

NUMBER ADMINISTRATION DEED

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THIS DEED is made on the 1st day of May 2000

BETWEEN CLEAR COMMUNICATIONS LIMITED
AND THE INTERNET GROUP LIMITED
AND NEWCALL COMMUNICATIONS LIMITED
AND SATURN COMMUNICATIONS LIMITED
AND TEAMTALK LIMITED
AND TELECOM NEW ZEALAND LIMITED
AND TELSTRA NEW ZEALAND LIMITED
AND VODAFONE NEW ZEALAND LIMITED
AND CALLPLUS LTD

IT IS MADE IN THE FOLLOWING CIRCUMSTANCES:

- A.** The parties to this Deed are persons providing public switched telecommunications services in New Zealand which desire to establish a telecommunications industry-based mechanism for the centralised and independent administration of the parties' telecommunications numbering resources ("the numbering mechanism").
- B.** Following discussions between the parties and the Government it has been agreed that the numbering mechanism will be established by this Deed and comprise an industry body to oversee number administration, and an independent number administrator to carry out the task of administering the parties' numbering resources.

BY THIS DEED:

1. DEFINITIONS AND INTERPRETATION

1.1 **Definitions:** In this Deed, unless the context otherwise requires:

“Associated Person”, in relation to a Party, has the same meaning as in section OD7 of the Income Tax Act 1994;

“Consensus” means, in relation to a decision of the Management Committee, a vote in favour of a decision:

- (a) if at least 50% of the voting representatives are present, by all of the voting representatives present at the meeting of the Management Committee and voting on the decision; or
- (b) if less than 50% of the voting representatives are present at the meeting of the Management Committee:
 - (i) by all of the voting representatives present and voting on the decision; and
 - (ii) if, within three days of an email sent by the Number Administrator to all Parties that outlines the proposed decision and invites votes from the Parties that were not present at the meeting, none of the voting representatives have voted against the decision (including those that voted at the meeting).

In every other circumstance, “Consensus” means the written approval of every Party (including any person which has become a Party by signing a Deed of Accession to this Deed);

“Deed” means this Deed, including, without limitation, its schedules and the Principles, as it may be amended from time to time in accordance with its provisions;

“Deed of Accession” means a deed in the form attached as schedule 1 by which any person not originally a Party to this Deed may become a Party after this Deed is signed;

“Efficient” and “Efficiently” mean efficient or efficiently in economic terms, and includes producing the desired results or effects with minimum waste in resources (including numbering resources) or capital;

“General Principles” means the General Principles set out in clause 2.2 of this Deed;

“Independent Chair” means the Independent Chair of the Management Committee for the time being appointed in accordance with clause 4.3 of this Deed;

“Management Committee” and “Committee” means the Management Committee established under clause 4 of this Deed;

“New Zealand Resident” means, in relation to a natural person, that the person is a New Zealand citizen or ordinarily resident in New Zealand, or, in relation to a body corporate, that is incorporated in New Zealand, or that it is incorporated outside New Zealand but has a place of business in New Zealand. For the purposes of this definition, a person has a place of business in New Zealand only if that person can be served in accordance with rule 6.13(1) of the High Court Rules.

“New Zealand Telecommunications Numbering Advisory Group” means the telecommunications industry advisory group previously established for the purpose of facilitating discussion and industry co-ordination with respect to New Zealand telecommunication numbering issues;

“Number Allocation Rules” means the rules applying to the allocation of the telecommunication numbers subject to this Deed referred to in clause 5.3 of this Deed;

“Number Administrator” means the Number Administrator for the time being appointed under clause 5 of this Deed;

“Numbering Principles” means the Numbering Principles set out in clause 2.4 of this Deed;

“Principles” means the General Principles and the Numbering Principles;

“Party” and “Parties” means a party or the parties to this Deed, as the case may be;

“Society”, in relation to cost and benefits to or for society, means costs and benefits to or for the New Zealand economy as a whole;

“Super Majority” means a vote in favour of a decision:

- (a) if at least 50% of the voting representatives are present, by 75% or more of the voting representatives present at the meeting of the Management Committee and voting on the decision; or
- (b) if less than 50% of the voting representatives are present at the meeting of the Management Committee:
 - (i) by 75% or more of the voting representatives present and voting on the decision; and
 - (ii) if, within three days of an email sent by the Number Administrator to all Parties that outlines the proposed decision and invites votes from the Parties that were not present at the meeting, 25% of all of the voting representatives have not voted against the decision (including those that voted at the meeting).

“Telecommunications Numbering Plan” means the telecommunications numbering plan referred to in clause 5.1 of this Deed;

“User Representative” means a representative from an organisation that actively represents the interests of end-users of telecommunications services in New Zealand.

“Voting representative” and “representative” means the nominated representative of a Party entitled to vote at a meeting of the Management Committee as set out in clause 4.2 of this Deed and clause 7 of Schedule 2;

“Working Day” means any day other than:

- (a) a Saturday;
- (b) a Sunday; or
- (c) a public holiday listed in section 7A (2) of the Holiday Act 1981.

1.2 Interpretation

1.2.1 **Headings:** The headings in this Deed are for convenience only and have no legal effect.

1.2.2 **Clauses and schedules:** References to clauses and schedules are references to the clauses and schedules of this Deed. The schedules and the provisions and conditions contained in the schedules will have the same effect as if set out in the body of this Deed. In the event of any conflict between the schedules and the body of this Deed, the provisions of the body of this Deed will prevail.

1.2.3 **Singular and plural:** The singular includes the plural and vice versa.

1.2.4 **Persons:** References to a “person” includes bodies corporate, unincorporated associations or partnerships.

1.2.5 **References to legislation:** A reference to any legislation or to any provisions of any legislation (including regulations or orders) includes that legislation or provision as from time to time amended, re-enacted or substituted and any statutory instruments, regulations and orders issued under any such legislation.

1.2.6 **Rules:** A reference to matters arising under this Deed includes, without limitation, the Number Allocation Rules and matters arising under the Number Allocation Rules.

2. PRINCIPLES

2.1 This clause sets out General Principles and Numbering Principles that apply under this Deed. The status of the General Principles is as follows:

- (a) All persons exercising functions, powers and responsibilities under this Deed, including the Management Committee, the Independent Chair, the Number Administrator, and any Arbitrator appointed under this Deed, must act consistently with the General Principles.
- (b) No provision of this Deed may be amended if the amendment contravenes any of the General Principles.
- (c) Despite clause 2.1(a) and clause 2.1(b), an inconsistency with the General Principles under clause 2.1(a) or a contravention of the General Principles under clause 2.1(b) is to be disregarded for the

purposes of this clause 2 if the action or amendment is intended to increase compliance with one or more General Principles and does so, and the detriment of the inconsistency with or contravention of the other General Principle or Principles is outweighed by the benefit arising from the increased compliance with the relevant General Principles.

2.2 The General Principles are:

General Principle 1

Administration of numbering to be for long-term benefit of end-users

The administration of numbering under this Deed must be carried out for the long-term benefit of end-users of telecommunications services in New Zealand.

General Principle 2

Role of numbering

The parties to this Deed recognise the role of the administration of numbering in:

- (a) facilitating any-to-any connectivity between end-users;
- (b) the introduction and supply of carriage services;
- (c) access by customers (or connection by end-users) to those services; and
- (d) the proper routing of calls by carriage service providers.

General Principle 3

Importance of numbering information to end-users

The parties to this Deed recognise the importance of numbering in enabling end-users to understand the level of call charges for calls to a number, and which numbers can be used in connection with the supply of particular carriage services.

General Principle 4

Public costs and benefits

Because the administration of numbering has the potential to result in both public benefits and public costs (in respect of the Parties, the wider industry, and end-users), public benefits and costs must be evaluated and taken into account in the administration of numbering.

General Principle 5

Administration of funds

Funds received from the Parties must be applied responsibly and Efficiently.

2.3 All persons exercising functions, powers and responsibilities under this Deed, including the Management Committee, the Independent Chair, the Number

Administrator, and any arbitrator appointed under this Deed, must act consistently with the Numbering Principles.

2.4 The Numbering Principles are:

Numbering Principle 1

Efficient, non-discriminatory allocation of numbering resources

The allocation of numbering resources must:

- (a) be Efficient;
- (b) not constitute a barrier to entry or inhibit competition in a market;
- (c) be transparent and non-discriminatory; and
- (d) provide adequate capacity for the reasonable anticipated needs of the Parties.

Numbering Principle 2

Efficient use of numbering resources

Allocated number resources must be used Efficiently.

Numbering Principle 3

Efficient planning and implementation of numbering

The ongoing planning and implementation of numbering must:

- (a) promote Efficient outcomes;
- (b) adhere to recognised international standards, practices and recommendations wherever practical;
- (c) allow for growth in demand for new and existing telecommunications services;
- (d) minimise the cost to consumers, carriers and service providers of any number changes; and
- (e) take into account the interests of consumers.

Numbering Principle 4

Portability of allocated numbers

All end user numbers must be capable of being ported.

Numbering Principle 5

Tenure

Existing numbering allocations must stand except where changes are required for Telecommunication Numbering Plan development or where an enforcement provision is invoked as a consequence of number allocation misuse or where existing numbering allocations are not Efficient.

Numbering Principle 6

Number ownership

Number allocation does not affect number ownership or other intellectual property rights and number ownership or other intellectual property rights will not prevent or limit the operation of this Deed.

Numbering Principle 7

Network freedom

The Numbering Principles do not limit any Party's rights to implement any numbering related changes in its network in any way it sees fit which is consistent with this Deed and with any outcomes duly specified by the Management Committee or an arbitrator.

Numbering Principle 8

Dispute resolution

Disputes over number issues arising under this Deed are subject to independent resolution based on the Principles.

3. PARTICIPATION

- 3.1 Every person who is a New Zealand Resident and is providing public switched telecommunications services in New Zealand shall be entitled to become a Party to this Deed and thereby participate in the numbering mechanism established by this Deed and be eligible for allocations of numbers in accordance with the Number Allocation Rules. Subject to clause 3.2, no person other than a Party is eligible for allocations of numbers under this Deed. Unless the Parties otherwise agree by Consensus, there shall be no more than one Party for each group of related companies (as defined by section 2(3) of the Companies Act 1993), or group of Associated Persons.
- 3.2 If a person intends to provide public switched telecommunications services in New Zealand, the Number Administrator, on request of such a person, may allocate numbers to that person as if that person was a Party to this Deed, provided that:
- (a) the person is a New Zealand Resident;
 - (b) the Number Administrator is satisfied (whether on the basis of information supplied by the person intending to provide public switched telecommunications services or otherwise) that such a person does actually intend to provide public switched telecommunications services; and
 - (c) any numbers allocated pursuant to this clause shall be relinquished if the person intending to provide public switched telecommunications services:
 - (i) has not become a Party to this Deed within 6 months of being allocated the numbers; or
 - (ii) has not begun to provide such services, without reasonable excuse, within 12 months of being allocated the numbers.

No person receiving an allocation of numbers under this clause 3.2 shall be permitted to use those numbers until that person becomes a Party to this Deed. For the purposes of this clause 3.2 a Party shall be deemed to be a New Zealand Resident if they were a Party as at 11 July 2007.

- 3.3 Where any person wishes to become a Party, that person shall give notice to that effect to the Number Administrator, which shall investigate whether the person is, in accordance with this Deed, entitled to become a Party.
- 3.3A At any time that no Number Administrator is currently appointed pursuant to this Deed, the Parties, on receiving from a person (the "Applicant") a written request to become a party to the Deed, including a bona fide written acknowledgement (to the satisfaction of all of the Parties) that the Applicant has requested to become a party to the Deed with the intention and understanding that it be bound by the terms of the Deed, may determine by the written agreement of at least 75% of all the Parties, that the Applicant is eligible to become a Party to the Deed. On making such a determination, the Parties shall forward to the Applicant a Deed of Accession (in the form prescribed in Schedule 1 to the Deed) for the Applicant to execute and thereby become a Party to the Deed. If any Applicant which has made a request and given an acknowledgement complying with this clause 3.3A is a person which is named in this Deed as an intended party to it, but which did not execute this Deed on or before 15 December 1998, the Applicant will be treated as being eligible to become a party to this Deed without any determination as to eligibility being required and the Parties shall forward to the Applicant a Deed of Accession (in the form prescribed in Schedule 1 to the Deed) for the Applicant to execute and thereby become a Party to the Deed.
- 3.4 If the Number Administrator is satisfied that such person is entitled to become a Party, then it shall make a preliminary determination to that effect and notify all Parties. Thereafter, the Number Administrator shall follow the procedure in relation to number allocation specified in clauses 5.10 to 5.16 (with all necessary modifications to suit the circumstances) and, once the Number Administrator makes a final determination that such person is entitled to become a Party, shall forward to the person concerned a Deed of Accession for signature. The decision of the Number Administrator shall be subject to dispute resolution under clause 6.
- 3.5 Subject to clause 3.5, upon signing such a Deed of Accession, the person shall become a Party.
- 3.6 Clauses 3.1-3.5 are intended to confer a benefit on persons wishing to become Parties and may be enforced by them under the Contracts Privity Act 1982.
- 3.7 The Parties (including any person becoming a Party by signing a Deed of Accession) agree to all their public switched telecommunications numbering resources being administered in accordance with the terms of this Deed. The Parties signing this Deed will make arrangements to place their numbering resources under the administration of the Number Administrator as soon as

practicable after the appointment of the Number Administrator and any person becoming a Party by signing a Deed of Accession shall do so as soon as practicable after the date of the Deed of Accession. For the avoidance of doubt, nothing in this clause impacts on or detracts from the effect of clause 10.3.

- 3.8 Subject to clause 3.10, a Party to this Deed may withdraw from participation in the numbering mechanism established by this Deed by giving 12 months' (or a notice period of less than 12 months if determined by the agreement of at least 75% of the Parties,) written notice to that effect to the Management Committee. Subject to clause 3.9, such withdrawal shall have the effect of removing that person as a Party to this Deed and from the date such notice is given that person shall be released from any further liability under this Deed.
- 3.9 The withdrawal of a Party from this Deed by written notice in accordance with clause 3.8 shall not:
- (a) release that person from any liabilities under this Deed incurred before the date of such notice being given; or
 - (b) affect any allocations of numbers made before the date of such withdrawal takes effect.
- 3.10 If a Party has had no numbers allocated to it pursuant to this Deed at the time it seeks to withdraw from participation in the numbering mechanism established by this Deed, that Party may withdraw by giving 5 Working Days notice.
- 3.11 After a Party has withdrawn from participation in the numbering mechanism established by this Deed, that person:
- (a) will be entitled to continue to use those numbers which were allocated to it prior to its withdrawal, subject to the Number Allocation Rules which will continue to bind that person; but
 - (b) will not be eligible for any further allocations of numbers under this Deed.
- 3.12 Where a Party transfers any of its rights or benefits in respect of telecommunications numbers to a person who is not a Party to this Deed as part of the sale of all or part of its public switched telecommunications business, such transferee shall be required to comply with clauses 3.3-3.5 in order to become a Party to this Deed.
- 3.13 Where any Party ceases to provide public switched telecommunications services in New Zealand or goes into liquidation, it will be deemed to have withdrawn under clause 3.8 and must either relinquish any numbers allocated to it or make arrangements with the Number Administrator for them to be reallocated to a continuing Party. Clause 3.11(a) will not apply to such a person after its withdrawal.

4. GOVERNANCE ARRANGEMENTS

- 4.1 The Parties shall establish a Management Committee to administer this Deed. The Management Committee shall comprise:
- (a) one representative from each Party;
 - (b) an Independent Chair; and
 - (c) a User Representative.
- 4.2 Each Party shall, as soon as practicable, give notice to the other Parties and to the Independent Chair, in the manner specified in clause 11, of the person appointed to represent it on the Management Committee as its voting representative. Unless the Parties otherwise agree by Consensus, there shall be no more than one voting representative for each group of related companies (as defined in section 2(3) of the Companies Act 1993), or group of Associated Persons, in relation to a Party. Additional provisions applicable to voting representatives are set out in clause 7 of Schedule 2.
- 4.3 The Parties shall, as soon as practicable, arrange for the appointment of the Independent Chair of the Management Committee. The appointment of the Independent Chair shall be for a term of 2 years. The appointment of the initial Independent Chair shall be made, and the terms of appointment determined, by a Consensus decision of the Parties. If the Parties are unable to reach a Consensus decision on the appointment of the initial Independent Chair by 19 February 1999, the Independent Chair shall be chosen and the terms of appointment determined by the Minister of Communications following consultation with the Parties, and such decision shall be final. The appointment of any subsequent Independent Chair and the determination of the terms of appointment will be by a Consensus of the Management Committee. A failure by the Management Committee to reach a Consensus decision on the appointment and terms of appointment of any subsequent Independent Chair within 40 Working Days of the position becoming vacant shall be subject to dispute resolution.
- 4.4 The Independent Chair shall be engaged by the Parties to carry out the following responsibilities:
- (a) Chairing the meetings of the Management Committee;
 - (b) Liaising with the Number Administrator for the purpose of ensuring the arranging and recording of meetings of the Management Committee;
 - (c) Carrying out the enforcement duties set out in this Deed; and
 - (d) Such other matters as may be required by the Management Committee by a Super Majority.
- 4.5 The Independent Chair shall not have a deliberative or a casting vote with respect to Management Committee decisions subject to a majority vote and shall not form part of a Consensus.

- 4.6 The User Representative will be appointed by a majority vote of the voting representatives present and voting at the first meeting of the Management Committee of each financial year. The User Representative has the right to attend all meetings of the Management Committee but has no voting rights.
- 4.7 The Management Committee shall hold its first meeting as soon as practicable and shall meet at such times and places as the Independent Chair from time to time determines or as 3 or more Parties request. However, in no event shall the time between Management Committee meetings be greater than 6 months.
- 4.8 The procedures for meetings of the Management Committee and subcommittees of the Management Committee shall be those set out in Schedule 2.
- 4.9 Decisions of the Management Committee shall be made by majority vote of the voting representatives present, provided that decisions on the following matters require a Super Majority:
- (a) changes to the Telecommunications Numbering Plan;
 - (b) the establishment of or changes to Number Allocation Rules;
 - (c) the appointment of the Number Administrator and the determination of the terms of appointment; and
 - (d) other decisions required under this Deed to be made by a Super Majority.
- 4.10 The Management Committee may, by a Super Majority, appoint sub-committees to deal with any particular issue but shall appoint a sub-committee to manage the relationship between the Management Committee and the Number Administrator. The Management Committee shall, by a Super Majority, agree the terms of reference of each subcommittee.
- 4.11 Sub-committees shall comprise those Parties who indicate a desire to be on the applicable sub-committee from time to time.
- 4.12 The operational costs of administering this Deed shall be recovered from Parties by the Management Committee on the following basis:
- (a) Each Party shall pay an annual fixed fee of \$10,000; and
 - (b) The balance of the operational costs for any year shall be apportioned between the Parties according to each Party's share of the total number allocations made in that year.

For the avoidance of doubt, each Party shall bear its own costs of participating in the proceedings of the Management Committee and any sub-committee, and in making applications for number allocations.

- 4.13 The Number Administrator may make a provisional apportionment of operational costs for any year based on each Party's share of the total number

allocations made in the previous year, and the Parties shall be bound to pay their respective provisional shares when demanded by the Number Administrator, subject to a subsequent adjustment. That adjustment shall take place immediately after the end of the relevant year, and the Number Administrator shall refund payments made by Parties in excess of their adjusted shares and demand further payments from their adjusted shares from Parties as required to increase their total payments to their required level.

- 4.14 During the first year that this Deed is in effect, any provisional apportionment of operational costs shall be based on the record of the Call Charging Steps and the Preliminary Number Changes Advice in the previous year.

5. NUMBERING ADMINISTRATION

- 5.1 Subject to clause 10.3, the aggregation of numbering plans which are subject to administration by the Number Administrator under this Deed shall be known as the Telecommunications Numbering Plan.

- 5.2 The Telecommunications Numbering Plan comprises:

- (a) the Number Allocation Rules;
- (b) the aggregation of numbering plans subject to this Deed; and
- (c) the record of those telecommunications numbers which have been allocated and those that are free for allocation.

- 5.3 The Number Allocation Rules, which shall initially apply to the allocation of telecommunication numbers, shall be the number allocation principles of the New Zealand Telecommunications Numbering Advisory Group. These rules shall be revised by the Management Committee, by Consensus, as soon as practicable, but in no event later than 6 months after the signing of this Deed, so as to be consistent with this Deed. Until this revision has been completed, number allocations will be made in a manner consistent with this Deed. The record of telecommunications numbers referred to in clause 5.2(c) is set out in the annexure to this Deed and has been compiled by each Party providing a record of those telecommunication numbers or codes that have been allocated to itself or other Parties, as the case may be, and those that are free for allocation in their networks as of the date of this Deed. This record identifies number block allocations down to at least the 10,000 number block level. Each Party shall provide to the Number Administrator an updated record of allocated and unallocated telecommunication numbers down to the 10,000 number block level as soon as practicable after a Number Administrator is appointed, but in no event later than 20 Working Days after that appointment.

- 5.4 Number allocations existing as at the date of this Deed shall remain in effect, subject to this Deed.

- 5.5 The Management Committee shall, as soon as practicable, arrange for the appointment of an independent Number Administrator to administer the Telecommunications Numbering Plan. The appointment of the Number

Administrator shall be made, and the terms of appointment (including the term) determined, by a Consensus decision of the Management Committee. A failure to reach a Consensus decision on the appointment of, or the terms of appointment of, the Number Administrator shall be subject to dispute resolution.

- 5.6 The Number Administrator shall have duties prescribed by the Management Committee which may include the following:
- (a) Allocating numbering resources in accordance with the Number Allocation Rules;
 - (b) Developing recommendations for new rules in consultation with interested Parties;
 - (c) Developing and investigating proposals, following a Management Committee instruction, for changes to the Telecommunications Numbering Plan, in consultation with interested Parties;
 - (d) Providing a Management Committee secretariat, including for sub-committees; and
 - (e) Other duties as specified by the Management Committee by the agreement of at least 75% of all voting representatives present and voting on the decision.
- 5.7 Parties shall be entitled to apply to the Number Administrator for an allocation of numbers in accordance with the Number Allocation Rules.
- 5.8 Applications for numbers to the Number Administrator shall be made in writing and shall set out the information required by the Number Administrator to make a decision under the Number Allocation Rules. Applications for numbers shall be accompanied by such application fee as may be prescribed by the Management Committee. Applications for numbers shall be accompanied by a written statement certifying that the allocation sought will, if made, be in accordance with the General Principles and Numbering Principles. Where the application is for Geographic Code Blocks, Non-Geographic Code Blocks or Free-Phone Service Code Blocks, the application shall be accompanied by a written statement certifying that the Party making the application will comply with any applicable requirements of Local Telephone Number Portability Service or Cellular Telephone Number Portability Service (as appropriate) as determined by the Telecommunications Commissioner from time to time.
- 5.9 If the Number Administrator considers that insufficient information has been provided by the Party making application, the Number Administrator shall request the Party to provide the further information required before making a decision on the application.
- 5.10 The Number Administrator shall expeditiously deal with all applications for number allocations and, following the making of a decision, shall notify all

Parties of that decision in the manner prescribed by the Management Committee.

- 5.11 The Number Administrator shall make number allocations in accordance with this Deed and the Number Allocation Rules.
- 5.12 Any Party may object to a decision of the Number Administrator within 10 Working Days of being notified of the decision:
 - (a) by giving a written notice of objection to the Number Administrator setting out the grounds of objection; and
 - (b) by serving a copy of such notice of objection on the other Parties.
- 5.13 Following the giving of a notice of objection, other Parties shall have 5 Working Days within which to make written submissions on the matter to the Number Administrator. Copies of such submissions shall be provided to the other Parties.
- 5.14 Following the expiry of 5 Working Days after receiving a notice of objection in respect of a decision, the Number Administrator shall reconsider that decision taking into account the objection and submissions received.
- 5.15 The Number Administrator may either confirm or change the original decision made and shall notify the Parties of the confirmation or change of the original decision. The Number Administrator shall also notify the Commerce Commission of any allocation of Geographic, Non-Geographic, or Free-Phone Service Code Blocks if it is the first time that any such allocation has been made to a Party, or if a Party relinquishes all of its allocations of such Code Blocks, for the purpose of assisting the Commission to carry out its functions under the Telecommunications Act.

6. DISPUTE RESOLUTION

- 6.1 The following matters are referable to dispute resolution in accordance with the terms of this Deed:
 - (a) All decisions of the Number Administrator, except decisions which are still open for reconsideration;
 - (b) Decisions of the Independent Chair on allegations of breaches of this Deed, breaches of decisions made under this Deed, and breaches of the Number Allocation Rules;
 - (c) Any other act or decision which any Party considers to be inconsistent with the Principles; and
 - (d) An amendment to this Deed which any Party considers to be inconsistent with the Principles; and
 - (e) All matters requiring a decision of the Management Committee by the agreement of at least 75% of the voting representatives present and voting on the decision.

- 6.2 A Party affected by a decision of the Number Administrator which is referable to dispute resolution and which that Party objects to, may give notice referring the matter:
- (a) in the first instance, to the Management Committee for review; and
 - (b) subsequently, to arbitration.
- 6.3 When a matter is referred to the Management Committee under clause 6.2 and the Committee, on reviewing the decision of the Number Administrator reaches a Consensus decision on the matter, that decision shall apply. If the Management Committee fails to reach a Consensus decision on the matter, the Party objecting may give notice referring the matter to arbitration.
- 6.4 If the Management Committee fails to reach Consensus on any matter requiring a Consensus decision under the terms of this Deed, any Party affected by the matter in dispute may give notice referring the matter to arbitration.
- 6.5 Where Parties are in dispute on a matter, the use of mediation by those Parties to resolve the dispute should be considered, but is not required. If the Parties cannot agree within 10 Working Days to mediate the dispute, then the matter may be referred to arbitration.
- 6.6 A Party affected by a decision of the Independent Chair which is referable to dispute resolution under this Deed, being a decision to which that Party objects, may give notice referring the matter to arbitration.
- 6.7 Any notice given under clause 6.2, 6.3, 6.4 or 6.6 shall:
- (a) be served on the other Parties and, in the case of a notice of dispute issued under clause 6.2, 6.3 or 6.6 shall be so served within 15 Working Days of notification of the decision being challenged or, in the case of a failure of the Management Committee to reach a Consensus decision on a review of the decision of the Number Administrator, within 15 Working Days of notification by the Independent Chair of such failure;
 - (b) state the grounds of the challenge, or basis of the disagreement or dispute (as the case may be), and the relief sought by the Party giving the notice; and
 - (c) in the case of a notice given under clause 6.2, 6.3 or 6.6, shall have the effect of staying the implementation of the decision under challenge until resolution of the dispute by the Management Committee or the duly appointed arbitrator.
- 6.8 A Party on whom a notice is served under clause 6.7, and who is affected by the decision being challenged or the matter in dispute may give notice electing to be a Party to the dispute, but otherwise may not participate in the resolution of the dispute.
- 6.9 Any notice given under clause 6.8 shall:

- (a) be served on each other Party within 10 Working Days of receipt of the notice given under clause 6.7; and
 - (b) state the relief being sought by the Party giving notice.
- 6.10 The Parties to a dispute shall be those Parties who duly elect to be a Party to the dispute by giving notice in accordance with clause 6.8. The Parties to a dispute shall be entitled to be heard by the Management Committee or the arbitrator, as the case may be, concerning the dispute.
- 6.11 Subject to this Deed, and unless the Parties to a dispute otherwise agree, an arbitration shall be conducted in accordance with the Arbitration Act 1996 (“the Act”) except that the following procedures shall apply:
- (a) the parties to the arbitration shall be the Party giving the notice of reference to arbitration and any other Party which gives notice that it also wishes to become a party to the arbitration;
 - (b) the parties to the arbitration shall agree upon a single arbitrator not later than 10 business days after all such parties have been identified;
 - (c) absent agreement under Clause 6.11.(b), any Party may apply to the High Court for appointment by that Court of the arbitrator in accordance with Article 11 of the First Schedule of the Act;
 - (d) the arbitrator shall adopt, wherever practicable, a simplified and expedited procedure;
 - (e) the arbitrator may determine the dispute without a hearing unless any party gives notice that it requires a hearing (and such notification shall be a material consideration in the ultimate assessment of costs);
 - (f) the arbitrator shall decide the dispute in accordance with the laws of New Zealand;
 - (g) for the purposes of an arbitration, the arbitrator may appoint one or more experts to report on specific issues to be determined by the arbitrator;
 - (h) the arbitration shall otherwise be conducted in accordance both with the Act and any model arbitration agreement, which is agreed by the Management Committee by Consensus; and
 - (i) for the avoidance of doubt, clause 3(1) and clauses 4 and 5 of the Second Schedule of the Act shall apply, and any party may appeal to the High Court on questions of law arising out of an award.
- 6.12 Information or documents confidential to a party may be disclosed to another party in the course of the arbitration. A recipient party shall not:
- (a) use any such information or document otherwise than for the purposes of the arbitration;
 - (b) disclose any such information or document to a third party (other than to a professional or other adviser who shall first have entered into a confidentiality deed in favour of the disclosing party and providing that he or she will conform to this clause 6.12), other than:
 - (i) to a party;

(ii) to a mediator, arbitrator or Court; or

(iii) as compelled by law;

and will return all such material to the disclosing party on completion of the arbitration (or any appeal arising from it).

- 6.13 A Party to a dispute shall bear its own costs and, where the matter is referred to arbitration, it shall bear an equal proportion of the costs of the arbitrator with other Parties to the dispute, provided that:
- (a) the arbitrator may allocate costs as between the Parties to a dispute in a different manner where it considers there is good reason to do so; and
 - (b) the arbitrator may allocate costs to a Party to this Deed who is not a Party to the dispute where it considers that such Party receives a significant benefit from the arbitration, but must first give notice to any such Party of his or her intention to do so and give the Party the opportunity to be heard by the arbitrator before allocating any costs to such Party.

7. ENFORCEMENT

- 7.1 The Parties to this Deed shall abide by this Deed, all final decisions made under this Deed, and the Number Allocation Rules.
- 7.2 Where the Number Administrator or any Party to this Deed considers that a Party is in breach of the Deed, a final decision made under the Deed, or the Number Allocation Rules, that person may make an allegation in writing to that effect to the Independent Chair.
- 7.3 Where an allegation is made to the Independent Chair under clause 7.2, the Independent Chair shall inquire into the matter (or arrange for such inquiry to be undertaken by the Number Administrator or another independent person on his or her behalf) and determine whether a breach has occurred.
- 7.4 If the Independent Chair is satisfied that a breach in terms of clause 7.2 has occurred, the Independent Chair may require the Party in breach to do or suffer one or more of the following:
- (a) remedy the breach;
 - (b) pay a fine or compensation to any or all other Parties, in such proportions as the Independent Chair prescribes;
 - (c) where there have been serious or persistent unremedied breaches, suspend its right to participate in the numbering mechanism established by this Deed.

8. COMMERCE ACT

- 8.1 The Parties to this Deed shall investigate whether a Commerce Act 1986 section 58 authorisation is required in respect of any of the provisions of this Deed and until such investigation is completed, this Deed will not come into force. In no event shall the investigation under this clause last for a period

greater than 10 working days (within the meaning of section 2(1) of the Commerce Act) from the date this Deed is signed.

- 8.2 If as the result of that investigation the Parties do not reach Consensus that an authorisation is not required, then application shall be made for that authorisation within 15 working days (within the meaning of section 2(1) of the Commerce Act) after this Deed is entered into, and those provisions in respect of which authorisation is required shall not come into force unless and until authorisation is granted to give effect to those provisions, but all other provisions will come into effect immediately after the investigation is completed.
- 8.3 If as a result of that investigation, it is agreed that no authorisation is required, then all provisions of this Deed shall come into force immediately after the investigation is completed.
- 8.4 If application is made for authorisation, the costs shall be borne by the Parties in the manner set out in Schedule 3.
- 8.5 Nothing in this Deed affects the rights of any Party under the Commerce Act 1986 or the Fair Trading Act 1986.

9. CONFIDENTIALITY

- 9.1 The Parties acknowledge that this Deed is a public document and that none of its provisions is confidential or commercially sensitive.
- 9.2 The Parties acknowledge that in the course of administering telecommunications numbering under this Deed, some Parties may make available commercially sensitive and valuable information relating to their organisation or their customers. All such information shall be treated as confidential by the recipient of it and shall not be disclosed or used outside of the numbering mechanism unless:
- (a) It is necessary to enable the relevant Party to fulfil its obligations under this Deed;
 - (b) The information is obtained by the relevant Party other than through being a Party to this Deed;
 - (c) The relevant Party is required to do so by law; or
 - (d) The information comes into the public domain other than through a breach by the recipient of this clause 9.2.
- 9.3 No Party shall make any public announcement relating to the affairs of the Management Committee, or to this Deed, without the prior approval of the Committee.

10. EFFECT OF DEED

- 10.1 The terms and provisions of this Deed or anything arising under this Deed shall not affect or limit the terms and provisions of any agreement between any of the Parties on interconnection matters. In particular, nothing in or arising under this Deed shall directly or indirectly affect, alter or be capable of amending terms and conditions of agreements relating to the activation of allocated numbers, the routing of calls, or the passing of calls between any of the networks of the Parties.
- 10.2 Nothing in or arising under this Deed shall require a Party to activate allocated numbers, route calls, or pass calls from one Party's network to another Party's network or restrict a Party's right to do so; these matters are dealt with in other agreements between the Parties. No other agreements, including agreements on interconnection matters, between any, but not all Parties shall affect, alter, or be capable of amending in any way this Deed to the extent that this Deed governs number administration matters.
- 10.3 Nothing in, or arising under, this Deed shall affect any ownership or other intellectual property rights of any Party in any numbers or numbering plan.
- 10.4 No Party shall rely on number ownership or other intellectual property rights to prevent or limit the operation of this Deed.

11. NOTICES

- 11.1 Any notice or communication given under this Deed shall be in writing.
- 11.2 Notices to a Party to this Deed, the Management Committee, the Independent Chair or the Number Administrator shall be:
- (a) Delivered by hand to the designated address of the Party, Management Committee, Independent Chair or Number Administrator; or
 - (b) Sent by post with postage prepaid, by facsimile or by email to the Party, Management Committee, Independent Chair or Number Administrator at that designated address.
- 11.3 A notice or other communication delivered by hand shall be deemed to have been received at the time of delivery:
Provided that if the delivery is not made on a Working Day, or is made after 5.00pm on a Working Day, then the notice or other communication will be deemed to have been delivered on the next business day.
- 11.4 A notice or other communication delivered by prepaid post shall be deemed to have been received on the second Working Day after posting.
- 11.5 A notice or other communication sent by facsimile shall be deemed to have been received on the day of transmission:
Provided that if the day of transmission is not a Working Day, then the notice or other communication will be deemed to have been given on the next Working Day after the day of transmission.

- 11.6 A notice or other communication sent by email transmission shall be deemed to have been received when transmitted to the correct email address of the recipient:

Provided that if the day of transmission is not a Working Day, then the notice or other communication will be deemed to have been given on the next Working Day after the day of transmission.

- 11.7 A designated address of a Party for the purpose of this Deed shall be that address set out below its name in the execution section of this Deed or such other address as is specifically designated by that Party by notice given to the other Parties and the Independent Chair and the Number Administrator or, in the absence of such notice, the ordinary business address of that Party.
- 11.8 The designated address of the Management Committee shall be the designated address of the Independent Chair which shall be that address specifically designated by the Independent Chair by notice given to the Parties and the Number Administrator or, in the absence of such notice, the ordinary business address of the Independent Chair.
- 11.9 The designated address of the Number Administrator shall be that address specifically designated by the Number Administrator by notice given to the Parties or, in the absence of such notice, the ordinary business address of the Number Administrator.
- 11.10 References to a designated address in this clause means a street address, postal address, facsimile number or email address.

12. AMENDMENT

- 12.1 The following clauses of this Deed may be amended only by the written agreement of all the Parties:
- (a) clause 2;
 - (b) clause 3;
 - (c) clause 4;
 - (d) clause 5.6;
 - (e) clause 5.11;
 - (f) clause 5.12;
 - (g) clause 6;
 - (h) clause 7;
 - (i) clause 9; and
 - (j) clause 12.

12.2 All other clauses of this Deed may be amended by the written agreement of at least 75% of the Parties.

12.3 For the avoidance of doubt written agreement includes agreement by email by a person with the requisite authority of the relevant Party he or she represents.

13. NO ASSIGNMENT

Subject to clauses 3.7 and 3.8, no Party may assign its rights under this Deed to any person.

14. NO PARTNERSHIP

Nothing in this Deed or in the relationship between the Parties shall be construed as in any sense:

creating a relationship between:

- (a) any two or more of the Parties; or
- (b) any associated persons of those Parties; or

giving to any Party or any associated person of that Party any of the rights, or subjecting any Party or any associated person of that Party to any of the liabilities, of a partner.

15. EXCLUSION OF FIDUCIARY DUTIES

Without limiting any express contractual obligation to act in good faith, nothing in this Deed shall evidence or be deemed to constitute a fiduciary relationship between any or all of the Parties. Accordingly, any fiduciary duties which may otherwise be implied are hereby excluded, and each Party may act in its own self interest so long as it complies with this Deed.

16. ORIGINAL PARTIES

The parties which execute this Deed in accordance with clause 17 by 5 pm on 14 December 1998 (so long as they include Telecom New Zealand Limited and Vodafone New Zealand Limited) shall be the Parties and all references to other persons in the list appearing on page 1 of this Deed and in the execution provisions shall be disregarded, it being the intention of the parties which execute this Deed in accordance with clause 17 by 5 pm on 14 December 1998 that this Deed will be binding on them in accordance with its terms, notwithstanding the failure by any other person to do so. Nothing in this clause limits the rights of any person under clause 3.

17. COUNTERPARTS

This Deed may be executed in any number of counterparts. Once a party has executed a counterpart, and sent a copy to Vodafone New Zealand Limited,

Level 5, 21 Pitt Street, Auckland or sent it by facsimile to 09-357-0333, that counterpart shall be deemed to be as valid and binding on the party executing with effect from 5 pm on 14 December 1998 as if it had been executed by all the Parties. Vodafone shall notify all Parties immediately after 5 pm on 14 December 1998 of the other Parties which have executed the Deed at that time.

IN WITNESS WHEREOF these presents have been executed by the Parties hereto on the day and year first hereinbefore written:

SIGNED for and on behalf of)
CLEAR COMMUNICATIONS LIMITED)
By , Director) _____

_____)
By , Director) _____

SIGNED for and on behalf of)
COMPASS COMMUNICATIONS LIMITED)
By , Director) _____

_____)
By , Director) _____

SIGNED for and on behalf of)
GLOBAL ONE COMMUNICATIONS LIMITED)
By , Director) _____

_____)
By , Director) _____

SIGNED for and on behalf of)
NEWCALL COMMUNICATIONS LIMITED)
By , Director) _____

_____)
By , Director) _____

SIGNED for and on behalf of)
SATURN COMMUNICATIONS LIMITED)
By , Director) _____

_____)
By , Director) _____

SIGNED for and on behalf of)
TEAMTALK LIMITED)

By , Director) _____

By , Director) _____

SIGNED for and on behalf of)
TELECOM COMMUNICATIONS LIMITED)

By , Director) _____

By , Director) _____

SIGNED for and on behalf of)
TELSTRA NEW ZEALAND LIMITED)

By , Director) _____

By , Director) _____

SIGNED for and on behalf of)
VODAFONE NEW ZEALAND LIMITED)

By , Director) _____

By , Director) _____

SIGNED for and on behalf of)
WORLDXCHANGE LIMITED)

By , Director) _____

By , Director) _____

SCHEDULE 1

DEED OF ACCESSION

Date:

PARTIES:

- (1) [THE PARTIES TO THE DEED AT THE TIME TO BE LISTED HERE] (the "Existing Parties")
- (2) [] LIMITED having its registered office at [] (the "New Party")

BACKGROUND

- A The Existing Parties are the parties to the Number Administration Deed dated * November 1998 (the "Deed").
- B Under the Deed the New Party is required to execute this deed.

NOW BY THIS DEED the parties agree as follows:

- 1 With effect from [date], (the "Effective Date") the New Party:
 - 1.1 becomes a party to the Deed as if it had been named as a party to the Deed and had executed it; and
 - 1.2 must observe and perform all of the obligations of a Party under the Deed and will be bound by the terms of the Deed.
- 2 The New Party agrees with the Existing Parties that it will observe and perform its obligations under the Deed and will be bound by the terms of the Deed.
- 3 For the purpose of clause 11 of the Deed the designated address of the New Party is as follows:

[Details to be inserted]

EXECUTION

SCHEDULE 2

PROCEEDINGS AT MEETINGS OF MANAGEMENT COMMITTEE

1 INTERPRETATION

- 1.1 Unless stated otherwise, references to clauses are references to clauses in this Schedule.
- 1.2 A reference in this Schedule to a Party present at a meeting or entitled to vote at a meeting includes a reference to a voting representative of a Party.

2 NOTICE

- 2.1 Written notice of the time and place of a meeting of the Management Committee must be sent to every Party not less than 10 Working Days before the meeting and each Party shall have 5 Working Days thereafter to send written notice of any item or items to be added to the agenda. Notices must be sent by post and facsimile to the designated addresses of the Parties under clause 11 of the Deed.
- 2.2 The notice must state:
 - (a) the nature of the business to be transacted at the meeting in sufficient detail to enable a Party to form a reasoned judgment in relation to it; and
 - (b) the text of any resolution to be submitted to the meeting.
- 2.3 Subject to clause 2.4, if no or insufficient notice of a meeting has been given, those representatives present at a meeting will not constitute a quorum and clause 3.5 will not apply.
- 2.4 Any irregularity in a notice of a meeting may be waived if all the Parties entitled to attend the meeting attend the meeting without protest as to the irregularity or if all Parties agree to the waiver.

3 MEETING AND QUORUM

- 3.1 Meetings of the Management Committee will be held at such times and place as the Independent Chair from time to time determines.
- 3.2 A meeting of the Management Committee may be held either:
 - (a) by a number of Parties, who constitute a quorum, being assembled together at the place, date and time appointed for the meeting; or
 - (b) by means of an audio, or audio and visual, communication by which a quorum of Parties participating can simultaneously hear each other throughout the meeting.
- 3.3 Business may be transacted at a meeting of the Management Committee only if a quorum is present at the time when the meeting proceeds to business.

- 3.4 A quorum for a meeting of the Management Committee is present if 5 or more Parties are present.
- 3.5 If a quorum is not present within 30 minutes after the time appointed for a meeting the meeting will be adjourned to the same day in the following week at the same time and place, or to such other day, time, and place as any Parties present at the adjourned meeting may appoint, but in no event for a period of more than 30 days. All Parties not in attendance at the meeting shall be notified by the Independent Chair of the day, time and place of the rescheduled meeting in accordance with clause 2.1, except that the time limits specified therein shall not apply.

4 CHAIRPERSON

- 4.1 The Independent Chair will chair all meetings of the Management Committee at which he or she is present.
- 4.2 If the office of Independent Chair is vacant or, if at any meeting of the Management Committee the Independent Chair is not present within 15 minutes of the time appointed for the commencement of the meeting, the Parties present may elect one representative of a Party to be chairperson of the meeting.
- 4.3 The chairperson of a meeting at which a quorum is present:
- (a) may adjourn the meeting with the consent of all the Parties attending that meeting; and
 - (b) must adjourn the meeting if directed by the meeting to do so.

The only business that may be transacted at any adjourned meeting is the business left unfinished at the meeting from which the adjournment took place.

5 DECISIONS OF THE MANAGEMENT COMMITTEE

- 5.1 A decision or resolution of the Management Committee is passed if:
- (a) in the case of a decision or resolution for which Consensus is required under the Deed, it is unanimously agreed to by all Parties present and voting; and
 - (b) in the case of any other decision or resolution, it is passed by the proportion of the Parties as is required by the relevant clause of the Deed.
- 5.2 A resolution in writing signed by the proportion of the Parties as is required by the relevant clause of the Deed is as valid as if it had been passed at a meeting of the Management Committee. Any such resolution may consist of several documents in like form, each signed by one or more Parties and delivered to the Independent Chair in any manner permitted for the giving of notices under clause 11 of the Deed. A document sent by email by a Party or a representative of a Party shall be treated for the purposes of this clause as a document signed by that Party.

- 5.3 The Number Administrator may circulate resolutions to the voting representatives of the Management Committee by email, in accordance with the Deed and Number Allocation Rules. The Number Administrator must:
- (a) circulate the resolution to all voting representatives by email;
 - (b) provide the voting representatives with 10 Working Days to respond to the resolution;
 - (c) give the voting representatives that fail to respond within the 10 Working Day period, a further 3 Working Days to respond to the resolution;
 - (d) deem all of the voting representatives that respond to the resolution during the email voting period as the voting representatives present and voting on the decision; and
 - (e) calculate whether the resolution has been approved according to the Consensus, Super Majority or simple majority requirements as is required by the relevant clause of the Deed.

For the avoidance of doubt the voting procedures set out in this clause 5.3 of Schedule 2 shall not be subject to the quorum requirements of Consensus and Super Majority voting set out in clause 1.1 of the Deed.

- 5.4 Any Party that does not attend a meeting of the Management Committee can submit to the Management Committee its view on the proposal as set out in the notice sent to all Parties in accordance with clause 2.1. Any such view will be distributed (as submitted) to those attending the meeting, but any such written submissions shall not affect the unanimity or majority of the meeting making a decision or passing a resolution.

6 PARTY PROPOSALS

- 6.1 A Party may give written notice to the Independent Chair of a matter it proposes to raise for discussion or resolution at the next meeting of the Management Committee.
- 6.2 If the Independent Chair receives the notice at least 10 Working Days before the last day on which notice of the relevant meeting of the Management Committee is required to be given, the Independent Chair must give notice of the Party's proposal and the text of any proposed resolution to all Parties.

7 VOTING REPRESENTATIVES

- 7.1 Any notice appointing a voting representative in accordance with clause 4.2 of the Deed may be for an indeterminate term, a fixed term, or an individual meeting, may be given at any time, including at the beginning of or during any meeting of the Management Committee and may specify a person by name or the holder of a particular office.
- 7.2 Any such notice may be replaced by another notice at any time or by a notice in respect of any particular meeting given to the Independent Chair and the voting representatives of other Parties present at the meeting.

- 7.2 No person may be a representative of more than one Party.
- 7.4 A Party may also appoint an alternate representative in the same manner as appointments of representatives are made and such alternate may exercise all the rights and powers of the representative of that Party in the absence of the representative for any reason.
- 7.5 A Party may be represented by only one voting representative at any meeting of the Management Committee. However, a Party may have advisors at a meeting of the Management Committee to assist it in carrying out its functions.
- 7.6 A representative shall be entitled to attend and be heard at a meeting of the Management Committee as if the representative were the Party.
- 7.7 A Party may not be represented at any meeting of the Management Committee by proxy.
- 7.8 For the avoidance of doubt, each Party, through its voting representative, shall have a single vote as to each decision or resolution of the Management Committee.

8 MINUTES

The Independent Chair must ensure that minutes are kept of all proceedings at meetings of the Management Committee and that a record is kept of all written resolutions of the Management Committee. Minutes which have been signed correct by the chairperson of the meeting are prima facie evidence of the proceedings.

9 OTHER PROCEEDINGS

Except as provided in this Schedule, a meeting of the Management Committee may regulate its own procedure.

10 SUBCOMMITTEES

This Schedule shall apply also to subcommittees established by the Management Committee, unless the terms of appointment of that subcommittee provide otherwise.

SCHEDULE 3

AUTHORISATION COSTS

1. Telecom New Zealand Limited (“Telecom”) will initially pay for the costs of preparing and submitting a notice seeking authorisation (including the fee charged by the Commerce Commission (“the Commission”)), subject to the provisions which follow.
2. If the Commission does not decline jurisdiction to give the authorisation (i.e. the Commission either grants an authorisation or declines to do so having found that it has jurisdiction to do so), then all the costs initially paid by Telecom under paragraph 1 above will be shared equally by the Parties and each party other than Telecom shall, upon request, reimburse Telecom for its share of such costs.
3. If the Commission declines jurisdiction (i.e. the Commission makes a finding that there is no breach of any provision of Part II of the Act), the costs initially paid by Telecom under paragraph 1 above will not be subject to reimbursement as described in paragraph 2 above.
4. Each Party shall pay its own costs of participating in the authorisation process (i.e. costs other than those described in paragraph 1 above).