

Form 603

Corporations Act 2001
Section 671B

Notice of initial substantial holder

To Company Name/Scheme Comms Group Limited

ACN/ARSN 619 196 539

1. Details of substantial holder (1)

Name Comms Group Limited

ACN/ARSN (if applicable) 619 196 539

The holder became a substantial holder on 29 January 2021

2. Details of voting power

The total number of votes attached to all the voting shares in the company or voting interests in the scheme that the substantial holder or an associate (2) had a relevant interest (3) in on the date the substantial holder became a substantial holder are as follows:

Class of securities (4)	Number of securities	Person's votes (5)	Voting power (6)
Fully paid ordinary shares	70,812,456	70,812,456	20.81%

3. Details of relevant interests

The nature of the relevant interest the substantial holder or an associate had in the following voting securities on the date the substantial holder became a substantial holder are as follows:

Holder of relevant interest	Nature of relevant interest (7)	Class and number of securities
Comms Group Limited ACN 619 196 539 ("CCG")	Restrictions on the disposal of shares under voluntary escrow arrangements in the form of Annexure B entered into with each of the holders set out in paragraph 4 below would, if not for the relief granted by ASIC in the form of ASIC Instrument 21-0031, give CCG a deemed relevant interest in its own shares pursuant to section 608(1)(c) of the <i>Corporations Act 2001</i> (Cth). See ASIC Instrument 21-0031 dated 13 January 2021. A requirement of this Instrument is that CCG issues this notice in respect of the shares subject to the voluntary escrow arrangements in the form of Annexure B. CCG has no right to acquire the shares or to exercise, or control or influence the exercise of, a right to vote attached to these shares.	70,812,456 fully paid ordinary shares in the capital of CCG ("Shares")

4. Details of present registered holders

The persons registered as holders of the securities referred to in paragraph 3 above are as follows:

Holder of relevant interest	Registered holder of securities	Person entitled to be registered as holder (8)	Class and number of securities
CCG	Nashar Pty Limited ACN 071 435 231 as trustee for the Ryan O'Hare Family No. 2 Discretionary Trust ABN 88 592 272 398 ("Nashar")	Nashar	41,459,300 Shares
	GMNM Consulting Pty Ltd ACN 128 913 673 as trustee for the GMNM Consulting Trust ABN 97 340 189 395 ("GMNM")	GMNM	9,377,864 Shares
	Mark Lawrence Manion ("Manion")	Manion	15,668,161 Shares
	Annette Sylvia Presley and Professional Trustees Limited NZCN 2317528 as joint trustees for the Kylie.co.nz Trust IRD number	Kylie.co.nz	2,100,432 Shares

Holder of relevant interest	Registered holder of securities	Person entitled to be registered as holder (8)	Class and number of securities
	083-847-123 ("Kylie.co.nz")		
	Pesca Holdings Pty Limited ACN 003 822 384 as trustee for OHare Family Trust ABN 73 878 239 791 ("Pesca")	Pesca	566,830 Shares
	Cecpam Pty Ltd ACN 160 608 266 as trustee for the Karen Jones Superfund ABN 86 371 394 224 ("Cecpam")	Cecpam	1,639,869 Shares

5. Consideration

The consideration paid for each relevant interest referred to in paragraph 3 above, and acquired in the four months prior to the day that the substantial holder became a substantial holder is as follows:

Holder of relevant interest	Date of acquisition	Consideration (9)		Class and number of securities
		Cash	Non-cash	
CCG	29/01/2021		Partial consideration for acquisition of shares in Next Telecom Pty Ltd ACN 074 728 724	70,812,456 Shares

6. Associates

The reasons the persons named in paragraph 3 above are associates of the substantial holder are as follows:

Name and ACN/ARSN (if applicable)	Nature of association
N/A	N/A

7. Addresses

The addresses of persons named in this form are as follows:

Name	Address
CCG	Level 6, 56 Clarence Street, Sydney, New South Wales 2000
Nashar	Level 16, 1 Market Street, Sydney, New South Wales 2000
GMNM	6 Kapyong Street, Belrose, New South Wales 2085
Manion	29 Iona Avenue, North Rocks, New South Wales 2151
Kylie.co.nz	2 Auburn Street, Takapuna, Auckland, 0622 New Zealand
Pesca	Level 34, 100 Miller Street, North Sydney, New South Wales 2060
Cecpam	176 Dath Henderson Road, Lake Macdonald, Queensland 4563

Signature

print name **Andrew Metcalfe**

capacity **Company Secretary**

sign here



date 02/02/2021

DIRECTIONS

- (1) If there are a number of substantial holders with similar or related relevant interests (eg. a corporation and its related corporations, or the manager and trustee of an equity trust), the names could be included in an annexure to the form. If the relevant interests of a group of persons are essentially similar, they may be referred to throughout the form as a specifically named group if the membership of each group, with the names and addresses of members is clearly set out in paragraph 7 of the form.
 - (2) See the definition of "associate" in section 9 of the Corporations Act 2001.
 - (3) See the definition of "relevant interest" in sections 608 and 671B(7) of the Corporations Act 2001.
 - (4) The voting shares of a company constitute one class unless divided into separate classes.
 - (5) The total number of votes attached to all the voting shares in the company or voting interests in the scheme (if any) that the person or an associate has a relevant interest in.
 - (6) The person's votes divided by the total votes in the body corporate or scheme multiplied by 100.
 - (7) Include details of:
 - (a) any relevant agreement or other circumstances by which the relevant interest was acquired. If subsection 671B(4) applies, a copy of any document setting out the terms of any relevant agreement, and a statement by the person giving full and accurate details of any contract, scheme or arrangement, must accompany this form, together with a written statement certifying this contract, scheme or arrangement; and
 - (b) any qualification of the power of a person to exercise, control the exercise of, or influence the exercise of, the voting powers or disposal of the securities to which the relevant interest relates (indicating clearly the particular securities to which the qualification applies).
- See the definition of "relevant agreement" in section 9 of the Corporations Act 2001.
- (8) If the substantial holder is unable to determine the identity of the person (eg. if the relevant interest arises because of an option) write "unknown".
 - (9) Details of the consideration must include any and all benefits, money and other, that any person from whom a relevant interest was acquired has, or may, become entitled to receive in relation to that acquisition. Details must be included even if the benefit is conditional on the happening or not of a contingency. Details must be included of any benefit paid on behalf of the substantial holder or its associate in relation to the acquisitions, even if they are not paid directly to the person from whom the relevant interest was acquired.

Annexure A

Form of Escrow Deed entered into by the holders set out in paragraph 4 above (other than Nashar)

See over the page.

For personal use only

Escrow Deed

between

[Insert]
(Shareholder)

and

Comms Group Limited
ACN 619 196 539
(Company)

For personal use only

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This Deed is made on

Parties

- 1 Comms Group Limited ACN 619 196 539 of Level 6, 56 Clarence Street, Sydney, New South Wales 2000 (**Company**).
- 2 **[Insert]**
(**Shareholder**).

Recitals

- A The Company is admitted to the official list of ASX and its Shares are quoted on ASX.
- B The Shareholder will be issued the Escrow Shares under the Sale Agreement.
- C In order to help promote a stable market for Shares on ASX, the Shareholder undertakes to the Company to be bound by the terms and conditions of this Deed.

It is agreed as follows.

1 Definitions and Interpretation

1.1 Definitions

The following definitions apply unless the context requires otherwise.

ASX means ASX Limited ABN 98 008 624 691 or the Australian Securities Exchange, as appropriate.

Business Day means a day which is not a Saturday, Sunday or a public holiday in Sydney, New South Wales.

Completion means the completion of the sale and purchase of the shares in the Sale Company under the Sale Agreement.

Completion Date means the date on which Completion occurs.

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

Dispose has the meaning given to 'dispose' in the Listing Rules.

Escrow Period means the period commencing on the Completion Date and ending on:

- (a) if there are no Outstanding Claims on the Escrow Release Date, the Escrow Release Date; or
- (b) if there are any Outstanding Claims on the Escrow Release Date, the date that is 10 Business Days after all such Outstanding Claims have been agreed, finally determined by a Court of competent jurisdiction or otherwise resolved unless an amount sufficient to pay the Outstanding Claims has been lodged in a New South Wales solicitor's trust account on that solicitor's undertaking to hold that amount until the resolution of such Outstanding Claims, and to pay such Outstanding Claims out of such monies when such Outstanding Claims have been resolved in accordance with the terms of an escrow deed between the solicitor, the Company and the Shareholder (on terms acceptable to the Buyer acting reasonably).

Escrow Release Date means the first anniversary of the Completion Date.

Escrow Shares means the Shares to be issued to the Shareholder in accordance with the Sale Agreement, irrespective of the date on which they are issued.

Holding Lock has the meaning given to 'holding lock' in the Listing Rules.

Issuer Sponsored Subregister has the meaning given to 'issuer sponsored subregister' in the Listing Rules.

Listing Rules means the Listing Rules of ASX (including the ASX Settlement Operating Rules).

Outstanding Claim has the meaning given to that term in the Sale Agreement.

Restricted Action has the meaning given to that term in clause 2.1.

Sale Agreement means the Share Sale and Purchase Agreement dated [] between (among others) the Company and the Shareholder in relation to the sale and purchase of all the shares in the Sale Company.

Sale Company means Next Telecom Pty Ltd ACN 074 728 724.

Shares means fully paid ordinary shares in the capital of the Company.

1.2 Interpretation

The following rules apply unless the context requires otherwise.

- (a) Headings are for convenience only and do not affect interpretation.
- (b) The singular includes the plural and conversely.
- (c) A gender includes all genders.
- (d) Where a word or phrase is defined, its other grammatical forms have a corresponding meaning.
- (e) A reference to a clause is a reference to a clause of this Deed.
- (f) A reference to an agreement or document (including a reference to this Deed) is to the agreement or document as amended, varied, supplemented, novated or replaced, except to the extent prohibited by this Deed or that other agreement or document.
- (g) Specifying anything in this Deed after the words 'including', 'includes' or 'for example' or similar expressions does not limit what else is included.
- (h) A reference to a party to this Deed or another agreement or document includes the party's successors, permitted substitutes and permitted assigns (and, where applicable, the party's legal personal representatives).
- (i) A reference to legislation or to a provision of legislation includes a modification or re-enactment of it, a legislative provision substituted for it and a regulation or statutory instrument issued under it.

2 Escrow Restrictions

2.1 Shareholder restrictions

During the Escrow Period, the Shareholder must not:

- (a) Dispose of, or agree or offer to Dispose of, any or all of the Escrow Shares;
- (b) create, or agree or offer to create, any security interest in any or all of the Escrow Shares; or
- (c) do or omit to do any act which may have the effect of transferring effective ownership or control of any or all of the Escrow Shares,

(each a **Restricted Action**), other than in accordance with clause 2.3.

2.2 CHESS or Issuer Sponsored Subregister

- (a) The Shareholder agrees that the Escrow Shares will be:
 - (i) kept on an electronic CHESS subregister; or
 - (ii) held on the Company's Issuer Sponsored Subregister (as that term is defined in the ASX Listing Rules),and agrees to the application of a Holding Lock to the Escrow Shares for the Escrow Period.
- (b) The Company agrees to do all things necessary to ensure that the Holding Lock is released:
 - (i) to the extent necessary to permit disposals of Escrow Shares permitted by this Deed; and
 - (ii) to the extent applicable at the conclusion of the Escrow Period.

2.3 Permitted Transfers

During the Escrow Period, the Shareholder may only undertake a Restricted Action if:

- (a) the Shareholder has obtained the prior written consent of the Company (which must not be unreasonably withheld or delayed) to transfer the Escrow Shares if:
 - (i) the transfer is to a person that is:
 - (A) a spouse or child of the Shareholder or child of the Shareholder's spouse (**Immediate Family Member**);
 - (B) a company wholly owned by the Shareholder, an Immediate Family Member or a person that controls the Shareholder;
 - (C) a trustee of a trust in relation to which the Shareholder or an Immediate Family Member is the beneficiary; or
 - (D) a trustee company either controlled by the Shareholder or an Immediate Family Member a person that controls the Shareholder of a trust in relation to which the Shareholder or an Immediate Family Member is the beneficiary (including, for the avoidance of doubt, the trustee of any self-managed superannuation fund controlled by the Shareholder or an Immediate Family Member);
 - (ii) the transferee executes a deed pursuant to which the transferee agrees to be bound by terms substantially similar to this Deed (provided that the Company may not require any change to the Escrow Period or the Escrow Release Date or to the nature of the restrictions contemplated by this Deed); and
 - (iii) the transfer does not result in a change to the beneficial ownership of the Escrow Shares;
- (b) the Restricted Action is required by law (including an order of a court of competent jurisdiction);
- (c) the Shareholder obtains the prior written consent of the Company (which may be withheld by the Company at its absolute discretion);
- (d) the Restricted Action is the acceptance of:
 - (i) a bona fide takeover bid under Chapter 6 of the Corporations Act for all of the Shares in the Company; or

- (ii) a proportional takeover bid under Chapter 6 of the Corporations Act, provided that:
- (iii) such acceptance occurs following a public announcement by the Company that the board of directors of the Company recommends a takeover bid; or
- (iv) the holders of at least 50% of the bid class securities that are not subject to escrow, and to which the offers under the bid relate, have accepted and the Escrow Shares continue to be held on the terms of this Deed if the relevant bid does not become unconditional or does not otherwise proceed; or
- (e) the Restricted Action is the transfer or cancellation of the Shares in the Company as part of a scheme of arrangement under Part 5.1 of the Corporations Act, provided that scheme of arrangement takes effect.

2.4 Shareholder to notify Company

If the Shareholder becomes aware:

- (a) that a dealing in any Escrow Shares has occurred, or is likely to occur, during the Escrow Period in breach of this Deed; or
- (b) of any other matter which is likely to give rise to a dealing in any Escrow Shares during the Escrow Period in breach of this Deed,

that Shareholder must notify the Company as soon as practicable after becoming aware of the dealing or those matters giving rise the dealing, and provide full details.

3 Breach

3.1 Prevention of anticipated breach

The parties acknowledge and agree that if it appears to the Company that the Shareholder may breach this Deed, the Company:

- (a) may take the steps necessary to prevent the breach or to enforce this Deed, as soon as the Company becomes aware of the potential breach; and
- (b) subject to the Listing Rules, may refuse to acknowledge, deal with, accept or register any sale, assignment, transfer or conversion of any of the Escrow Shares (in addition to the other rights and remedies of the Company).

3.2 Damages insufficient remedy

The parties agree that damages would be an insufficient remedy for breach of this Deed and the Shareholder agrees that the Company is entitled to seek and obtain an injunction or specific performance as a remedy for any actual or threatened breach of this Deed, in addition to any other remedies available to the Company at law or in equity under or independently of this Deed.

4 Representations and Warranties

4.1 Shareholder representations and warranties

The Shareholder represents and warrants that:

- (a) **(power)** it has power to enter into and comply with all of the terms and conditions of this Deed applicable to it;

- For personal use only
- (b) **(authority)** it has taken all necessary corporate actions and authorisations to permit it to enter into this Deed and to observe all of its terms and no such corporate action or authorisation has since been rescinded or varied;
 - (c) **(deed effective)** this Deed constitutes a legal, valid and binding obligation on it and is enforceable against it in accordance with its terms;
 - (d) **(Escrow Shares)** upon the issue of the Escrow Shares and at all times during the Escrow Period, it will be the legal and beneficial holder of the Escrow Shares; and
 - (e) **(no encumbrances)** upon the issue of the Escrow Shares and at all times during the Escrow Period, the Escrow Shares are free from all encumbrances, security interests and other third party interests or rights.

4.2 Reliance on representations and warranties

The Shareholder acknowledges that the Company has executed this Deed in reliance on the representations and warranties that are made in this clause.

4.3 No representations by the Company

The Shareholder acknowledges that it has not relied and will not rely on any representation statement or promise made by or on behalf of the Company in deciding to enter into this Deed.

5 Compliance with Listing Rules

For so long as the Company is listed on the official list of ASX:

- (a) notwithstanding anything contained in this Deed, if the Listing Rules prohibit an act being done, that act must not be done;
- (b) nothing contained in this Deed prevents an act being done that the Listing Rules require to be done;
- (c) if the Listing Rules require an act to be done or not to be done, authority is given for that act to be done or not to be done (as the case may be);
- (d) if the Listing Rules require this deed to contain a provision and it does not contain such a provision, this Deed is deemed to contain that provision;
- (e) if the Listing Rules require this Deed not to contain a provision and it contains such a provision, this Deed is deemed not to contain that provision; and
- (f) if any provision of this Deed is or becomes inconsistent with the Listing Rules, this Deed is deemed not to contain that provision to the extent of the inconsistency.

6 Notices

Any notice, demand, consent or other communication (a **Notice**) given or made under this Deed:

- (a) must be in writing and signed by a person duly authorised by the sender;
- (b) must be delivered to the intended recipient by prepaid post (if posted to an address in another country, by registered airmail) or by hand or email to the address or email address below or the address or email address last notified by the intended recipient to the sender:
 - (i) to the Company: Level 6, 56 Clarence Street, Sydney, New South Wales 2000
Attention: Peter McGrath
Email: peter.mcgrath@commschoice.com

(ii) to the Shareholder: [insert address]
Attention: [insert]
Email: [insert]

- (c) will be taken to be duly given or made:
- (i) in the case of delivery in person, when delivered;
 - (ii) in the case of delivery by post, two Business Days after the date of posting (if posted to an address in the same country) or seven Business Days after the date of posting (if posted to an address in another country); and
 - (iii) in the case of email, on the day of transmission, provided that the sender does not receive an automated notice generated by the sender's or the recipient's email server that the email was not delivered,

but if the result is that a Notice would be taken to be given or made on a day that is not a business day in the place to which the Notice is sent or is later than 4pm (local time) it will be taken to have been duly given or made at the commencement of business on the next business day in that place.

7 General

7.1 Governing law

This Deed is governed by the laws of New South Wales. Each party irrevocably accepts the non-exclusive jurisdiction of courts with jurisdiction there and waives any right to object to the venue on any ground.

7.2 Further assurances

Each party agrees to do all things and execute all deeds, instruments, transfers or other documents as may be necessary or desirable to give full effect to the provisions of this Deed and the transactions contemplated by it.

7.3 Waiver and exercise of rights

- (a) No failure to exercise nor any delay in exercising any right, power or remedy by a party operates as a waiver. A single or partial exercise of any right, power or remedy does not preclude any other or further exercise of that or any other right, power or remedy. A waiver is not valid or binding on the party granting that waiver unless made in writing.
- (b) A party may exercise a right or remedy or give or refuse its consent in any way it considers appropriate (including by imposing conditions), unless this Deed expressly states otherwise.

7.4 Entire agreement

This Deed contains the entire agreement of the parties with respect to its subject matter. It sets out the only conduct on relied on by the parties and supersedes all earlier conduct by the parties with respect to its subject matter.

7.5 Amendment

This Deed may be amended only by another deed executed by all the parties.

7.6 Severability

Any provision of this Deed which is unenforceable or partly unenforceable is, where possible, to be severed to the extent necessary to make this Deed enforceable, unless this would materially change the intended effect of this Deed.

7.7 Counterparts

This Deed may be executed in any number of counterparts. All counterparts together will be taken to constitute one instrument.

7.8 Costs

Each party must pay its own costs of negotiating, preparing and executing this Deed.

Executed and delivered as a Deed

Executed as a deed by [insert shareholder] in accordance with section 127(1) of the *Corporations Act 2001* (Cth):

Director

*Director/*Company Secretary

Name of Director
BLOCK LETTERS

Name of *Director/*Company Secretary
BLOCK LETTERS
*please strike out as appropriate

Signed Sealed and Delivered by the said [insert individual shareholder] in the presence of:

[insert name of individual shareholder]

Witness signature

Name of witness
BLOCK LETTERS

Executed as a deed by **Comms Group Limited** ACN 619 196 539 in accordance with section 127(1) of the *Corporations Act 2001* (Cth):

Director

*Director/*Company Secretary

Name of Director
BLOCK LETTERS

Name of *Director/*Company Secretary
BLOCK LETTERS
*please strike out as appropriate

Annexure B

Form of Escrow Deed entered into by Nashar

See over the page.

For personal use only

Escrow Deed

between

Nashar Pty Limited

ACN 071 435 231

as trustee for the **Ryan O'Hare Family No. 2 Discretionary Trust**

ABN 88 592 272 398

(Shareholder)

and

Comms Group Limited

ACN 619 196 539

(Company)

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This Deed is made on

Parties

- 1 Comms Group Limited ACN 619 196 539 of Level 6, 56 Clarence Street, Sydney, New South Wales 2000 (**Company**).
- 2 Nashar Pty Limited ACN 071 435 231 as trustee for the Ryan O'Hare Family No. 2 Discretionary Trust ABN 88 592 272 398 of 'Australia Square', Level 29, 264-278 George Street, Sydney, New South Wales 2000 (**Shareholder**).

Recitals

- A The Company is admitted to the official list of ASX and its Shares are quoted on ASX.
- B The Shareholder will be issued the Escrow Shares under the Sale Agreement.
- C In order to help promote a stable market for Shares on ASX, the Shareholder undertakes to the Company to be bound by the terms and conditions of this Deed.

It is agreed as follows.

1 Definitions and Interpretation

1.1 Definitions

The following definitions apply unless the context requires otherwise.

ASX means ASX Limited ABN 98 008 624 691 or the Australian Securities Exchange, as appropriate.

Business Day means a day which is not a Saturday, Sunday or a public holiday in Sydney, New South Wales.

Completion means the completion of the sale and purchase of the shares in the Sale Company under the Sale Agreement.

Completion Date means the date on which Completion occurs.

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

Dispose has the meaning given to 'dispose' in the Listing Rules.

Escrow Period means the period commencing on the Completion Date and ending on:

- (a) if there are no Outstanding Claims on the applicable Escrow Release Date, that Escrow Release Date; or
- (b) if there are any Outstanding Claims on the applicable Escrow Release Date, the date that is 10 Business Days after all such Outstanding Claims have been agreed, finally determined by a Court of competent jurisdiction or otherwise resolved unless an amount sufficient to pay the Outstanding Claims has been lodged in a New South Wales solicitor's trust account on that solicitor's undertaking to hold that amount until the resolution of such Outstanding Claims, and to pay such Outstanding Claims out of such monies when such Outstanding Claims have been resolved in accordance with the terms of an escrow deed between the solicitor, the Company and the Shareholder (on terms acceptable to the Buyer acting reasonably).

Escrow Release Date means:

- (a) in respect of 50% of the Escrow Shares, the first anniversary of the Completion Date; and
- (b) in respect of the remaining 50% of the Escrow Shares, the date that is 18 months after the Completion Date.

Escrow Shares means the Shares to be issued to the Shareholder in accordance with the Sale Agreement, irrespective of the date on which they are issued.

Holding Lock has the meaning given to 'holding lock' in the Listing Rules.

Issuer Sponsored Subregister has the meaning given to 'issuer sponsored subregister' in the Listing Rules.

Listing Rules means the Listing Rules of ASX (including the ASX Settlement Operating Rules).

Outstanding Claim has the meaning given to that term in the Sale Agreement.

Restricted Action has the meaning given to that term in clause 2.1.

Sale Agreement means the Share Sale and Purchase Agreement dated [X] between (among others) the Company and the Shareholder in relation to the sale and purchase of all the shares in the Sale Company.

Sale Company means Next Telecom Pty Ltd ACN 074 728 724.

Shares means fully paid ordinary shares in the capital of the Company.

1.2 Interpretation

The following rules apply unless the context requires otherwise.

- (a) Headings are for convenience only and do not affect interpretation.
- (b) The singular includes the plural and conversely.
- (c) A gender includes all genders.
- (d) Where a word or phrase is defined, its other grammatical forms have a corresponding meaning.
- (e) A reference to a clause is a reference to a clause of this Deed.
- (f) A reference to an agreement or document (including a reference to this Deed) is to the agreement or document as amended, varied, supplemented, novated or replaced, except to the extent prohibited by this Deed or that other agreement or document.
- (g) Specifying anything in this Deed after the words 'including', 'includes' or 'for example' or similar expressions does not limit what else is included.
- (h) A reference to a party to this Deed or another agreement or document includes the party's successors, permitted substitutes and permitted assigns (and, where applicable, the party's legal personal representatives).
- (i) A reference to legislation or to a provision of legislation includes a modification or re-enactment of it, a legislative provision substituted for it and a regulation or statutory instrument issued under it.

2 Escrow Restrictions

2.1 Shareholder restrictions

During the Escrow Period, the Shareholder must not:

- (a) Dispose of, or agree or offer to Dispose of, any or all of the Escrow Shares;

- (b) create, or agree or offer to create, any security interest in any or all of the Escrow Shares; or
- (c) do or omit to do any act which may have the effect of transferring effective ownership or control of any or all of the Escrow Shares,
- (each a **Restricted Action**), other than in accordance with clause 2.3.

2.2 CHESS or Issuer Sponsored Subregister

- (a) The Shareholder agrees that the Escrow Shares will be:
- (i) kept on an electronic CHESS subregister; or
 - (ii) held on the Company's Issuer Sponsored Subregister (as that term is defined in the ASX Listing Rules),
- and agrees to the application of a Holding Lock to the Escrow Shares for the Escrow Period.
- (b) The Company agrees to do all things necessary to ensure that the Holding Lock is released:
- (i) to the extent necessary to permit disposals of Escrow Shares permitted by this Deed; and
 - (ii) to the extent applicable at the conclusion of the relevant Escrow Period.

2.3 Permitted Transfers

During the Escrow Period, the Shareholder may only undertake a Restricted Action if:

- (a) the Shareholder has obtained the prior written consent of the Company (which must not be unreasonably withheld or delayed) to transfer the Escrow Shares if:
- (i) the transfer is to a person that is:
 - (A) a spouse or child of the Shareholder or child of the Shareholder's spouse (**Immediate Family Member**);
 - (B) a company wholly owned by the Shareholder, an Immediate Family Member or a person that controls the Shareholder;
 - (C) a trustee of a trust in relation to which the Shareholder or an Immediate Family Member is the beneficiary; or
 - (D) a trustee company either controlled by the Shareholder or an Immediate Family Member a person that controls the Shareholder of a trust in relation to which the Shareholder or an Immediate Family Member is the beneficiary (including, for the avoidance of doubt, the trustee of any self-managed superannuation fund controlled by the Shareholder or an Immediate Family Member);
 - (ii) the transferee executes a deed pursuant to which the transferee agrees to be bound by terms substantially similar to this Deed (provided that the Company may not require any change to the Escrow Period or the Escrow Release Date or to the nature of the restrictions contemplated by this Deed); and
 - (iii) the transfer does not result in a change to the beneficial ownership of the Escrow Shares;
- (b) the Restricted Action is required by law (including an order of a court of competent jurisdiction);

- (c) the Shareholder obtains the prior written consent of the Company (which may be withheld by the Company at its absolute discretion);
- (d) the Restricted Action is the acceptance of:
- (i) a bona fide takeover bid under Chapter 6 of the Corporations Act for all of the Shares in the Company; or
 - (ii) a proportional takeover bid under Chapter 6 of the Corporations Act, provided that:
 - (iii) such acceptance occurs following a public announcement by the Company that the board of directors of the Company recommends a takeover bid; or
 - (iv) the holders of at least 50% of the bid class securities that are not subject to escrow, and to which the offers under the bid relate, have accepted and the Escrow Shares continue to be held on the terms of this Deed if the relevant bid does not become unconditional or does not otherwise proceed; or
- (e) the Restricted Action is the transfer or cancellation of the Shares in the Company as part of a scheme of arrangement under Part 5.1 of the Corporations Act, provided that scheme of arrangement takes effect.

2.4 Shareholder to notify Company

If the Shareholder becomes aware:

- (a) that a dealing in any Escrow Shares has occurred, or is likely to occur, during the Escrow Period in breach of this Deed; or
- (b) of any other matter which is likely to give rise to a dealing in any Escrow Shares during the Escrow Period in breach of this Deed,

that Shareholder must notify the Company as soon as practicable after becoming aware of the dealing or those matters giving rise the dealing, and provide full details.

3 Breach

3.1 Prevention of anticipated breach

The parties acknowledge and agree that if it appears to the Company that the Shareholder may breach this Deed, the Company:

- (a) may take the steps necessary to prevent the breach or to enforce this Deed, as soon as the Company becomes aware of the potential breach; and
- (b) subject to the Listing Rules, may refuse to acknowledge, deal with, accept or register any sale, assignment, transfer or conversion of any of the Escrow Shares (in addition to the other rights and remedies of the Company).

3.2 Damages insufficient remedy

The parties agree that damages would be an insufficient remedy for breach of this Deed and the Shareholder agrees that the Company is entitled to seek and obtain an injunction or specific performance as a remedy for any actual or threatened breach of this Deed, in addition to any other remedies available to the Company at law or in equity under or independently of this Deed.

4 Representations and Warranties

4.1 Shareholder representations and warranties

The Shareholder represents and warrants that:

- (a) **(power)** it has power to enter into and comply with all of the terms and conditions of this Deed applicable to it;
- (b) **(authority)** it has taken all necessary corporate actions and authorisations to permit it to enter into this Deed and to observe all of its terms and no such corporate action or authorisation has since been rescinded or varied;
- (c) **(deed effective)** this Deed constitutes a legal, valid and binding obligation on it and is enforceable against it in accordance with its terms;
- (d) **(Escrow Shares)** upon the issue of the Escrow Shares and at all times during the Escrow Period, it will be the legal and beneficial holder of the Escrow Shares; and
- (e) **(no encumbrances)** upon the issue of the Escrow Shares and at all times during the Escrow Period, the Escrow Shares are free from all encumbrances, security interests and other third party interests or rights.

4.2 Reliance on representations and warranties

The Shareholder acknowledges that the Company has executed this Deed in reliance on the representations and warranties that are made in this clause.

4.3 No representations by the Company

The Shareholder acknowledges that it has not relied and will not rely on any representation statement or promise made by or on behalf of the Company in deciding to enter into this Deed.

5 Compliance with Listing Rules

For so long as the Company is listed on the official list of ASX:

- (a) notwithstanding anything contained in this Deed, if the Listing Rules prohibit an act being done, that act must not be done;
- (b) nothing contained in this Deed prevents an act being done that the Listing Rules require to be done;
- (c) if the Listing Rules require an act to be done or not to be done, authority is given for that act to be done or not to be done (as the case may be);
- (d) if the Listing Rules require this deed to contain a provision and it does not contain such a provision, this Deed is deemed to contain that provision;
- (e) if the Listing Rules require this Deed not to contain a provision and it contains such a provision, this Deed is deemed not to contain that provision; and
- (f) if any provision of this Deed is or becomes inconsistent with the Listing Rules, this Deed is deemed not to contain that provision to the extent of the inconsistency.

6 Notices

Any notice, demand, consent or other communication (a **Notice**) given or made under this Deed:

- (a) must be in writing and signed by a person duly authorised by the sender;

- (b) must be delivered to the intended recipient by prepaid post (if posted to an address in another country, by registered airmail) or by hand or email to the address or email address below or the address or email address last notified by the intended recipient to the sender:
- (i) to the Company: Level 6, 56 Clarence Street, Sydney, New South Wales 2000
Attention: Peter McGrath
Email: peter.mcgrath@commschoice.com
 - (ii) to the Shareholder: 'Australia Square', Level 29, 264-278 George Street, Sydney, New South Wales 2000
Attention: Ryan O'Hare
Email: ryan.ohare@nexttelecom.com.au
- (c) will be taken to be duly given or made:
- (i) in the case of delivery in person, when delivered;
 - (ii) in the case of delivery by post, two Business Days after the date of posting (if posted to an address in the same country) or seven Business Days after the date of posting (if posted to an address in another country); and
 - (iii) in the case of email, on the day of transmission, provided that the sender does not receive an automated notice generated by the sender's or the recipient's email server that the email was not delivered,
- but if the result is that a Notice would be taken to be given or made on a day that is not a business day in the place to which the Notice is sent or is later than 4pm (local time) it will be taken to have been duly given or made at the commencement of business on the next business day in that place.

7 General

7.1 Governing law

This Deed is governed by the laws of New South Wales. Each party irrevocably accepts the non-exclusive jurisdiction of courts with jurisdiction there and waives any right to object to the venue on any ground.

7.2 Further assurances

Each party agrees to do all things and execute all deeds, instruments, transfers or other documents as may be necessary or desirable to give full effect to the provisions of this Deed and the transactions contemplated by it.

7.3 Waiver and exercise of rights

- (a) No failure to exercise nor any delay in exercising any right, power or remedy by a party operates as a waiver. A single or partial exercise of any right, power or remedy does not preclude any other or further exercise of that or any other right, power or remedy. A waiver is not valid or binding on the party granting that waiver unless made in writing.
- (b) A party may exercise a right or remedy or give or refuse its consent in any way it considers appropriate (including by imposing conditions), unless this Deed expressly states otherwise.

7.4 Entire agreement

This Deed contains the entire agreement of the parties with respect to its subject matter. It sets out the only conduct on relied on by the parties and supersedes all earlier conduct by the parties with respect to its subject matter.

7.5 Amendment

This Deed may be amended only by another deed executed by all the parties.

7.6 Severability

Any provision of this Deed which is unenforceable or partly unenforceable is, where possible, to be severed to the extent necessary to make this Deed enforceable, unless this would materially change the intended effect of this Deed.

7.7 Counterparts

This Deed may be executed in any number of counterparts. All counterparts together will be taken to constitute one instrument.

7.8 Costs

Each party must pay its own costs of negotiating, preparing and executing this Deed.

Executed and delivered as a Deed

Executed as a deed by Nashar Pty Limited
ACN 071 435 231 as trustee for **Ryan O'Hare**
Family No. 2 Discretionary Trust ABN 88 592
272 398 in accordance with section 127(1) of the
Corporations Act 2001 (Cth):

Director

*Director/*Company Secretary

Name of Director
BLOCK LETTERS

Name of *Director/*Company Secretary
BLOCK LETTERS
*please strike out as appropriate

Executed as a deed by Comms Group Limited
ACN 619 196 539 in accordance with section
127(1) of the *Corporations Act 2001* (Cth):

Director

*Director/*Company Secretary

Name of Director
BLOCK LETTERS

Name of *Director/*Company Secretary
BLOCK LETTERS
*please strike out as appropriate