list of ASX and its shares are officially quoted on the stock market conducted by ASX. Its registered office is at Level 10, 452 Flinders Street, Melbourne VIC 3000.

2.2 M2 securities

As at the date of the Explanatory Booklet, M2 had on issue or had granted (as applicable):

- (a) [*] M2 Shares;
- (b) [*] M2 Options; and
- (c) [*] M2 Performance Rights.

2.3 Vocus

Vocus is a company incorporated in Australia and is a company limited by shares. Its registered office is at Level 1, Vocus House, 189 Miller Street, North Sydney NSW 2060.

2.4 Agreement to implement this Scheme

Each of M2 and Vocus have agreed, by executing the Merger Implementation Agreement, to implement the terms of this Scheme and the steps contemplated to follow the implementation of this Scheme, to the extent those steps are required to be done by each of them.

2.5 Deed Poll

Vocus has executed the Deed Poll in favour of, among others, the Scheme Shareholders.

2.6 Summary of Scheme

If this Scheme becomes Effective:

- (a) all of the Scheme Shares (together with all rights and entitlements attaching to the Scheme Shares as at the Implementation Date) will be transferred to Vocus and M2 will become a subsidiary of Vocus;
- (b) in consideration of the transfer of the Scheme Shares, Vocus will provide or procure the provision of the Scheme Consideration to Scheme Shareholders in accordance with the terms of this Scheme;
- (c) M2 will enter the name of Vocus in the M2 Register as the holder of all the Scheme Shares;
- (d) it will bind M2 and all Scheme Shareholders, including those who do not attend the Scheme Meeting, those who do not vote at that meeting and those who vote against this Scheme at that meeting; and
- (e) it will override the constitution of M2, to the extent of any inconsistency.

3. Conditions precedent

3.1 Conditions precedent

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

- (a) each of the conditions precedent in clause 3.1 of the Merger Implementation Agreement (other than the condition precedent in clause 3.1(j)) having been satisfied or waived in accordance with the Merger Implementation Agreement as at 8.00am on the Second Court Date or such other time specified in that condition precedent;
- (b) neither the Merger Implementation Agreement nor the Deed Poll being terminated, as at 8.00am on the Second Court Date;
- (c) this Scheme being approved for the purposes of section 411(4)(b) of the Corporations Act at the Second Court Hearing, subject to the matters noted in clause 8.9; and
- (d) the Scheme Order comes into effect, pursuant to section 411(10) of the Corporations Act.

3.2 Effect of conditions precedent

The satisfaction or waiver of each condition precedent in clause 3.1 is a condition precedent to the operation of clause 4 and the binding effect of this Scheme.

3.3 Certificate

At or before the Second Court Hearing, M2 and Vocus will each provide to the Court certificates, or such other evidence as the Court requests, confirming (in respect of matters within their knowledge) whether or not the conditions precedent to this Scheme (other than the conditions precedent in clauses 3.1(c) and 3.1(d) above and the condition precedent in clause 3.1(j) of the Merger Implementation Agreement) have been satisfied or waived as at 8.00am on the Second

Court Date. The certificates given by M2 and Vocus constitute conclusive evidence that the relevant conditions have been satisfied or waived.

3.4 End Date

This Scheme will lapse and be of no further force or effect if the Effective Date has not occurred on or before the End Date.

3.5 Termination

Without limiting any rights under the Merger Implementation Agreement, if the Merger Implementation Agreement is terminated in accordance with its terms before this Scheme becomes Effective, each of Vocus and M2 are released from:

- (a) any further obligation to take steps to implement this Scheme; and
- (b) any liability with respect to this Scheme.

4. The Scheme

4.1 Lodgement of Scheme Order with ASIC

M2 will lodge with ASIC in accordance with section 411(10) of the Corporations Act an office copy of the Scheme Order as soon as practicable, and in any event by no later than 5.00pm on the first Business Day after the date on which the Court makes that Scheme Order (or on such other Business Day as M2 and Vocus agree).

4.2 Transfer of Scheme Shares

Subject to this Scheme becoming Effective:

- (a) on or before 10.00am on the Implementation Date, and subject to Vocus fulfilling its obligations under clauses 4.3 and 5.5, all of the Scheme Shares, together with all rights and entitlements attaching to the Scheme Shares at the Implementation Date, must be transferred to Vocus without the need for any further act by any Scheme Shareholder, by M2 effecting a valid transfer or transfers of the Scheme Shares to Vocus under section 1074D of the Corporations Act or, if that procedure is not available for any reason, by:
 - (i) M2 delivering to Vocus a duly completed Scheme Share Transfer executed by M2 (as transferor) acting as the attorney and agent of each Scheme Shareholder under clause 8.1; and
 - (ii) Vocus duly executing the Scheme Share Transfer (as transferee), attending to the stamping of the Scheme Share Transfer (if required) and delivering it to M2 for registration; and
- (b) on the Implementation Date, immediately after receipt of the Scheme Share Transfer from Vocus under clause 4.2(a)(ii) or the transfer being effected under section 1074D of the Corporations Act (as the case may be), M2 must enter, or procure the entry of, the name of Vocus in the M2 Register in respect of all of the Scheme Shares.

4.3 Provision of Scheme Consideration

- (a) Subject to this Scheme becoming Effective, in consideration for the transfer to Vocus of the Scheme Shares held by each Scheme Shareholder under the terms of this Scheme, Vocus will provide, or procure provision, to:
 - (i) each Scheme Shareholder who is not an Ineligible Foreign Shareholder, the Scheme Consideration to which that Scheme Shareholder is entitled in accordance with clause 5; and

- (ii) the Nominee, the Scheme Consideration to which Ineligible Foreign Shareholders would have otherwise been entitled in accordance with clause 5, on the Implementation Date and otherwise in accordance with this Scheme.
- (b) Nothing in this Scheme requires Vocus to provide Scheme Consideration to any Excluded Shareholder.

5. Scheme Consideration

5.1 Entitlement to Scheme Consideration

Subject to clauses 5.2, 5.3 and 5.4, the Scheme Consideration to be provided to each Scheme Shareholder will be the issue by Vocus to that Scheme Shareholder of the number of New Vocus Shares specified in the Merger Ratio for each Scheme Share held by that Scheme Shareholder.

5.2 Ineligible Foreign Shareholders

- (a) Vocus will be under no obligation under this Scheme to issue, and will not issue, any New Vocus Shares to Ineligible Foreign Shareholders, and instead:
 - (i) Vocus will issue on the Implementation Date the New Vocus Shares that would otherwise have been issued to the Ineligible Foreign Shareholders to the Nominee;
 - (ii) Vocus will procure that as soon as reasonably practicable, and in any event no more than 15 Business Days after the Implementation Date, the Nominee sells those New Vocus Shares issued to the Nominee on-market in such manner, at such price and on such other terms as the Nominee determines in good faith; and
 - (iii) promptly after the last sale of those New Vocus Shares, Vocus will procure that the Nominee pays the net proceeds of sale (after deducting any applicable brokerage, stamp duty and other selling costs, taxes and charges) to Vocus; and
 - (iv) promptly (and within 5 Business Days) after the remittance to Vocus in accordance with clause 5.2(a)(iii), Vocus will pay to each Ineligible Foreign Shareholder such proportion (rounded down to the nearest cent) of the net proceeds of sale received by Vocus pursuant to clause 5.2(a)(iii) as is equal to the number of New Vocus Shares that would have been issued to that Ineligible Foreign Shareholder had it not been an Ineligible Foreign Shareholder divided by the total number of New Vocus Shares issued to the Nominee pursuant to clause 5.2(a)(i).
- (b) The obligation of Vocus to make any payment pursuant to clause 5.2(a)(iv) to an Ineligible Foreign Shareholder will be satisfied by Vocus within the time contemplated by that clause either:
 - (i) despatching, or procuring the despatch, by mail to the registered address (as at the Record Date) of that Ineligible Foreign Shareholder of a pre-printed cheque in the name of that Scheme Shareholder and for the relevant amount (denominated in Australian dollars) (provided that, in the case of Ineligible Foreign Shareholders who are joint holders of Scheme Shares, the cheque will be made payable to the joint holders and sent to the holder whose name appears first in the M2 Register as at the Record Date); or
 - (ii) making, or procuring the making of, a deposit for the relevant amount (denominated in Australian dollars) in an account with any Australian ADI in Australia notified by that Ineligible Foreign Shareholder to M2 and recorded in or for the purposes of the M2 Register as at the Record Date.

- (c) None of Vocus, M2 or the Nominee gives any assurance as to the price that will be achieved for the sale of the New Vocus Shares described in this clause 5.2, and the sale of the New Vocus Shares under this clause 5.2 will be at the risk of the Ineligible Foreign Shareholder.
- (d) Each Ineligible Foreign Shareholder appoints M2 as its agent to receive on its behalf any financial services guide or other notices (including any updates of those documents) that the Nominee is required to provide to Ineligible Foreign Shareholders under the Corporations Act.

5.3 Fractional entitlements

- (a) Any fractional entitlement of a Scheme Shareholder to a part of a New Vocus Share will be rounded up or down to the nearest whole number of New Vocus Shares (rounded up if the fractional entitlement is equal to or greater than one half, and rounded down if the fractional entitlement is less than one half).
- (b) Vocus may, acting reasonably and in consultation with M2, deem the holdings of two or more Scheme Shareholders to be held by one Scheme Shareholder to prevent any Share Splitting designed to obtain unfair advantage by reference to such rounding.

5.4 Joint holdings

In the case of Scheme Shares held in joint names, any New Vocus Shares to be issued under this Scheme will be issued to and registered in the names of the joint holders and holding statements or notices confirming the issue of the New Vocus Shares will be forwarded to the holder whose name appears first in the M2 Register as at the Record Date.

5.5 Allotment and issue of New Vocus Shares

- (a) Subject to clauses 5.2 and 5.3 and to this Scheme becoming Effective, Vocus must:
 - (i) allot and issue the New Vocus Shares to Scheme Shareholders in accordance with this Scheme on terms such that each Vocus Share will rank equally in all respects with each existing Vocus Share;
 - (ii) do everything reasonably necessary to ensure that the New Vocus Shares are approved for official quotation on ASX and that trading in the New Vocus Shares commences as soon as practicable after the Effective Date, initially on a deferred settlement basis and thereafter on a normal settlement basis;
 - (iii) ensure that on issue, each New Vocus Share will be fully paid and free from any mortgage, charge, lien, encumbrance or other Security Interest; and
 - (iv) procure that:
 - (A) the name and address of each Scheme Shareholder is entered into the Vocus Register on the Implementation Date in respect of the New Vocus Shares to which it is entitled under this Scheme; and
 - (B) a holding statement (or equivalent document) is sent to the registered address of each such Scheme Shareholder representing the number of New Vocus Shares issued to the Scheme Shareholder pursuant to this Scheme within 10 Business Days after the Implementation Date.
- (b) Each Scheme Shareholder to be issued New Vocus Shares:
 - (i) agrees to be bound by Vocus' constitution;
 - (ii) agrees to become a member of Vocus and to have their name and address entered into the Vocus Register.

6. Entitlement to participate and dealings in M2 Shares

6.1 Entitlement to participate

Each Scheme Shareholder will be entitled to participate in this Scheme.

6.2 Recognised dealings

For the purposes of determining who is a Scheme Shareholder, dealings in M2 Shares will be recognised if:

- (a) in the case of dealings of the type effected by CHESS, the transferee is registered in the M2 Register as the holder of the relevant M2 Shares by the Record Date;
- (b) in all other cases, share transfer forms in registrable form or transmission applications in respect of those dealings are received at the place where the M2 Register is kept by 5.00pm on the Record Date.

6.3 M2's obligation to register

M2 must register any registrable transfers or transmission applications received in accordance with clause 6.2(b) by 7.00pm on the Record Date.

6.4 Transfer requests received after Record Date

M2 will not accept for registration or recognise for any purpose any transfer, transmission or application in respect of M2 Shares received after the times specified in clause 5.2, or received prior to such times but not in registrable form, other than a transfer to Vocus in accordance with this Scheme.

6.5 No disposals after Record Date

If this Scheme becomes effective, each Scheme Shareholder, and any person claiming through that Scheme Shareholder, must not dispose of or purport or agree to dispose of any Scheme Shares or any interest in them after the Record Date.

6.6 Maintaining the M2 Register

For the purpose of determining entitlements to Scheme Consideration, M2 must, until the Scheme Consideration has been provided, maintain, or cause the M2 Registrar to maintain, the M2 Register in accordance with the provisions of this clause 6 and entitlements to the Scheme Consideration will be determined solely on the basis of the M2 Register.

6.7 Statements of holding cease to have any effect

After 7.00pm on the Record Date, any share certificate or holding statement for M2 Shares (other than statements of holding in favour of Vocus and its successors in title) will cease to have any effect as a document of title in respect of those shares and each current entry on the M2 Register as at 7.00pm on the Record Date will cease to have any effect other than as evidence of the entitlements of Scheme Shareholders to the Scheme Consideration (other than the entries in respect of Vocus).

6.8 Provision of Scheme Shareholder's details

As soon as practicable after the Record Date, and in any event within one Business Day after the Record Date, M2 must ensure that a complete copy of the M2 Register as at 7.00pm on the Record Date, including details of the names, registered addresses and holdings of M2 Shares for each Scheme Shareholder, is available to Vocus in the form Vocus reasonably requires.

7. Quotation of M2 Shares

7.1 Suspension of trading in ASX

M2 will apply to the ASX to suspend trading in the M2 Shares on ASX from the Close of Trading.

7.2 Termination from official quotation

Provided that this Scheme has been fully implemented in accordance with its terms, M2 will apply for termination of the official quotation of the M2 Shares on ASX, and removal from the official list of ASX, on a date after the Implementation Date as determined by Vocus.

8. General provisions

8.1 Authority given to M2

On this Scheme becoming Effective, each Scheme Shareholder, without the need for any further act, is deemed to have irrevocably appointed M2 and all of its directors and officers (jointly and severally) as its attorney and agent for the purposes of:

- (a) enforcing the Deed Poll against Vocus; and
- (b) doing all things and executing any deeds, instruments, transfers or other documents as may be necessary or desirable to give full effect to this Scheme and the transactions contemplated by it, including the effecting of a valid transfer or transfers (or the execution and delivery of any Scheme Share Transfers) as contemplated by clause 4.2,

and M2 accepts such appointment. M2 as attorney and agent of each Scheme Shareholder, may sub-delegate its functions, authorities or powers under this clause 8.1 to all or any of its directors and officers (jointly, severally or jointly and severally).

8.2 Status of Scheme Shares

- (a) To the extent permitted by law, the Scheme Shares transferred under this Scheme will be transferred free from all mortgages, charges, liens, encumbrances and interests of third parties of any kind, whether legal or otherwise.
- (b) Each Scheme Shareholder is deemed to have warranted to M2, and appointed and authorised M2 as its attorney and agent to warrant to Vocus, that all their Scheme Shares (including any rights and entitlements attaching to those Scheme Shares) transferred to Vocus under this Scheme will, at the date of transfer, be fully paid and free from mortgages, charges, liens, encumbrances, pledges, security interests and other interests of third parties of any kind, whether legal or otherwise, and that they have full power and capacity to sell and transfer their M2 Shares (including any rights and entitlements attaching to those shares) to Vocus under this Scheme.

8.3 Further assurances

Each Scheme Shareholder and M2 will execute documents and do all things and acts necessary or expedient in order to implement this Scheme.

8.4 Authority of M2

Each of the Scheme Shareholders consents to M2 doing all things necessary for or incidental to the implementation of this Scheme.

8.5 Scheme binding

This Scheme binds M2 and all Scheme Shareholders from time to time (including those who do not attend the Scheme Meeting, those who do not vote at that meeting or vote against this Scheme) and, to the extent of any inconsistency, overrides the constitution of M2.

8.6 Variation, cancellation or modification of rights

The Scheme Shareholders agree to the transfer of their M2 Shares in accordance with this Scheme and agree to the variation, cancellation or modification of the rights attached to their M2 Shares constituted or resulting from this Scheme (if any).

8.7 Beneficial entitlement to Scheme Shares

On this Scheme becoming Effective, pending registration by M2 of Vocus in the M2 Register as the holder of the Scheme Shares:

- (a) Vocus will be beneficially entitled to the Scheme Shares transferred to it under this Scheme; and
- (b) each Scheme Shareholder:
 - (i) irrevocably appoints Vocus as attorney and agent (and directs Vocus in each capacity) to appoint any director, officer, secretary or agent nominated by Vocus as its sole proxy and, where applicable, its corporate representative to attend shareholder meetings of M2, exercise the votes attached to the Scheme Shares registered in the name of the Scheme Shareholder and sign any shareholders resolution of M2;
 - (ii) undertakes not to otherwise attend or vote at any such meetings or sign any such resolutions, whether in person, by proxy or by corporate representative other than pursuant to clause 8.7(b)(i);
 - (iii) must take all other actions in the capacity of a registered holder of Scheme Shares as Vocus reasonably directs; and
 - (iv) acknowledges and agrees that in exercising the powers referred to in this clause 8.7(b), any director, officer, secretary or agent nominated by Vocus may act in the best interests of Vocus as the intended registered holder of the Scheme Shares.

8.8 Notices

- (a) Where a notice, transfer, transmission application or other communication referred to in this Scheme is sent by post to M2, it will not be deemed to be received in the ordinary course of post or on a date other than the date (if any) on which it is actually received at M2's registered office or at the office of the M2 Registrar.
- (b) The accidental omission to give notice of the Scheme Meeting to any M2 Shareholders, or the non-receipt of such a notice by any M2 Shareholders, will not, unless ordered by the Court, invalidate this Scheme or the proceedings at the Scheme Meeting.

8.9 Alterations and conditions

If the Court proposes to approve this Scheme subject to any conditions or alterations under section 411(6) of the Corporations Act, M2 may, by its counsel on behalf of all persons concerned consent to only such of those conditions or alterations to this Scheme to which Vocus has consented, such consent not to be unreasonably withheld or delayed.

8.10 Enforcement of Deed Poll

M2 undertakes in favour of each Scheme Shareholder that it will enforce the Deed Poll against Vocus on behalf of and as agent and attorney for the Scheme Shareholders.

8.11 Duty

All duty (including stamp duty), and any related fines, penalties and interest, payable in connection with this Scheme and each transaction effected by or made under this Scheme will be payable by Vocus.

8.12 Limitation of liability

None of M2, Vocus, nor any director, officer or secretary of any of them is liable for anything done or omitted to be done in the performance of this Scheme or the Deed Poll in good faith.

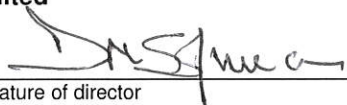
8.13 Governing Law

- (a) This Scheme is governed by and will be construed according to the laws of Victoria.
- (b) Each party irrevocably:
 - (i) submits to the non-exclusive jurisdiction of the courts of Victoria and of the courts competent to determine appeals from those courts, with respect to any proceedings that may be brought at any time relating to this Scheme; and
 - (ii) waives any objection it may now or in the future have to the venue of any proceedings, and any claim it may now or in the future have that any proceedings have been brought in an inconvenient forum, if the venue of those proceedings fall within clause 8.13(b)(i).

Signing page

EXECUTED as an agreement.

Executed by Vocus Communications Limited



Signature of director

DAVID M STENCE
Name of director (print)



Signature of director/company secretary
(Please delete as applicable)

JAMES R T SPENCELEY
Name of director/company secretary (print)

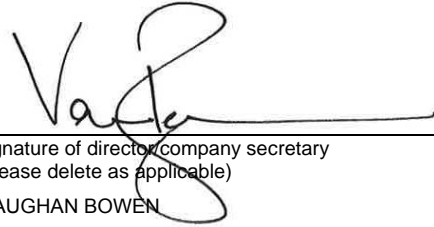
Executed by M2 Group Ltd



Signature of director

CRAIG FARROW

Name of director (print)



Signature of director/company secretary
(Please delete as applicable)
VAUGHAN BOWEN

Name of director/company secretary (print)